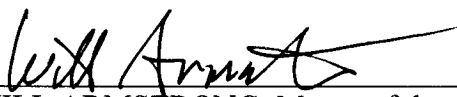
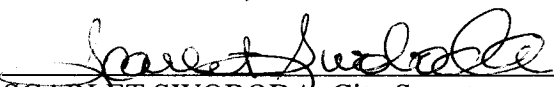


**CITY COUNCIL MINUTES
November 17, 2009**

There being no further business, the meeting was adjourned at 8:16 p.m.

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

ATTEST: 
SCARLET SWOBODA, City Secretary

**VICTORIA CITY COUNCIL
December 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, December 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
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
Dayna Williams-Capone, Director, Library
Rick Henrichs, Director, IT
Roy Boyd, Deputy Chief of Police
Jesse Turner, Police Captain
Andrew Jacob, Assistant Finance Director
Scarlet Swoboda, City Secretary

OTHERS PRESENT

Tom Schmidt, with Urban Engineering
Allen Wilke, with Camp Dresser & McKee

WORK SESSION

The location, development and funding of the proposed Wastewater Treatment Plant

Mayor Armstrong thanked Cm. Truman and Cm. Soliz for taking a trip to the Georgetown wastewater facility and Cm. Rangel for visiting the Sugar Land wastewater facility. Cm. Truman commented that he would be able to honestly look his constituents in the eye and tell them that there would not be an odor nuisance from the plant. He and Cm. Soliz were within 10 feet of the plant and could not smell an offensive odor. Cm. Soliz concurred with Cm. Truman. He commented that the new technology that would be used, wherever a plant is built would be a safe zone environment. Cm. Rangel commented that the plant she went to was within feet of Lowe's, Target, about 200 restaurants some with open air areas near, and a hospital within a quarter of a mile, and she could not detect any odor. She further added that Sugar Land City Hall was located approximately one to two miles away and there was no odor there either.

Director of Public Works, Lynn Short presented a PowerPoint presentation. There are currently two treatment plants. (1) Willow Street Plant built in the 1950's with a trickling filter

system, with a 2.5 million gallons per day rating capacity, with a 7.5 million gallon per day peak two hour flow permit, and (2) the current Regional Wastewater plant 9.6 million gallons per day rating capacity, that has been expanded several times, with a 25 million gallon per day peak. It is surrounded by a levee and sits in the floodway of the Guadalupe River. In late 2004 and early 2005 the flows exceeded 75 percent of the rated flow for three months in a row at the Regional Plant. That triggered the Texas Commission on Environmental Quality (TCEQ) 75/90 rule. The rule requires that when 75 percent of the rated flow is exceeded for three consecutive months, the City needs to start planning for future plant expansion or additional treatment capacity, because it takes a long time to work through permitting, financing, design and construction. At that point staff began looking at ways to address the need for additional capacity.

Camp Dresser and McKee were hired to perform a treatment plant assessment to help decide when, how much, and where additional capacity needed to be brought on line. Following the study, it was determined that decommissioning the Willow Street plant was a good idea, because it was such an old plant with old technology and to replace that plant with a 4.4 million gallon per day plant, with a 15 million gallon per day peak. In order to get achieve that capacity, it needed to be taken off the big sanitary sewer collection mains that are in Bottom Street. There is nowhere else, that has large enough mains to gather enough flow. Land needs to be purchased so that the permitting process can begin for a new plant site, because it takes approximately two years for that process to be completed. Two weeks ago, staff recommended a 76 acre tract that lies along Hand Road, between Southwest Ben Jordan and Odem Street. It is the recommended site for the following reasons:

1. Geographic location – the City uses a gravity flow system, and would be able to use current piping already designed to carry wastewater to the south part of the City close to the current plant.
2. Out of the floodplain – Above the floodway and 100 and 500 year flood levels.
3. Close to existing large diameter sewer mains.
4. Close to existing plant – the flow would be able to be discharge back into the Guadalupe River at one point of entry along with existing plant.
5. Close to Regional Plant – operationally the same staff would be used for both plants.
6. There would be a large buffer of City owned property that would not be developed.
7. It is large enough for a future public works facility - Navarro Del Norte facility could be sold. The majority of the work is done in the southern portion of the City.
8. Low population density – 5 residences within 200 feet of the property and 525 within ½ mile of the property.
9. Willing seller – no condemnation required.
10. Prevailing winds are southeast with a low population in that area.

