

**CITY COUNCIL MINUTES  
October 28, 2009**

**PARKS COMMISSION PRESENT**


Michael Hummel  
Maurice Smith  
Lewis Neitsch  
Barbara Allen-Lampley  
Donna Eaves  
Vic Caldwell  
Roger DeLaGarza  
Susanna Porr

Rick Henrichs, Director, Information Technology  
Shane Simon, Recreation Services Manager, Parks  
Trudie Sandberg, Senior Clerk, Parks and Recreation  
Kevin Stewart, Assistant Director, Parks and Recreation  
Scarlet Swoboda, City Secretary

Amy Holloway, President and CEO of Avalanche Consulting presented a draft of the Market and Feasibility Study for the Community Center. No action was taken by the City Council.

There being no further business, the meeting was adjourned at 6:25 p.m.

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

ATTEST:   
SCARLET SWOBODA, City Secretary

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**VICTORIA CITY COUNCIL  
November 3, 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, November 3, 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 A. 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  
Rick Henrichs, Director, Information Technology  
Jerry James, Director, Environmental Services  
Andrew Jacob, Assistant Finance Director  
Scarlet Swoboda, City Secretary  
George E. Hyde, Special Counsel

**CITIZENS COMMUNICATION**

Jeff Williams, 702 Santa Fe, thanked Council for closing the trail crossing at John Stockbauer for safety reasons. He commented that he was against the funding of legal fees for indicted public officials and he also felt that the Convention and Visitors Bureau (CVB) was excessive, suggesting that it needed to be cut and specifics placed on it. He presented a graph to the Finance Director showing that 2009 had the lowest receipts for sales tax.

Nina Di Leo, Managing Director of the Victoria Bach Festival, 407 W. Stayton, thanked the Council for funding the Victoria Bach Festival this past year and looked forward to working with the CVB. She commented that CVB had ambitious plans and encouraged funding them, but asked that there be funds made available for the Arts as well. They use City funding to leverage other fund raising efforts.

Matt Ocker, 2307 FM 2615 commented that he was glad that the Chief Appraiser, John Haliburton was on the agenda to present a report on the Appraisal District. He expressed concerns with the appraisal process and the valuation of different neighborhoods. He listed a number of questions that he wanted Mr. Haliburton to answer.

Atanacio (Nacho) Trevino, 708 Morning Glory, expressed concerns with safety at the adult complex and lack of supervision. He also expressed concerns that little league teams were going elsewhere because of the concession rules, commenting that these fields were built for the local kids and hoped that some of the problems could be worked out

Janak Patel, Best Western Victoria, 8106 NE Zac Lentz Parkway, spoke in support of the CVB Marketing Plan and funding, suggesting that if you want people to know about Victoria the plan needs to be funded in its entirety.

Dale Zuck, 168 Casablanca, commented that he was glad that the hotels were given input on the CVB Marketing Plan and how to market Victoria. Also, he commented on the attorney fees being requested and asked that any information received is made available to the public.

Kristie Cohen, 101 Oakmont Drive, representing Greek Brothers Restaurant spoke in support of the CVB Marketing Plan commenting that there was a need for an aggressive plan to bring in new visitors and return visitors.

Toni Marek, 329 Golden Eye Loop spoke in opposition of paying attorney fees.

Charles Grant, representing Holiday Express and Candlewood Suites expressed support for the CVB Director, Bridgette Bise and the Marketing Plan and funding.

Mark Cook, Board Chairman of the Chamber of Commerce, 209 Willow Way, spoke in support of the CVB Marketing Plan commenting that it was well thought out and well researched, with a knowledgeable Director. He commented that Victoria was on the verge of something great and suggested that the Council would be happy with the return in investment. He encouraged the Council to fully fund the request from CVB.

Mayor Armstrong asked how many members there were in the Chamber of Commerce, with Mr. Cook responding approximately 750. Mayor Armstrong commented that was a pretty good representation of the community.

