

VICTORIA CITY COUNCIL
April 7, 2009

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, April 7, 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, Mayor Pro-Tem
Paul Polasek
David Hagan arrived at 5:02 p.m.
Jim Wyatt
Tom Halepaska

STAFF PRESENT

Charles E. Windwehen, City Manager
Charmelle Garrett, Deputy City Manager
George E. Hyde, Interim 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
Rick Henrichs, Director, IT
Jerry James, Director, Environmental Services
Roy Boyd, Deputy Chief of Police
Jimmy Roach, Deputy Director, Public Works
Jared Mayfield, Planning Manager
Ray Miller, Deputy Director, Development Services
Andrew Jacob, Assistant Finance Director
Darrell Seibert, Public Works Engineer
Darryl Lesak, Asst. Director Environmental Services
Donald Reese, Public Services Manager
Scarlet Swoboda, City Secretary

CITY MANAGER REPORT

- **New Speaker System in Council Chambers** – Public Information Officer, O.C. Garza reported that the new speaker system had been installed and pointed out the new features.

APPROVAL OF MINUTES

The minutes of the regular meeting of March 17, 2009 were approved as presented.

CITIZENS COMMUNICATION

Mayor Armstrong asked that only those citizens wanting to speak on the topic of closing Railwood Drive address Council at this time. He would then ask for the City Managers Report from staff on the same topic. After that report he would open Citizens Communication up again for any other topics to be addressed.

The following individuals spoke in favor of closing traffic on Railwood Drive; expressing their concerns that cut through traffic would increase when the new West High School opened. Other concerns were safety of young children and drivers that do not stop at stop signs:

David Brown, 116 Creekside Drive; Jerry Cheatham, 207 Chimney Rock; Rusty Donohue, 501 Chimney Rock; Laura Blackwood, 506 Chimney Rock; Russell Scogin, 102 Woodhall; and C. W. Goldsum, 201 Chimney Rock.

Amy Wuest, 302 Hampshire Lane advised that residents of Castle Hills Subdivision presented a petition in August to the Planning Department asking to have three streets closed in that subdivision for the safety of those residents. If Council considers closing a street in Woodway she too would plead to have the streets in her subdivision considered also. She also thanked David Hagan for speaking up and not having a personal agenda.

Tommy Lowe, 403 Turtle Rock, commented that he was not for or against closing Railwood but he felt the traffic would still go through the neighborhood, affecting a larger number of residents. Data did not justify the closing of that street and asked Council to allow the Planning Department to do their studies and come back with a recommendation.

B. J. Davis, 410 Iron Gate suggested closing a portion of Nursery Drive as an alternative to closing Railwood. That would force the traffic to go to the highway instead of cutting through the neighborhood. He also suggested putting in a crossing over the railroad track where Ball Airport extension would eventually cross to U.S. 87, to divert traffic to the traffic signal that will be installed in conjunction with the school opening.

CITY MANAGER REPORT

- **Request to Close Railwood Drive** – Director of Development Services, John Kaminski reported that a survey was sent to all residents of Woodway and at the same time a survey from the Woodway Homeowners Association was sent out. Approximately 53% to 63% of the households were in favor of closing the street. Traffic counts show 484 vehicles per day compared to 436 vehicles per day from five years ago. He pointed out potential negative impacts: Vehicles using Railwood will find alternate routes through the neighborhood and impact a greater number of homeowners. Staff concurs that some of the traffic may be cut through traffic; however the majority of the trips are contributed to residents or service companies. It was staff's concern that if Railwood were closed the residents on the northwest end of Woodway would petition to close the Woodhaven entrance and the traffic volumes are too great to be accommodated by the remaining two southern entrances. Traffic patterns will be affected when the new school opens in the Fall of 2010 and the traffic signal is installed at U.S. 87 and Tropical Drive, but no one knows what those impacts will be until then. The Development Services Department does not recommend the closure of Railwood Drive at this time. Options: (1) Direct staff to prepare an ordinance to close Railwood Drive and bring back at future agenda for public hearing, (2) take no action until after schools open and traffic patterns are identified, and (3) retain an independent traffic engineer or transportation planning firm to prepare a more thorough traffic study and make recommendations.

