

**CITY COUNCIL MINUTES**  
**August 27, 2009**

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

Caption:

**AN ORDINANCE AMENDING THE 2008-2009 BUDGET OF THE CITY OF VICTORIA GENERAL FUND BY ALLOCATING FUNDING TO THE CITY OF VICTORIA FIRE DEPARTMENT IN THE AMOUNT OF \$373,223, AND DECREASING THE FUNDING TO THE CITY OF VICTORIA STREET DEPARTMENT BY \$373,223.**

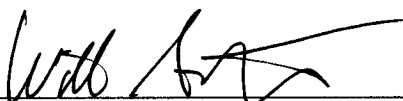
Mayor Armstrong closed the public hearings.

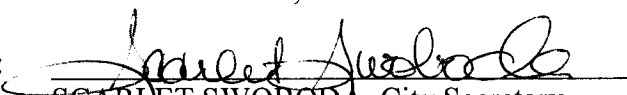
**WORK SESSION**

**Proposed Fiscal Year 2009-2010 Budget**

Mr. Windwehen advised that a Crime Victim Liaison had been shared by the City and the County for some time. That arrangement will not work anymore, and by law the City has to have a Crime Victim Liaison person. A fulltime employee will need to be hired and a recommendation for an amendment to the proposed budget will be asked for at the next meeting. Police Chief, Bruce Ure advised that this is a critical position because there are approximately 175 crime victims per month.

There being no further business, the meeting was adjourned at 7:16 p.m.

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

ATTEST:   
 SCARLET SWOBODA, City Secretary

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**VICTORIA CITY COUNCIL**  
**September 1, 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, September 1, 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  
 Dayna Williams-Capone, Director, Library  
 Danette Respondek, Director, Human Resources

Rick Henrichs, Director, IT  
Jerry James, Director, Environmental Services  
Andrew Jacob, Assistant Finance Director  
Scarlet Swoboda, City Secretary

### MAYORS COMMENTS

Mayor Armstrong read the following statement:

*No one can deny that our local unemployment rate has risen and that our State sales tax revenue has decreased recently. I am a local businessman and I don't know anyone whose business income has increased over the last year. We have had a recession before and recessions are a normal part of the business cycle. Many in this room can remember with me when oil was selling for \$10 a barrel, when there were about 1,300 homes for sale in the market here, and most of them were bank repos, and when our unemployment rate was about 12%. The recession of the late 1980's was followed by many years of prosperity. No thinking person is unaware of the fear and anger and stress with the downturn in the business cycle can cause.*

*Almost every day we read about California and other states in financial trouble, we read about the car industry, what the national unemployment rate is going to rise to. With all the gloom and doom in the news, I am not surprised that some people are frightened and are overwhelmed with the sincere desire for us to stop ongoing City projects until prosperity returns. When prosperity returns steel and concrete will cost more, and interest rates will be higher.*

*Lately all of the bids that we have awarded have come in under engineering estimates. You could say that our estimates were off and they were, they were off because construction costs back when the engineering estimates were made, the construction costs were increasing one-percent per month. The City is like a big ship, a big ship turning, and it takes a long time to get where you want to be. The City should be run like a big ship, steady as it goes, without the stop and go mentality of a speed boat captain.*

*There are many reasons to take pride in Victoria and one most important reason is that we have always had a stable local city government. Our ability to sell bonds reflects the competent that the bond market has in the management of our City. The City has gone down in taxes from \$.70 to \$.65 over the past four years. It isn't wise to always force the management of the City to do more with less.*

*The more for less mode will cost us our good bond rating, and slow future capital improvements that are so desperately needed. A few of those needed projects are a new sewer plant, rebuilding N. Laurent, Sam Houston, Red River and eventually Mockingbird. If you own a \$100,000 home and we keep the tax rate at \$.65 your taxes will be \$650 per year, the same as you paid last year. If your property goes up in value you will pay more taxes, if your property goes down in value you will pay less taxes.*

*It is all about sacrifices, my parents sacrificed for us, we sacrificed for our children and then often we will be called to sacrifice for our parents as they age. Some of our youth will go to war and defend our country from those who hate us for what we are, and they will end up paying the ultimate sacrifice. In closing I want to say this year let's put Victoria first, call it a sacrifice if you must. This is an old town, this year let's make it proud, let's think of Victoria, our beloved home enduring for 205 years, rich in history under six flags. Let's cool our anger and our doubts about the future of our City, and let's put the City of Victoria above self.*

### CITIZENS COMMUNICATION

Mayor Armstrong announced that in Citizen Comments he would like to address all the subjects except the six public hearings that would be addressed later in the meeting. There are a couple of resolutions, and he asked that they be covered at this time. Interim City Attorney, George Hyde identified the six public hearings on ordinances that would be held.

