

VICTORIA CITY COUNCIL  
September 8, 2009

**CALL TO ORDER**

A special meeting of the Victoria City Council was called to order by Mayor Will Armstrong at 5:00 p.m. Tuesday, September 8, 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  
Scarlet Swoboda, City Secretary

**CITIZENS COMMUNICATION**

Mayor Armstrong asked that anyone wanting to address the budget or tax rate wait to address those items during the public hearings. Any other items could be addressed at this time.

Russell Pruitt, 402 Sherwood commented that illegal action took place in executive session and presented some Attorney General opinions that Councils are not under a gag order relating to discussions in executive session. He referenced the \$150,000 that he suggested was illegally placed in the budget.

Mayor Armstrong asked Interim City Attorney, George Hyde to respond to Mr. Pruitt. Mr. Hyde advised that the Open Meetings Act was not the basis upon which the City uses to require or obligate the individual sitting at the City Council today regard to their fiduciary obligations under common law, as well as the governmental entities ability to withhold attorney-client communication under rule 503 of the Texas Rules of Evidence. In regards to the Open Meetings Act issue that is not the basis upon which the City relies upon to create a factual statement in regards to the obligations of the Council. Secondly, what the Open Meetings Act does, is when the City Council convenes in executive session, it is demonstrating factually that it intends to have a confidential meeting with its attorney, which is an essential element to have a confidential discussion with their attorney. That is the basis upon which an Open Meetings executive session applies. That is not the basis upon which any of the documents Mr. Pruitt produced exists. He also referred Mr. Pruitt to the Texas Open Meetings Handbook with regard to the language of the commentary by the Texas Attorney General, because it may provide him additional advice. Mr. Hyde advised that he was not Mr. Pruitt's attorney he was the attorney for the City, so he could not give him legal advice. On a factual basis, the City Council as long as he has been here and participated in any meeting, has never taken any action in executive session.

Mayor Armstrong commented that Mr. Pruitt was well aware of the fact that there were still ongoing cases. City Manager, Charles E. Windwehen advised that the \$150,000 in question was listed in the budget highlights on page 3 of the budget.

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Toni Marek, 329 Golden Eye Loop, asked why the taxpayers had to pay for criminal activities and asked the Mayor about his article in the newspaper regarding sacrifices, wanting to know why he was asking the public to remodel and refurbish things. She suggested that Council was throwing money away and did not understand it.

Mayor Armstrong asked the City Manager to repeat the comments he made during the work session held prior to the special meeting, regarding accusations made at the last meeting. Mr. Windwehen advised that the City Manager's Office has two magazine subscriptions which total \$204 a year. There are some memberships in that same fund for the Rotary Club, Gulf Coast Inter-coastal Canal Association, two Texas City Management Association (TCMA) memberships, and one National City Management Association membership; we do not spend \$4,000 on subscriptions, memberships are included in that total.

Mr. Hyde advised that this was supposed to only be an opportunity for the public to speak on things other than the budget, tax rate, water, sewer, and solid waste rates. He asked the Mayor to poll the audience to see if there was anyone that wanted to address Council on any other topic, otherwise this portion of the meeting could be closed, and Council could move into the public hearings. Further comments from Mr. Windwehen would be addressed under the public hearings.

Jack A. Mullins, 224 Ridgewood Drive commented that he lives near the Lone Tree Hike and Bike Trail expressing concern with the safety of the intersections after dark.

Matt Ocker, 2307 FM 2615 commented that he had contacted Chief Ure's Office about a controversial topic and had received good feedback, and thanked him for that. He also thanked Cm. Truman for thinking outside the box regarding the property situation with Mr. Wayne. He commented on the property value of Mr. Wayne's property suggesting that frontage property has a different property value than the entire property. Also, sometimes we talk past one another, concerning the legal fees and comments that the public does not know everything about those cases. He commented that making political points were not necessary and suggested that the Mayor should apologize to the 1,973 who voted for proposition 10 along with the 970 that voted for Cm. Hagan.

### **ITEMS FROM COUNCIL**

Mayor Armstrong stated that the \$.04 a foot that Mr. Wayne's property was on the tax rolls for, is on the whole piece of property, but no matter how much property is used for the sidewalk, he will still have a front and he is getting a \$35,000 sidewalk plus \$9,000 more and that is a fact. Interim City Attorney, George Hyde followed up by advising that if the Council would like specific factual information from the City Manager regarding the budget as presented, they could request that information for the City Manager.

Cm. Hagan asked about the drought and water situation. Director of Public Works, Lynn Short advised that the City was still in Stage 2 of the drought restrictions, and still exchanging the ground water for the surface water.

Cm. Rangel asked what the status was on the rumble strips for the hike and bike trail. The strips had been ordered and would be installed as soon as received; also additional signage had been installed.