Cm. Polasek commented that the triggering event was the high school and expressed concern that exiting the new high school would create a problem. He suggested prohibiting traffic from crossing over U.S. 87 for a section of time at that light, much like some other cities do. Another option would be closing a section of Nursery Drive as Mr. Davis suggested, or close the railroad crossing.

Mayor Armstrong wanted to close the street and prepare an ordinance. Cm. Wyatt was not in favor of an ordinance at this time and wanted to look at other alternatives. It was the consensus of Council to wait on an ordinance but to continue looking at options.

Mr. Kaminski advised that each decision would affect another group of individuals. He also did not see closing the railroad crossing without putting in another one somewhere else, and the Texas Department of Transportation (TxDot) had already put in significant amounts of money on a traffic signal at that intersection. Cm. Polasek commented the street could be closed with barricades if the traffic became a huge problem. Cm. Hagan did not have any objects to any of the ideas, but did not want to hire an engineer. Cm. Halepaska inquired whether any plans were being made to make that intersection wider for buses. It was suggested to include that in any other studies.

CITIZENS COMMUNICATION

John Griffin, 507 S. Deleon, thanked Council for investing in the infrastructure and supporting the arts in Victoria. If the City does not keep the infrastructure in good shape and wait for the next generation to pay for it, we will never have a tax base or be able to attract investors to our community. He thanked them for making improvements at a time when costs are less. Fiscal responsibility means keeping our tax base solid and secure.

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Donald Mader, 1710 Walnut Avenue expressed concern that Cm. Hagan admitted under oath that he committed a Class B misdemeanor for illegally copying confidential Council records. He was also concerned that if he is eventually charged would he want his legal fees paid by the City.

Russell Pruitt, 402 Sherwood, welcomed Mr. Hyde to the City and informed him that the City Council rewrote the Charter amendments that the Concerned Citizens for Responsible Government petitioned to have placed on the ballot, suggesting that it was in violation of the law. He commented that Mr. Hyde had made a statement that the City Council had the right to reasonably rewrite the amendments and challenged Mr. Hyde to show him the law that allows the Council to do that. Mr. Pruitt disagreed with Mr. Hyde and handed out copies of the simplified version of the amendments from his group and the version that the City rewrote. He suggested that Mr. Hyde was his attorney too, because citizens pay his salary. He then encouraged the citizens to vote for the charter amendments.

Sharon Steen, 104 N. Liberty, commented that she was grateful to live in a country where everyone was able to have and state their opinion. She found it destructive for a community when a group of people continually harass the government, calling them liars, and saying that they are doing things that they should not do, which was simply not true. She has been coming to meetings for 25 years, and the Council takes their job seriously, then to have people slander them was not helping the community. Everyone has a right to their opinion, but there is a big picture, and so many people are missing the big picture by coming and ranting and raving. She served on the City Charter committee and tried to understand the citizen groups rational, tried to work with them, and the committee found that it was impossible to do so. There has to be compromise and understanding. It bothered her when she sees and hears some of the things said about the community, commenting that if they think this is good for the community they are badly mistaken. People do not want to come to a community with this much controversy. Those attacking the Council need to take a hard look at what their interests really are.

ITEMS FROM COUNCIL

Discussion regarding State v. Ure, its related impact on the City and related City business and the activities of officials and employees of the City related to the case and take any appropriate action.

Mayor Armstrong briefly went through a timeline of events concerning the first time he and others met with the District Attorney concerning not accepting cases to the current situation and asked Mr. Hyde if he is subpoenaed at the next trial, which he was sure that he would be and called on to testify, what should be his answer in relationship to attorney-client privileges and his answer to information done in executive session.