Donald Day, 207 Brocton commented on the opportunity for construction on Capital Improvement Projects and the ability to do those at a reduced cost is quickly closing. There has been a decline in construction material for production in the last 40 months of 28% and in the last twelve months a reduction of 21%. Inventory is shrinking as it is rapidly being used up and will be depleted in the next few months. He encouraged the City to move forward with any capital improvement projects, as the opportunity now exists, bid those projects and not wait, because those cost reductions will save the citizens money.

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**CITY COUNCIL MINUTES**  
**September 1, 2009**

Russell Pruitt, 402 Sherwood commented that at the last meeting it was said that the budget had to be voted on before the tax rate, insinuating that was not the way it had been done in the past. He suggested that the \$150,000 for indicted officials was added illegally in an executive session. Mr. Pruitt further commented that according to an Attorney General opinion there are no gag orders for executive sessions, the only thing that cannot be revealed are the minutes of those meetings. Mr. Pruitt commented that \$150,000 was added to the budget and the citizens would not have known about it if Cm. Hagan had not brought it up.

Interim City Attorney, George Hyde responded that no action has ever been taken in executive session that he has participated in regarding the budget or any other item. Mr. Hyde commented that factually those opinions relate to the application of the open meetings act, he did not agree with Mr. Pruitt to represent to the public that there are not other laws, statutes, or obligations on councils in regard to their confidentiality of information that they hold.

Tony Carty, 506 E. Buena Vista commented that it is not the government's job to hand out money. It is to give direction and counsel and to make sure that the laws are faithfully executed. He commented that there is not a public transit anywhere that is breaking even or making money. The people that take the transit system can afford to pay higher fares. He also commented that the \$13 that the proposed tax rate would generate per property owner there is then a domino effect which then affects business after business. The tax rate has gone up because the appraisals have gone up. He further commented that he has a garage full of good deals; having a good deal is not always the best deal. Have some discretion of what big projects are done and do not try to fix them all at once. Lastly, he commented on the sidewalk by Torres Elementary, he knew the property owner was hard to deal with, but on the other side of the school is a Fire Station and there are no sidewalks there. The issue of a sidewalk does need to be there but trying to condemn a vacant lot seems to be stretching it a little too far to get a better price. Deal with the man and be fair with him.

James Wayne, 15 Spring Creek Road addressed the Lone Tree sidewalk issue, commenting that Cm. Truman has spent a lot of time and energy and creative thought to arrive at a best solution for the City on this problem. He urged the Council to support Cm. Truman on whatever he proposes.

Buddy Kamin, 708 W. Commercial Street commented that he had come before Council awhile back regarding the first responders. That same week the Council voted to pay over \$2 million for sidewalks. He asked the Mayor and Council to focus on the first responder's salaries. This past week he read an article that the Council had found another \$155,000 for legal fees, and robbing the taxpayers. Once again he asked that Council set aside the \$155,000 and the sidewalk issue, and fund the first responders. They are not in the same category as all other employees.

### **ITEMS FROM COUNCIL**

Cm. Hagan commented that Council should take another look at the \$150000 everyone knows it is the wrong thing to do.

Mayor Armstrong suggested that Mr. Pruitt needs to apology to 2,330 voters that voted on Charter proposition 10 for the Council to pay legal fees for public officials, and Cm. Hagan owed an apology to those same people because he went out and worked his heart out to get people to sign a petition to vote against it, yet they voted for it, and you Cm. Hagan have forgotten that.

Cm. Hagan commented that he did not vote for the \$150,000 that the Mayor did not even want people to know about. This \$150,000 is not on a ballot and you are attacking a member of the public, and I am very disappointed in the way you are conducting the meeting.

Cm. Truman commented that the money for the legal fees is only there if it is needed otherwise it goes back into the General Fund.

Interim City Attorney, George Hyde advised that those funds could be used on an assortment of legal fees, and before those fees could be paid there would have to be action by the Council. The passing of the budget does not allocate those funds one way or another, other action would need to be taken.

