

CITY COUNCIL MINUTES

December 2, 2008

Cm. Wyatt moved that resolutions 2008-190R through 2008-192R be adopted, with Cm. Halepaska seconding the motion. The resolutions were adopted by the following vote:

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

RESOLUTION 2008-193R - EXCLUDING THE CITY OF VICTORIA FROM THE OPTIONAL PROVISIONS OF THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT ("HIPAA")

The resolution authorizes the City Manager and other persons acting on his behalf, including any entity administering the City's health plan (the "plan"), to execute all necessary documents to exclude the City of Victoria from the optional provisions of the Health Insurance Portability and Accountability Act ("HIPAA"). Danette Respondek.

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 Guittard, Neitsch, Polasek, Hagan, Wyatt, Halepaska, and Mayor Armstrong
NAYS: None

EXECUTIVE SESSION

Mayor Armstrong announced that there was no need for an Executive Session. There being no further business, the meeting was adjourned at 7:01 p.m.

APPROVED: [Signature]
WILL ARMSTRONG, Mayor of the City of Victoria, Texas

ATTEST: [Signature]
SCARLET SWOBODA, City Secretary

VICTORIA CITY COUNCIL
December 16, 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, December 16, 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
Miles Risley, City Attorney
Linda Champion, Assistant City Attorney
Gilbert P. Reyna, Jr., Director, Finance
Andrew Jacob, Assistant Finance Director
Lynn Short, Director, Public Works
John Kaminski, Director, Development Services
Bruce Ure, Police Chief
Vance Riley, Fire Chief

Doug Cochran, Director, Parks and Recreation
 Dayna Williams-Capone, Assistant Director, Library
 Danette Respondek, Director, Human Resources
 Rick Henrichs, Director, IT
 Jerry James, Director, Environmental Services
 Scarlet Swoboda, City Secretary

APPROVAL OF MINUTES

The minutes of the special meeting of December 2, 2008 and regular meeting of December 2, 2008 were approved as presented.

CITIZENS COMMUNICATION

Sam Bonda, 103 Appaloosa Drive, General Sales Manager for Better Beverages expressed concerns with the proposal from the Parks and Recreation Director, Doug Cochran to go with the Coca Cola bid. He advised that they only have Dr Pepper and do not have the portfolio that Coca Cola services in Victoria, however he wanted the Council to understand that he was offering two different programs, one with Dr Pepper exclusive and one shared. The shared program on the bid itself was if the City negotiated pouring rights with two or more vendors simultaneously, Better Beverages had the right to reduce annual sponsorship based on percentage of overall sales mix. Coca Cola guaranteed \$12,500 on annual sponsorship, with years two through ten depending on the case volume actually sold, it would either add to the annual sponsorship or take away. Better Beverages guaranteed \$13,500, which at the end of ten years would have been an increment of \$10,000 to the Youth Sports complex. Mr. Bonda advised that there was opportunity for both vendors to participate in the Youth Sports Complex and share in the annual sponsorship.

Mayor Armstrong asked whether the Parks and Recreation Director saw any reason to reconsider his recommendation. Mr. Cochran indicated that they had a process of grading each proposal, and did not see that they would give a different recommendation.

City Manager, Charles E. Windwehen suggested looking at it some more with Mr. Cochran and evaluate it again. They would come back with a report at the first meeting in January. It was pointed out that although Dr Pepper would consider dual contracts they were not sure if Coca Cola would.

ITEMS FROM COUNCIL

Mayor Armstrong presented Cm. Neitsch with a plaque for ten-years of service to the City of Victoria.

Cm. Neitsch reported that a committee to review the Convention and Visitors Bureau (CVB) had recommended placing it back under the Chamber of Commerce guidance. A new contract will be presented to the Council for review and then presented to Randy Vivian, Executive Director of the Chamber of Commerce. They wanted to get the process to search for a new CVB Director started in the near future. Members of that committee were Cm. Neitsch, Cm. Polasek, Gilbert P. Reyna, Jr., O. C. Garza, and Charmelle Garrett. Those who would screen and hire the new Director would be Randy Vivian, Cm. Polasek, Charmelle Garrett, and O. C. Garza.