At the last meeting Council charged staff with coming back with alternate sites to consider and see what impact those sites would have. The alternate sites will be compared to the original recommended site, because in staff's mind there is no more cost effective or better location. The same set of criteria was used to evaluate all sites. Each alternate site is more costly than the recommended site and each additional million dollars in cost incurred equates to approximately 28 cents per month on the average residential utility bill for the life of the bond, which is typically 20 years. With each larger meter the cost would also increase.

- Area 1 – The recommended site, 76 acres off Hand Road, out of floodplain and floodway, estimated cost of \$19,700,000, which is considered the base cost when comparing all the other areas. There is a willing seller and this site would also be large enough that 35 acres could be used for a future public works facility.
- Area 2 - 134 acre tract across from Hand Road southwest, of recommended property. In the same area, but in the 100 year floodplain and would require a large amount of fill to build up the property. It is close to large sewer mains, close to Regional plant. The estimated additional cost is \$1,133,000. There is no willing sellers, so to proceed with the site would require condemnation. The estimated cost does not include any costs associated with condemnation or floodplain mitigation.

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- Area 3 – 53 acre tract adjacent to Area 1, located in good spot out of floodplain and floodway but further away from the existing sewer mains. There is a willing seller, but the property is closer to the citizens that have already expressed opposition. The additional length of pipe needed would add an additional \$511,000 to develop the property.
- Area 4 - 159 acre tract off Highway 59 lies in both the floodplain and floodway. Staff felt that this site was not financially feasible.
- Area 5 - 50 acres, comprised of two tracts in geographically good place, but is in the floodplain. It would require approximately 12 feet of fill over the entire property. A floodplain study would have to be conducted and mitigate any impact that would be had. The site is directly in front of the flood relief bridges on Highway 59. Without the cost of floodplain mitigation, the estimated additional cost would be \$687,500. If something had to be done with the relief bridges the estimated additional cost would be \$3 million.
- Area 6 – 74 acre tract in the floodplain of Lone Tree Creek, a floodplain study would be required and something might have to be done to increase the capacity of Lone Tree Creek if built there. The site is extremely far from the Regional plant and the large sewer mains in Bottom Street. Large pipes would have to be run a long way, and the estimated additional costs without mitigation would be \$17.3 million. Discharge water could not be put into that creek, it has to go back into the Guadalupe River, because downstream water right holders are depending on the City's effluent to make their water rights.
- Area 7 - 40 acre tract located on the south side Highway 59 which is out of both the floodplain and floodway, however there is no access off of Highway 59 or crossing the railroad tracks. A frontage road would have to be built back to the property and extend force mains. The additional estimated cost would be \$1,166,000 without any condemnation costs. The property owners are not willing to sell.
- Area 8 – Multiple sites, basically all of the property on the south side of Highway 59 between Highway 185 and Lone Tree Creek. Any 40 acres site along that area was estimated at an additional \$1.9 million and could go up an additional \$16 million.
- Area 9 – An undetermined 40 acre site in northern Victoria. In order to get that 15 million gallons per day and take care of that peaking factor, we need to take the wastewater down near the existing plant, primarily from Bottom Street. Extending pipes and multiple lift stations depending on where you go north to get the effluent back into the Guadalupe River, it has to be piped back down to the river and is above the City's Surface Water Treatment Plant. It is costly from an operational standpoint and those costs would never go away. The estimated cost would be \$20 million to \$50 million depending on where you go.

The further you get away from the regional plant the operational costs go up. If a plant were built on the north side of town, you would not be able to pipe the sludge; it would have to be hauled to the Landfill. Multiple lift stations would have to be built, there would be additional pipe costs, and those pipes would possibly have to go through developed property. There is not enough room in existing street right-of-way for those large diameter lines, new right-of-way would have to be purchased. That could mean taking businesses and homes.

