

CITY COUNCIL MINUTES

June 17, 2008

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

NAYS: None

**RESOLUTION 2008-100R – AWARDING ANNUAL SUPPLY CONTRACT FOR FOLD WATER METERS TO BADGER METER, INC.**


The resolution awards an Annual Supply Contract for Cold Water Meters to Badger Meter Inc., of Milwaukee, Wisconsin, in a total amount of approximately \$84,780. James Roach.


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

There being no further business, the meeting was adjourned at 7:38 p.m.

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

ATTEST:   
SCARLET SWOBODA, City Secretary

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**VICTORIA CITY COUNCIL  
July 1, 2008**

**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, July 1, 2008 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, City Attorney
- Gilbert P. Reyna, Jr., Director, Finance
- Lynn Short, Director, Public Works
- John Kaminski, Director, Planning
- Bruce Ure, Police Chief
- Vance Riley, Fire Chief
- Doug Cochran, Director, Parks and Recreation
- Danette Respondek, Director, Human Resources
- Rick Henrichs, Director, IT
- Jerry James, Director, Environmental Services
- Jerry Seifert, Fleet Administrator
- Ken Gill, City Engineer
- Andrew K. Jacob, Assistant Finance Director
- Scarlet Swoboda, City Secretary

**APPROVAL OF MINUTES**

The minutes of the regular meeting of June 17, 2008 were approved as presented.

**CITIZENS COMMUNICATION**

Jack A. Mullins, 224 Ridgewood Drive commented on the payment of attorney fees for those indicted. Since the last meeting he had looked at the City Charter, and the delineation of responsibilities between the City Manager, City Council, and the Mayor. The Mayor is given two functions in the City Charter, (1) to preside at all Council meetings, and holds one of seven votes, and (2) is to be the ceremonial head of the City government. The City Manager is given the authority and responsibility to supervise the actions of the departments and people in the Police Department, including the Chief. The Chief of police would have knowledge of that chain of authority.

Mr. Mullins felt that there was a conflict of interest or potential conflict of interest concerning the City Attorney in dealing with a department head or dealing with the Mayor on the charged actions and not bringing the person with the supervisory authority, the City Manager into the whole problem. One would expect that the Chief of Police, if he had a problem, would have gone first to his supervisor, the City Manager. He suggested that an outside investigation should be held on the action of the individuals who usurped the supervisory function of the City Manager.

The other point he wanted to make concerned the concept that it was in the course of their duties that the outside attorney talked about at the last meeting. He gave several examples of situations where a city employee could possibly be charged with a crime while on duty. He suggested that by the action Council has taken to pay the legal fees, they have opened that door. In a case that charges intentional misconduct at the felony level, they were opening that door to a number of city employees. He stated that in the application of the standard in this case, in respect to the charges against the Mayor, because it was not in his job description to deal with matters of this sort, paying his defense was incorrect. He should not be in the loop; the City Manager should be in the loop.

**ITEMS FROM COUNCIL**

Cm. Wyatt commented that as they move into the budgetary process there would be requests from organizations and other entities. One of them would be the Golden Crescent Regional Planning Commission, as they look at their fee structure concerning the transit system. He also advised that he had spoken with the Executive Director of the transit system concerning comments from Council at the last meeting dealing with the situation of closing the service for a funeral. The Director understood that it was a bad decision.

**PUBLIC HEARINGS AND ACTION**

Mayor Armstrong opened a public hearing on the following items:

**ORDINANCE 2007-2008I – AMENDING THE 2007-2008 FISCAL YEAR BUDGET TO PROVIDE FUNDS FOR ADDITIONAL TRENCH BURNING AND ADDITIONAL EMPLOYEE**

City Attorney, Miles Risley, read the caption of Ordinance 2007-2008I, which amends the 2007-2008 Fiscal Year Budget of the City of Victoria by transferring \$46,647 from the Environmental Services Fund Landfill Closure fund balance to the Environmental Services Recycling Fund Department Equipment Rental line item to provide funding for additional trench burning and transferring \$27,937 from the Environmental Services Fund Landfill Closure fund balance to the Environmental Services Fund Recycling Department Personnel line item to provide funding for an additional employee. Emergency Reading. Andrew K. Jacob.

