

VICTORIA CITY COUNCIL
July 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, July 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
 Tom Halepaska, Mayor Pro-Tem
 Denise Rangel
 Gabriel Soliz
 Paul Polasek
 David Hagan
 Joe Truman

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
 Jerry James, Director, Environmental Services
 Danette Respondek, Director, Human Resources
 Rick Henrichs, Director, IT
 Ray Miller, Deputy Director, Development Services
 Jimmy Roach, Deputy Director, Public Works
 Ken Gill, City Engineer
 Andrew Jacob, Assistant Finance Director
 Darryl Lesak, Asst. Director Environmental Services
 Scarlet Swoboda, City Secretary

OTHERS PRESENT

Randy Vivian, President,
 Chamber of Commerce
 Gary Dunnam, President,
 Victoria Preservation Inc.

ANNOUNCEMENT AND PRESENTATION

Charlie McGarity 815 Briarwood, with the Texas Trouble Softball Team announced that they had won the 2009 Texas ASA State Tournament held at the Sports Complex. He thanked the Council and Parks Commission for the vision of building the park and presented signed game balls to the Mayor and Council.

APPROVAL OF MINUTES

The minutes of the regular meeting of June 16, 2009 were approved as presented.

CITY MANAGER REPORTS

- **Preliminary Engineering Report on the Downtown Sidewalk and Street Improvement Project** – Director of Public Works, Lynn Short reported that if the project were approved for construction it would come on the heels of the Downtown Utilities Replacement Project, which is currently being constructed on the streets circling DeLeon Plaza. He spoke about the existing lack of Americans with Disabilities Act (ADA) compliant ramps at intersections, parking spaces, excessive slope in crosswalks, curb height, and cross slope sidewalks. He advised that overlaying the streets following the utilities replacement would trigger ADA compliance requirements for ramps and crosswalks at intersections and repairs of sidewalks would also trigger ADA compliance for the sidewalks too. He proposed the following solutions:
 - Mill and remove top layer of existing hot mix overlay
 - Reconstruct curbs
 - Install additional storm drainage
 - Construct eyebrows at intersections
 - Construct new sidewalks and ADA ramps
 - Level and overlay streets with hot mix pavement

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Mr. Short provided the following design options for the proposed sidewalk improvements:

Option 1: Basic reconstruction using standard white concrete sidewalks and eyebrows, estimated cost \$2,325,246. Most cost effective, but cracking is difficult to control or eliminate, repairs are highly visible, unattractive color and highly reflective.

Option 2: Reconstruction of sidewalks and eyebrows using a combination of brick pavers and colored, textured concrete, estimated cost \$2,696,294. More attractive, but the same issues as Option 1, also difficult to match color and texture when patching or repairing.

Option 3: Reconstruction of sidewalks and eyebrows using brick pavers on all surfaces, estimated cost \$2,749,079. Much more attractive, eliminates visible cracking, patching and repairing nearly invisible, consistent look throughout project, and can be easily altered, repaired, or replaced, however costs \$423,833 more than Option 1. Mr. Short advised that Option 3 was the staff's recommendation.

Cliff Kuykendall, owner of Taqueria Victoria on Main Street, Lewis Neitsch, 2906 Wildwood, Gary Dunnam, 104 N. Liberty, and Susan Rather, Property Manager of One O'Connor Plaza spoke in support of the sidewalk project. It was also pointed out that the Victoria Sales Tax Development Corporation funded the initial design work and would probably contribute to this project as well.

It was the consensus of the majority of Council to move forward with Option 3 as recommended by staff.

CITIZENS COMMUNICATION

Buddy Kamin, Commercial Street, ask the Council to revisit the salary compensation for the first responders, suggesting that their jobs are not the same as other employees of the City.

James Wayne, 15 Spring Creek Road, requested that Council consider appointing him to the Planning Commission.