Cm. Polasek commented that he was happy with the sales tax report and complimented the Finance Director and staff on doing a good job estimating the revenue stream.

Cm. Neitsch commented that there needed to be some clarification to the public about sidewalk improvements in the downtown area. He stated that he took pride in having been on the Council for over ten-years, and to have an individual make a comment that Council runs the City like a "bunch of drunken sailors" was hurtful. The majority of the Council gave the nod to the Director of Public Works to hire a local contractor to do design work and engineering for the possibility of replacing curbs, streets, and sidewalks. Council has not spent \$4 million, but it is the responsibility of this Council, all seven, to look at the future and have numbers that can be depended on before making decisions on spending taxpayers money. The Victoria Sales Tax Development Corporation (VSTDC) suggested that they spend \$350,000 on this project because they felt it was

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worthwhile. Ad valorem taxes were not spent. If the project does go forward in a few years the money will have been spent by VSTDC and not with ad valorem taxes.

Cm. Hagan stood by his statements in the newspaper and stated that \$4 million for sidewalks during an economic downturn and a year of spending habits reflected his comments. He suggested that the other Council Members had taken a step toward the commitment of moving forward with a \$4 million project which was unwise at this time.

Cm. Halepaska commented that it was unwise not to plan for the future.

Cm. Polasek stated that he wanted to work with Cm. Hagan and asked him to persuade him. He commented that he did not appreciate the letter in the newspaper, the Council does not do deficit spending and the letter was misleading, the budget is balanced as required by law.

Cm. Hagan commented that the Council has not listened or contemplated any of his well thought out concepts, ideas, or perspective on any particular issue. He felt that the Council has acted recklessly over the last year, and have not listened to the public and people they represent. He suggested that he had been forced to go to the media because of a lack of willingness of his colleagues to contemplate anything besides their preset ideas.

Cm. Wyatt stated that he was out in the community everyday and that was not what his constituents were telling him. He pointed out that anyone that knows him knows that he is not a yes man for anyone, but he did know that if you don't plan, you plan to fail. This City is moving forward better than it has since 1988, and this is a democratic process. If he brings something to the Council and it fails, then it was the Council decision, and he moves on. He expressed hope that Cm. Hagan would come to the conclusion that he was not the only one that had ideas.

Cm. Hagan expressed a desire to have his ideas considered, suggesting that it was clear to him that the other members already had made a determination about what they wanted to do, and then moved ahead with it. He pointed out that he was up for re-election and understood that he was not irreplaceable, so if people agreed with what he has said, they can vote for him, and if not they will not. He stated that his views represent the views of the people in his district.

Cm. Halepaska commented that things were getting a little strange, and he did not agree with Cm. Hagan's point of view. He stated that to vilify and demagogue the rest of Council was not good.

Mayor Armstrong advised that there was not a Charter Review meeting prior to the City Council meeting, but he wanted to send a schedule of the meetings to the "Citizens for Responsible Government." He wanted to invite that group to present their views at the January 6 and 8, 2009 Charter Review meetings.

PUBLIC HEARINGS AND ACTION

Mayor Armstrong opened a public hearing on the following items:

ORDINANCE 2008-14 – AMENDING CHAPTER 24 OF THE CITY CODE TO CHANGE MISCELLANEOUS FEES

City Attorney, Miles Risley, read the caption of Ordinance 2008-14, which amends Chapter 24 of the Victoria City Code to change miscellaneous fees therein. Second Reading. Lynn Short, Doug Cochran, Vance Riley/John Bradley, and Dayna Williams-Capone.

