

VICTORIA CITY COUNCIL
January 6, 2009

CALL TO ORDER

A regular meeting of the Victoria City Council was called to order by Mayor Will Armstrong at 5:03 p.m. Tuesday, January 6, 2009 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
Linda Champion, Assistant City Attorney
Gilbert P. Reyna, Jr., Director, Finance
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
Rick Henrichs, Director, IT
Jerry James, Director, Environmental Services
Roy Boyd, Deputy Chief of Police
Ken Gill, City Engineer
Darryl Lesak, Asst. Director Environmental Services
Scarlet Swoboda, City Secretary

APPROVAL OF MINUTES

The minutes of the regular meeting of December 16, 2008 were approved as presented.

CITIZENS COMMUNICATION

Russell Pruitt, 402 Sherwood, advised that the Citizens for Responsible Government had turned in their petition for Charter amendments that afternoon to the City Secretary.

Randy Vivian, 2302 Terrace, Executive Director of the Victoria Chamber of Commerce reported on the Convention and Visitors Bureau (CVB), advising that an ad for a Director for CVB had been placed on the Texas Chamber of Commerce Executives website and Texas Association of Convention and Visitors website. He had received 15 résumés and would begin the process of sifting through them on January 15, 2009. He also presented the Council with a copy of the new "Images Magazine" that was not only a membership magazine, but a marketing tool as well.

Yvette Barrett with the Federal Communications Commission advised that she would be in the City during this week, and would be presenting information and assistance regarding the Digital Television (DTV) transition that goes into affect in February.

ITEMS FROM COUNCIL

Cm. Polasek advised that the City website has an e-newsletter that individuals could subscribe to and receive City information. It has informative and interesting information, and the site would also be used during emergencies.

Cm. Wyatt advised that the new skate park was wonderful and there were already a large number of youth and adults using it. The design of the park was such that those using it would not get bored, and he complimented the Parks and Recreation Director for getting this accomplished. It was also announced that the Grand Opening of the Park would be January 21, 2009. Cm. Wyatt also requested meeting with the City Manager and Director of Public Works to look at putting in for funding associated with proposed stimulus packages being proposed by the new President's administration. Lastly, he complimented the Police Department for their involvement in the return of two small children in a child abduction case.

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. Third Reading. Lynn Short, Doug Cochran, Vance Riley/John Bradley, Dayna Williams-Capone.

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

Cm. Neitsch moved that the ordinance pass on third reading, with Cm. Wyatt seconding the motion. The ordinance passed on third 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 2008-15 - 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. Second and Third Reading. John Kaminski.

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

Cm. Wyatt moved that the ordinance pass on second and third reading, with Cm. Neitsch 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 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.

ORDINANCE 2009-1 – AMENDING CHAPTER 5 OF THE VICTORIA CITY CODE TO ADD ARTICLE XV, "LANDSCAPE IRRIGATION SYSTEMS"

City Attorney, Miles Risley, read the caption of Ordinance 2009-1, which amends Chapter 5 of the Victoria City Code to add Article XV, "Landscape Irrigation Systems", which will include

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Sections 5-185, 5-186, and 5-187, and regulate the installation of landscape irrigation systems as required by State law. First Reading. John Kaminski.

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

Cm. Polasek questioned whether a homeowner could put in their own sprinkler system. He was informed that yes they could, but the homeowner would have to get a permit from the City.

Cm. Guittard 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 CHAPTER 5 OF THE VICTORIA CITY CODE TO ADD ARTICLE XV, "LANDSCAPE IRRIGATION SYSTEMS", WHICH WILL INCLUDE SECTIONS 5-185, 5-186, AND 5-187 AND REGULATE THE INSTALLATION OF LANDSCAPE IRRIGATION SYSTEMS AS REQUIRED BY STATE LAW, REPEALING CONFLICTING ORDINANCES, PROVIDING FOR SEVERABILITY, PROVIDING FOR CODIFICATION AND SAVINGS, PROVIDING FOR ENFORCEMENT, PROVIDING A PENALTY NOT TO EXCEED \$500 UPON CONVICTION AND PUBLICATION, AND DECLARING AN EFFECTIVE DATE.