Mr. Pruitt stated that he hopes he lives to see the day that the Council apologizes to the Citizens for Responsible Government for the way they distorted and rewrote their Charter amendments. He commented that he was already addressing it through the Bar Association suggesting the former city attorney should be disbarred or reprimanded for the rewrite. He felt that the Council that voted for the rewrite should apologize to the citizens for doing that.

#### **Discussion of proposed sidewalk along Lone Tree Road – Torres Elementary**

Mr. Hyde advised that he had not blessed any type of agreement or offer on the sidewalk along Lone Tree Road near Torres Elementary. He provided factual information concerning the property improvements for a commercial grade driveway and the sidewalks that would normally be the property owner's responsibility, which exceeded \$34,900. The City, back in April offered \$.10 per square foot for the sidewalk area located on that property although it was appraised at \$.04 per square foot by the County Appraisal District, to insure that it was a marketable offer. The last offer received from Mr. Wayne, the property owner was \$2 per square foot totaling approximately \$18,000. Since that time Mr. Hyde received a letter from Mr. Wayne that he was accepting a \$9,000 offer from the City. The City had not made any such offer with any authority pursuant to the Charter for that amount.

Mr. Wayne indicated that he had several meetings with the Mayor and Cm. Polasek, the City Attorney, and some staff members to discuss ways to create a win/win situation, but that did not turn out to be very constructive. He later had several discussions with Cm. Truman, one of them was the Lone Tree property and doing land trade for land trade. It was later relayed to him that the \$18,000 was not an acceptable number and the City would be interested in some number around \$9,000. He subsequently met with the Mayor regarding driveway issues and the Mayor indicated that the sidewalk on Lone Tree Road was a high priority to Council. He stated that he agreed with the Mayor and would work with the City, but was told to work with Cm. Truman and Cm. Hagan.

Mayor Armstrong clarified that he told Mr. Wayne that this was an administrative problem, he could talk to these Councilmen, but from his standpoint it was an administrative decision. Mr. Wayne disputed the Mayor's comments, indicating that Cm. Truman related to him about a week later that \$9,000 was acceptable to the Council. There started to be public criticism about there not being a sidewalk and the public was concerned. He called Cm. Truman who had been working on trading property for property and asked if the \$9,000 offer was still a viable option. Cm. Truman indicated that he did not know and would have to take it to Council. Mr. Wayne suggested that someone instructed Cm. Truman to get him to sign a letter that he was accepting the \$9,000 offer, which he did and sent it to Cm. Truman. After that he indicated that he got an unprofessional letter from Mr. Hyde. Mr. Hyde read aloud the letter that was sent to Mr. Wayne, letting the Council determine whether it was an unprofessional letter or not.

Cm. Truman asked how much condemnation would cost. Mr. Hyde commented that it depended on a number of things, but it could be several thousands of dollars, and it could be several months before you get access to the property. Mr. Hyde wanted to know if Mr. Wayne was offering \$9,000 for Council to consider on the property. He cautioned them that if there were counter offers or other types of considerations that were told in the public, then that discussion was properly posted and should occur in executive session. He advised that each one of them individually does not speak for the Council, because it takes a collective will of the Council to make that decision.

Mr. Wayne responded that his understanding of the laws of offer and acceptance were that his was an acceptance, it was a tentative acceptance because the offer was tentative. The \$9,000 did not originate from him, it originated somewhere in this group of people and was related to him by Cm. Truman.

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**CITY COUNCIL MINUTES**  
**September 1, 2009**

Cm. Hagan asked how much condemnation would cost to the end. Mr. Hyde responded that he could not give a specific estimate; it could be tens of thousands of dollars. There are certain funds available that would allow for change orders that would allow for the project to start fairly soon.

Cm. Polasek commented that the City did not have a legal right to do any of this, the school district bought the land, built the school, the City tried to partner with them to do the right thing. The landowner on the other side gave the City the land, but this is an example of why it takes so long to do projects because there are always a few that will not negotiate.

Cm. Hagan commented that no matter how we feel or how a person chooses to negotiate with their property, whether they give it or negotiate for it, it is their property.

Cm. Truman commented that Mr. Wayne was willing to accept two pieces of property that the City owns. Cm. Polasek commented that we cannot trade favors. Mr. Hyde commented that if you were to trade property there would have to be a market value determination and there is statute that governs the process.

Mr. Wayne commented that if the property brought anything more than \$9,000 he would turn the additional funds over to the City, suggesting a win/win situation.

Cm. Soliz asked when ground breaking could occur if the property were purchased. Director of Public Works, Lynn Short advised that it could start in approximately 30 days and would take at the earliest 60 to 90 days to complete.