Mr. Risley presented a handout with recommended changes, which would reserve Section 24-15 of the City Code, and add the items shown highlighted therein, and un-strike the Retail food establishment reinspection fee in Section 24-22; Health Department administered.

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

Cm. Polasek moved to amend the ordinance to include the handout and recommendation as presented by Mr. Risley, with Cm. Neitsch 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 second reading, with Cm. Guittard seconding the motion. The ordinance passed, as amended, on second reading by the following vote:

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

NAYS: None

Caption:

AN ORDINANCE AMENDING CHAPTER 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 2008-2009C – AMENDING THE 2008-2009 FISCAL YEAR BUDGET TO PROVIDE ADDITIONAL FUNDING FOR THE VICTORIA FIXED-ROUTE PUBLIC TRANSPORTATION SYSTEM

City Attorney, Miles Risley, read the caption of Ordinance 2008-2009C, which transfers \$15,000 from the General Fund fund balance to the General Fund Planning Department Transit System line item to provide additional funding for the Victoria Fixed-Route Public Transportation System operated by the Golden Crescent Regional Planning Commission. Emergency Reading. Andrew Jacob.

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

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 2008-2009 FISCAL YEAR BUDGET OF THE CITY OF VICTORIA BY TRANSFERRING \$15,000 FROM THE GENERAL FUND FUND BALANCE TO THE GENERAL FUND PLANNING DEPARTMENT TRANSIT SYSTEM LINE ITEM TO PROVIDE ADDITIONAL FUNDING FOR THE VICTORIA FIXED-ROUTE PUBLIC TRANSPORTATION SYSTEM OPERATED BY THE GOLDEN CRESCENT REGIONAL PLANNING COMMISSION; REPEALING ALL CONFLICTING ORDINANCES, PROVIDING FOR SEVERABILITY, DECLARING AN EMERGENCY, AND DECLARING AN EFFECTIVE DATE.

ORDINANCE 2008-15 – AUTHORIZING ANNEXATION OF APPROXIMATELY 60.86 ACRES OF LAND AT THE REQUEST OF BALL AIRPORT ROAD DEVELOPMENT, LLC

City Attorney, Miles Risley, read the caption of Ordinance 2008-15, which provides for the extension of certain boundary limits of the City of Victoria, Texas and the annexation of certain territory consisting of approximately 60.86 acres of land, at the request of Ball Airport Road Development, LLC, and adopts a service plan for the territory to be annexed. First Reading. John Kaminski.

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

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Cm. Polasek 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 PROVIDING FOR THE EXTENSION OF CERTAIN BOUNDARY LIMITS OF THE CITY OF VICTORIA, TEXAS AND THE ANNEXATION OF CERTAIN TERRITORY CONSISTING OF APPROXIMATELY 60.86 ACRES OF LAND, AT THE REQUEST OF BALL AIRPORT ROAD DEVELOPMENT, LLC, ADOPTING A SERVICE PLAN FOR THE TERRITORY TO BE ANNEXED, REPEALING ALL CONFLICTING ORDINANCES, PROVIDING FOR SEVERABILITY, PROVIDING FOR PUBLICATION, AND PROVIDING AN EFFECTIVE DATE.

PUBLIC HEARING ON THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER)

A public hearing, on the Community Development Block Grant (CDBG) Consolidated Annual Performance and Evaluation Report (CAPER) for the period from October 1, 2007 to September 30, 2008 was presented as required for the program. There was no action required at this time. John Kaminski.

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

RESOLUTION 2008-194R – AUTHORIZING ISSUANCE OF MEDICAL TRANSFER SERVICES PERMITS TO MP AMBULANCE SERVICE, INC., QUALITY AMBULANCE SERVICE, REGIONAL AMBULANCE SERVICE, SOUTHERNCROSS AMBULANCE, INC., AND SACRED HEART MEDICAL SERVICE

The resolution authorizes issuance of Medical Transfer Services Permits to Marilyn D. Porter d/b/a MP Ambulance Service, Inc., Charles Sargent d/b/a Quality Ambulance Service, ALS Ambulance Services, Inc. d/b/a Regional Ambulance Service, Craig LeBlanc d/b/a SouthernCross Ambulance, Inc., and Clay Wiatrek d/b/a Sacred Heart Medical Service. Scarlet Swoboda.

