


EXECUTIVE SESSION

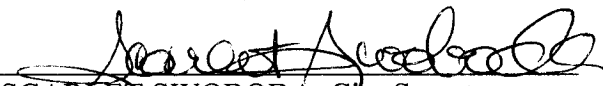
Mayor Armstrong announced that Council would recess into Executive Session at 8:28 p.m., in accordance with:

Section 551.071, Texas Government Code, consultation with attorney on matter involving pending or contemplated litigation or other matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act 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.

Section 551.071, Texas Government Code, consultation with attorney on matter involving pending or contemplated litigation or other matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act (including but not limited to threatened litigation by James Wayne over driveways related to the Laurent Street Reconstruction Project). George E. Hyde.

The Council took no action. There being no further business, the meeting was adjourned at 9:12 p.m.

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

ATTEST: 
SCARLET SWOBODA, City Secretary

**VICTORIA CITY COUNCIL
October 6, 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, October 6, 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
- Thomas Gwosdz, City Attorney
- George E. Hyde, Special Counsel
- Linda Champion, Assistant City Attorney
- Gilbert P. Reyna, Jr., Director, Finance
- Jesse Turner, Police Captain
- Vance Riley, Fire Chief
- Doug Cochran, Director, Parks and Recreation
- Danette Respondek, Director, Human Resources
- Rick Henrichs, Director, Information Technology
- Jerry James, Director, Environmental Services

OTHERS PRESENT

- Jeb Lacey, Emergency Management Coordinator

CITY COUNCIL MINUTES**October 6, 2009**

O. C. Garza, Public Information Officer
 Chris Guerra, Crime Prevention Officer
 Jimmy Roach, Deputy Director, Public Works
 Ken Gill, City Engineer
 Ray Miller, Deputy Director, Development Services
 Andrew Jacob, Assistant Finance Director
 Darryl Lesak, Asst. Director Environmental Services
 Scarlet Swoboda, City Secretary

CITY MANAGER REPORTS

- **2009 Distinguished Citizen Awards.** Public Information Officer, O.C. Garza; Fire Chief, Vance Riley; and Police Captain, Jesse Turner recognized the following individuals for completing the Citizen, Fire, and Police Academies: Nancy Alkek, Sherial Boedeker, Richard Garcia, Mike Hamm, Forest Imhoff, Carol Kopec, Charles Kulow, Nancy and Wesley Lowrance, Becky Perez, Rudy Ruiz, Domingo Villarreal. Crime Prevention Officer, Chris Guerra thanked them for what they do to assist the Fire and Police Departments.
- **Certificate of Achievement for Planning Excellence.** Deputy Director of Development Services Ray Miller announced that the City of Victoria had received the award and the Planning Department staff and Planning Commissioners were congratulated.
- **Presentation of plaques to Bruce Eppinger and Matt Alvarez for their service on the Planning Commission.** Deputy Director of Development Services, Ray Miller expressed appreciation for their many years of service.
- **Recognizing Sharon Steen, Tom Faulkner and Jesse Perez for their service to the City of Victoria on the Parks and Recreation Commission.** Director of Parks and Recreation, Doug Cochran expressed appreciation for their years of service.

CITIZENS COMMUNICATION

James Wayne, 15 Spring Creek Road, commented on Section 20-90 of the driveway ordinance asking Council to not pour the driveway along Laurent until after a Judge makes a decision on what the ordinance means. He suggested that it would only take approximately two to three weeks for a Judge to rule and could save \$25,000 to \$40,000 of City money.

Matt Ocker, 2307 FM 2615, expressed concerns with the Appraisal District Board appointment. He felt there was a disparity in how property taxes were assessed. He made suggestions on how the appointee should be chosen, and suggested that the same person from the same district should not be on the board repeatedly. He wanted to make sure the assessments were fair.

Jeff Williams, 702 Santa Fe, thanked Cm. Hagan, Cm. Truman, and Cm. Soliz for voting against the tax increase. He commented that sales tax had a 20 percent decline from the previous year, the biggest single decline the last four months. He asked Council to continue to look at ways to reduce expenditures. He addressed concerns regarding the hike and bike trail crossing at John Stockbauer, suggesting that it would continue to be a dangerous intersection. Most people do not push the button to activate the flashing lights before crossing, and he asked Council to do something before someone was killed. He also expressed concern with the Water Park request, and asked Council to look at all the factors before considering tax abatement.