Cm. Hagan moved to amend the motion instead of the \$9,000 to exchange the two properties and the balance of any profit over the \$9,000 to come back to the City, with Cm. Truman seconding the motion. Mr. Hyde responded that here were a number of terms and conditions that he was not prepared to respond to with regard to whether that would be an effective offer from the City on the bases of statutory limitations. Cm. Hagan withdrew the motion to amend, with Cm. Truman withdrawing his second.

Cm. Truman moved to pay \$9,000 to resolve the issue, with Cm. Hagan seconding the motion. Cm. Truman moved to amend his original motion to allow the City Council to authorize the City Manager to purchase the 9,150 square feet of property for a value of \$9,000 for the sidewalk in a contract approved by the City Attorney, with Cm. Hagan seconding the motion. The motion, as amended, passed by the following vote:

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

### **PUBLIC HEARINGS AND ACTION**

Mayor Armstrong opened a public hearing on the following items:

### **ORDINANCE 2009-20 –PROHIBIT ALCOHOLIC BEVERAGES**

Interim City Attorney, George E. Hyde, read the caption of Ordinance 2009-20, which amends Section 17-7 of the Victoria City Code to prohibit alcoholic beverages within parks and other non-park areas. The areas added would be the Lone Tree Hike and Bike Trail, Skatepark, Community Center parking lot, Community Center Park with Youth Sports Complex, and DeLeon Plaza. Second and Third Reading. Doug Cochran.

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

Cm. Truman moved that the ordinance pass on second and third reading, with Cm. Halepaska 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 SECTION 17-7 OF THE VICTORIA CITY CODE TO PROHIBIT ALCOHOLIC BEVERAGES WITHIN PARKS AND OTHER NON-PARK AREAS, REPEALING ALL CONFLICTING ORDINANCES, PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND SAVINGS; AND DECLARING AN EFFECTIVE DATE.**

**ORDINANCE 2008-2009N – REPLACE 911 DISPATCH EQUIPMENT**

Interim City Attorney, George E. Hyde, read the caption of Ordinance 2008-2009N, which amends the 2008-2009 Fiscal Year Budget of the City of Victoria by transferring \$82,090.86 from the Information Technology Fund fund balance to the Information Technology Fund Communications Equipment capital line item, and authorizes the purchase of replacement 911 Dispatch equipment damaged during a lightning strike. Second and Third. Andrew Jacob.

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

Cm. 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 \$82,090.86 FROM THE INFORMATION TECHNOLOGY FUND FUND BALANCE TO THE INFORMATION TECHNOLOGY FUND COMMUNICATIONS EQUIPMENT CAPITAL LINE ITEM, AND AUTHORIZING THE PURCHASE OF REPLACEMENT 911 DISPATCH EQUIPMENT, REPEALING ALL CONFLICTING ORDINANCES, PROVIDING FOR SEVERABILITY; AND DECLARING AN EFFECTIVE DATE.**

**ORDINANCE 2009-21 – REVISE WATER SERVICE CHARGES**

Interim City Attorney, George E. Hyde, read the caption of Ordinance 2009-21, which amends Chapter 24, Fees of the Victoria City Code by amending Section 24-121 “Water Service Charges” and Section 24-122 “Sewer Service Charges” to establish revised water and sewer rates. First Reading. Lynn Short.

Director of Public Works, Lynn Short advised that if approved the ordinance would increase the base rate of ¾ inch water account by \$.40 per month beginning October 1, 2009 and would increase the base sewer rate for a ¾ inch water meter by \$.44 per month beginning April 1, 2010. These rate increases are recommended in order to service the debt associated with the \$7.7 million bond issuance that would pay for the utility replacement associated with the Sam Houston Reconstruction Project, as well as a continuation of three downtown utility replacement projects.

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

Jack A. Mullins, 224 Ridgewood Drive commented that his rates have tripled over the past 21 years even though his usage has remained the same during that time. He suggested it was time to stop and give a five-year moratorium.

Cm. Polasek commented that this increase would pay off the bonds, and asked what happens after those bonds are paid. Mr. Short responded that once the bonds were paid off the rates could be

**CITY COUNCIL MINUTES**  
**September 1, 2009**

reduced or other projects could be done. The City is currently in catch up mode and trying to replace very old pipes whose replacement has been deferred for many years.