Cm. Rangel asked how many residences were in the location of Area 5. Mr. Short responded probably not very many, because it is floodplain and floodway.

Cm. Soliz asked what size site was needed for only a wastewater treatment plant, not counting any other facility on the property. Mr. Short responded approximately 40 acres, which would allow for expansion several times in the future. This facility would take care of a portion of the flow from Victoria that the regional plant cannot handle.

Cm. Soliz commented that on his visit to Georgetown he found out that they had five wastewater treatment plants, so wherever the sprawl went they were prepared for it. He asked whether the City could build two plants in different parts of town to accommodate future sprawl. It

was pointed out that yes you could, but the cost of the structures, additional piping, lift stations, and operational costs would increase, the further away the plant was built. Cm. Soliz suggested splitting the cost by building one plant for \$7 million and the other for \$4 million, it would accommodate for the additional growth expected. Mr. Short advised that if you built two plants instead of one to treat the same amount of flow that is mandated by TCEQ, it would cost \$30 million rather than \$20 million. Mr. Short commented that if cost was not an issue, you could build multiple sites but you are going to not only have the initial cost, there will be operational costs associated with them. He pointed out that Georgetown was different from Victoria in that they have been growing at a very fast rate for a long time. There was a question about their topography compared to Victoria's.

Mayor Armstrong commented that Victoria gets the water that citizens drink from the river, and it is mandatory that the discharge is put back into the river. He asked where Georgetown gets their water supply. Allen Wilke with Camp Dresser and McKee, who designed the plant in Georgetown, advised that a portion of their drinking water comes from the Edwards Aquifer which is a groundwater source. Their discharge is used to reclaim water for golf courses. They do not have the restriction of returning to the source that Victoria does. He advised that the difference between the two, is in 1980 they had a population of 14,000 and now they are approximate 65,000 and their geology is all rock. Building wastewater lines for them is difficult because of rock construction, and the topography is different in that they have very steep rivers and creeks in parts of town.

CITIZENS COMMUNICATION

Mayor Armstrong requested that only comments on the topic of the wastewater treatment plant be addressed for the public hearing at this time.

Kevin McNary, 2792 Hand Road, spoke in opposition of the proposed location and pointed out that the growth of the City was moving north. He commented that the part of town that was not respected and forgotten was the south part of town where a large population of minority citizens live, suggesting that the City did not care for the residents in that area. He suggested that areas near Loop 463 and the backend of Riverside Park would be better locations, and were not near residences. He was opposed to this plant being in the backyards of his family and friends. He commended Cm. Truman, Cm. Hagan, Cm. Soliz, and Cm. Rangel for standing behind their citizens and making the right decision, asking that they maintain their stance. He stated that Cm. Rangel was the most important in this decision because it was her district, and the people of her heritage, and it was her duty and responsibility to protect them.

Rose McNary, 1305 Odem Street, read a letter addressed to Cm. Rangel from Sister Andrea Hubenak thanking her for visiting with the Nuns concerning the proposed plant. They were concerned that they would be in direct wind flow eight to ten months a year. They were in the early stages of having a spiritual center at Incarnate Word Convent, and would be subject to foul odors from the plant.

Erik Ganauser, owner of Lazy Longhorn RV Park, 1402 S. Laurent commented that the decision at the last meeting was a wise one and he supported it. His personal choice was Area 7, which is a little south of the regional plant off of Highway 59. He commented that he disagreed with the idea that the population was low in Area 1, because of several RV Parks in that area.

Cm. Soliz asked Mr. Short whether he had contacted the County about whether they had any land. Tom Schmidt, Engineer with Urban Engineering responded that there was approximately 8.5 acres adjacent to Area 5 that would be available, but was not large enough to build a plant. Cm. Soliz inquired about areas above Riverside Park, with Mr. Schmidt advising that as you get closer to the park you get into the floodplain again, which rules that area out.