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

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Cm. Wyatt 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 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 BY TRANSFERRING \$46,647 FROM THE ENVIRONMENTAL SERVICES FUND LANDFILL CLOSURE FUND BALANCE TO THE ENVIRONMENTAL SERVICES RECYCLING FUND DEPARTMENT EQUIPMENT RENTAL LINE ITEM TO PROVIDE FUNDING FOR ADDITIONAL TRENCH BURNING AND TRANSFERRING \$27,937 FROM THE ENVIRONMENTAL SERVICES FUND LANDFILL CLOSURE FUND BALANCE TO THE ENVIRONMENTAL SERVICES FUND RECYCLING DEPARTMENT PERSONNEL LINE ITEM TO PROVIDE FUNDING FOR AN ADDITIONAL EMPLOYEE, REPEALING ALL CONFLICTING ORDINANCES, PROVIDING FOR SEVERABILITY, DECLARING AN EMERGENCY, AND DECLARING AN EFFECTIVE DATE.**

**ORDINANCE 2007-2008J – AMENDING THE 2007-2008 FISCAL YEAR BUDGET BY TRANSFERRING FUNDS TO THE LEGAL DEPARTMENT PROFESSIONAL SERVICES LINE ITEM TO PROVIDE FUNDING FOR LEGAL REPRESENTATION IN THE DEFENSE OF THE PROSECUTION OF INDICTED OFFICIAL, EMPLOYEES AND EX-EMPLOYEE**

City Attorney, Miles Risley, read the caption of Ordinance 2007-2008J-, which amends the 2007-2008 Fiscal Year Budget of the City of Victoria by transferring \$200,000 from the General Fund fund balance to the Legal Department Professional Services line item to provide funding for legal representation in the defense of the prosecution of indicted official, employees and ex-employee. First Reading. Andrew K. Jacob.

Mayor Armstrong asked if there were any questions from Council or the audience.

Jack Mullins inquired whether it was in the ordinance that in the event of conviction of one or more of the charged individuals of an offense, there would be an obligation of that individual to repay the monies back to the City. He stated that if not, it should be, otherwise it would be a gift.

City Attorney, Miles Risley advised that the ordinance transfers funds; the ordinance is not the action that actually created the obligation. The ordinance just transfers the money from one account to another.

Mayor Armstrong stated that since he was one of those people that would be obligated to pay the monies back, he asked the City Attorney to prepare a document to that nature for Council to vote on.

Mr. Risley suggested amending the ordinance to specify that the funding would be subject to the obligation being contingent upon a payback obligation of the indicted persons in the event of a conviction.

Cm. Hagan suggested that Council should think with their heads and not their hearts. They should think about what was fair for taxpayers and what consistent practice was used across Texas in situations like this. He would decline to vote in favor of the ordinance.

Cm. Polasek moved to amend the ordinance to include the language that upon a guilty conviction, specific funds expended for that item, be reimbursed by that individual, with Cm. Guittard seconding the motion. The ordinance was amended by the following vote:

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

NAYS: None

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

AYES: Council Members Guittard, Neitsch, Polasek, Wyatt, and Halepaska

NAYS: Council Member Hagan

ABSTENTION: Mayor Armstrong

Caption:

**AN ORDINANCE AMENDING THE 2007-2008 FISCAL YEAR BUDGET OF THE CITY OF VICTORIA BY TRANSFERRING \$200,000 FROM THE GENERAL FUND FUND BALANCE TO THE LEGAL DEPARTMENT PROFESSIONAL SERVICES LINE ITEM TO PROVIDE FUNDING FOR LEGAL REPRESENTATION IN THE DEFENSE OF THE PROSECUTION OF INDICTED OFFICIAL, EMPLOYEES AND EX-EMPLOYEE, PROVIDING FOR SEVERABILITY, REPEALING CONFLICTING ORDINANCES, AND DECLARING AN EFFECTIVE DATE.**

**RESOLUTION 2008-102R – GRANTING AN ANNEXATION PETITION FROM R.L. DENISON, JR. FOR APPROXIMATELY 7.044 ACRES OF LAND NEXT TO THE HIGHLAND HILLS SUBDIVISION, SECTION III, PHASE I**

The resolution grants an annexation petition from R.L. Denison, Jr. for approximately 7.044 acres of land next to the Highland Hills Subdivision, Section III, Phase I, and authorizes the City to prepare an ordinance for City Council consideration. 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

Mayor Armstrong closed the public hearings.