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

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

NAYS: Council Member Hagan

Caption:

**AN ORDINANCE AMENDING CHAPTER 24, FEES OF THE VICTORIA CITY CODE BY AMENDING SECTION 24-121 "WATER SERVICE CHARGES" AND SECTION 24-122 "SEWER SERVICE CHARGES" TO ESTABLISH REVISED WATER AND SEWER RATES, REPEALING ALL CONFLICTING ORDINANCES, PROVIDING FOR SEVERABILITY, PROVIDING FOR A SAVINGS CLAUSE, PROVIDING FOR CODIFICATION, AND DECLARING AN EFFECTIVE DATE.**

**SECOND PUBLIC HEARING ON TAX RATE**

Second Public Hearing on the 2009-2010 City of Victoria Tax Rate on September 1, 2009, 5:00 p.m. at the Council Chamber, 107 W. Juan Linn Street, Victoria, Texas. "The proposed tax rate shall be considered for a vote at the City Council meeting on September 8, 2009 at 5:00 p.m. in the City Council Chambers, 107 W. Juan Linn, Victoria, Texas; and September 15, 2009 at 5:00 p.m. in the City Council Chambers, 107 W. Juan Linn, Victoria, Texas." Gilbert P. Reyna, Jr.

The following individuals expressed opposition to the tax rate voicing the following concerns: James Wayne, 15 Spring Creek Road; Toni Marek, Golden Eye Loop, Victoria County; Dale Zuck, 168 Casa Blanca, with the Victoria Republican Caucus; and Jeff Williams 702 Santa Fe.

- The nation is in a depression, the worse since 1949.
- Mr. Wayne's employees would not be getting raises this year, and the rent would be down because rent on his rental property had to match the consumer price index.
- Budget lines items were extravagant for meals, subscriptions and memberships, office chairs, additional vehicle, replacement computers, downtown sidewalks, K-9 dogs and vehicles, remodeling old jail, repairs, and a replacement truck. Taking 1,033 taxpayers to pay for those expenses.
- Council Members can be replaced.
- The City under-estimates the revenue and over-estimates the expenditures. City will be under budget with fuel supplies for Parks, Street, Fire, and Police Departments, which then would come back as extra cash. So, \$300,000 more could be found in the budget because of over padding.
- Requested that the tax rate be set at \$.6367. The \$13 difference between \$.6367 and \$.65 would be better served in the pockets of the citizens.
- The Jaguar Den is not a City responsibility.
- Increases in City Manager, Legal, Public Information Office, and Municipal Court personnel costs with no personnel decreases.
- Every other one time expenditure is listed in the budget but not the legal professional services of \$150,000.
- Questioned why Parks budget increased for drainage mowing.
- \$544,000 more was being budgeted than was actually spent in the City Manger, Legal, Public Information, Municipal Court, and Parks budgets this year.
- There are places the budget can be cut, and the lowest possible tax rate needed to be adopted.
- The citizens pointed out approximately \$1.1 million in possible cost cuts.

Cm. Polasek asked for a copy of the list of citizen suggestions, indicating that some of the concerns might be able to be answered in the work session. Cm. Hagan thanked the citizens for comments and pointing out areas that could be cut.

**ORDINANCE 2008-2009O – BUDGET AMENDMENT – FIRE DEPARTMENT**

Interim City Attorney, George E. Hyde, read the caption of Ordinance 2008-2009, which amends the 2008-2009 Budget of the City of Victoria General Fund by allocating funding to the City of Victoria Fire Department in the amount of \$373,223, and decreases the funding to the City of Victoria Street Department by \$373,223. 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. Polasek 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 BUDGET OF THE CITY OF VICTORIA GENERAL FUND BY ALLOCATING FUNDING TO THE CITY OF VICTORIA FIRE DEPARTMENT IN THE AMOUNT OF \$373,223, AND DECREASING THE FUNDING TO THE CITY OF VICTORIA STREET DEPARTMENT BY \$373,223.**

**ORDINANCE 2009-22 – RESIDENTIAL SOLID WASTE COLLECTION**

Interim City Attorney, George E. Hyde, read the caption of Ordinance 2009-22, which amends Chapter 24, Fees of the Victoria City Code by amending Section 24-141 “Residential Solid Waste Collection” to establish revised residential solid waste collection rates. First Reading. Jerry James.