ITEMS FROM COUNCIL**Sidewalks/driveways related to the Laurent Street Reconstruction Projects, Phase I & II –**

Cm. Hagan asked for the legal team's opinion on the potential of resolving the issue from a legal standpoint in the next few weeks. He asked if the City could potentially save \$25,000 to \$40,000 wouldn't it be simpler to wait a few weeks and let it play out. City Attorney, Thomas Gwosdz suggested that if Council wanted to discuss items relating to potential litigation it should be done in executive session to protect the attorney client privilege.

Special Counsel, George Hyde advised that the City had an executed agreement with John Griffin indicating that the answer for purposes of any response to the allegations made in the declaratory judgment action was not due until the 26th of this month. That is an agreement between

Mr. Wayne's counsel and the City's counsel in this litigation. He advised that he could provide specific facts, but beyond that it should be conducted in executive session.

Mayor Armstrong asked what the ramifications were with the contractor and the City if work were stopped. City Engineer, Ken Gill responded that the contractor was striping the street up to Hiller Street at the point of where the driveway occurs, and the street would be open to that point. The intersection of Airline was currently being worked on and was the last portion of paving to complete the project. The contractor could access fees for any delays in the section of that driveway. Estimated additional costs for delays could be in the thousands of dollars. Mr. Hyde commented that a court ruling from a District Court would not necessarily resolve the issue; this is not a few weeks dispute.

Cm. Polasek asked how long the project had been ongoing. Mr. Gill responded since April 2008 and discussions had been ongoing with Mr. Wayne for six or so months. Cm. Polasek commented that approximately 40 other properties have been dealt with and the project has moved on. He explained that this driveway has a lay-down curb and for safety reasons a traditional curb would be put in to allow an entrance further away from the intersection. That lot does not have enough frontages to allow a drive. Mr. Gill advised that the purpose is to provide access on Laurent. Cm. Polasek commented that a lot of taxpayers' money had already been spent on this and lay down curb is no longer permitted anymore.

Mr. Hyde advised that the ordinance regarding driveways was on the City's website and available at City Hall for anyone to read. The ordinance was changed in 1999 and he read portions of Section 20-90(a)(b) and subsection (b)(4). He further advised that in Section II of the City Charter gives the City exclusive dominion over and under the streets and sidewalks. Cm. Hagan asked if this could get to the courts, would there be any financial savings to the City. Mr. Hyde commented that he was unable to reasonably tell him the potential costs. It was noted that per City Council instructions the project would continue on at this time as planned.

Yard Waste Concerns - Mayor Armstrong commented that citizens had concerns with the elimination of yard waste collection. The Council had moved through that process without citizen input even though approximately 800 citizens had indicated they wanted the additional service at \$5 per container. He requested a work session to rethink and discuss the service. City Manager, Charles E. Windwehen advised that there was going to be a report later in the meeting on that subject.

National 4-H Week Proclamation - A proclamation was read declaring the week of October 4-10, 2009 "National 4-H Week" in Victoria. It was presented to 4-H representatives who presented baked goods to the City Council. They advised that 4-H enrollment in Victoria County was up 28 percent. It is one of the most recognized programs in Texas and more than \$170,000 have been awarded in scholarships.

Riverside Convention Center Water Park Proposal - Cm. Soliz asked the owner of Riverside Convention Center, Homer Escalante to address Council on the proposal. Mr. Escalante presented a PowerPoint presentation showing their design and marketing concept. He provided information on the employment impact to the community along with projected sales tax revenue. Mr. Escalante advised that he had discussions with representatives of the Victoria Economic Development Corporation (VEDC) and found that tax abatement was primarily applicable for industry. He indicated that he wanted to open the park by Memorial Day and requested the following: Two-percent of direct sales tax revenue from the park for 10 years, and one-percent for 5 years. Purchase raw water at a 50 percent discount, with the City providing the initial fill-up. They would like to negotiate with the City for the purchase of City owned property on the corner of Main and Red River primarily for signage, and an off-premise sign variance. He requested the repair of Red River between Vine and Stadium Drive, as well as being added to the tourist signage at the major highways into the City. It was suggested that Mr. Escalante contact the Director of Development Services and the Legal Department to discuss his proposals. It was further pointed out that the City does not receive the full amount of sales tax generated, and Mr. Escalante would need to go to those other entities to discuss the possibility of receiving sales tax revenue from them. Special Counsel, George Hyde advised that a funding contract would have to be filed in conjunction with the site plan or other materials to the Planning Commission. The first step would be for the City to enter into