Mr. Hyde advised that in regards to action the Council took at the prior meeting, and the position taken by the governing body regarding attorney-client privilege, and because the City's motions for protection and remedy were still being considered by the District Judge, he was bound under Rule 3.07 of the Rules of Professional Conduct and could not comment in public in regards to items pending in that case. There was an item on the agenda that would allow him to meet with his client the Council in Executive Session where he may be able to counsel them.

Cm. Hagan commented that any action he has taken was taken with legal counsel, and he assured them that all the appropriate high standards were followed. In regards to the case, he has always held that the public has a right to know the truth and if he is called again to testify he would. Regarding the Executive Sessions, he would testify. He stated that it had been intimated to him that he could be sued if he did so regarding Executive Sessions, and with that threat pending over him he would tell the truth if the District Court Judge asks him to.

Mr. Hyde made the following administrative comments: The Council should be aware that during the pendency of the prior trial, two Council Members were subpoenaed and placed under the rule. Under the rule they have a duty under the courts instructions to remove themselves from situations where they may hear the public discuss the matter pending before the court, which is the trial. Under consideration of the rule, had the trial continued Mayor Armstrong and Cm. Hagan as members of Council would not have been able to be at this meeting, in accordance with the rule. He has been informed by the counsel involved in the case that there is a possibility that more Council

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Members may be called as witnesses, in connection with the case, depending on the courts subsequent rulings. If a number greater than a quorum is placed under the rule, it may affect the ability of the Council to conduct business. If during citizen's comments a citizen brings up the trail they would have a duty under the rule to remove themselves from that meeting. If a quorum is lost then no City business could be conducted. There were also eight other City employees that were also identified as witnesses, and to the extent that they are called, or their work in relationship to respond to those subpoenas, they may be less available to the Council for Council questions during that period. He wanted to make Council aware of that, and how that may affect and impact the operations of the day to day business of the City and operations of the Council.

Cm. Guittard advised that for the last few years he had been the City's representative to the Texas Settlement Region. He would be going off Council in May and was worried about the City's representation to that group. He recommended appointing Sharon Steen as the City's representative to that group and requested that it be placed on a future agenda to appoint her.

Cm. Wyatt commented that he has been on the Texas Commission of Environmental Quality (TCEQ) Solid Waste Advisory Committee. He asked his colleagues to think about having another Council Member replace him to represent the City on that committee. He then commented on an article in the newspaper. He said that it infuriated him because it was insidious to allow a Council Member to describe other members as criminals. In his tenure on Council he had never knowingly participated in an illegal meeting and never tried to abate the Open Meetings Act in all the years he has served. The Council Members in Victoria should be applauded, compared to many other cities. He has been on a number of boards throughout the State of Texas, serving with individuals all over the State who would love to serve in Victoria, because these people are honest, do a great job, and have integrity. The objective is to have a better city, and he was infuriated that another Council Member would suggest that he positioned himself to lambaste the District Attorney. He stated that he has never ever taken anything under the table, or promised anyone anything because of his service on Council, and does not know of any others that have. For Cm. Hagan to say that they participated in a meeting that tried to thwart what the District Attorney was doing was a lie.

Cm. Polasek commented that he had one concern about going into Executive Session and would rather do it all in open session because he did not know if Cm. Hagan would choose to keep that information private. He asked Cm. Hagan if there was a reasonable discussion in there, would he keep it between them as it is supposed to be. Cm. Hagan responded that as long as it does not violate the law and public trust he would honor that request. He commented that there are laws on the books that address these issues and soon enough under oath we would all know what he was talking about.

Mr. Windwehen referenced an article in the newspaper, and a statement attributed to him from 2006 by Cm. Hagan, which suggested that he had said "he thought the City Council made their decisions at illegal meetings at Moo Moo Restaurant." Mr. Windwehen stated that he was not now, or anytime aware of any meetings legal or illegal, and he did not believe that any such meetings ever happened. He was pretty sure that he never made any statement to that affect, with the intent to convey that idea.