Matt Ocker, 2307 FM 2615, addressed tax rates and expressed concern with property tax assessments. He commented that one member of Council serves on the Appraisal District, suggesting that the responsibility has been aggregated. He commented that working class neighborhoods continue to see increases in assessment, while neighborhoods such as Country Club and Benchmark stay the same. The people that come to Council wanting all of these improvements are the ones that do not have increases in property tax assessments.

Cm. Polasek responded as the City representative on the Appraisal District Board, that it is an independent body hired by the taxing entities to form appraisals. It is against the law for anyone on the board to discuss an individual property with the Appraiser. The Appraisal Board hires the one Chief Appraiser and authorizes the annual audit and a few expenditures. The Appraisal Review Board is a completely different board, which some people confuse with the Appraisal District Board. It was also pointed out that the State Comptroller can withhold funding if it is determined that property values are under assessed.

Jeff Williams, 702 Santa Fe, commented on redirecting funds from affordable housing to sidewalks, suggesting that there should be funds to build sidewalks in areas that need them. He also questioned how sales tax revenue could be up as reported at a previous meeting when according to the State Comptroller's Office sales tax was down. He stated that through June of this year sales tax payments to the City of Victoria were down 10.8%, which indicated to him that the economy was on the decline. He implored the Council to look at things to cut dollars instead of continuing to spend.

Mayor Armstrong requested an update on the sales tax revenue from the Finance Department at the next regular meeting.

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Russell Pruitt, 402 Sherwood, expressed concern with the steady increase in unemployment in Victoria. He commented that Victoria relies on the outlying areas to shop and when their economy suffers, so does Victoria's.

Dale Zuck, 126 Casablanca, expressed concerns with the millions being spent on various projects. He commented that the taxpayers were being taxed too much and suggested holding off on some of the major projects. He also suggested cutting back on expenses by discontinuing fire engines going along on an ambulance run.

ITEMS FROM COUNCIL

Interim City Attorney, George E. Hyde, advised that he had asked the City Manager to schedule an executive session on July 14 at 5:00 p.m. to brief the Council in regards to the State vs. Ure case.

- **New Charter Committee** - Mayor Armstrong appointed Mayor Pro-Tem Halepaska to Chair the new committee and appointed Cm. Rangel and Cm. Polasek as committee members. He wanted them to wait about six-months, and then report to the Council after the next election in May with a plan for Charter revision. That plan would then have a year be worked on before going on the ballot to comply with the two-year requirement of placing Charter items on a ballot. Mayor Pro-Tem Halepaska commented that a regular Council Election was not scheduled for 2011, but an election could be held anyway.

Cm. Polasek asked whether sales tax was down this year. Finance Director, Gilbert P. Reyna, Jr., pointed out that 2% is based on the original budget, and he would provide more information in the report at the next regular meeting. Mr. Hyde read Section 5 of the City Charter, regarding the budget preparation process, pointing out that in order to change that process; the citizens would have to have a Charter Election to change the Charter.

- **Solid waste fees, service level and related items** – Cm. Polasek commented that the City has been taking money from the closure fund for years. There has been a \$4 per account in savings since automating garbage collection, yet there is still more ground to cover. Staff had suggested a \$3.85 increase to make the fund self supporting, but recommended a \$2.50 increase instead. Another component was the Methane Gas Capture Project and encouraged staff to hire a consultant to expedite the process of taking that gas to market. We need to get that revenue in as soon as possible. Mr. Windwehen advised that staff could come back with a report on ways to implement Cm. Polasek's recommendations at the next regular meeting. It was staff's opinion that the Methane Gas Capture Project would be profitable based on the number of inquiries from companies wanting to purchase the gas.
- **Hazard Pay** – Cm. Soliz commented that a constituent had suggested hazard pay for first responders and requested discussion on the topic. Cm. Hagan was open for any suggestions that would help with a pay increase for the fire and police. Mr. Hyde commented that from a legal standpoint there were a number of issues to consider and you would have to be careful when initiating that type of program. The definition of first responder would have to be determined, because if there were a gas leak, someone from Public Works would be taking a significant risk. First responder may not just apply to fire or police. The definition of how or when hazard pay began would have to be determined by the Council. Cm. Hagan questioned whether there had to be a trigger, couldn't it just be merely the position itself. Cm. Truman asked whether the starting pay for a police officer was the same as the starting pay for a street worker. It was pointed out that the starting pay for a Police Officer is higher than starting pay for a street worker. There are different pay grades for different positions in the City and there are rankings based on responsibility and working conditions, etc., to determine which pay grade a position falls in. There are a number of jobs within the City that put employees at risk and it could be difficult to determine which employees are most at risk. Staff was also unaware of any other City that had Hazard pay in Texas. Mayor Pro-Tem Halepaska commented that they needed to treat all employees fairly. Administration would be bringing some recommendation soon to adjust the grades, however moving minimums and maximums does not help, you have to have money to move people over that.