Mr. Schmidt advised that the difference in the Georgetown plant is they started out with small plants, we started with a large plant and the pipes in place are huge 60 inch collection lines. That is why we want to stay close to the Regional plant, but out of floodplain or floodway. Mayor Armstrong commented that another goal is to move the shutdown yard from Navarro Del Norte to the south part of town because that is the oldest part of town and the pipes are in the poorest condition and that is where the greatest need is.

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Robert Dawson, owner of Dad's RV Park, 203 Hopkins asked why Area 1 wasn't purchased when the Zoo sold the property? Mayor Armstrong suggested that he ask the Zoo board they owned the property. The current owner contacted the Inspections Department and started talking to them around the same time that the consultants identified it as a valid site. Cm. Polasek commented that the land was given to the Zoo; they decided to sell the property because they were never financially able to develop the property. The individual that potentially was going to buy it contacted the City to get services. Several people accused the City of interfering, which was interesting because the property was never publicly made available for sale. The City probably could have continued to pursue the possibility of purchasing the property, but did not for a handful of reasons, some of which have been expressed here. He suggested that was a bad decision and takes responsibility for that. There were several Council Members at the time who were against it. As to why the property is more expensive, it was suggested that he ask the seller. City Manager, Charles E. Windwehen advised that the recommendation from staff at the time was to purchase the property, but because of the reasons just stated, Council backed off. The administration felt back then that it was the best property.

Mr. Dawson asked whether there was enough capacity in the pipes to go to the proposed facility. The response was that yes there was.

Matt Ocker 2307 FM 2615 commented that he thinks there will be a bottle neck with some of the pipes that convey wastewater to the current plant. He suggested that if the City goes through with this, several years down the road a new pipe line will have to be built and cost the taxpayer millions of dollars. He suggested that the Council insults the public, because some do remember what they have been told. He commented that he was inclined to agree that the recommended property probably was the best place, and appreciated the sentiments of the residents, but questioned why the \$10,000 check for the property after the measure was voted down. He felt it was an improper conveyance of public monies. He thanked Cm. Truman, Cm. Soliz, and Cm. Rangel for visiting the treatment plants suggesting that it was a way to get the public's trust. He also thanked Cm. Polasek for being prepared at the last meeting.

It was pointed out that the City Manager has the authority to spend up to \$25,000 in certain situations without Council approval. It was Cm. Polasek's opinion that the City Manager was acting in the best interest of the City, because after the last meeting the owner withdrew their offer and could have come back later with a much higher offer. The City Manager bought an option to keep it on the table at the original price, and that was an executive decision to keep it on the table.

Cm. Truman disagreed, commenting that they were clear, that when it was voted down they were killing the deal, and what authority did he have. It was pointed out that he is the City Manager and has the authority to keep the deal alive. Cm. Hagan agreed with Cm. Truman suggesting that it may be the perfect site, but this course of action brings a shroud of concern to the public. Cm. Halepaska reminded them that they were the ones that asked for a work session to explain the points of view and options available after visiting other sites.

Cm. Truman commented that they voted against paying an exorbitant amount of money and wanted that contract killed. Cm. Hagan commented that when talking about the open meetings act and the need for transparency in government, the decisions made in the light of day make people feel that things are done in a clear and open way. This situation plays into the importance of that, and when \$10,000 is spent in direct contradiction to an act that was voted down, that smacks of an opposite of openness in government. Mayor Armstrong applauded the administration for keeping that piece of property in the mix at a reasonable price.

Jeff Williams, 702 Santa Fe, commended Cm. Truman for not holding a closed meeting on a Saturday. Everything should be conducted in open meetings, not on Saturdays, or at 9:30 p.m. at the end of a Council meeting. The decision to purchase the property was made at the end of executive session on a Tuesday night. He asked for transparency, honesty, and integrity on all of the deals. He commented that he wanted to support the Council, and would be willing to pay the 28 cents the rest of his life if it cost a million dollars to put the plant somewhere else. He was willing to pay \$3 a month for the rest of his life if it meant the money could be used to put the plant somewhere else.

Let's keep the priorities straight, let's be honest with each other, and quit flip flopping our responses to fit the situation at the time.