Mayor Armstrong asked Mr. Hyde if he would respond to Mr. Pruitt's frequent comments that the Council had acted illegally, and answer the question with authority, as to who has the right to decide what language would be placed on the ballot. Mr. Hyde advised that in general the statute reads that documents for purposes of an amendment have to be placed in the form of a question. The information that Mr. Pruitt presented to him are not in the form of a question. It is the City that designs the proposition language under the statutes and applicable law, and therefore the same statement regarding the factual requirement stands and does not change that position. Mr. Hyde recommended contacting Charlie Zech, the attorney in his firm that participated in the charter review process for further information.

Cm. Halepaska asked staff to look into repainting the directional signage on Stanly Road near the intersection of Salem.

Cm. Hagan inquired about the no tolerance policy of not picking up the garbage carts if the lids are not closed. He asked if there could be some type of warning. Director of Environmental Services, Jerry James responded that each case is addressed individually and staff goes and discusses

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the situation with the customer. On windy days if the lids are blown open the drivers are instructed to go ahead and pick them up. It is his staff's job to provide service, however his department has to establish a standard that everyone adheres to as well. Cm. Hagan also expressed concern with the garbage and trash that is deposited in the planters near Sperion. Staff had contacted Sperion and would follow up with them.

2010 Census Proclamation

Mayor Armstrong presented a 2010 Census proclamation to Gloria Gonzales with the U.S. Department of Commerce.

Illegal Brush Dumping

Cm. Polasek asked what the fines were for illegal brush dumping and asked that the appropriate department patrol areas and start fining those in violation. He was informed that Code Enforcement Officers or Police Officer had to see the person dumping in order to cite them and the maximum fine was \$500. Cm. Polasek requested two items to be placed on a future agenda: 1) the sale of alcoholic beverages near a school, and 2) Geo matting.

PUBLIC HEARINGS AND ACTION

Mayor Armstrong opened a public hearing on the following items:

ORDINANCE 2008-2009E – AMENDING THE 2008-2009 FISCAL YEAR BUDGET FOR LEGAL SERVICES OF DENTON, NAVARRO, ROCHA & BERNAL, P.C., A MUNICIPAL LAW FIRM, TO ACT AS INTERIM CITY ATTORNEY

Interim City Attorney, George Hyde, read the caption of Ordinance 2008-2009E, which amends the 2008-2009 Fiscal Year Budget of the City of Victoria by transferring \$74,000 from the General Fund fund balance to the General Fund Legal Department Professional Services line item to provide funding for legal services of Denton, Navarro, Rocha & Bernal, P.C., a municipal law firm, to act as interim City Attorney. Second and Third Reading. Gilbert P. Reyna, Jr.

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

Cm. Neitsch moved that the ordinance pass on second and third reading, with Cm. Guittard 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 AMENDING THE 2008-2009 FISCAL YEAR BUDGET OF THE CITY OF VICTORIA BY TRANSFERRING \$74,000.00 FROM THE GENERAL FUND FUND BALANCE TO THE GENERAL FUND LEGAL DEPARTMENT PROFESSIONAL SERVICES LINE ITEM TO PROVIDE FUNDING FOR LEGAL SERVICES OF DENTON, NAVARRO, ROCHA & BERNAL, P.C., A MUNICIPAL LAW FIRM, TO ACT AS INTERIM CITY ATTORNEY, REPEALING ALL CONFLICTING ORDINANCES, PROVIDING FOR SEVERABILITY, AND DECLARING AN EFFECTIVE DATE.

ORDINANCE 2008-2009F – AMENDING THE 2008-2009 FISCAL YEAR BUDGET TO PROVIDE FUNDING FOR LEGAL FEES ASSOCIATED WITH THE PERMITTING OF WATER RIGHTS

Interim City Attorney, George E. Hyde, read the caption of Ordinance 2008-2009F, which amends the 2008-2009 Fiscal Year Budget of the City of Victoria by transferring \$50,000 from the Water/Wastewater Fund fund balance to the Water/Wastewater Fund Environmental Department Professional Services line item to provide funding for legal fees associated with the permitting of water rights. First Reading. Andrew K. Jacob.

