

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
WILL ARMSTRONG, Mayor of the City of
Victoria, Texas

ATTEST: Scarlet Swoboda
SCARLET SWOBODA, City Secretary

VICTORIA CITY COUNCIL
November 20, 2007

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, November 20, 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
Philip Guittard
Lewis Neitsch
Paul Polasek
David Hagan
Jim Wyatt
Tom Halepaska

STAFF PRESENT

Charles E. Windwehen, City Manager
Charmelle Garrett, Deputy City Manager
Miles Risley, Senior Assistant City Attorney
John Kaminski, Director, Planning
John Johnston, Director, Engineering
Doug Cochran, Director, Parks and Recreation
Bruce Ure, Police Chief
Lynn Short, Director, Streets and Utilities
Jerry James, Director, Environmental Services
Steve Trevino, Director, IMS
Rick Henrichs, Director, IT
Andrew Jacob, Assistant Finance Director
Stuart Sherman, Fire Marshal
Scarlet Swoboda, City Secretary

APPROVAL OF MINUTES

The minutes of the regular meeting of November 6, 2007 were approved as presented.

CITIZEN COMMUNICATIONS

No one wished to address Council at this time.

CITY MANAGER REPORTS

Mayor Armstrong advised that this report came about because an individual bought a lot in the Historical District and did not realize that there was an ordinance prohibiting modular housing in that area.

- **Manufactured Housing Prohibition in Original Townsite Historic District and Victoria Heights Historic District.** Director of Planning, John Kaminski reported that an ordinance was adopted in April 2007 prohibiting placement of manufactured or modular homes within the two Historic Districts. He provided the following background information; the Victoria 2020 Comprehensive Plan had several recommendations involving the exclusion of manufactured housing within historic districts. As noted in the Plan, some subdivisions have

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deed restrictions that protect against this, but that does not exist in downtown. In preservation it is not only important to preserve the individual structures, but to preserve the integrity of the entire district and surrounding area. The value and character of historic structures in neighborhoods is diminished by incompatible development, such as manufactured and modular homes. In response to citizens concerns, as well as the Comprehensive Plan recommendations, the Historic District ordinance was presented to the Planning Commission in February 2007 along with several other subdivision ordinance amendments. The initial proposal that the Planning staff provided was to establish two historic districts, and to prevent the placement of manufactured homes within those districts. The original draft did not address modular homes primarily because the Planning staff was unclear to the legality of prohibiting modular homes within the historic district. The Legal Department researched and determined that modular homes could be prohibited in the historic districts and the Planning Commission unanimously recommended the changes to the ordinance. That ordinance was brought to the City Council and adopted in April 2007, after public hearings attended by downtown residents and the media, with no objections to the ordinance. Mr. Kaminski explained the difference in modular and manufactured homes. The key differences are manufactured homes are built to Housing and Urban Development (HUD) code, built on a permanent chassis with one or more sections delivered to the site and assembled either with or without a permanent foundation. Modular homes on the other hand, are built to the International Residential Code, which is the same code that site built homes are built to. They are built in modules or sections, shipped to the site and built on a permanent foundation. Currently, there are no permits on record to build a modular home in Victoria. There are broad ranges of quality and aesthetics within the modular housing industry and without architectural or aesthetic guidelines, there would be no way of guaranteeing the type or level of modular housing that would be constructed in the Historical District. Manufactured homes are currently prohibited in the historic districts, but outside those districts a manufactured home can be placed within a manufactured home park, manufactured home subdivision, or on a legally platted lot, that is owned and occupied by the owner. Modular homes are prohibited in the historic districts, but outside the districts they are treated just like a site built home, and the owner occupancy requirement does not apply. There are also state laws that determine the manner that both types of housing can be regulated. Cities generally have greater authority to regulate manufactured homes and can prohibit them within single family residential districts, if they have zoning. Cities without zoning authority can require that they can only be placed within manufactured home parks are subdivisions. In Victoria, owner-occupancy is required. Cities can not use zoning authority to regulate modular home locations, but there are other options. Those specific options would be the historic designation prohibition; also a modular home would have to be of equal value of the other homes in the historic district; and/or the exterior siding or roof pitch would have to be compatible to existing homes in the historic district. It was staff's recommendation to leave the prohibition of manufactured housing and modular homes in place, unless specific value and design requirements were adopted to ensure that these houses are compatible with the historic character of the districts.