negotiations to develop a written agreement regarding the project, if that was the consensus of Council. The City Attorney was asked to provide a presentation on where the proposal stands at the next meeting.

Appraisal District - Cm. Polasek requested placing a report from the Chief Appraiser of the Appraisal District on the November 2, 2009 City Council agenda to go over his services to the City and present historical valuations.

Graffiti – Cm. Truman commented on the graffiti that has been getting worse in the City. He advised Council that a program has been initiated where businesses that are tagged purchase the paint then call the Crime Prevention phone number 485-3808 and probationers go paint over the graffiti.

WORK SESSION

Mayor Armstrong announced that Council would move into a work session since the Architect was from out of town.

Fire Station No. 2 Project – bidding process

Fire Chief, Vance Riley provided background information on what had already taken place regarding Fire Station No. 2. He and Ray Holliday, with Brown Reynolds Watford Architects, Inc. (BRW) provided information on options for the bidding process according to the Texas Local Government Code. Since the project had already gone through the design process, the options only left competitive bidding and competitive sealed proposals. It was pointed out that the local contractors that bid on this project had gone through the same process for Fire Station No. 4 using Competitive Sealed Proposals, which is a recognized bidding process used by numerous other entities across the State. Chief Riley advised that resulting from action taken by Council at a recent meeting, the Fire Station would need to be rebid, however there was some uncertainty concerning how the project would be rebid. He asked for direction from Council on the following two options to rebid the project:

Option 1 – Competitive Sealed Proposals

- Pros
 1. May negotiate project scope or time to save money
 2. Flexibility to select the best value to the City
 3. Firm's experience, finances, schedule, reputation may be considered during selection process
 4. Accurate evaluation and scoring of criteria
- Cons
 1. Less-familiar bid process

Option 2 – Competitive bidding

- Pros
 1. Familiar process
 2. Absolute low bid
- Cons
 1. No option to negotiate with lowest bidder to reduce cost
 2. Must take lowest "responsible" bid
 3. If low bid above budget then must increase the budget and/or re-bid
 4. Only cost is evaluated

Cm. Halepaska was reluctant to go with price only because it may not be the best job or best value to the taxpayer. Cm. Soliz expressed concern with the criteria, suggesting that it was not as competitive as it could be. It was the consensus of five members of Council to move forward with Option 1- Competitive Sealed Proposals.

Mayor Armstrong called a short break at 6:52 p.m. The Council reconvened at 7:04 p.m.

Mr. Holliday requested clarification from Council on what criteria they were looking for. He recommended picking a firm that has the experience, financial qualifications, and could be trusted to execute and complete the work. There was lengthy discussion on the selection criteria and the weight given to each one. It was Council consensus to leave the bidders cost proposal at 60 percent with all others carrying a 5 percent weight. They wanted to give weight to the Golden Crescent Regional Planning Commission Counties to the criteria dealing with past performance on previous projects.

Cm. Halepaska suggested adding to the bid process that no bidders be allowed to lobby any member of Council. There was unanimous consensus from Council for that suggestion.

Special Counsel, George Hyde advised that the law says that once the ranking is done the governing body is to approve that ranking. The law also says that the governing body can designate a representative so that ranking is adopted through that representative. If prior to the ranking that responsibility is designated to the architect or a representative of the organization then that ranking does not have to come back to the City Council for approval. The ranking is done, submitted, and you move forward. That responsibility would allow the architect to make that decision and his ranking would be final at that point. It would be his decision on who would get the first chance to negotiate the contract for the best price.

It was the consensus of six members of Council to allow the architect to make the final recommendation, with Cm. Soliz opposing.