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- **Criminal Defense Liability Insurance** – Cm. Soliz asked what the writer amount set aside to defend criminal defense was. He was informed that currently through Texas Municipal League (TML) there was \$10,000 for Public Official Defense Fund to reimburse for criminal prosecutions of those individuals in the scope of their duties. That cost is part of the policy itself, not the schedule of benefits, and is not amendable. With regard to other providers, before you can go out for inquires they want the ranges of liability. For a million dollar claim on the criminal side, it could cost \$55,000 per year for the premium. The costs could depend on the coverage and what the hidden terms were.

Mayor Armstrong asked that the agenda for the July 14, 2009 be posted so that all City related defense cases can be discussed in the executive session scheduled for that meeting.

Cm. Polasek asked about the policy of not picking up garbage cans when the lid is not completely closed. Assistant Director of Environmental Services, Darryl Lesek responded that there has to be consistency for the sake of both the customer and the employee, so that judgment calls do not have to be made by the employee.

Cm. Hagan commented that he had been told that the lights on Newport Drive were still obstructed and asked staff to check on it.

Cm. Truman asked for a report from Keep Victoria Beautiful to be placed on the agenda for the next regular meeting.

PUBLIC HEARINGS AND ACTION

Mayor Armstrong opened a public hearing on the following items:

ORDINANCE 2008-2009K – AMENDING THE 2008-2009 FISCAL YEAR BUDGET FOR COSTS RELATED TO THE NEW ROAD AND METHANE GAS SYSTEM IMPROVEMENTS AT THE VICTORIA LANDFILL

Interim City Attorney, George E. Hyde, read the caption of Ordinance 2008-2009K, which amends the 2008-2009 Fiscal Year Budget of the City of Victoria by transferring \$1,114,409 from the Environmental Services Closure Fund fund balance to (1) Environmental Services Fund Landfill Closure Department Engineering capital line item, and (2) Environmental Services Fund Landfill Closure Department Construction capital line item, to provide funding for engineering and construction costs related to the new road and methane gas system improvements at the Victoria Landfill. Second and Third Reading. Andrew Jacob.

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

Mayor Pro-Tem Halepaska moved that the ordinance pass on second and third reading, with Cm. Truman seconding the motion. The ordinance passed on second and third reading by the following vote:

AYES: Council Members Rangel, Soliz, Polasek, Hagan, Truman, Halepaska, and Mayor Armstrong

NAYS: None

Caption:

AN ORDINANCE AMENDING THE 2008-2009 FISCAL YEAR BUDGET OF THE CITY OF VICTORIA BY TRANSFERRING \$1,114,409 FROM THE ENVIRONMENTAL SERVICES CLOSURE FUND FUND BALANCE TO (1) ENVIRONMENTAL SERVICES FUND LANDFILL CLOSURE DEPARTMENT ENGINEERING CAPITAL LINE ITEM, AND (2) ENVIRONMENTAL SERVICES FUND LANDFILL CLOSURE DEPARTMENT CONSTRUCTION CAPITAL LINE ITEM, TO PROVIDE FUNDING FOR ENGINEERING AND CONSTRUCTION COSTS RELATED TO THE NEW ROAD AND METHANE GAS SYSTEM IMPROVEMENTS AT THE VICTORIA LANDFILL, REPEALING ALL CONFLICTING ORDINANCES, PROVIDING FOR SEVERABILITY; AND DECLARING AN EFFECTIVE DATE.