Director of Environmental Services, Jerry James advised that in order to generate the additional revenue required to provide services at the current levels for brush and bulky collection, disposal, and operation of the Huvar Recycling Center, the staff recommended \$2.50 a month increase. The current rate for solid waste collection is \$13.75 per household per month. The proposed rate including the \$2.50 for brush and bulking and operation of the recycling center will be \$16.25 per household per month. The \$2.50 rate addition will be noted separately on the monthly bill to note the services it provides for. In order to limit the amount of increase in rate to cover current operational expenses, the current collection of yard waste will be terminated and the Pine Street Recycling Center will be closed. Staff was doing a survey of customers who have used the yard waste collection service to gauge interest in a new program, whereby if a new customer wanted yard waste service they could pay \$5 per month for cart used with the automated collection system. If sufficient interest is shown in the automated program to make it practical and cost effective, the City will offer the program in early spring 2010 and the current yard waste program would continue until January.

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

Cm. Rangel asked when the Pine Street Recycling Center would close. It would close October 1, 2009 and staff was looking for other options or sites. Staff would be bringing back a household hazardous waste day feasibility study and looking at how that could be operated at other sites.

Cm. Polasek clarified that this will end the current yard waste collection. A different option would be available with a separate cart, and an individual that chooses that service would pay for that cart. Mr. James responded that 1,140 customers interested in using that service would be needed in order to go forward with that program. Once the surveys have all come in staff would come back to Council to let them know if there was sufficient interest or not. The budget has enough funding to purchase the automated truck and carts. Cm. Polasek commented that we are still

**CITY COUNCIL MINUTES**  
**September 1, 2009**

not breaking even on the costs. There has not been an increase in those rates since 1999 and he appreciated the efforts to try and contain the costs.

Cm. Polasek moved that the ordinance pass on first reading, with Cm. Soliz 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 CHAPTER 24, FEES OF THE VICTORIA CITY CODE BY AMENDING SECTION 24-141 "RESIDENTIAL SOLID WASTE COLLECTION" TO ESTABLISH REVISED RESIDENTIAL SOLID WASTE COLLECTION RATES, REPEALING ALL CONFLICTING ORDINANCES, PROVIDING FOR SEVERABILITY, PROVIDING FOR A SAVINGS CLAUSE, PROVIDING FOR CODIFICATION, AND DECLARING AN EFFECTIVE DATE.**

Mayor Armstrong closed the public hearings.

**CITY MANAGER REPORTS**

- Region L (South Central Texas Regional Planning Group) report. Gary Middleton/Jerry James. The report was postponed to another meeting.
- Report on October Boards and Commissions appointments – City Secretary, Scarlet Swoboda provided the names of individuals interested in reappointment to the Sign Board of Adjustment and Appeals and the Victoria Public Library Advisory Board. It was the consensus of Council to place resolutions for appointment on the September 15, 2009 agenda.

**CONSENT AGENDA:** all consent agenda items listed are considered to be routine by the city council and will be enacted by one motion. There will be no separate discussion of these items unless a council member so requests, in which event the item will be removed from the consent agenda and considered in its normal sequence on the agenda. Information concerning consent agenda items is available for public review.

1. **APPROVAL OF MINUTES** – The special meeting of August 11, 2009 and regular meeting of August 18, 2009 as presented.

Cm. Hagan moved that the consent agenda be adopted, with Cm. Polasek seconding the motion. It was adopted by the following vote:

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

**RESOLUTION 2009-149R – CONTRACT FOR VICTORIA FIRE STATION NO. 2 PROJECT**

The resolution considered the construction contract for City of Victoria Fire Station No. 2 Project in the amount of \$1,992,271, to Don Krueger Construction Co. of Victoria, Texas. Vance Riley.

Fire Chief, Vance Riley advised that at a previous meeting a competitive sealed bid process was used to recommend that staff work on a contract with the aforementioned who received the most points.

Interim City Attorney, George Hyde presented a PowerPoint presentation providing the background, clarification, and explanation on this project. He provided information on the law, and the criteria, and ranking process. He advised that there were 12 sealed proposals submitted and through the ranking process Don Kruger Construction Co. came out as the one ranked the highest as the best value. It was pointed out that this process was the same process used when the last Fire Station was bid, the school district used the same type of process for their new schools, and it is used throughout the State as an acceptable form of bid process. Ray Holliday with BRW Architects was available to answer questions, and he pointed out that his firm has been using this type of ranking bid process for municipalities for approximately five or six years.

The question was asked concerning how long rebidding would take and what the cost would be, and how much of a delay it would cause for the project. Chief Riley advised that it would take at least 90 days before it could come back to Council for a vote. Mayor Armstrong commented that Mr. Day earlier in the meeting stated that construction supplies were drying up and there would probably be price increases.