Mayor Armstrong asked the new City Attorney, Thomas Gwosdz to provide suggestions to the Council on ways to make the meetings run more efficiently. Mr. Gwosdz would bring something back to Council at a meeting in November.

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 was made available for public review.

1. **APPROVAL OF MINUTES** – The special meeting of September 8, 2009, the special meeting of September 10, 2009 and the regular meeting of September 15, 2009.
2. **RESOLUTION 2009-164R – SCHOOL RESOURCE OFFICER LETTER OF AGREEMENT:** The resolution authorizes a Letter of Agreement with the Victoria Independent School District (VISD) to fund the School District School Resource Officer (SRO) Program from September 1, 2009 through August 31, 2010. Bruce Ure.
3. **RESOLUTION 2009-165R – 2010 DRAINAGE DITCH AND OUTFALL MOWING CONTRACT:** The resolution accepts the bid for the 2010 Mowing of Drainage Ditches and Outfalls Project from Winston Wilson d/b/a W. W. Services of Victoria, Texas, in the amount of \$284,825. Doug Cochran.
4. **RESOLUTION 2009-166R – EMERGENCY MANAGEMENT INTERLOCAL AGREEMENT:** The resolution authorizes the City Manager to execute an Interlocal Agreement between the City of Victoria and Victoria County for the Funding of the Emergency Management Services Program. Gilbert P. Reyna, Jr. *The resolution was pulled from the agenda and no action was taken on it.*
5. **RESOLUTION 2009-167R – PRESCRIPTION BENEFIT SERVICES AGREEMENT:** The resolution awards a contract for Pharmacy Benefit Manager Services to CaremarkPCS Health, L.L.C., of Woonsocket, Rhode Island, and authorizes the City Manager to execute a Prescription Benefit Services Agreement and all other documents necessary to accept the final offer of said entity. Danette Respondek.

6. **RESOLUTION 2009-168R – EMPLOYEE GROUP LIFE AND DISMEMBERMENT INSURANCE:** The resolution awards a bid for Employee Group Life and Accidental Death and Dismemberment (AD&D) insurance to Unum Life Insurance Company of America, an insurance subsidiary of Unum Group of Portland, Maine, in the amount of \$0.06 per month per \$1,000 for basic life and \$0.04 per month per \$1,000 for AD&D. Danette Respondek.
7. **RESOLUTION 2009-169R – VOLUNTARY LONG TERM AND SHORT TERM DISABILITY PLANS AND VISION PLANS:** The resolution accepts the proposals from The Lincoln National Life Insurance Company of Plano, Texas, to provide the City's Voluntary Long Term Disability and Short Term Disability Plans, and from SafeGuard Health Plans, Inc., a Met Life Company of Aliso Viejo, California, to provide the City's Voluntary Vision Plan. Danette Respondek.

Cm. Halepaska moved that the consent agenda be adopted, with Cm. Soliz 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 2009-170R – THIRD AMENDED AGREEMENT WITH TECOM INCORPORATED

The resolution authorizes a Third Amended Agreement between the City of Victoria and TECOM Incorporated, subsequently assigned to and assumed by All Star Fleet Services, LLC, for Municipal Fleet Management and Maintenance Services for 2009-2010, for a target cost of \$837,710.78, which represents a CPI increase of 1.88 percent. Jerry James.

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

RESOLUTION 2009-171R – VICTORIA COUNTY APPRAISAL DISTRICT BOARD OF DIRECTORS

The resolution nominates Paul Polasek and casts all 993 votes for his appointment to the Victoria County Appraisal District Board of Directors. Scarlet Swoboda.

Cm. 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 2009-172R – PURCHASE OF 2010 LOADER/BACKHOE WITH EXTENDAHOES

The resolution authorizes the purchase of three 2010 Year Model Loader/Backhoes with Extendahoes to the lowest qualified bidder, Doggett Heavy Machinery Service, LTD, of Victoria, Texas in the amount of \$265,350, which includes a guaranteed life cycle maintenance and a 5 year/5,000 hour extended warranty on the full machine with a guaranteed repurchase price of \$32,000 per backhoe, for a total cost purchasing of \$169,350. Darryl Lesak.