City Manager, Charles E. Windwehen advised that the CVB submitted a budget requesting \$750,000. He asked the Council to also come up with a philosophy on long term plans regarding how they wanted to use the hotel/motel tax in the promotion of tourism and the Arts. He presented a handout with three options for funding based on the \$100,000 of hotel/motel taxes received, \$410,000 currently available in the fund, the community center expenses of \$332,000, and the \$750,000 requested by the CVB. One option would give CVB \$750,000 leaving \$50,000 for the Arts with \$278,000 for an ending fund balance; a second option would give \$700,000 to CVB

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leaving \$75,000 for the Arts with \$303,000 for an ending fund balance; and the third option would be to give CVB \$700,000 leaving \$50,000 for the Arts with \$328,000 for an ending fund balance.

Mayor Armstrong commented that this is economic development and the world does not know about Victoria, and listed a number of the attractions and businesses in Victoria. By law the City is to spend that money to encourage people to spend the night in Victoria. Cm. Rangel asked how much was spent on the Arts last year. She was informed that they receive \$154,000. One of the things that can be done is fund the CVB and then spend down some of the reserve funds for the community center on the Arts. It is up to the Council to make that decision.

**RESOLUTION 2009-191R – TOURISM/CONVENTION PROMOTION SERVICES AGREEMENT**

The resolution authorizes a Tourism/Convention Promotion Services Agreement with the Victoria Chamber of Commerce in the amount of \$750,000. Gilbert P. Reyna, Jr.

Cm. Truman commented that he did not feel that Victoria was ready for a media blitz campaign. He felt that the infrastructure projects needed to be completed first. Cm. Hagan commented that he had a lot of confidence in the CVB, but he would prefer that they focus on fewer areas and then as they succeed, provide more funding at that time.

Cm. Soliz asked Executive Director of CVB, Bridgette Bise if she took into consideration the construction projects when coming up with the marketing plan. Ms. Bise advised that the plan is about building a plan, an awareness, and visibility for Victoria. If you adjust the budget another plan will have to be brought forward. There has not been a marketing plan for a number of years; the budget presented is the most detailed that the Council has ever received. Each year the CVB will go through an audit process to account for where those monies are spent, and a report will be presented quarterly to the Council.

Cm. Hagan moved to amend the resolution to fund \$452,000, with Cm. Truman seconding the motion. The motion to amend **failed** by the following vote:

AYES: Council Members Hagan, and Truman

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

Cm. Soliz moved to amend the resolution by subtracting \$73,340 from the general advertising line item. The motion to amend **died** for lack of a second.

Cm. Polasek commented that the number of agencies coming to Council for funding had gotten out of hand and the purpose of requesting a marketing plan was to combine some of those advertising costs that each of those agencies requested.

Cm. Polasek moved to amend the funding in the amount of \$700,000, setting aside \$50,000 for the Arts, with Cm. Soliz seconding the motion. It was pointed out that the Arts funding was not included in the resolution and would have to be addressed at a future meeting. Cm. Polasek withdrew his motion, with Cm. Soliz withdrawing his second.

Cm. Polasek restated his motion to amend the funding in the amount of \$700,000, with Cm. Soliz seconding the motion. The motion to amend **failed** by the following vote:

AYES: Council Members Soliz and Polasek

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

Cm. Polasek moved that the resolution be adopted in the amount of \$750,000, with Cm. Halepaska seconding the motion. The resolution was adopted by the following vote:

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

NAYS: Council Members Soliz, Hagan, and Truman

CITY MANAGER REPORT

- **Discussion of Hotel Occupancy Tax Funds Usage** – Mayor Armstrong commented that many other cities make large contributions to the Arts. Cm. Rangel and Cm. Truman wanted to fund the Arts in the amount of \$152,000. It was pointed out that some of the agencies that come to Council for funding did not qualify for hotel/motel tax funding and have been funded by general fund monies.

Mayor Armstrong allowed former City Councilman Jim Wyatt to address the Council. Mr. Wyatt, 111 Owen, commented that the African American Chamber of Commerce was bringing in people for performing arts and golf tournaments and asked that they continued to be funded in the same amount as the past year.

City Manager, Charles E. Windwehen advised that \$1,082,000 has already been allocated and Council needed to be reminded that whatever they do needs to be sustainable. Council has now allocated \$82,000 more than the annual amount of motel tax expected to be received. Anything planned to be spent on outside agencies will be coming out of fund balance. A decision will need to be made in the near future of whom to fund, and by how much. Cm. Halepaska commented that with the marketing plan just passed, the motel tax should grow, so the question is how much we want to draw down the fund balance. He did not think the Arts should be shut out. It was pointed out that the 15 percent limit allowed to be used also applied to the fund balance too.