### **PUBLIC HEARINGS AND ACTION**

Mayor Armstrong opened a public hearing on the following items:

At this time City Manager, Charles E. Windwehen continued his comments of clarification from comments at the last meeting. An individual stated that the City Manager had a house with 3,700 square feet in it on the tax rolls at a value of \$33 a square foot, which is not true my house has 2,440 square feet and is on the tax rolls at \$84.33 a square foot. My taxes are the same level as everyone else in the neighborhood.

Mr. Windwehen advised that the budget the administration delivered is financially responsible, the revenues and expenditures are in balance. It maintains a healthy financial position for the City's major funds, it maintains the programs of services, and it does not expand any

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program. All of the departments were told to bring in a budget that had no new programs or employees, and they did that. It addresses the priorities that Council has expressed, police staffing, police and fire pay, police and fire salary range adjustments, a modest pay program for other employees. It continues all the programs to clean up Victoria, continues street maintenance. Staff has focused on reducing costs, by eliminating five positions generating over \$300,000 in savings.

The total general fund was up eight tenths of one percent over last year's budget. The projected new property tax revenue for operations is \$230,000 from new construction, and \$254,000 from property revaluations. The proposed use of that new revenue would be \$211,000 for four additional positions in the Police Department, \$429,000 in the Police and Fire pay program, and \$206,000 for pay program for all other employees. The Council authorized the Splash Pad grant, which will be a good quality of life feature for the City; however it will cost approximately \$80,000 each year for maintenance and operation. Additional Police officers and moving across their pay grades will cost money, so if the tax revenues are reduced too much it makes it much more difficult.

At the last meeting suggestions were made by Council for ways to reduce the budget they are: reducing the abandoned building demolition by \$25,000, removing the sidewalk on Mockingbird saving \$92,735, reducing Police Department overtime by \$65,000, and the reductions in Police Department telephones by \$10,000, and The South Texas Zoo by \$10,000. Also reducing part-time pay costs in court payroll, not doing the sales tax audit, phone and computer maintenance reductions in some of the offices. With these changes it would allow for the Council to reduce the tax rate by half a penny.

Mr. Windwehen advised that his job according to the Charter is to develop and propose a financial plan or budget to try to address the Council's priorities. Council's job is to give broad direction as to program priorities, tax spending level, capital improvement planning, and long term financial planning, how much you borrow and how it is paid for in broad general direction. His job also is to advise Council in the areas of spending and taxing, with Council having the ultimate say. Citizens give input every year, but the difference with Council is they have to be responsible for the decisions they make and how they impact the community, whereas the citizens do not have that responsibility.

**ORDINANCE 2009-2010 – ADOPTING 2009-2010 FISCAL YEAR BUDGET**

Interim City Attorney, George E. Hyde, read the caption of Ordinance 2009-2010, which approves and adopts a budget for operating the municipal government of the City of Victoria for the Fiscal Year beginning October 1, 2009, and ending on September 30, 2010; and appropriates money for the various funds and purposes of such budget including appropriations of money to pay interest and principal sinking fund requirements on all indebtedness. Second Reading. Gilbert P. Reyna, Jr.

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

Dale Zuck, 168 Casa Blanca thanked the Council for their hard work commenting that he would like to see \$0.6367 for the tax rate, but he has seen how hard they have worked to get to \$0.6450.

Jack A. Mullins, 442 Ridgewood Drive, referred to a catholic periodical with an article about helping people in need. He commented that organizations that help those in need and the senior citizens have seen increases in need and decreases in giving. He further commented that working people with retirement plans and stocks and bonds are down and facing serious problems. He felt that all of the local government units with the exception of Victoria County deserve criticism for not cutting back.

Russell Pruitt, 402 Sherwood commented that \$0.6450 would still be a tax increase. Commissioners Court cut their budget by approximately \$3.5 million by necessity, and if the Council does not adopt the \$0.6367 tax rate they are raising taxes. He also pointed out that the garbage, water and sewer rates would be going up too. Unemployment in Victoria went from 4percent in May to 7.7 percent suggesting that it was the highest in the nation. There are a lot of people hurting.

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James Dodson, 410 N. Vine commented that it was difficult to make choices about budgets. One thing that needs to be remembered is that the rule of the City is to instill a quality of life for its residents and to promote economic development. It is hard to promote economic development without a solid infrastructure, which requires money, and providing the kinds of services that people expect such as Fire and Police. Employees who want to keep their jobs do not want to be a part of the unemployment statistics. The easiest way to save money in the City is to reduce employment, and he applauded the Council for taking measures to keep the City's labor force in tack. He supported the tax rate as being proposed and the utility rate increases. He commented that it was amazing that it was the first solid waste increase in nine years and asked Council to please stay the course.

Matt Ocker, 2307 FM 2615 commented on the budget and tax rate suggesting that the extra cushion in the budget should not be for the Mayor's pet projects.

Director of Gilbert P. Reyna, Jr. presented the revisions to the original budget as recommended at past meetings and from the work session earlier. He advised that the construction of Fire Station #2 needed to be carried over in to Fiscal Year 2009-2010.