The following individuals spoke in favor of keeping the current ordinance in force: John Griffin, 507 S. Deleon Street; Sandra McKenzie, 503 E. Constitution; Gary Dunnam, 104 N. Liberty; and Mary Sue Shields Koontz Nelson. They recognized that modular homes had a place in the community, but not in the Historic Districts. There were concerns that property values would be diminished if modular homes were allowed in the downtown area, as they carry a negative connotation. Members of Council were thanked for adopting the ordinance for the Historic Districts and acting wisely to preserve the historic downtown.

The following individuals spoke in opposition of the current ordinance: John Clegg, and Judy Clegg, Past President of the Manufactured Home Association. They advised that the modular home that was proposed to be built would exceed the value of most of the homes in the downtown area and modular homes have a place in Victoria. There are no architectural standards currently in place for the historic downtown leaving the possibility of someone to build any type of building. It was also pointed out that there was a segment of the population that needed to have affordable housing and this ordinance narrowed the places that those individuals could live.

It was the consensus of Council to retain the ordinance as adopted in April. The Historic District needed to be protected and they encouraged Mr. Clegg to build a modular home somewhere

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outside the historic district. It was also suggested that some research be done to come up with a solution and standards that may allow modular housing. The Planning Department was asked to set some minimum standards for owner-occupied housing that could be considered at a future date, such as landscaping, one car garages, or the pitch of the roof.

- Recognition of Lyondell Chemical Company's Support of the Victoria Kids Recycles Program.** Director of Environmental Services, Jerry James, introduced Marie Lester, Education Specialist for the City of Victoria. Ms. Lester presented a short PowerPoint presentation on the Victoria Kids Recycles Program for Victoria Independent School District (VISD) elementary students, which is funded by Lyondell. Waste hauling services were provided free of charge by Waste Management. Three elementary schools started the program this year and each classroom was provided a recycle bin by Lyondell. This program replaced the newspaper recycling program. Since the start of the program on October 3, 2007 they have recycled 40,000 pounds of paper. They anticipate recycling 400 tons of paper a year, once all 11 elementary schools are participating. Dale Fredericks, Plant Manager of Lyondell stated that his company knows that it is important to support these types of programs, and they would do what it takes to support the community for the long term. By starting with the kids, it gets their parents involved in recycling. He appreciated the partnership with the City and the school district. A proclamation was read and presented to Mr. Fredericks on behalf of Lyondell Chemical Company's Support of the program.

ITEMS FROM COUNCIL

There were no items from Council.

PUBLIC HEARINGS AND ACTION

Mayor Armstrong opened a public hearing on the following items:

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

Senior Assistant City Attorney, Miles Risley, 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. Second and Third Reading. Miles Risley.

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

Cm. Polasek moved that the ordinance pass on second and third reading, with Cm. Hagan seconding the motion. The ordinance passed on second and third reading by the following vote:

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

NAYS: None

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.

ORDINANCE 2007-2008B – AMENDING THE 2007-2008 FISCAL YEAR BUDGET FOR OUTSTANDING ENCUMBRANCES

Senior Assistant City Attorney, Miles Risley, read the caption of Ordinance 2007-2008B, which amends the 2007-2008 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, declares an emergency, and declares an effective date. Emergency Reading. Andrew Jacob.

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

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

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

NAYS: None

Caption:

AN ORDINANCE AMENDING THE 2007-2008 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.

ORDINANCE 2007-26 – AMENDING CHAPTERS 23 AND 24 OF THE CITY CODE “MISCELLANEOUS FEES”

Senior Assistant City Attorney, Miles Risley, read the caption of Ordinance 2007-26, which amends Chapters 23 and 24 of the Victoria City Code to change miscellaneous fees therein, and repeals conflicting parts of existing ordinances. First Reading. Lynn Short, Scarlet Swoboda, Bain Cate, James Stewart, Jesse Turner.