It was the consensus of Council to tentatively set aside \$100,000 for the other agencies. They asked staff to solicit eligible requests which comply with the law, which would then be addressed on a future agenda.

ITEMS FROM COUNCIL

- **Lone Tree Hike and Bike Trail Safety Issues.** Cm. David Hagan commented that there needed to be either a traffic light at the crossing on John Stockbauer, traffic redirected, or crossing permanently closed. Staff presented five options for consideration ranging from zero cost up to \$339,332.50. It was pointed out that no money was appropriated for any of the options. It was further pointed out that the Capital Improvement Projects (CIP) would be presented to Council in December and expenditures for the crossing could be considered then. Cm. Polasek commented that regardless of what is done the flashers needed to be removed from all of the crossings; they give a false sense of security to the pedestrians. He urged people to exercise common sense and show personal responsibility. It was the consensus of Council to leave the crossing closed as it currently is, until the High School opens to see what the traffic patterns are.
- **Discussion of Rumble Strips on Airline.** Mayor Armstrong. It was the consensus of Council to remove them.
- **Youth and Adult Sports Complex Policies.** Cm. David Hagan asked for staff's perspective on the situation brought forward by a citizen at the last meeting. He commented that he wanted the rules to be amicable and nice for the public to feel welcome. Deputy City Manager, Charmelle Garrett advised that there was an exclusive concessionaire contract with language that someone hosting a tournament could work with the concessionaire if they choose to. There is a policy for no alcohol consumption in the parking lot of the community center. Cm. Hagan asked why tournaments have been lost and what the reason was. Staff felt that the policies in place were good policies and they were encouraging tournaments. The citizen had wanted to be able to have the concessions when he was doing tournaments and that was contradictory to the contract that the City has with the concessionaire. Cm. Soliz asked whether there could be a more severe penalty for criminal activity at these parks and asked for information regarding that on a future agenda.
- **Paddling Trail.** Cm. Tom Halepaska advised that there was another location for possible access to the Guadalupe River on South Street near the railroad trestle. The estimated cost to build an access point would be approximately \$1,600 for equipment rental and approximately

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\$10,000 for City staff to do in-house. It was his understanding that funds from the outfall maintenance could be used for this. It was the consensus of Council to move forward with his suggestion.

Mayor Armstrong called for a short break at 7:07 p.m. The Council reconvened at 7:17 p.m. Cm. Rangel arrived at 7:18 p.m. and Cm. Halepaska arrived at 7:19 p.m.

**PUBLIC HEARINGS AND ACTION**

Mayor Armstrong opened a public hearing on the following items:

**ORDINANCE 2009-25 – VICTORIA 2025 COMPREHENSIVE PLAN**

City Attorney, Thomas A. Gwosdz, read the caption of Ordinance 2009-25, which adopts the Victoria 2025, the Comprehensive Plan for the City of Victoria. First Reading. John Kaminski.

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

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

Caption:

**AN ORDINANCE ADOPTING VICTORIA 2025, THE COMPREHENSIVE PLAN FOR THE CITY OF VICTORIA; PROVIDING FOR SEVERABILITY, AND DECLARING AN EFFECTIVE DATE.**

**ORDINANCE 2009-2010A – BUDGET AMENDMENT FOR YARD WASTE**

City Attorney, Thomas A. Gwosdz, read the caption of Ordinance 2009-2010A, which amends the 2009-2010 Fiscal Year Budget of the City of Victoria by increasing the Environmental Services Closure and Post Closure Fund fund balance by \$56,351 and increasing the Environmental Services Yard Waste Operations Fund fund balance by \$158,951, to provide funding to continue the Yard Waste Pickup Program. First Reading. Gilbert P. Reyna, Jr.