**CITY MANAGER REPORTS**

- **Sportsplex at Community Center** – Director of Parks and Recreation, Doug Cochran reported that staff would be meeting with the contractor and engineering firm to work out some issues, and develop a plan to close out the contracts on the ball fields and concessions. The parking contract was still being worked on.
- **Status of Lone Tree Road, Laurent Street Reconstruction Projects, Lone Tree Channel Improvements, and Trail Project** – City Engineer, Ken Gill gave a brief update on the aforementioned projects. All were moving along at a good pace. Recent rains could slow down some work on the Laurent Project.
- **Pay Program** - Director of Human Resources, Danette Respondek reported that the Administration was proposing a 0% to 5% pay-for-performance merit program with a 3.5% average pay-out. In answer to Cm. Wyatt’s question, if a 3% across the board cost of living for a pay grade up to 42 were done like the current fiscal year, and merit for pay grade 43 and up, it would cost \$746,000, with \$591,000 coming from the General Fund. An across the board cost of living would be less than what was being proposed with the merit program.

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- Texas Municipal Retirement System (TMRS) Rates** – Ms. Respondek explained the changes to the TMRS rates due to changes in the actuarial assumptions and funding methodology. Staff recommended staying with the 15.04% contribution rate without making any changes to TMRS provisions this year, because TMRS would be diversifying funds and some 2009 legislation could impact the City. Next year they should have a better idea of any major changes.
- Governmental Accounting Standards Board (GASB), Health Fund Rates, Health Plan** - Director of Finance, Gilbert P. Reyna, Jr. presented a PowerPoint presentation explaining GASB-45, the purpose, and when it was required to implement. Currently the City provides retirees a percentage of health care benefit premiums. When a retiree retires the City starts paying the cost at that time, with GASB-45 the City would be required to pay in the costs for retiree health care benefits earned by individuals as accrued while they are employed. Victoria would be required to implement GASB-45 by September 30, 2008. If the City ignored the requirements, it could affect credit rating and bond ratings. Currently, the City is paying (pay-as-you-go) \$595,000 annually for post-employment health care benefits.

Ms. Respondek presented the following proposed changes to retiree health care benefits:

\*Current Post-Employment Health Care Benefit Policy–for current retirees

<i>Retirees at 12/31/08</i>	<i>City Contribution</i>	<i>Retiree Contribution</i>
30 plus years	80%	20%
20-29 years	60%	40%
0-19 years	0%	100%

\*New Proposed Post–Employee Health Care Benefit Policy–for those retired by 12/31/2008

<i>Retiree’s under 65 at 1/9/09</i>	<i>City Contribution</i>	<i>Retiree Contribution</i>
30 plus years	80%	20%
20-29 years	60%	40%
0-19 years	0%	100%
<i>Retirees over 65 – Medicare Supplement Plan at 1/1/09</i>	<i>City Contribution</i>	<i>Retiree Contribution</i>
30 plus years	\$272	Remaining Cost
20-29 years	\$204	Remaining Cost
0-19 years	\$0	Remaining Cost

\*Current Post–Employment Health Care Benefit Policy–for current retirees

<i>Employees at 12/31/08</i>	<i>City Contribution</i>	<i>Retiree Contribution</i>
30 plus years	80%	20%
20-29 years	60%	40%
0-19 years	0%	100%

\*New Proposed Post–Employee Health Care Benefit Policy–for those retired after 12/31/2008

<i>Retiree’s under 65 at 1/1/09</i>	<i>City Contribution</i>	<i>Retiree Contribution</i>
20 years plus	\$544	Remaining Cost
10-29 years	\$408	Remaining Cost
0-9 years	\$340	Remaining Cost
<i>At age 65 – Medicare Supplement Plan at 1/9/09</i>	<i>City Contribution</i>	<i>Retiree Contribution</i>
20 years plus	\$272	Remaining Cost
10-29 years	\$204	Remaining Cost
0-9 years	\$0	Remaining Cost

Mr. Reyna advised that an irrevocable trust fund would be set up so that an independent party would handle the retiree payments from the fund. The cost to the City would be approximately \$544,000. The staff requested bringing this topic back at the next meeting for a Council decision because it may impact an employee considering retirement.