ORDINANCE 2008-2009L – AMENDING THE 2008-2009 FISCAL YEAR BUDGET TO PROVIDE ADDITIONAL FUNDING FOR THE CITY’S COST SHARE OF THE 2009 JOINT GENERAL AND SPECIAL ELECTION, INCLUDING THE RUNOFF ELECTION FOR CITY COUNCIL DISTRICT NO. 1

Interim City Attorney, George E. Hyde, read the caption of Ordinance 2008-2009L, which amends the 2008-2009 Fiscal Year Budget of the City of Victoria by transferring \$46,666.91 from the General Fund fund balance to the General Fund City Secretary Department Professional Services line item, to provide additional funding for the City’s cost share of the 2009 Joint General and Special Election, including the Runoff Election for City Council District No. 1. First Reading. Andrew Jacob.

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

Cm. Rangel moved that the ordinance pass on first reading, with Cm. Truman seconding the motion. The ordinance passed on first reading by the following vote:

- AYES: Council Members Rangel, Soliz, Polasek, Hagan, Truman, Halepaska, and Mayor Armstrong
- NAYS: None

Caption:

AN ORDINANCE AMENDING THE 2008-2009 FISCAL YEAR BUDGET OF THE CITY OF VICTORIA BY TRANSFERRING \$46,666.91 FROM THE GENERAL FUND FUND BALANCE TO THE GENERAL FUND CITY SECRETARY DEPARTMENT PROFESSIONAL SERVICES LINE ITEM, TO PROVIDE ADDITIONAL FUNDING FOR THE CITY’S COST SHARE OF THE 2009 JOINT GENERAL AND SPECIAL ELECTION, INCLUDING THE RUNOFF ELECTION FOR CITY COUNCIL DISTRICT NO. 1, REPEALING ALL CONFLICTING ORDINANCES, PROVIDING FOR SEVERABILITY; AND DECLARING AN EFFECTIVE DATE.

ORDINANCE 2009-19 – AMENDING SECTION 14-62(E) OF THE VICTORIA CITY CODE TO EXPAND THE TYPE OF “HOME-GROWN” PRODUCTS OFFERED FOR SALE AT THE VICTORIA FARMER’S MARKET

Interim City Attorney, George E. Hyde, read the caption of Ordinance 2009-19, which amends Section 14-62(e) of the Victoria City Code to expand the type of “home-grown” products offered for sale at the Victoria Farmer’s Market. First Reading. Scarlet Swoboda

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

Joe Janak, Victoria County Agent, 289 Oliver Road, appreciated the Council support on this, but would like to have a waiver that would allow for the sale of yard eggs without having to pay a fee to do this. The permit fee is \$100 and most individuals do not sell enough eggs to cover that cost.

Tammy Fikac, 356 FM 237, with the Health Department commented that the eggs fall under retail foods, which require getting a permit through the Health Department. The State requires a permit for retail foods, but the fee for that permit is decided by the City Council. She explained that the retail food permit is written primarily for restaurants not necessarily yard eggs, but because they are considered a retail food they are required to be permitted. She suggested considering a separate line item for Farmer’s Markets with a lower fee for yard eggs.

Mr. Hyde advised that the ordinance as presented does allow for the sale of eggs at the Farmer’s Market. They are asking for a change to the fee schedule that would modify that requirement, which does not affect the ordinance currently under consideration. The fee ordinance could be amended at a later date.

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Noah Thompson, Market Manager, 472 Rainbow Road, Thomaston, advised that there was really no money to be made from selling yard eggs, it is more a service to the community. He suggested no fee.