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Cm. Halepaska commented that these water rights were going to be very important to the City's future.

Cm. Halepaska 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 THE 2008-2009 FISCAL YEAR BUDGET OF THE CITY OF VICTORIA BY TRANSFERRING \$50,000 FROM THE WATER/WASTEWATER FUND FUND BALANCE TO THE WATER/WASTEWATER FUND ENVIRONMENTAL DEPARTMENT PROFESSIONAL SERVICES LINE ITEM, TO PROVIDE FUNDING FOR LEGAL FEES ASSOCIATED WITH THE PERMITTING OF WATER RIGHTS, REPEALING ALL CONFLICTING ORDINANCES, PROVIDING FOR SEVERABILITY, AND DECLARING AN EFFECTIVE DATE.

ORDINANCE 2008-2009G – AMENDING THE 2008-2009 FISCAL YEAR BUDGET TO PROVIDE FUNDING FOR ITEMS FOR AUTOMATED GARBAGE SERVICES AND IMPROVEMENTS TO THE VICTORIA CITY LANDFILL

Interim City Attorney, George E. Hyde, read the caption of Ordinance 2008-2009G, which amends the 2008-2009 Fiscal Year Budget of the City of Victoria by transferring \$433,153 from the Environmental Services Closure Fund fund balance to (1) Environmental Services Fund Recycling Department Other Equipment capital line item, (2) Environmental Services Fund Solid Waste Department Tipping Fees line item, (3) Environmental Services Fund Solid Waste Department Office Equipment capital line item, (4) Environmental Services Fund Solid Waste Department Other Equipment capital line item, (5) Environmental Services Fund Solid Waste Department Small Tools line item, and (6) Environmental Services Fund Landfill Closure Department Construction capital line item, to provide funding for items for Automated Garbage Services and improvements to the Victoria City Landfill. First Reading. Gilbert P. Reyna, Jr.

Cm. Wyatt commented that over the years he has tried to limit access to these dollars and expressed concerns that the closure fund was being drawn down and at some time funds would have to be put back. Cm. Polasek and Cm. Halepaska agreed with him.

Cm. Guittard moved that the ordinance pass on first reading, with Cm. Halepaska 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 2008-2009 FISCAL YEAR BUDGET OF THE CITY OF VICTORIA BY TRANSFERRING \$433,153.00 FROM THE ENVIRONMENTAL SERVICES CLOSURE FUND FUND BALANCE TO (1) ENVIRONMENTAL SERVICES FUND RECYCLING DEPARTMENT OTHER EQUIPMENT CAPITAL LINE ITEM, (2) ENVIRONMENTAL SERVICES FUND SOLID WASTE DEPARTMENT TIPPING FEES LINE ITEM, (3) ENVIRONMENTAL SERVICES FUND SOLID WASTE DEPARTMENT OFFICE EQUIPMENT CAPITAL LINE ITEM, (4) ENVIRONMENTAL SERVICES FUND SOLID WASTE DEPARTMENT OTHER EQUIPMENT CAPITAL LINE ITEM, (5) ENVIRONMENTAL SERVICES FUND SOLID WASTE DEPARTMENT SMALL TOOLS LINE ITEM, AND (6) ENVIRONMENTAL SERVICES FUND LANDFILL CLOSURE DEPARTMENT CONSTRUCTION CAPITAL LINE ITEM, TO PROVIDE FUNDING FOR ITEMS FOR AUTOMATED GARBAGE SERVICES AND IMPROVEMENTS TO THE VICTORIA CITY LANDFILL, REPEALING ALL CONFLICTING ORDINANCES, PROVIDING FOR SEVERABILITY; AND DECLARING AN EFFECTIVE DATE.