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

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, Polasek, Hagan, Wyatt, Halepaska, and Mayor Armstrong

NAYS: None

Caption:

AN ORDINANCE AMENDING CHAPTERS 23 AND 24 OF THE VICTORIA CITY CODE TO CHANGE MISCELLANEOUS FEES THEREIN, REPEALING CONFLICTING PARTS OF EXISTING ORDINANCES, PROVIDING FOR SEVERABILITY, PROVIDING FOR CODIFICATION AND SAVINGS, AND DECLARING AN EFFECTIVE DATE.

ORDINANCE 2007-27 – AMENDING THE CITY CODE TO CHANGE “DIRECTOR OF ENGINEERING” TO “DIRECTOR OF PUBLIC WORKS” AND OTHER MISCELLANEOUS CHANGES

Senior Assistant City Attorney, Miles Risley, read the caption of Ordinance 2007-27, which amends the Victoria City Code to change "Director of Engineering" to "Director of Public Works" and make other miscellaneous changes therein, and repeals conflicting ordinances. First Reading.

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

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

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

NAYS: None

Caption:

AN ORDINANCE AMENDING THE VICTORIA CITY CODE TO CHANGE "DIRECTOR OF ENGINEERING" TO "DIRECTOR OF PUBLIC WORKS" AND MAKE OTHER

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MISCELLANEOUS CHANGES THEREIN, REPEALING CONFLICTING ORDINANCES, PROVIDING FOR ENFORCEMENT, PROVIDING FOR SEVERABILITY, PROVIDING FOR CODIFICATION AND SAVINGS, PROVIDING A PENALTY NOT TO EXCEED \$500 UPON CONVICTION AND PUBLICATION, AND DECLARING AN EFFECTIVE DATE.

Mayor Armstrong closed the public hearings.

RESOLUTION 2007-183R – GRANTING ANNEXATION PETITION FROM DGMP, INC. FOR AN 23.258 ACRE TRACT IN THE LAKE FOREST SUBDIVISION

The resolution grants an annexation petition from DGMP, Inc. for an approximately 23.258-acre tract in the Lake Forest Subdivision. John Kaminski.

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

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

NAYS: None

RESOLUTION 2007-184R – AMENDING THE PROGRAM GUIDELINES FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT MORTGAGE ASSISTANCE PROGRAM

The resolution amends the Program Guidelines for the Community Development Block Grant (CDBG) Mortgage Assistance Program to reduce the stringency of the monthly-debt-to-income test from 41% to 43% and require flood insurance for assisted properties in the 100-year-floodplain. John Kaminski.

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, Polasek, Hagan, Wyatt, Halepaska, and Mayor Armstrong

NAYS: None

RESOLUTION 2007-185R – AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH POST, BUCKLEY, SCHUH AND JERNIGAN, INC. FOR THE PHASE I, PROJECTS #1 AND #2 OF THE DOWNTOWN WATER AND SEWER LINE REPLACEMENT PROJECT

The resolution authorizes a Professional Services Agreement with Post, Buckley, Schuh and Jernigan, Inc. (PBS&J) for Surveying, Preliminary Design, Final Design, Permitting, Bidding and Construction Phase Services for Phase I, Projects #1 and #2 of the Downtown Water and Sewer Line Replacement Project, in the amount of \$342,000. Lynn Short.

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, Polasek, Hagan, Wyatt, Halepaska, and Mayor Armstrong

NAYS: None

RESOLUTION 2007-186R – AWARDING A CONTRACT FOR MAINTENANCE OF EVERGREEN CEMETERY TO C'S LAWN CARE AND LANDSCAPING

The resolution awards a contract for the Maintenance of Evergreen Cemetery to Susan Cooper d/b/a C's Lawn Care and Landscaping of Port Lavaca, in the amount of \$28,260, and authorizes acceptance of a backup bid by Howard Motal of Victoria, Texas in the amount of \$41,000. Doug Cochran.