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

Byron Burris, 108 Woodland Drive, President of Twin Pines Nursing Home commented that he did not see any reason not to issue another permit to transfer ambulance services in Victoria to help with emergency situations. He suggested that more ambulance services were needed in the area.

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

Mayor Armstrong closed the public hearing.

RESOLUTION 2008-195R – APPOINTING APRIL HILBRICH AS A DEPUTY TO THE CITY SECRETARY

The resolution appoints April Hilbrich as a deputy to the City Secretary. Scarlet Swoboda.

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

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

NAYS: None

RESOLUTION 2008-196R – AWARDING THE SANITARY SEWER LINE AND ROAD WIDENING AT VISD ELEMENTARY SCHOOL NO. 2 – MALLETTE DRIVE PROJECT TO TRIPLE B SERVICES, LLP

The resolution awards the Sanitary Sewer Line and Road Widening at VISD Elementary School No. 2 – Mallette Drive Project to Triple B Services, LLP of Huffman, Texas, in the amount of \$674,622.95. Lynn Short.

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

NAYS: None

RESOLUTION 2008-197R – GRANTING A VARIANCE TO MINIMUM RIGHT-OF-WAY DEDICATION REQUIREMENTS TO KOINONIA VICTORIA SUBDIVISION, LOCATED AT ARROYO DRIVE, NEAR MESQUITE LANE OWNED BY HABITAT FOR HUMANITY-VICTORIA

The resolution grants a variance to Section 21-54(a) of the Victoria City Code, which requires a minimum right-of-way dedication of 60 feet for new local streets, to Koinonia Victoria Subdivision, located at Arroyo Drive, near Mesquite Lane, which is owned by Habitat for Humanity – Victoria, conditioned upon dedication of a right-of-way at least 54 feet wide. John Kaminski.

Cm. Wyatt commented that he was not opposed to habitat homes, but he was opposed to putting 20 in one subdivision.

Cm. Guittard 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 2008-198R – CONSIDERING VARIANCES TO THE MANUFACTURED HOME REQUIREMENTS AT 608 N. DEPOT STREET OWNED BY MOUNT SALEM BAPTIST CHURCH

The resolution considered variances to Sections 12-8(a)(2), 21-82(i)(1), and 21-82(i)(8) of the Victoria City Code, which require a manufactured home that is to be located outside of a manufactured home park or manufactured home subdivision to be owner-occupied and which prohibits the placement of manufactured homes in historic districts, to Lot 3 of Block 224, Original Townsite, located at 608 N. Depot Street, which is owned by Mount Salem Baptist Church. John Kaminski.

Director of Development Services, John Kaminski advised that staff recommended approval of the variance to the placement of an owner-occupied manufactured home outside of a manufactured home park or subdivision based on an earlier precedence set by Council some time back.

Staff recommended denial of the variance request that prohibits the placement of any manufactured home within the Original Townsite Historic District. The Planning Commission also denied the variance request by a unanimous vote. The applicant has appealed and the Planning Commission has denied that request.

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Mr. Kaminski advised that both variances have to be approved in order for the church to place the manufactured home on that site. The staff recommends that the Planning Commissions unanimous decision to deny the variance be upheld.