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- **Results of Texas Municipal League’s 2008 Water and Wastewater Rate Survey, plans for future revenue bond issuances, and projected water and sewer rate impact** – Director of Public Works, Lynn Short presented the results of the survey. The annual report compared water and sewer rates of similar sized cities across Texas. He reported that Victoria’s current rates compare favorably to other cities in Texas. Being an old city with an old infrastructure impacts the City. Base rates have had to be increased as the City has tried to replace that infrastructure at a rapid pace, and service to debt associate with that over the past seven to ten years. In 2010 staff anticipates letting three utility construction projects, two in the downtown area and one on Sam Houston, and to service the debt associated with that staff recommended increasing the total utility bill by \$1.91 per month. That would be implemented over a two-year period. Cm. Hagan was not in favor of increasing rates at this time and requested looking at alternate funding options. Cm. Halepaska pointed out that the downtown utilities have been ignored in the past for the very same reason Cm. Hagan mentioned. Mayor Armstrong opposed doing anything that would slow down the improvements that needed to be done. Council needed to look at reality and address the problems and move forward. Cm. Wyatt was not in opposition to total rate increase, the economy is floundering, but an administrative order had been given to the City to address the inflow and infiltration problems. Cm. Polasek did not want to leave the problems to his children. City Manager, Charles E. Windwehen advised that (1) general funds could be used, but did not recommend doing that, (2) they could issue general obligation debt, which would be paid back with property taxes, (3) cut back some general fund programs in Parks or Library, which he did not recommend, (4) cut back all future sales tax corporation street and drainage projects and use those funds only for water and wastewater projects, or (5) delay some of the water and wastewater projects into the future. Finance Director, Gilbert P. Reyna, Jr. reminded Council that they had gone through the Capital Improvements Program (CIP) and general fund and water and wastewater are not able to handle the cost of those projects.
- **Proposed Police Department Canine Unit** – Police Chief, Bruce Ure reported that the Police Department was planning to implement a canine unit. The goal was to provide two dual purpose canine units on the streets, for patrol and narcotics. He advised that the American Petroleum Institute (API) had offered to fund the program for them, with the assistance of Sam’s Club, who would be providing dog food and Dr. John Beck, who would provide veterinary services. Mike Hamm with API presented a check in the amount of \$20,000 to the City.
- **911 Emergency System** – Chief Ure informed Council that there was an immediate need to replace the dispatch server with a larger one at a cost of \$44,900. Following a recent upgrade to the dispatch software, it was determined that there was not enough ram to handle the upgrades and the system slowed to a crawl. That causes a delay in dispatching which could mean the difference between life and death. He requested Council consensus to allow him to move on this immediately and he would present a resolution to ratify the purchase at the next meeting. He received consensus.

**RESOLUTION 2008-103R – AWARDING ANNUAL SUPPLY CONTRACT FOR GASOLINE AND DIESEL FUEL TO NEW DISTRIBUTING CO., INC.**

The resolution awards an annual supply contract for gasoline and diesel fuel to New Distributing Co., Inc., of Victoria, Texas, in the amount of the Oil Price Information Service (OPIS) Victoria/Placedo terminal lowest branded daily rack price, increased by \$0.01 per gallon for gasoline and low emission diesel, and increased by \$0.083 per gallon for ultra low sulfur diesel, in an estimated total amount of \$1,432,985. Jerry Seifert.

Cm. Wyatt 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

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**RESOLUTION 2008-104R – NOMINATING JAMES A. DODSON AS ALTERNATE ON THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY EDWARD AQUIFER RECOVERY IMPLEMENTATION PLAN STEERING COMMITTEE**

The resolution nominates James A. Dodson as alternate for Jerry James to the Texas Commission on Environmental Quality Edward Aquifer Recovery Implementation Plan Steering Committee (art. 12, SB 3, 80<sup>th</sup> Texas Legislative Session). Jerry James.

Cm. Neitsch 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 2008-105R – AWARDING BID FOR FIRE STATION GENERATOR REPLACEMENT PROJECT TO HALL ELECTRIC CO.**

The resolution awards the bid for the Fire Station Generator Replacements project to Hall Electric Co., Inc. of Victoria, Texas, in the amount of \$132,000, minus the removal and trade-in allowance of \$2,500 for the existing generators, in a total amount of \$129,500. Vance Riley.

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 2008-106R – AUTHORIZING AN AGREEMENT WITH ALLIANCE TRANSPORTATION GROUP, INC. FOR THE DEVELOPMENT OF A 2035 METROPOLITAN TRANSPORTATION PLAN (MTP)**

The resolution authorizes an agreement with Alliance Transportation Group, Inc. of Austin, Texas, to assist the Victoria Metropolitan Planning Organization (MPO) in the development of a 2035 Metropolitan Transportation Plan (MTP) in an amount not to exceed \$140,000. John Kaminski.


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

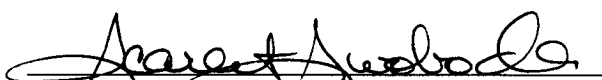
AYES: Council Members Guittard, Neitsch, Polasek, Hagan, Wyatt, Halepaska, and Mayor Armstrong

NAYS: None

**EXECUTIVE SESSION**

Mayor Armstrong announced that there would not be an Executive Session. There being no further business, the meeting was adjourned at 6:37 p.m.

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

ATTEST:   
SCARLET SWOBODA, City Secretary