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

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

NAYS: None

RESOLUTION 2007-187R – AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH CIVILCORP, LLC FOR PRE-ENGINEERING OF THE SAM HOUSTON DRIVE RECONSTRUCTION PROJECT

The resolution authorizes a Professional Services Agreement with CivilCorp, LLC for pre-engineering the Sam Houston Drive Reconstruction Project (US Bus 59 to Laurent Street), in the amount of \$205,500. John Johnston.

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, Polasek, Hagan, Wyatt, Halepaska, and Mayor Armstrong

NAYS: None

RESOLUTION 2007-188R – AUTHORIZING CHANGE ORDER NUMBER 2 TO THE LONE TREE RECONSTRUCTION PROJECT

The resolution authorizes Change Order Number 2 to the Lone Tree Road Reconstruction Project to increase the contract by \$85,847.22, reduce the contract by \$66,379.25, make miscellaneous changes described therein, and provide a new contract amount of \$13,656,176.33. John Johnston.

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, Polasek, Hagan, Wyatt, Halepaska, and Mayor Armstrong

NAYS: None

RESOLUTION 2007-189R – AUTHORIZING AND ACCEPTING THE FIRE PREVENTION AND SAFETY GRANT PROGRAM GRANT FOR THE PURCHASE OF A BULLEX INTELLIGENT TRAINING SYSTEM

The resolution authorizes and accepts a Fire Prevention and Safety Grant Program grant from the Federal Emergency Management Agency (FEMA), in the amount of \$6,000 of federal funds, subject to a City match not to exceed \$1,500, for the purchase of a Bullex Intelligent Training System. Stuart Sherman.

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 Guittard, Neitsch, Polasek, Hagan, Wyatt, Halepaska, and Mayor Armstrong

NAYS: None

RESOLUTION 2007-190R – AUTHORIZING A GRANT FOR WASTE IN PLACE CURRICULUM AND TEACHER TOOL KITS

The resolution authorizes a grant from the Golden Crescent Regional Planning Commission Regional Environmental Resource Advisory Committee (RCRA) for Waste in Place Curriculum and Teacher Tool kits in the amount of \$14,133, subject to a cash match of \$400. Jerry James.

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

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

NAYS: None

RESOLUTION 2007-191R – AUTHORIZING A GRANT FOR HOUSEHOLD HAZARDOUS WASTE DAY

The resolution authorizes a grant from the Golden Crescent Regional Planning Commission Regional Environmental Resource Advisory Committee (RCRA) for Household Hazardous Waste Day activities in the amount of \$25,000, with no cash-match required. Jerry James.

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

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

NAYS: None

RESOLUTION 2007-192R – AUTHORIZING A TEXAS COMMISSION ON ENVIRONMENTAL QUALITY STATE FUNDED GRANT AGREEMENT FOR AIR QUALITY PLANNING ACTIVITIES

The resolution authorizes a Texas Commission on Environmental Quality State Funded Grant Agreement Contract No. 582-8-86231, in the amount of \$924,600, with no City matching funds required, for Fiscal Year 2008-2009 air quality planning activities. Jerry James.

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, Polasek, Hagan, Wyatt, Halepaska, and Mayor Armstrong

NAYS: None

Mayor Armstrong recognized Kevin Janak, County Commissioner and thanked him for attending and told him that he was welcome anytime.

EXECUTIVE SESSION

Mayor Armstrong announced that there was no need for an Executive Session. There being no further business, the regular meeting was adjourned at 6:10 p.m.

WORK SESSION


Mayor Armstrong called the Work Session to order at 6:25 p.m.


Capital Improvements Program (VISD requests for participation at new school sites, proposed street, sewer, water, drainage, and other projects over the next three years).

Director of Planning, John Kaminski went over every item of a detailed report that was part of the November 20, 2007 agenda packet. It was the consensus of Council to move forward with the Administration and staff's recommendations as laid out in the Capital Improvements document. They also expressed a desire to be proactive in order to open up opportunities for development.

The Work Session was adjourned at 8:04 p.m.

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

ATTEST: 
SCARLET SWOBODA, City Secretary