Cm. Rangel asked if a competitive bidding process could be used instead of the ranking process. Mr. Holliday advised that in order to prepare for competitive bidding, the bid specifications would have to be tightened up. City Manager, Charles E. Windwehen asked how the City would make sure that whoever got the bid could build a quality fire station, and how the architect would protect the City more in the process. Mr. Holliday responded that he couldn't, it would be based on the low number bid alone.

Cm. Rangel moved to rebid the Fire Station Project and go with competitive bidding, with Cm. Hagan seconding the motion.

Cm. Polasek commented that the City had done nothing wrong; the Fire Department mistakenly thought that after the ranking, a bid over the budgeted amount would be disqualified. No law was broken, that error was caught before any action was taken on it, and here we are today because someone threatened to sue.

Following a lengthy discussion on competitive bidding and the ranking process, it was suggested that there needed to be clarification on which way the Council wanted to have this project rebid, and suggested a work session. Cm. Halepaska asked for the motion to be restated.

Cm. Rangel moved to rebid the Fire Station Project, with Cm Hagan seconding the motion. The motion passed by the following vote:

AYES: Council Members Rangel, Soliz, Hagan, and Truman

NAYS: Council Members Polasek, Halepaska, and Mayor Armstrong

Mayor Armstrong stated that a work session would be held at the Council's earliest convenience to discuss in a work session the bid process and how we were going to move forward.

**RESOLUTION 2009-150R – REPLACE 911 COMMUNICATIONS CENTER EQUIPMENT**

The resolution replaces technology equipment and related items for the 911 Communications Center in an amount not to exceed \$82,090.86, which includes the purchase of communications equipment from/through the Texas Department of Information Resources (DIR), in an amount not to exceed \$63,918.48, and the remaining replacement items to be purchased from miscellaneous vendors in an amount not to exceed \$18,171.86, contingent upon funding. Rick Henrichs.

Cm. Polasek moved that the resolution be adopted, with Cm. Halepaska 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

Mayor Armstrong announced a short break at 7:39 p.m. The meeting reconvened at 7:47 p.m.

WORK SESSION**Proposed Fiscal Year 2009-2010 Budget**

City Manager, Charles E. Windwehen advised that staff had nothing to present, the Council could ask whatever they wanted on the budget. Cm. Hagan asked for clarification on whether the Council could vote on changes to the budget at this time. Interim City Attorney, George Hyde advised that yes they could.

Questions were asked about the following items in the budget:

- Air handlers at City Hall – Original to the building which was built in 1966, and needed to be replaced, if they went out, it could shut down the building. Staff would rather replace them in a planned way instead of risking them going out in the heat of the summer or the winter. Some of the funding may come from an energy grant.
- Door latches at City Hall – Some of the latches on the stairwell doors have broken and need to be replaced, because of safety risks if not fixed.

Cm. Soliz moved to cut the amount for door latches in half, with Cm. Rangel seconding the motion. The motion **failed** by the following vote:

AYES: Council Members Rangel, Soliz, and Hagan

NAYS: Council Members Polasek, Truman, Halepaska, and Mayor Armstrong

- New computers – How many of those could wait an extra year. Staff advised that the computers were on a five-year replacement program and they also are on a five-year maintenance program. These are not home computers they are business computers, with a majority of them used 24 hours seven days a week.
- Paint the roof of a cargo van – The van is old, rusted out and leaking. Staff felt that repairs would be more cost effective than purchasing a new one at this time.
- Telephone expenses – The Police Department had analog phone lines, but now have the Internet Protocol (IP) phones and that amount could be reduced by \$10,000.

Cm. Polasek moved to reduce the telephone expense from \$30,000 to \$20,000, with Cm. Hagan seconding the motion. The motion **passed** by the following vote:

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

NAYS: None

- Fire and Police Department fuel costs – The budget assumes an amount based on market prices, but there is no guarantee the prices will not go up drastically like they did this past year. If we go too low and the prices go up staff would have to come back to Council for a budget amendment. Cm. Hagan wanted to shave off \$10,000 from Fire and \$10,000 from Police fuel budgets. The administration did not recommend doing that.

Cm. Hagan proposed directing the administration and staff to find \$300,000 additional cuts in the budget in order to maintain the effective tax rate.

Mayor Armstrong commented that surpluses in the budget gives the City flexibility, there is never enough money to do all the projects. If the County gets stimulus money to build a road to the airport, they may be asking the City to pay a portion of the utilities or for the overpasses if the Texas Department of Transportation moves forward with those projects. Also, if there is a hurricane where would the money come from? He was in favor of leaving the tax rate at \$.65.