Cm. Polasek again said that Council did not make a good decision when they had the first opportunity to possibly purchase the site. Now after more research we do not want to put a burden on taxpayers of millions of more dollars.

RESOLUTION 2009-210R – WASTEWATER TREATMENT PLANT PROPERTY

The resolution considered authorizing the City Manager to accept deeds and execute contracts and other documents necessary for the purchase of 76.42 acres of real property, owned by Tony McGarrah, Sherri McGarrah and Amanda Mahurin, in a form acceptable to the City Attorney, for the location of a proposed Wastewater Treatment Plant and/or other City facilities, in an amount not to exceed \$4,500 per acre and related closing costs not to exceed \$20,000; contingent upon funding, an acceptable Environmental Assessment, Archaeological Assessment, title commitment, and resolution of any title objections. Lynn Short.

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

Cm. Polasek asked about decommissioning the Willow Street plant and the concerns with it. Mr. Short advised that the primary issues were the high power transmission mains that go over the plant, the other concern is that staff would like to build a plant and get it operational and capacity up in order to decommission it. Cm. Polasek asked how many feet would the proposed new plant be from the edge of City property. Mr. Short showed a diagram of where the proposed plant would sit on the 76 acre site, pointing out that the plant itself would be located in the middle of the property or 1/8 of a mile from the property line. The nearest home would be approximately 800 feet from the plant. It was further noted that the plant itself would not be visible because of an existing tree line that would serve as a buffer.

Cm. Rangel asked about concerns that had been brought up about contamination if there were a spill on the railroad lines near the plant. It was pointed out that the wastewater plant would be substantially higher than the railroad track. Depending on the kind of spill, the potential of contamination of adjacent properties is there regardless if there is a wastewater plant. Even if that were to occur there would still be ingress and egress into the plant. She inquired whether there was a willing seller for Area 5. One seller was willing to sell, it was possible that the other would be too.

Cm. Soliz asked Mr. Schmidt whether he would live next to the proposed plant; with Mr. Schmidt responding yes he would.

Cm. Truman advised that when he and Cm. Soliz toured the plant in Georgetown, the nearest neighborhood had about 200 houses ranging in the approximate price range of \$200,000 to \$300,000 which were built after the plant, and were in the direction of the prevailing winds. They did not see very many for sale signs and there did not appear to be a mass exodus. They were there standing by the plant 10 yards away for 30 minutes and he was never able to smell the plant.

Cm. Rangel commented that those individuals had the choice to build there; it is different when you don't know, and it is not something you chose to live by.

Cm. Truman commented that the majority of the Council voted not to fund the sewer project at this site, and questioned the City Manager by what authority did he spend \$10,000 to keep this contract open. Mr. Windwehen responded that it was his idea to put an option contract on the land for the benefit of the corporation. After the last Council meeting, Council said that they wanted to come back tonight and talk about this again, after some of the members took trips to visit other cities, and those members wanted to reconsider this land. He stated that he discussed it with the City Attorney, spoke with the Mayor and Mayor Pro Tem to see if they objected. The money was spent in order to keep this property in play and have the option to consider it, and keep it price protected, because there was a great chance that a speculator would get another option on that land ahead of the City and flip it, and the price would go way up. He thought he was acting in the interest of the City. Politically it would be very convenient if this went away, but that did not happen, you still have the

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option. Mr. Windwehen still felt it was a good business decision and was sorry that some of Council did not agree.

Cm. Truman commented that he did not agree with the price that the City would pay for this property and that was why he voted against the amendment at the last meeting, and would continue to vote against it. Mr. Windwehen advised that a majority of the Council gave the City Attorney the authority to negotiate up to that level. Cm. Truman responded that a majority voted to not fund it, which was a decisive killing of that contract, and the paying of \$10,000 was an exact contradiction of what the majority voted to do. Cm. Hagan commented that it was a violation of the public trust. Mayor Armstrong applauded the City Manager for making that decision and keeping this as a viable option. When you spend \$19 million on a plant the cost of the property is less than significant. The operating cost goes on forever and it is impossible to know what the operating cost will be if a more expensive piece of property is purchased instead.