Cm. 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 2009-173R – FIRE STATION ALERTING SYSTEM

The resolution authorizes a contract between the City of Victoria and Victoria Communications, Inc. for the equipment and installation of a Fire Station Alerting System in the Public Safety Communications Center and all 5 fire stations in the amount of \$99,514.90. Vance Riley.

Cm. Polasek moved that the resolution be adopted, with Cm. Soliz 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 2009-174R – FREESTANDING SIGN SETBACK VARIANCE AT 4002 N. MAIN STREET

The resolution grants a variance to Section 5-153(a)(5) of the Victoria City Code, which requires a minimum 10ft setback for freestanding signs from the property line to the closest point of the sign structure, for 4002 N. Main Street, owned by Baltic Enterprises, LLC. John Kaminski.

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

CITY MANAGER REPORTS

- **Solid Waste Service Programs.** Jerry James. The item was pulled from the agenda and would be brought back at the next meeting. Cm. Halepaska suggested getting information from constituents to address their concerns.
- **Riverside Stadium** – City Manager, Charles E. Windwehen advised that the City inherited the stadium in the 1940's and the City is the operator and manager of the largest baseball stadium in Victoria. The current users are Victoria Independent School District (VISD), St. Joseph High School, the University of Houston-Victoria, the Generals, the older little league teams, and a local team the Rosebuds have a regional league. The use has increased over the last few years and the maintenance is being provided by the City, the Friends of Baseball, and VISD. The management and game scheduling is done by the Parks and Recreation Department and the concessions are handled by the Friends of Baseball. There have been a number of conflicts over the past several years, which are becoming more political and staff was tired of getting caught in the middle. It was the recommendation of staff to invite proposals for one entity to be responsible for and manage all aspects of the stadium. The alternative would be to get very specific in the terms of the contracts with each group. If the Council wanted staff to managing it, then the City staff needed to be able to manage it completely without outside agencies interfering. There was consensus from Council to move forward with putting out bids for an outside facility manager.

Mayor Armstrong commented that Riverside Stadium would not even be there without the Friends of Baseball. They are all volunteers and have put in a tremendous amount of work.

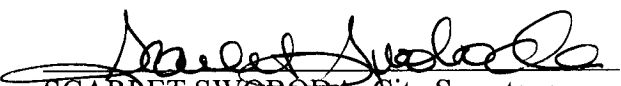
CITY COUNCIL MINUTES
October 6, 2009

- **Emergency Management Office Update.** Emergency Management Coordinator, Jeb Lacey presented a mid-year report on the strategic plan for 2009. He spoke about the efforts made with the public-private partnerships in the community. He advised that partnerships with non-governmental agencies, businesses, and volunteer organizations have been established.

EXECUTIVE SESSION

Mayor Armstrong announced that there was no need for an Executive Session. There being no further business, the meeting was adjourned at 8:27 p.m.

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

ATTEST: 
 SCARLET SWOBODA, City Secretary

VICTORIA CITY COUNCIL
October 20, 2009

CALL TO ORDER

A regular meeting of the Victoria City Council was called to order by Mayor Will Armstrong at 5:01 p.m. Tuesday, October 20, 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
 Denise Rangel
 Gabriel Soliz
 Paul Polasek
 David Hagan
 Joe Truman

MEMBERS ABSENT

Tom Halepaska, Mayor Pro-Tem

OTHERS PRESENT

Randy Vivian, CEO
 Chamber of Commerce
 Bridgette Bise, Executive Director,
 Convention and Visitors Bureau (CVB)
 Ginny Stafford, CEO
 Mid-Coast Family Services

STAFF PRESENT

Charles E. Windwehen, City Manager
 Charmelle Garrett, Deputy City Manager
 Thomas Gwosdz, 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
 Jerry James, Director, Environmental Services
 Rick Henrichs, Director, IT
 O. C. Garza, Public Information Officer
 Andrew Jacob, Assistant Finance Director
 Scarlet Swoboda, City Secretary

CITIZENS COMMUNICATION

Mayor Armstrong asked that any citizens that wished to speak about the yard waste issue to hold their comments until that report is addressed later in the meeting. Any other comments could be made at this time.