Deputy City Manager, Charmelle Garrett advised that regarding the fuel reductions, if that line item amount is exceeded, those departments would have to find those funds somewhere else in their budget. Rarely would the administration come back to Council and ask them to amend the budget for \$10,000. That may mean that some planned program may not be able to be done.

Cm. Hagan moved to reduce \$10,000 from the Police and \$10,000 from the Fire Department fuel accounts, with Cm. Soliz seconding the motion. The motion **failed** by the following vote:

AYES: Council Member Hagan

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

- Drainage mowing – There is \$300,000 in the budget for drainage mowing and the Lone Tree Hike and Bike Trail was also added to the proposed budget. The bids would be opened the next day. The administration felt it would be better to increase the contract amount instead of adding staff and equipment for this mowing.
- Demolition – Questioned whether line item could be reduced. Historically this line item has not been spent, however since the reorganization of Code Enforcement the Building Standards Board is meeting more often than in the past. Cleaning up the community was a priority of Council and now some commercial structures are now being placed on the list and the costs will increase because of that. Community Development Block Grant (CDBG) funds can also be used for demolition, however only if within CDBG eligible areas.

Cm. Polasek moved to reduce the demolition line item by \$25,000, with Cm. Hagan seconding the motion. The motion **passed** by the following vote:

AYES: Council Members Rangel, Soliz, Hagan, and Polasek

NAYS: Council Members Truman, Halepaska, and Mayor Armstrong

Cm. Truman wanted to see the Hotel/Motel tax distributed differently. He did not want to see the arts cut and the money strictly limited to promotion. There was a great system that worked in the past, through the Cultural Council. He proposed keeping the \$202,000 for the Convention and Visitors Bureau, \$4,000 for Texas Settlement Region, \$5,000 for tournaments, \$15,000 for professional services, \$331,545 for Community Center operations, reduce the Community Center building to \$500,000, shift the full 17% required by State law to the Cultural Council for \$42,000 for their budget, and the remaining \$110,000 for distribution of the arts. The remaining \$389,750 going to the Convention and Visitors Bureau bring their budget to over \$600,000.

It was pointed out that the State Law does not require a certain amount, it allows go up to a certain amount. The Convention Visitors Bureau Executive Director would be presenting a business plan in the near future and an amount would be set at that time.

Cm. Polasek asked for those numbers and then Council could vote of them at the next meeting. It was pointed out that the arts were not being cut; those funds were just going to be spent differently. A decision could be made after the business plan is presented from the Convention and Visitors Bureau on the amount that would be allocated to them to use in the promotion of the arts.

- Vehicle for Inspections Department – Questioned whether a used police car could be used instead of purchasing a new vehicle. The administration advised that it would not be as efficient as the small SUV planned for purchase. The vehicle would be driven around construction sites and would be carrying survey equipment, shovels, and construction items. It was not recommended by the administration to use an old police car, because they lead a hard life and would not serve the needs of that department. The administration offered to look and see if they could find some other City owned vehicle that would better serve the needs, keeping in mind that most vehicles that might qualify would probably already be out of the life cycle for maintenance. There may not be a cost savings.

It was announced that a work session was scheduled for September 8, 2009 at 3:00 p.m. prior to the special council meeting to be held at 5:00 p.m.

**EXECUTIVE SESSION**

Mayor Armstrong announced that Council would recess into Executive Session at 9:03 p.m., in accordance with:


Section 551.074, Texas Government Code, with regard to personnel matters (including, but not limited to, the appointment, employment and evaluation of City Attorney candidates). 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, including but not limited to, legal issues related to the interpretation of legal documents and parties involved in the proposed purchase of property for a wastewater treatment plant. George E. Hyde.

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 regarding anticipated litigation by Roth Construction against the City of Victoria and legal issue related to the competitive sealed proposal process used for Victoria Fire Station #2 Project. George E. Hyde.

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 and § 551.072, 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, legal issues related to the interpretation of legal documents and parties involved in the proposed purchase (to include, but not limited to purchase and/or litigation options related to the proposed sidewalk along Lone Tree Road – Torres Elementary). George E. Hyde.

The Council reconvened with no action taken and nothing to report. There being no further business, the meeting was adjourned at 10:30 p.m.

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

ATTEST:   
SCARLET SWOBODA, City Secretary

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