

**CITY COUNCIL MINUTES**  
**January 20, 2009**

**EXECUTIVE SESSION**

Mayor Armstrong announced that Council would recess into Executive Session at 7:09 p.m., in accordance with:

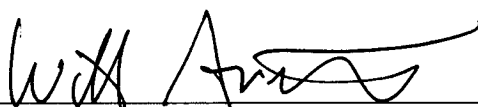
Section 551.071, Texas Government Code, consultation with attorney on matter involving pending or contemplated litigation or other matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act (including, but not limited to, legal issues related to proposed City Charter amendments). 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, the value of City property on Huvar Street). 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 7:30 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

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**VICTORIA CITY COUNCIL**  
**and**  
**CHARTER REVIEW COMMITTEE**  
**January 22, 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 3:31 p.m. Thursday, January 22, 2009 in the Council Chambers, 107 W. Juan Linn, Victoria, Texas.

**MEMBERS PRESENT**

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

**COUNCIL ADVISORS PRESENT**

Jan Scott - *absent*  
 Terry McGowan  
 Sharon Steen  
 Gary Middleton  
 Jack A. Mullins  
 Joseph Capers - *absent*  
 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**

City Attorney, Miles Risley presented another modification provision which would authorize the City Manager to hire additional city attorneys to avoid arguments between the peoples City Attorney and the city's attorney, that would change Section II under duties and powers of the City Attorney, and add subsection (g) which would authorize the City Manager with the approval of the City Council to hire legal counsel as authorized by the City Council to represent the City in cases in controversies, prosecute cases in municipal court, advise City Council and the officers and employees of the City with respect to their official rights and duties, review contracts and other legal documents of the City, and otherwise act as attorney for the City of Victoria.

Currently, the City Manager hires other attorneys and contracts them on an as needed basis, he does not hire attorneys to represent the City in municipal court, and arguably if there was a disagreement between the City Attorney and one of the attorneys he hired, the City Attorney would prevail in that argument. If there was an elected City Attorney, City Council might be uncomfortable with having that elected City Attorney as much patronage power as the Legal Department would entail for such an attorney. The Legal Department does not just employ the City Attorney it employs legal assistants, and assistant city attorneys. It would create the only position that would have patronage power within the City. The City Council as a whole individually has no patronage power, the City Council as a whole must act to hire a City Manager. The City Attorney being the head of the Legal Department could come in and theoretically hire an entire group of his own people, and eliminate many of the efficiencies that staff has gained over the years. It was pointed out that the City Attorney currently also manages the City Secretary and Municipal Court operations.

Mr. Risley advised that the proposed modification would allow the City Manager to establish some attorneys that would be shielded from an elected official who might go in and remove a lot of assistants, who have created a great deal of efficiencies in how they do things. It would give the City Manager additional authority to clearly be able to make the necessary managerial changes to manage the legal product and make sure that continual product coming, despite how inexperienced or problematic an elected City Attorney might become. It is simply a risk management measure.

Cm. Polasek commented that it seemed like they were spending a lot of time trying to mitigate what they felt were some poorly written ambiguous items on the petition. If the proposed amendments presented by the petitioners passed they could lead to great expense. He suggested that the greatest affect they would have over the years would be to weaken the City Council, which he felt was the primary purpose. He was at the point that he felt the proposed Charter amendments should be put on the ballot as presented in the petition, and let the public vote them up or down.

City Manager Windwehen commented that an elected City Attorney was his greatest area of concern. The language in the proposed Charter amendment does not require that the elected City Attorney be an attorney. There are hundreds and hundreds of reports, ordinances, resolutions, contracts, agendas, and public hearings that the City Attorney reviews. If he did not have confidence in that attorney, he would not have confidence in signing those documents nor would the City Council in approving multimillion dollar contracts. That would be a tremendous liability issue.

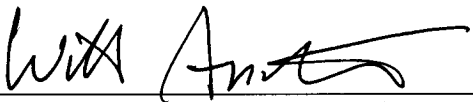
Mr. Risley advised that the City Manager currently has the authority to hire other attorneys but the City Charter specifically states that the City Attorney shall represent the City of Victoria in all litigation and controversies and shall prosecute by person or by assistant all cases brought before Municipal Court.


CITY COUNCIL / CHARTER COMMITTEE MINUTES

January 22, 2009

It was the general consensus of the Committee to let the petition proposals go on the ballot as presented. There was agreement that the language was poorly written and could cause a lot of problems in the future. They agreed that a lot of time had been spent going over "what if" scenarios and it could be confusing to the public to try and explain which would be good and which would not. It was pointed out that if the proposed amendments passed at the May election it would be two years before any changes could be proposed to cleanup the language. The majority of the Committee was opposed to all of the proposed amendments presented by the Concerned Citizens for Responsible Government. It was further pointed out that Mr. Risley was one of the best attorneys in Texas and potentially could lose his job if one of the proposals passed.

Mayor Armstrong and Cm. Neitsch thanked the members of the Committee for their service and appreciated their input. With no further business, the meeting was adjourned at 4:25 p.m.

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

ATTEST:   
SCARLET SWOBODA, City Secretary

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