Cm. Hagan commented that he would vote against the budget because it was based on a tax rate of \$0.6450 which would be a tax increase.

Cm. Halepaska moved to adopt the budget with the revisions as presented in the total amount of \$147,092,986 on second reading, with Cm. Polasek seconding the motion. The ordinance passed on second reading by the following vote:

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

Caption:

**AN ORDINANCE APPROVING AND ADOPTING A BUDGET FOR OPERATING THE MUNICIPAL GOVERNMENT OF THE CITY OF VICTORIA FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2009, AND ENDING ON SEPTEMBER 30, 2010; APPROPRIATING MONEY FOR THE VARIOUS FUNDS AND PURPOSES OF SUCH BUDGET INCLUDING APPROPRIATIONS OF MONEY TO PAY INTEREST AND PRINCIPAL SINKING FUND REQUIREMENTS ON ALL INDEBTEDNESS; REPEALING ALL CONFLICTING ORDINANCES AND APPROPRIATIONS; PROVIDING FOR SEVERABILITY; AND DECLARING AN EFFECTIVE DATE.**

**ORDINANCE 2009-23 - SETTING TAX RATE**

Interim City Attorney, George E. Hyde, read the caption of Ordinance 2009-23, which sets the Tax Rate at a total rate of \$0.65 per \$100 of property valuation and levying a tax upon all property subject to taxation within the City of Victoria, Texas for the 2009 Tax Year for the use and support of Municipal Government of the City of Victoria, providing for the assessment and collection of taxes, apportioning said levy among the various funds and items for which revenue must be raised including providing a sinking fund for the retirement of the bonded debt of the City, providing for penalties and interest for delinquent taxes as prescribed by the Texas Tax Code. First Reading. Gilbert P. Reyna, Jr.

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

Cm. Polasek moved to amend the ordinance that the property tax rate be increased by the adoption of a tax rate of \$0.6450 on each \$100 property valuation, which is effectively a 1.3 percent increase in the tax rate, with Cm. Rangel seconding the motion. The motion passed by the following vote:

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

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Cm. Polasek moved that the property tax rate be increased by the adoption of a tax rate of \$0.65 on each \$100 property valuation, which is effectively a 2.09 percent increase in the tax rate, with Cm. Halepaska seconding the motion. The ordinance passed, as amended, on first reading by the following vote:

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

Caption:

**AN ORDINANCE SETTING THE TAX RATE AT A TOTAL RATE OF ~~\$0.65~~ \$0.6450 PER \$100 OF PROPERTY VALUATION AND LEVYING A TAX UPON ALL PROPERTY SUBJECT TO TAXATION WITHIN THE CITY OF VICTORIA, TEXAS FOR THE 2009 TAX YEAR FOR THE USE AND SUPPORT OF MUNICIPAL GOVERNMENT OF THE CITY OF VICTORIA, PROVIDING FOR THE ASSESSMENT AND COLLECTION OF TAXES, APPORTIONING SAID LEVY AMONG THE VARIOUS FUNDS AND ITEMS FOR WHICH REVENUE MUST BE RAISED INCLUDING PROVIDING A SINKING FUND FOR THE RETIREMENT OF THE BONDED DEBT OF THE CITY, PROVIDING FOR PENALTIES AND INTEREST FOR DELINQUENT TAXES AS PRESCRIBED BY THE TEXAS TAX CODE, REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND DECLARING AN EFFECTIVE DATE**

**ORDINANCE 2009-21 – WATER AND SEWER SERVICE RATES**

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. Second and Third Reading. Lynn Short.

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. Polasek seconding the motion. The ordinance passed on second and third reading by the following vote:

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

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.**

**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. Second and Third Reading. Jerry James.

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

Cm. Hagan asked if the yard waste service could be done once a month. Director of Environmental Services, Jerry James advised that once a month would not be an efficient use of the employees. He advised that surveys have gone out to citizens, but if there is not enough demand for that service would be discontinued.

Cm. Polasek 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:

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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 24-141 "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.


**RESOLUTION 2009-151R – 2009 JAG GRANT**


The resolution ratifies an Application for the American Recovery and Reinvestment Act of 2009: Edward Byrne Justice Assistance Formula Grant (JAG) Program for the purchase of 125 portable 800MHz digital radios for the Police Department, in the total amount of \$409,925, with no City matching funds required, and authorizes the City Manager to execute all documents necessary to accept said grant. Jesse Turner.

Cm. Hagan 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

There being no further business, the meeting was adjourned at 6:30 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 10, 2009

**CALL TO ORDER**

A special meeting of the Victoria City Council was called to order by Mayor Will Armstrong at 8:00 a.m. Thursday, September 10, 2009 in the Council Chambers, 107 W. Juan Linn, Victoria, Texas.

**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  
Scarlet Swoboda, City Secretary