Mayor Pro-Tem Halepaska moved that the ordinance pass on first reading, with Cm. Hagan seconding the motion. The ordinance passed on first reading by the following vote:

AYES: Council Members Rangel, Soliz, Polasek, Hagan, Truman, Halepaska, and Mayor Armstrong

NAYS: None

Caption:

AN ORDINANCE AMENDING SECTION 14-62(E) OF THE VICTORIA CITY CODE TO EXPAND THE TYPE OF "HOME-GROWN" PRODUCTS OFFERED FOR SALE AT THE VICTORIA FARMER'S MARKET, REPEALING CONFLICTING ORDINANCES, PROVIDING FOR SEVERABILITY, PROVIDING FOR CODIFICATION AND SAVINGS, AND DECLARING AN EFFECTIVE DATE.

Mayor Armstrong closed the public hearings.

CITY MANAGER REPORTS

- **Status of City's Water Supply** – Director of Public Works, Lynn Short reported that despite the rain showers the City was still in Stage 2 of the Drought Contingency Plan, which places restrictions on non-essential water uses. Irrigation, vehicle and car washing is limited to specific hours. He advised that the City is fortunate to own a number of water rights and have a lot of options, such as a number of groundwater wells, off-channel reservoirs, and Canyon Lake water captured to fill the off-channel reservoirs. The South Texas Water Master with the Texas Commission of Environmental Quality (TCEQ) allowed the City to pump some of the water from recently acquired water rights until the water from Canyon Lake arrived. Temporary pumps have been set up and have tentative approval to pump more groundwater into the river from the West Outfall and then take the exact same amount of water out of the river at Surface Water Treatment Plant. He thanked the citizens for working with the City during this drought and restriction period. He also advised that water breaks were also something that they have had to deal with and asked citizens to report any breaks they see so that they can be repaired as soon as possible. Mayor Pro-Tem Halepaska advised that the Council has been proactive by purchasing water rights, which gives the City more options with the supply of water accessibility.
- **Discuss Boards and Commissions appointment for third quarter appointments and to fill vacancies for Council Members and resignations** – City Secretary, Scarlet Swoboda presented a list of names for consideration for appointment to the various boards and commissions. Attendance records were requested for the Planning Commission members. Council also asked staff to contact those individuals wanting to be appointed to the Planning Commission and Parks and Recreation Commission so that they could attend the meeting on July 21, 2009 to tell Council why they wanted to be appointed. Resolutions for appointments would be considered at that meeting.

Mayor Armstrong called for a short break at 7:35 p.m. and Council reconvened at 7:40 p.m.

- **Status of Lone Tree Road Reconstruction, Laurent Street Reconstruction, and Lone Tree Channel Improvements and Trail Projects** – City Engineer, Ken Gill reported that the Lone Tree Road Reconstruction, Lone Tree Channel Improvements, and Trail Projects were complete, and the Laurent Street Reconstruction Project was on schedule for early completion.
- **TxDOT Pass Through Financing Program Update** - Deputy Director of Development Services, Ray Miller reported that there was not a lot of information on the Zac Lentz Parkway Improvements. The current TxDot engineer had not received direction on the financing for new projects.

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- **Youth Sports Complex activities update** – Director of Parks and Recreation, Doug Cochran reported that tournaments were only a part of what has been going on the last year. The vision is to be a destination for youth baseball and softball, which will take a community effort to attract teams. Staff was working with the Chamber of Commerce, Visitors Bureau to attract more tournaments. Cm. Truman requested looking at having an ambulance available for games. Mr. Cochran advised that bicycle medics are currently in attendance. Staff would look into Cm. Truman's request.
- **Update on the Convention and Visitors Bureau and Branding Project** – President of the Victoria Chamber of Commerce, Randy Vivian, 302 Terrace, announced that Bridgette Bise had accepted the position of Executive Director of the Victoria Convention and Visitors Bureau. She has been in the tourism business for fifteen years mainly in Oklahoma. He briefed Council on the Branding Project and listed all those businesses involved in the project. It was a community effort to gain information on the strengths and weaknesses of Victoria. He advised that the study showed that there was a perception problem with the community which needed to be worked on, however consumers that come to Victoria have a good perception.
- **Discussion on Proposed FY2009-2010 Budget** – City Manager, Charles E. Windwehen announced that a special meeting would be held on July 28, 2009, to discuss Capital Improvement Projects.