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 THE 2009-2010 FISCAL YEAR BUDGET OF THE CITY OF VICTORIA BY INCREASING THE ENVIRONMENTAL SERVICES CLOSURE & POST CLOSURE FUND FUND BALANCE BY \$56,351 AND INCREASING THE ENVIRONMENTAL SERVICES YARD WASTE OPERATIONS FUND FUND BALANCE BY \$158,951, TO PROVIDE FUNDING TO CONTINUE THE YARD WASTE PICKUP PROGRAM, REPEALING ALL CONFLICTING ORDINANCES, PROVIDING FOR SEVERABILITY; AND DECLARING AN EFFECTIVE DATE.**

Mayor Armstrong closed the public hearings.

**CITY MANAGER REPORT**

- **Victoria Central Appraisal District Report.** Chief Appraiser, John Haliburton, 2805 N. Navarro provided background on how the Appraisal District worked, advising that it was governed by a Board of Directors. Their duties were to hire the Chief Appraiser, approve the budget, appoint the Appraiser Review Board, and the Ag Advisory Board. The Appraisal

Review Board hears any type of taxpayer protest on value of property and then rules. He advised that they heard 2,900 taxpayers' protests this year. He advised that by law they are to appraise by market value, taking in all the characteristics of the property. They use generally accepted methodology and sales information to come up with the market. They do not come up with the market value, but see what homes in the same or like neighborhoods are selling for. For many years the property values have been going up, however sometimes the market value has gone down, and the Appraisal Districts has to appraise the property at market value. Notice of appraised value is sent for those properties appraised up or down \$1,000 and each taxpayer has 30 days to contact their office to contest the value of the property. Each property is looked at individually against the sales that occurred. He pointed out that Texas is not a mandatory sales disclosure state so they send out a questionnaire and the responses they receive help them to appraise the property. He further advised that there were approximately 5,800 accounts and 7 appraisers.

Cm. Hagan commented that individuals have suggested that there were disparities, that some areas continue to increase and some do not. Mr. Haliburton advised that they look at neighborhoods and what homes in those neighborhoods were selling for. There may be areas where there may be a large increase and others where there are no increases because the market is stable. Cm. Hagan commented that there was a concern in the community that things were not always equitable and encouraged Mr. Haliburton to look at being equal to all. Cm. Polasek advised that they have to do fair market value to the best that they can determine because it would be against the Texas Property Tax Code to manipulate values. Mr. Haliburton advised that the State Comptroller's Office would have someone come and look at the values to compare the sales with the appraised values and if we were 5 percent off it would affect the school funding. The District is audited by the State every other year and a policies and procedures review is conducted on each off year. Cm. Polasek commented that the Appraisal District is governed by the State of Texas and not the Council. He further commented that it was against the law to try to influence the Appraisal Board. It is an independent appraisal system and if there is a dispute it needs to take place at the Appraisal District.

Cm. Soliz and Cm. Hagan asked for Mr. Haliburton to answer some of the questions asked by individuals who had addressed Council. It was suggested that if any individual or Council Member had questions for the Chief Appraiser, they should go to the Appraisal District meetings for their answers; because there had been no formal inquiry by the Council and individual requests need to be handled individually.

**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 available for public review.

1. **APPROVAL OF MINUTES** – The regular meeting of October 6, 2009 and regular meeting of October 20, 2009.
2. **RESOLUTION 2009-185R – WATER TOWER #1 PROJECT:** The resolution awards the Repairing and Repainting the Interior and Exterior of One 1,000,000 Gallon Steel Elevated Tank, "Tower No.1," Victoria, Texas Project (located at 500 N. West Street) to Blastco Texas, Inc. of Houston, Texas for their low bid of \$537,950, including Additive Bid Items No. 9-15. Lynn Short.
3. **RESOLUTION 2009-186R – BRUSH GRINDING CONTRACT:** The resolution awards a bid for Brush Grinding Services at the Victoria Brush Site to Thelin Recycling Company, LP of Fort Worth, Texas, in the amount of \$.80 per cubic yard for approximately 88,000 cubic yards, for a total of approximately \$70,400. Darryl Lesak.
4. **RESOLUTION 2009-187R – HOBBS SUBDIVISION #2 VARIANCE:** The resolution grants variances to Section 21-55(1) of City Code, which requires each platted lot to have frontage on a

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public street and Section 21-82(i)(3), which establishes a minimum lot width for the frontage, for Hobbs Subdivision No. 2, owned by Edward Hobbs. John Kaminski.