Mayor Armstrong closed the public hearing.

CITY MANAGER REPORTS

- **Status of Lone Tree Road Reconstruction, Laurent Street Reconstruction, and Lone Tree Channel Improvements and Trail Projects** – City Engineer, Ken Gill reported that Lone Tree Road Reconstruction was on schedule for completion in early spring. He advised that they lay conduit along all streets being built so that they will be interconnected in the future. One side was complete on the Laurent Street Reconstruction Project and traffic should be switched to the other side in a few weeks. He reported that the contractor was ahead of schedule for December 2009 completion. The Lone Tree Channel and Trail Project had been completed from John Stockbauer to Ben Jordan, with the entire project projected to be complete by early spring.
- **Guadalupe-Blanco River Authority (GBRA) Contract for Sewer Treatment Plant** - City Manager, Charles E. Windwehen requested direction from Council concerning whether to move forward with taking over the operation of the Wastewater Treatment Plant when the current contract expires. He advised that staff had no other information to provide to them since their last reports concerning the issue. Council had received a report from the Guadalupe-Blanco River Authority (GBRA) seeking to extend the existing contract. It was the consensus of the majority of Council to move forward with a resolution in support of the City exercising their option of taking over the operations in 2010. Cm. Wyatt felt that they needed to look at all aspects of the new technologies available, and other opportunities to manage this. Mayor Armstrong thanked GBRA representatives for being in attendance and expressed the City's desire to maintain their relationship and work together through the transitional period.
- **2009 Strategic Vision for Emergency Management** – Director of Joint City/County Emergency Management, Jeb Lacey reported that the City and County performed very well during the eight day regional operation for Hurricane Ike and they should be very proud. He reported that his office would be focusing on Community Participation, a City/County Training Program, and Enhancing Community Partner Participation. They would also be updating all of the formal plans in the City and County to make sure they are in compliance with all of the Federal and State requirements. Continuity of operations between the City/County facilities and tactics would continue to be a priority.
- **Regulation of Swine** – Director of Development Services, John Kaminski reported on a complaint concerning hogs being raised as part of a 4-H project for the Livestock Show in

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March. There were more hogs than allowed for in the ordinance on the residential property, the hogs were then moved across the railroad tracks from the subdivision on Main Street, which did not comply with the agricultural exemption because the animals were not being kept at the home of the participant. The home owner was now in compliance with the ordinance. He asked Council for guidance on whether they wanted to leave the ordinance as is, or whether they wanted staff to initiate a change to the ordinance. The consensus of Council was to leave the ordinance as is.

- **Pouring Rights (beverages) for Youth Sports Complex** – Director of Parks and Recreation, Doug Cochran reported that since the last meeting, staffs recommendation had not changed and he still recommended contracting with Coca Cola. The original contract was for a ten-year contract, but it was now planned as a five-year contract.
- **Community Center Feasibility Study** – Mr. Cochran reported that at a City Council Meeting in October the Council did not approve the study. He was now recommending that staff would perform most of the items that would have been done in that study. The Parks Commission would study, receive input from the public and staff, and recommend changes and/or additions to the community center. Staff recommended hiring an architect or engineer to assist in determining probable cost of any renovations or construction based on recommendations by the Parks Commission and City Council. It was the consensus of Council to move forward with the recommendation. Sharon Steen, Chair of the Parks Commission, 104 N. Liberty, advised that it would be a great challenge, but they would start meeting next week, and it was an opportunity for the people of Victoria to give some input concerning a plan for the community center. She thanked the Council for giving them the opportunity to serve the City in this way. She further commented that on December 19, 2008 the Victoria Fire Department put out a fire in her home, and she wanted it on the official record of what wonderful, companionate, professionals the fire fighters are from Station No. 1.
- **Automated Solid Waste Routes** – Assistant Director of Environmental Services, Darryl Lesak reported on the status of phase II of automated pick up, indicating that the second phase had gone very smooth. He asked for a cutoff date for picking up extra bags and move into totally automated pick up. It was Council consensus to begin that process on Monday, January 26, 2009.