RESOLUTION 2009-111R – APPROVING THE 2009 OFFICIAL TEXAS HISTORICAL MARKER SPONSORSHIP APPLICATION

The resolution approves the Texas Historical Commission 2009 Official Texas Historical Marker Sponsorship Application submitted by the Victoria County Historical Commission for the Friedrech and Margaretha Beck Hiller House, located at 3003 N. Vine Street. Gary Dunnam.

Mayor Pro-Tem Halepaska moved that the resolution be adopted, with Cm. Truman seconding the motion. The resolution was adopted by the following vote:

AYES: Council Members Rangel, Soliz, Polasek, Hagan, Truman, Halepaska, and Mayor Armstrong

NAYS: None

RESOLUTION 2009-112R – GRANTING A VARIANCE WHICH PROHIBITS THE SALE OF ALCOHOLIC BEVERAGES TO THE RESTAURANT LOCATED AT 3408 N. LAURENT STREET, OWNED BY LOUIS GIACCONE

The resolution grants a variance from Section 14-10(b) of the Victoria City Code, which prohibits the sale of Alcoholic Beverages within 300 feet of a church, school, or public hospital, to the restaurant located at 3408 N. Laurent Street, which is owned by Louis Giaccone. Scarlet Swoboda.

Mayor Pro-Tem Halepaska moved that the resolution be adopted, with Cm. Truman seconding the motion. The resolution was adopted by the following vote:

AYES: Council Members Rangel, Soliz, Polasek, Hagan, Truman, Halepaska, and Mayor Armstrong

NAYS: None

RESOLUTION 2009-113R – AUTHORIZING THE CITY ADMINISTRATION TO ACCEPT THE BIDS FOR ANNUAL SUPPLY CONTRACTS FOR CHEMICALS FROM VARIOUS COMPANIES

The resolution authorizes the City Administration to accept the bids for annual supply contracts of (1) Altivia Corporation, of Houston, Texas, for Liquid Chlorine in the amount of \$569 per ton container for a total of approximately \$68,280, (2) General Chemical, of Parsippany, New Jersey, for Liquid Phosphate-Based Corrosion Inhibitor in the amount of \$940 per liquid ton for a total of approximately \$70,500, (3) Kemira Water Solution, of Lawrence, Kansas, for Ferrous

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Chloride in the amount of \$280 per liquid ton for a total of approximately \$70,000, (4) International Dioxide of North Kingston, Rhode Island, for Liquid Sodium Chlorite in the amount of \$870 per liquid ton for a total of approximately \$104,400, and (5) Kemira Water Solution, of Lawrence, Kansas, for Liquid Ferrous Sulfate in the amount of \$120 per liquid ton for a total of approximately \$48,000. Jimmy Roach.

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

AYES: Council Members Rangel, Soliz, Polasek, Hagan, Truman, Halepaska, and Mayor Armstrong
NAYS: None


RESOLUTION 2009-114R – SELECTING CONTRACTOR FOR THE CITY OF VICTORIA FIRE STATION NO. 2 PROJECT

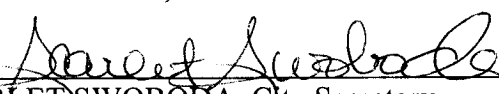
The resolution was tabled until the next regular City Council meeting.

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

AYES: Council Members Rangel, Soliz, Polasek, Hagan, Truman, Halepaska, and Mayor Armstrong
NAYS: None

There being no further business, the meeting was adjourned at 8:15 p.m.

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

ATTEST: 
SCARLET SWOBODA, City Secretary