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ORDINANCE 2009-8 – ADOPTING A STORM WATER MANAGEMENT PROGRAM (SWMP) FOR THE CITY OF VICTORIA

Interim City Attorney, George E. Hyde, read the caption of Ordinance 2009-8, which adopts a Storm Water Management Program (SWMP) for the City of Victoria. First Reading. Donald Reese.

Public Services Manager, Donald Reese reported on the year one accomplishments of the program and to receive public comments in a public hearing and then send it on to the Texas Commission on Environmental Quality (TCEQ). Some of the language was amended in the document as a housekeeping measure to include mandatory language from the TCEQ General Permit to discharge under the Texas Pollution Discharge Elimination System. There were no public comments. Members of Council expressed concerns with individuals that dump things down the storm drains.

Cm. Wyatt moved that the ordinance pass on first reading, with Cm. Guittard 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 ADOPTING A STORM WATER MANAGEMENT PROGRAM (SWMP) FOR THE CITY OF VICTORIA; REPEALING CONFLICTING ORDINANCES, PROVIDING FOR ENFORCEMENT, PROVIDING FOR SEVERABILITY, AND DECLARING AN EFFECTIVE DATE.

RESOLUTION 2009-40R – ACCEPTING A GRANT FROM THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM TO REPLACE OUTDATED VHS IN-CAR VIDEO CAMERA SYSTEMS

A public hearing and resolution accepting a grant from the Edward Byrne Memorial Justice Assistance Grant (JAG) Program in the amount of \$159,919, which will be used to replace outdated VHS in-car video camera systems. The City match of \$66,366 would be addressed in the upcoming budget. Jesse Turner.

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

Mayor Armstrong closed the public hearings.

CITY MANAGER REPORTS

- **Status of Lone Tree Road Reconstruction, Laurent Street Reconstruction, and Lone Tree Channel Improvements and Trail Projects** – Public Works Engineer, Darrell Seibert reported on the aforementioned projects. All Lone Tree and Trail projects were near completion.
- **Report from the Parks and Recreation Commission on the Community Center** - Director of Parks and Recreation, Doug Cochran reported that the Parks and Recreation Commission held a series of meetings and they recommended engaging an architect to provide preliminary designs concepts and probable cost estimates for 1) converting the existing arena into an exhibit hall, 2) demolish the existing arena and construct a new exhibit hall in a different configuration, and 3) construction of a new exhibit hall and converting the existing arena into a storage area. Cm. Neitsch was disappointed that no one from the public attended any of the meetings, but felt that the City should start using funds to do some of the renovations or build a 40,000 square foot convention type of facility. He suggested that

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hotel/motel tax and sales tax funds could possibly be used towards this type of project. It would also have to be considered along with the CIP projects because. The City Manager advised that staff recommended doing a feasibility study to see what the market could sustain, because we would want to build something that will succeed. The utilization rates of the community center were discussed and staff was requested to provide those numbers. It was also mentioned that the arena was a large area, but not useable space, and only used 20 days a year. Members of Council were not opposed to getting better numbers, but suggested that staff determine the market and best and highest use of the property. A follow up report would be brought to Council at a later date.