Cm. Polasek moved to **table** the resolution, with Cm. Wyatt seconding the motion. The resolution was **tabled** by the following vote:

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

NAYS: None

RESOLUTION 2008-199R – GRANTING A VARIANCE FROM THE SIDEWALK REQUIREMENTS TO TUSCANY SUBDIVISION-SECTION 1A, WHICH IS OWNED BY BALL AIRPORT ROAD DEVELOPMENT, LLC

The resolution grants a variance requests from Sections 21-54(e)(1) and 21-54(a) of the Victoria City Code, which require the construction of sidewalks along lots abutting perimeter streets and require local streets to have a pavement width of 30', to Tuscany Subdivision-Section 1A, which is owned by Ball Airport Road Development, LLC, conditioned on the owner's execution of a Sidewalk Agreement and Covenant with the City of Victoria, obligating the owner and subsequent owners to pay a pro-rata share of the cost of constructing a sidewalk along the streets adjacent to the subject property in the future when the sidewalk is constructed and further conditioned on the streets being constructed of concrete. 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 2008-200R – AUTHORIZING THE PURCHASE OF A YEAR MODEL 2009 1500 GPM HEAVY DUTY RESCUE PUMPER FROM SIDDON'S FIRE APPARATUS INC.

The resolution authorizes the purchase of a Year Model 2009 1500 GPM Heavy Duty Rescue Pumper from Siddons Fire Apparatus Inc. of Houston, Texas, via the Local Government Purchasing Cooperative (Buyboard), in the amount of \$468,000. Vance Riley.

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 2008-201R – AWARDING THE CITY'S HEALTH PLAN STOP-LOSS INSURANCE TO UNION LABOR LIFE INSURANCE COMPANY/CANADA LIFE INSURANCE COMPANY

The resolution awards the City's Health Plan Stop-Loss Insurance to Union Labor Life Insurance Company/Canada Life Insurance Company of Silver Springs, Maryland, in the amount of \$18.48 per employee per month and \$50.57 per dependent family per month, in an estimated total amount of \$226,574, with a \$150,000 deductible, and a limit of \$1,000,000 per person. Danette Respondek.

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

RESOLUTION 2008-202R – AUTHORIZING A 2008 HOMELAND SECURITY GRANT FROM THE GOVERNOR'S DIVISION OF EMERGENCY MANAGEMENT, (GDEM) FOR REPLACING COMPUTER AIDED DISPATCH (CAD) AND LAW ENFORCEMENT RECORDS MANAGEMENT SYSTEMS

The resolution authorizes the City Manager to execute all documents necessary to request, accept, and expend a 2008 Homeland Security Grant from the Governor's Division of Emergency Management, (GDEM) in the amount of approximately \$250,000, to be expended for replacing computer aided dispatch (CAD) and law enforcement records management systems. Bruce Ure.

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

Cm. Guittard thanked the Police Chief and his department for enforcing the no smoking ordinance.

EXECUTIVE SESSION

Mayor Armstrong announced that Council would recess into Executive Session at 6:05 p.m., in accordance with:

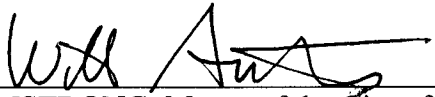
Section 551.071, Texas Government Code, consultation with attorney on matter involving pending or contemplated litigation or other matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act (including, but not limited to, legal issues related to the possible purchase of surface water rights to the Guadalupe River, the proposed purchase of property in the vicinity of Ball Airport Road Extension area, the proposed purchase of property for the Laurent Street Reconstruction Project, and the proposed purchase/exchange/value of property rights on Laurent and on Sam Houston Drive). 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 (including, but not limited to, real property rights involving the possible purchase of surface water rights to the Guadalupe River, the proposed purchase of property in the vicinity of Ball Airport Road Extension area, the proposed purchase of property for the Laurent Street Reconstruction Project, and the proposed purchase/exchange/value of property rights on Laurent and on Sam Houston Drive). 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. Scarlet Swoboda and Miles Risley.

The Council reconvened in regular session at 6:57 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

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December 16, 2008

ATTEST: 
SCARLET SWOBODA, City Secretary