Cm. Truman suggested that a dangerous precedent would be set if they paid that exorbitant price for that property. Mayor Armstrong advised that the price is what the property is appraised for, and what it is worth, and he was unable to explain what was going on in the Zoo's mind when they sold that property.

Cm. Truman stated that he was in favor of going to condemnation to get a reasonable price on the property. Cm. Halepaska pointed out that after the last meetings executive session some of Council requested a work session to see where we go from here and look at all the options. That was why the City Manager entered into an option contract, so that all options would be left on the table. If we are looking out for all of the taxpayers, we need to look at what their sewer rates would be in the future too. The land is a smaller cost in comparison to the entire cost of building a new plant. Whether or not we like it, an additional cost will go on the sewer bills, it seems some of you are forgetting that part and how it will affect all the taxpayers. We need to make the best decision.

Cm. Hagan commented that no matter what we discuss the City Council voted to not spend money on that expenditure. Yet we spend \$10,000 for this deal and that puts a cloud on this whole deal. Cm. Polasek commented that this is a property negotiation, you cannot negotiate in the public, and we have to represent the people's best interest. Sometimes when you are negotiating for property it has to be behind closed doors, so that we can get the best price possible. The more information the seller gets elsewhere, they may triple the price, and they know that they have the citizens over the barrel. The City Manager recognized that and put an option on it and locked in a price to protect the City, realizing that the Council was going to rehash the whole thing.

Cm. Truman commented that a condemnation board would be a number of Victoria citizens who would be looking out for the interest of the Victoria. He stated that there was no vote to reconsider or resend, and the City Manager's action was done in contradiction to the majority vote of the Council, which was to kill the contract at the exorbitant prices.

City Attorney, Thomas A. Gwosdz commented that a couple of Council Members made the point that the vote against the budget amendment was a vote to kill the deal as a whole. He clarified by advising that there was a prior vote to allow the City Manager authority to inter into a contract to purchase the property. The City had authority at that point to enter into an agreement to buy the piece of property. The vote to amend the budget was simply a matter of moving money. Voting down that measure did nothing legally to overturn the original vote to buy the piece of property. The purchase of the property is still on the table and unless that vote gets overturned the City was still given clear direction by Council to purchase that piece of property.

Cm. Hagan commented the vote at the last meeting gave clear direction that they did not want to move forward. He suggested that the City Attorney was not being honest and he did not want that money to move forward. He further suggested that it was not a good way to start as the City Attorney of Victoria.

It was pointed out that based on the original action to purchase the property an environmental study and archeological study was authorized at that time. One of those studies has already been done, but the other was called off after the budget amendment was vote down. Mr. Windwehen pointed out that at that time the Council was very serious about that piece of property and authorized

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the staff to move forward and do these preliminary things, and move forward with closing on the property.

Cm. Rangel asked whether Cm. Truman would be interested in the property if it was condemned. Cm. Truman responded that if we paid a fair price he would be able to look the citizens in the face and tell them there would be no odor nuisance factor for the plant. He commented that he would not set a precedent, that Council is the lotto, whenever the City goes and looks at a piece of property. We need to come up with a way to obscure the fact that the City is looking at the property. Cm. Polasek commented that is why the Council holds closed sessions to discuss those kinds of transactions, and that is what Council did.

Cm. Soliz asked for clarification on the budget amendment and where did the money come from to buy this land. Mr. Short advised that there was \$200,000 in last year's budget for property purchase, it was not expended, and rolled back into fund balance. The funds would come from those monies and additional funds from the water wastewater fund. Director of Finance, Gilbert P. Reyna, Jr. advised that the \$10,000 for the option contract came out of the Public Works regular operating budget.

After the vote at the last meeting the property owner pulled the deal and advised the City Attorney that if the City were interested in coming back to purchase the property from him the starting price would be \$5,000 an acre, an increase of \$40,000 total if the City came back to him as a starting point of negotiation. Cm. Soliz stated that when that happened staff should have contacted the Council. The City Attorney advised that the City Manager believed that it was in the best interest of the City to give the owners a \$10,000 option to revive the deal at the same terms, without him being able to raise the price. Cm. Soliz asked who gave the City Manager the authority to expend funds.