RESOLUTION 2009-1R – AUTHORIZING EXTENSION OF GOVERNOR’S DIVISION OF EMERGENCY MANAGEMENT GRANT FOR POLICE OVERTIME AND OPERATING EXPENSES FOR BORDER SECURITY ENHANCEMENT OPERATIONS (AKA BORDER STAR)

The resolution authorizes all documents necessary to extend a Governor’s Division of Emergency Management grant for police overtime expenses and operating expenses for border security enhancement operations (aka Border Star), in the amount of \$1,238,140.90, with no City match required. Roy Boyd.

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 2009-2R – AUTHORIZING CHANGE ORDER #3 TO THE LONE TREE CHANNEL IMPROVEMENTS PROJECT - PHASE II

The resolution authorizes an additive Change Order #3 to the Lone Tree Channel Improvements Project - Phase II, to extend the existing box culvert off of Mockingbird Lane, for the proposed driveway entrance to the East Campus High School, in the amount of \$51,673, bringing the new contract amount to \$7,498,808.81. Lynn Short.

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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 2009-3R – AUTHORIZING CHANGE ORDER #2 TO THE 2007-08 RECLAIM AND OVERLAY PROJECT WITH BRANNAN PAVING COMPANY, LTD.

The resolution authorizes Change Order #2 to the 2007-08 Reclaim and Overlay Project with Brannan Paving Company, Ltd., which will add improvements to Anthony Road and Lone Tree Road, in the amount of \$474,508.90, bringing the total contract amount to \$2,517,883.60. Lynn Short.

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

RESOLUTION 2009-4R – AWARDING BID FOR THE UTILITY INSTALLATIONS AT LOOP 463/MOCKINGBIRD LANE INTERSECTION PROJECT TO LESTER CONTRACTING, INC.

The resolution awards the bid for the Utility Installations at Loop 463/Mockingbird Lane Intersection Project to Lester Contracting, Inc. of Port Lavaca, Texas, in the amount of \$93,662. Lynn Short.

Cm. Polasek 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 2009-5R – APPOINTING THREE MEMBERS TO THE VICTORIA SALES TAX DEVELOPMENT CORPORATION

The resolution was postponed until the January 20, 2009 meeting.

RESOLUTION 2009-6R – AUTHORIZING A TRANSFER OF SHARED LIBRARY SYSTEMS AGREEMENT WITH THE UNIVERSITY OF HOUSTON-VICTORIA AND VICTORIA COLLEGE

The resolution authorizes a Transfer of Shared Library Systems Agreement with the University of Houston-Victoria and Victoria College. Dayna Williams-Capone.

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 2009-7R – AUTHORIZING AN OVERSIZED INFRASTRUCTURE CONSTRUCTION REIMBURSEMENT CONTRACT BETWEEN THE CITY OF VICTORIA AND BALL AIRPORT ROAD DEVELOPMENT, LLC FOR TUSCANY SUBDIVISION

The resolution authorizes an Oversized Infrastructure Construction Reimbursement Contract between the City of Victoria and Ball Airport Road Development, LLC for Tuscany Subdivision, in an amount not to exceed \$222,620. John Kaminski.

Director of Development Services, John Kaminski provided a revised contract concerning the timing of reimbursement. The reimbursement would be made one-year after completion of the off-site and oversized facilities, as long as the developer has completed Phase I of Tuscany Subdivision and dedicated it to the City. He recommended approval of the changes, adding that both staff and the developer had agreed on the changes.

Cm. Polasek moved to amend the attachment to the resolution to add the words in number 2 of the contract "*the City accepts the completed water and sewer lines described above*" instead of 'acceptance of the Tuscany Subdivision.' Add the words "*and as completed the first phase of the Tuscany Subdivision and dedicated same to the City,*" prior to 'the City agrees.' Add the words "*the completed water and sewer lines described above,*" before the words 'the Tuscany Subdivision' which will be eliminated. And also adds the words after in accordance with this contract "*and acceptance of the first phase of the Tuscany Subdivision.*" The motion was seconded by Cm. Guittard. The resolution was amended by the following vote:

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

NAYS: None

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

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

NAYS: None

RESOLUTION 2009-8R – NOMINATING JERRY JAMES, DIRECTOR OF ENVIRONMENTAL SERVICES, TO SERVE ON THE BASIN AND BAY AREA STAKEHOLDERS COMMITTEE

The resolution nominates Jerry James, Director of Environmental Services, to serve on the Basin and Bay Area Stakeholders Committee, addressing the river basin and bay system, including the Guadalupe River. Jerry James.