- **Report on Lowe Field** – Director of Parks and Recreation, Doug Cochran reported that the entire report was in the packet and pointed out that the cost to install lights and poles at Lowe field were estimated at \$90,000. A budget amendment would be needed if Council decides to move forward. There was consensus to move forward.
- **Report on the Financial Status of the Environmental Services Fund** – Director of Finance, Gilbert P. Reyna, Jr. and Director of Environmental Services, Jerry James presented a lengthy PowerPoint presentation. The objective of the report was to 1) Identify the Environmental Services Fund operations and their operating budgets for fiscal year 2009, and 2) identify the financial status for each Environmental Services Fund operation. These funds are funded by rates collected from the customers. The Environmental Services Fund Budget is \$4,388,282, with costs broken out by 1) residential collection in the amount of \$2,726,914; 2) brush and bulky items collection in the amount of \$507,394; 3) yard waste collection in the amount of \$271,763; 4) recycling center operations in the amount of \$88,527; and 5) closure and post-closure landfill operation in the amount of \$793,684. The 2010 residential collection rate will be \$13.68 a decrease of approximately \$5 since 2007. Other fees not being assessed for monthly services are \$2.59 for brush and bulky services, \$1.44 for yard waste services, and \$0.42 for the recycling center services, totaling \$4.45. Mr. Reyna explained the financial plan and closure fund, advising that the plan was working and saving the City money for residential collection. Cm. Polasek suggested itemizing the customer's bills so that they have a better understanding of where the funds go. A handout on the Landfill CIP projects was handed out. A recommended fee schedule will be brought back to Council when addressing the 2010 fiscal year budget.

RESOLUTION 2009-41R – AUTHORIZING THE PURCHASE OF A VERSALIFT TRUCK MOUNTED MANLIFT ON A 2009 FORD F550 CONVENTIONAL CAB AND CHASSIS FROM PHILPOTT MOTORS, LTD.

The resolution authorizes the purchase of a Versalift VST 361, truck mounted manlift on a 2009 Ford F550 Conventional Cab and Chassis from Philpott Motors, Ltd. of Nederland, Texas through the Local Government Purchasing Cooperative (Buy Board), in the amount of \$90,933. Lynn Short.

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

RESOLUTION 2009-42R – AUTHORIZING PURCHASE OF 7 SOLAR SCHOOL ZONE FLASHER ASSEMBLIES FROM NAZTEC, INC.

The resolution authorizes the purchase of 7 solar school zone flasher assemblies from Naztec, Inc. of Sugar Land, Texas, in the amount of \$46,725. Lynn Short.

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

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RESOLUTION 2009-43R – AWARDING BID FOR THE DOWNTOWN WATER AND SEWER LINE REPLACEMENTS (PHASE I, PROJECTS 1 & 2) PROJECT TO TRIPLE B SERVICES, LLP

The resolution awards the Downtown Water and Sewer Line Replacements (Phase I, Projects 1 & 2) Project to Triple B Services, LLP, of Huffman, Texas, in the amount of \$2,913,061.90. Lynn Short.

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 2009-44R – AUTHORIZING A REAL ESTATE SALES CONTRACT WITH S.F. RUSCHHAUPT III, FOR THE PURCHASE OF WATER RIGHTS

The resolution authorizes the City Manager to execute a Real Estate Sales Contract with S.F. Ruschhaupt III, to purchase 200 acre feet of run of the river rights in the Guadalupe River at a price of \$300 per acre foot, for a total of \$60,000. Jerry James.

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 2009-45R – AUTHORIZING A REAL ESTATE SALES CONTRACT WITH WILLIAM M. MURPHY III, MADELINE PORTILLA MURPHY TYNG, MARY LISA MURPHY AND MARY MELITA MURPHY TESTAMENTARY TRUSTS FOR THE PURCHASE OF WATER RIGHTS

The resolution authorizes the City Manager to execute a Real Estate Sales Contract with William M. Murphy III, Madeline Portilla Murphy Tyng, Mary Lisa Murphy and Mary Melita Murphy Testamentary Trusts for the purchase of water rights evidenced by Certificate of Adjudication No. 18-3858, Guadalupe County, Texas. The purchase price of the water is \$1,250 per acre feet for 1000 acre feet of Guadalupe River run of the river water rights for a total price of \$1,125,000. Jerry James.

Mr. James advised that the resolution needed to be amended to correct the total price amount to reflect \$1,250,000. The contract had the correct amount, but the resolution was in error.