5. **RESOLUTION 2009-188R – KEEP VICTORIA BEAUTIFUL AGREEMENT:** The resolution authorizes a Beautification Services Agreement with Keep Victoria Beautiful in the amount of \$35,000 and approves the budget and funded activities for the aforementioned entity for the 2009-2010 Fiscal Year. Jerry James.

Cm. Truman moved that the consent agenda be adopted, with Cm. Hagan 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 2009-189R – AMENDING LEASE AGREEMENT WITH KEEP VICTORIA BEAUTIFUL**

The resolution amends the Lease Agreement between the City of Victoria and Keep Victoria Beautiful for the Historic Building at 3003 N. Vine Street. Doug Cochran.

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 2009-190R – PROVIDING FOR REIMBURSEMENT OF LEGAL FEES**

The resolution authorizes reimbursement of legal fees incurred in the defense of the prosecution of indicted former City employee. Thomas A. Gwosdz.

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

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

**WORK SESSION**

**City Council Operating Procedures**

City Attorney, Thomas A. Gwosdz advised that Council's roll is a limited role; it is a Legislative body and oversight body. Council's job is to pass the laws that govern the City and oversee the operation of the City Manager. The City Council is not to get involved with the day to day operations of the City Manager's job; in fact the City Charter makes it unlawful for anyone to interfere with the City Manager in the performance of the duties of that office. The meeting is the business meeting of the Council, so streamlining the meeting will allow the Council to do their job. The resolutions and ordinances are the legislative actions of the Council and often are supervisory in giving the City Manager direction on how to handle something. Communication, Public Hearings, and Manager Reports are the exercise of supervising and overseeing what the City Manager is doing. He did not propose anything that would limit vigorous debate on any subject up for consideration, but the greatest impact would be suggestions for streamlining the Council meetings. He recommended the following changes to Council operating procedures:

- That citizens sign up in advance for citizen comment by filling out a card with their name, address, and topic of conversation;
- That Council more clearly communicate time limits for citizen comment and provide a timer that would more clearly indicate to citizens when their time was up;

- Continue to cluster the public hearings allowing citizens to address all the items on the agenda requiring a public hearing at one time;
- That “Items from Council” be limited to items listed on the agenda and requests for topics to be placed on future agendas, so as not to violate the open meetings act, and also that this section be move to the end of the agenda;
- That staff reports be limited to brief informational reports, limiting questions from Council to those that help the Council member to understand the report; and
- That Council discussion of staff reports is reserved until such time as the item being presented comes back to Council for action.
- That Council is well mannered in all communication, particularly on times which lend themselves to robust discussion.

It was the consensus of Council to start making announcements that a sign up card would be implemented in January. There was also consensus to get a timing device for use at the meetings during citizen’s comments. It was suggested that Council be careful on how they direct the City Manager to use staff time. Mr. Gwosdz also cautioned Council about micro management.

**EXECUTIVE SESSION**

Mayor Armstrong announced that Council would recess into Executive Session at 8:50 p.m., in accordance with:

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 proposed purchase of property for a wastewater treatment plant. Thomas A. Gwosdz.

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 proposed sale/lease of the old water pump house located on West Stayton Avenue, adjacent to Riverside Park. Thomas A. Gwosdz.

The Council reconvened in regular session at 9:25 p.m. and considered the following:

**RESOLUTION 2009-192R – REAL ESTATE SALES CONTRACT FOR PROPOSED WASTEWATER TREATMENT PLANT**

The resolution authorizes the City Manager to execute a real estate sales contract, in a form acceptable to the City Attorney, offering to purchase real property and/or easements for the location of a proposed Wastewater Treatment Plant, in an amount not to exceed \$4,500 per acre and related closing costs not to exceed \$20,000; contingent upon an acceptable Environmental Assessment, Archaeological Assessment, title commitment, and resolution of any title objections; and declaring an effective date.

Cm. Polasek moved to amend the resolution to place in the blank, to not exceed \$20,000, with Cm. Halepaska seconding the motion. The motion to amend passed by the following vote:

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

Cm. Halepaska moved that the resolution be adopted, with Cm. Hagan seconding the motion. The resolution was adopted, as amended, by the following vote:


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

There being no further business, the meeting was adjourned at 9:28 p.m.

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

ATTEST:   
SCARLET SWOBODA, City Secretary

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