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 2009-9R – CONSIDERING AN AMENDED LEASE AGREEMENT BETWEEN THE CITY OF VICTORIA AND THE VICTORIA HORSEMAN'S CLUB

The resolution considered an Amended Lease Agreement between the City of Victoria and the Victoria Horseman's Club. Doug Cochran.

Members of Council wanted the opportunity to ask members of the Victoria Horseman's Club some questions about the agreement, however none were in attendance.

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Cm. Wyatt moved to table the resolution until the next meeting, with Cm. Polasek 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 2009-10R – AWARDING BID FOR THE PURCHASE OF ONE 2009 LOADER/BACKHOE WITH EXTENDAHOE TO NUECES POWER EQUIPMENT

The resolution awards the bid for the purchase of one 2009 Loader/Backhoe with Extendahoe to Nueces Power Equipment, of Victoria, Texas in the amount of \$99,123, plus a 5 year/5,000 hour extended warranty with a guaranteed repurchase price of \$36,000, for a total cost of \$63,123. Darryl Lesak.

Cm. Neitsch moved that the resolution be adopted, with Cm. Wyatt 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 Council would recess into Executive Session at 6: 25 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 Regional Wastewater Treatment Plant, the possible transfer of said plant to the City of Victoria, the Guadalupe-Blanco River Authority's proposal to manage the City's sewer plants, and the possible purchase of surface water rights to the Guadalupe River. 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 Regional Wastewater Treatment Plant, the possible transfer of said plant to the City of Victoria, and the possible purchase of surface water rights to the Guadalupe River). 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 (including, but not limited to, potential incentives for potential users of the Lone Tree Business Park). Miles Risley.

Section 551.074, Texas Government Code, with regard to personnel matters (including, but not limited to, appointment of members of the Board of Directors of the Victoria Sales Tax Development Corporation). Scarlet Swoboda & Miles Risley.

The Council reconvened in regular session at 6:58 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
and
CHARTER REVIEW COMMITTEE
January 8, 2009

CALL TO ORDER

A special meeting of the Victoria City Council and Charter Review Committee was called to order by Mayor Will Armstrong at 3:30 p.m. Thursday, January 8, 2009 in the Council Chambers, 107 W. Juan Linn, Victoria, Texas.

MEMBERS PRESENT

Will Armstrong, Mayor
Philip Guittard
Lewis Neitsch
Paul Polasek
David Hagan - *absent*
Jim Wyatt
Tom Halepaska

COUNCIL ADVISORS PRESENT

Jan Scott
Terry McGowan
Sharon Steen
Gary Middleton
Jack A. Mullins – *sat out in the audience*
Joseph Capers
Bill Russell

STAFF PRESENT

Charles Windwehen, City Manager
Miles Risley, City Attorney
Linda Champion, Assistant City Attorney
O. C. Garza, Public Information Officer
Scarlet Swoboda, City Secretary

Review of City Charter and Proposed Revisions

Discussion on the following proposals continued from the last meeting:

- Change the Uniform Election Date to November from May for City Council Elections.
- Set term limits for all elected city officials to no more than two terms.
- City Council shall not spend tax dollars on behalf of any indicted City Official unless approved by the voters.
- Provide that the City Attorney be elected at large instead of appointed by the City Council.
- Change petition signature requirements from ten percent to five percent for Initiative, Referendum, and Recall petitions.
- Victoria Elections Administrator to certify petitions instead of the City Secretary.

Mayor Armstrong expressed concern that if a Police or Fire officer were told that they are on their own to defend themselves until it is voted on by the public; the officers could be forced into a Union.

Mr. Russell commented that there would be a real problem getting people to be servants of the City if the Council was not willing to support them. He agreed with comments from the last meeting that it was very difficult to get people to run for Council. He commented that it was financially harmful to every Council Member, it takes away from family and business time, and it takes a lot of dedication. Citizens need to let the elected officials make the decisions and judgments as to whether or not they deserve to be supported.