Cm. Wyatt moved to amend the resolution to correct the amount to \$1,250,000, with Cm. Neitsch seconding the motion. The resolution was amended by the following vote:

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

NAYS: None

Cm. Neitsch moved that the resolution be adopted, with Cm. Hagan 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

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RESOLUTION 2009-46R – AUTHORIZING WATER RIGHT AMENDMENTS WITH THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

The resolution authorizes the City Manager to prepare, execute, and pursue Water Right Amendments with the Texas Commission on Environmental Quality for Certificate of Adjudication No. 18-3862, Certificate of Adjudication No. 18-3844, Permit No. 3606, and Permit No. 5466; authorizing a temporary water right, contingent on funding; and declaring an effective date. Jerry James.

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

WORK SESSION

City Manager, Charles E. Windwehen recommended moving the Work Session to another meeting due to the length of the meeting. He did however request direction from Council on whether staff could move forward with the Fire Station on Miori across from Memorial High School. Council gave consensus to move forward.

Cm. Neitsch moved to hold the Work Session for the following on a future meeting date:

1. City of Victoria Comprehensive Plan Review (2020 Plan), including, but not limited to: Chapter 12-Implementation. John Kaminski.

2. Capital Improvement Projects (CIP) planning and finances. Charles E. Windwehen, Gilbert P. Reyna, Jr., John Kaminski, Lynn Short and Vance Riley.

Cm. Guittard seconded the motion. The motion carried 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 8:15 p.m., in accordance with:

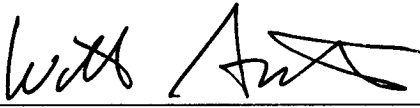
Section 551.071, Texas Government Code, consultation with attorney on matter involving pending or contemplated litigation or other matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act (to include, but not limited to *State v. Ure*). George E. Hyde.


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. George E. Hyde.

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. George E. Hyde.

Section 551.074, Texas Government Code, with regard to personnel matters (including but not limited to Bruce Ure). Scarlet Swoboda and George E. Hyde.

The Council took no action and adjourned the meeting at 9:40 p.m.

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

ATTEST: 
SCARLET SWOBODA, City Secretary

VICTORIA CITY COUNCIL
April 14, 2009

CALL TO ORDER

A special meeting of the Victoria City Council with the Victoria County Commissioners was called to order by Mayor Will Armstrong at 5:00 p.m. Tuesday, April 14, 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, Mayor Pro-Tem
Paul Polasek
David Hagan
Jim Wyatt
Tom Halepaska

STAFF PRESENT

Charles E. Windwehen, City Manager
Charmelle Garrett, Deputy City Manager
Linda Champion, Assistant City Attorney
Gilbert P. Reyna, Jr., Director, Finance
Lynn Short, Director, Public Works
John Kaminski, Director, Development Services
Doug Cochran, Director, Parks and Recreation
Bruce Ure, Police Chief
Vance Riley, Fire Chief
Jerry James, Director, Environmental Services
Rick Henrichs, Director, IT
Ken Gill, City Engineer
Jimmy Roach, Deputy Director, Public Works
Ray Miller, Deputy Director, Development Services
Roy Boyd, Deputy Chief of Police
Andrew Jacob, Assistant Finance Director
Darrell Seibert, Public Works Engineer
Jared Mayfield, Planning Manager
Darryl Lesak, Asst. Director Environmental Services
Donald Reese, Public Services Manager
Scarlet Swoboda, City Secretary

COMMISSIONERS PRESENT

Donald Pozzi, County Judge
Wayne Dierlem
Kenny Spann
Gary Burns
Kevin Janak

OTHERS PRESENT

Randy Bena, TxDot
Ron Leach, VISD

CITIZENS COMMUNICATION

No one wished to address Council.

ITEMS FROM COUNCIL

Cm. Hagan asked if a yield sign was going to be placed at the intersection of Airline where the hike and bike trail crosses. City Engineer, Ken Gill advised that crosswalks were in place at all major street crossings as well as push buttons that would activate flashers to alert traffic at the intersections.