Mr. Windwehen responded to the question about contacting the Council to approve the expenditure of funds. A meeting would have had to be posted allowing the 72 hour requirement, if he called each member individually that would have been a violation of the open meeting act. In that time period the price of the property could have gone up significantly and he felt he needed to act that day. Cm. Soliz questioned whether an emergency meeting could have been called, with the City Attorney advising that the only time that an emergency meeting could be called is when it involved a matter of public health or necessity and the action taken must be completed within 72 hours. If the decision can wait 72 hours then you cannot call an emergency meeting.

Cm. Halepaska agreed that the City was paying an exorbitant amount of money, should the City not enter into a contract, or should we start condemnation procedures. Cm. Truman commented that he would make a motion to do that. Cm. Soliz commented that his issue was the public trust, we can condemn the property, but it still goes back to the public trust. This is a part of town that is notorious for not having a good relationship with the City; there was a dump and street department yard in that area for years. He suggested that the City should have done a better job in communicating with those residents.

Cm. Halepaska commented that if everyone agrees that this is the best site, it is just a matter of how much. He would be going with the staff's recommendation, because outside engineers were also recommending this site. He was concerned with the additional costs if built somewhere else and the burden it would be for the citizens. When we hear that the City is raising rates more than we have to because we did not pick the best possible site, he did not feel good about that. This is the best site, there are alternate sites that would cost more, but every citizen would have to pay a higher rate. Raising rates because we did not pick the best site was not what he would suggest. It is a real expense for people that live in Victoria. The additional operating cost over the next 20 years would be subject to inflation for a long time.

Mayor Armstrong asked whether we are going to penalize the citizens because some of the members of Council did not like the decision of the City Manager. We need to do what is best for the citizens, we need to serve the majority, and we need to look forward with this issue.

Cm. Hagan commented that democracy is messy but it works, and transparency is a little uglier, but that is what the citizens demand.

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Cm. Rangel questioned how much more expensive would condemnation be for this piece of property. It was pointed out that condemnation can be very expensive and could take a long time.

Cm. Soliz asked what the costs would be if the City built two wastewater plants, one in north and one in the south. Mr. Short advised that instead of \$20 million you would spend \$30 million. Cm. Soliz asked how far downstream from the surface water treatment plant would the wastewater treatment plant have to be, with staff indicating at least 500 feet. He asked whether it could be somewhere in Riverside Park, however it was pointed out that it would be in the floodplain.

Cm. Polasek commented that he wanted to do the most economical long term project for all of Victoria; it is not a north side, south side thing at all.

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

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

NAYS: Council Members Polasek and Halepaska

Mayor Armstrong announced a short break at 7:11 p.m. The Council reconvened at 7:25 p.m.

ORDINANCE 2009-2010E – BUDGET AMENDMENT FOR FUNDING FUTURE WASTEWATER PLANT LAND

No action was taken on Ordinance 2009-2010E, which considered amending the 2009-2010 Fiscal Year Budget of the City of Victoria by transferring \$375,000 from the Water/Wastewater Fund fund balance to the Water/Wastewater Fund Wastewater Treatment Plant Department Land capital line item, to provide funding for the purchase of land for the future site of a wastewater treatment plant and/or other City facilities. First Reading. Gilbert P. Reyna, Jr.

CITIZENS COMMUNICATION

Jeff Williams, 702 Santa Fe continued to express concern with the crosswalk on John Stockbauer, stating that it was still an issue. He suggested establishing routes before the new high school opens. The City Manager advised that the administration was going to have a report on that crossing at a January or February meeting during the same time that the Capital Improvement Project report is given.

Matt Ocker, 2307 FM 2615 commented that the Mayor had made remarks that he did not like people to make comments who do not live in the city. Mayor Armstrong advised that he does not mind anyone coming before Council, he just wants them to acknowledge where they live. Mr. Ocker commented that the City of Victoria is the only incorporated city in the county and to suggest that those that live outside the city limits have less of an input is hypocritical.

Erik Ganauser 1402 S. Laurent spoke in favor of the budget amendment that would fund the Convention and Visitors Bureau.

ITEMS FROM COUNCIL

Cm. Rangel asked to have a community forum in the area of the proposed wastewater treatment site and the Sisters of Incarnate Word Convent would be willing to host it if the Council was interested. She requested placing that item on an agenda.

Mayor Armstrong commented that he would like to see about extending the option for that plant for another 60 days and asked that it be placed on the next agenda.

Cm. Polasek asked for a brief report on the existing franchise agreements regarding if they are audited and how often be placed on an agenda in January or February. He also asked for a report on Mr. Massick's road be placed on the agenda for the first meeting in January.

Cm. Soliz requested that an action item be placed on the next agenda regarding the amount that the city manager is authorized to spend without having to get Council approval.

PUBLIC HEARINGS AND ACTION

Mayor Armstrong opened a public hearing on the following items:

ORDINANCE 2009-2010B – BUDGET AMENDMENT FOR FUNDING VICTORIA CONVENTION AND VISITORS BUREAU

City Attorney, Thomas A. Gwosdz, read the caption of Ordinance 2009-2010B, which amends the 2009-2010 Fiscal Year Budget of the City of Victoria by (1) transferring \$548,000 from the Motel Tax Fund fund balance to the Motel Tax Fund Victoria Chamber of Commerce-CVB line item, (2) transferring \$15,000 from the Motel Tax Fund Professional Services line item to the Motel Tax Fund fund balance, (3) transferring \$5,000 from the Motel Tax Fund Tournaments line item to the Motel Tax Fund fund balance, (4) transferring \$873,560 from the Motel Tax Fund Community Center Building line item to the Motel Tax Fund fund balance, and (5) decreases funding to the Community Center Fund Transfer from Motel Tax Fund Revenue line item by \$873,560, which will decrease the Community Center Fund fund balance by \$873,560, to provide additional funding to the Victoria Chamber of Commerce (Convention & Visitors Bureau – CVB). 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. Rangel 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, Polasek, Halepaska, and Mayor Armstrong

NAYS: Council Members Soliz, Hagan and Truman

Caption:

AN ORDINANCE AMENDING THE 2009-2010 FISCAL YEAR BUDGET OF THE CITY OF VICTORIA BY (1) TRANSFERRING \$548,000 FROM THE MOTEL TAX FUND FUND BALANCE TO THE MOTEL TAX FUND VICTORIA CHAMBER OF COMMERCE-CVB LINE ITEM, (2) TRANSFERRING \$15,000 FROM THE MOTEL TAX FUND PROFESSIONAL SERVICES LINE ITEM TO THE MOTEL TAX FUND FUND BALANCE, (3) TRANSFERRING \$5,000 FROM THE MOTEL TAX FUND TOURNAMENTS LINE ITEM TO THE MOTEL TAX FUND FUND BALANCE, (4) TRANSFERRING \$873,560 FROM THE MOTEL TAX FUND COMMUNITY CENTER BUILDING LINE ITEM TO THE MOTEL TAX FUND FUND BALANCE, AND (5) DECREASING FUNDING TO THE COMMUNITY CENTER FUND TRANSFER FROM MOTEL TAX FUND REVENUE LINE ITEM BY \$873,560, WHICH WILL DECREASE THE COMMUNITY CENTER FUND FUND BALANCE BY \$873,560, TO PROVIDE ADDITIONAL FUNDING TO THE VICTORIA CHAMBER OF COMMERCE (CONVENTION & VISITORS BUREAU – CVB), REPEALING ALL CONFLICTING ORDINANCES, PROVIDING FOR SEVERABILITY; AND DECLARING AN EFFECTIVE DATE.

ORDINANCE 2009-27 – AMENDING CHAPTER 24 “FEES”

City Attorney, Thomas A. Gwosdz, read the caption of Ordinance 2009-27, which amends Chapter 24 of the Victoria City Code to change miscellaneous fees therein. First Reading. Lynn Short, Dayna Williams-Capone, Bain Cate, Doug Cochran and John Kaminski.

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

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

**CITY COUNCIL MINUTES
December 1, 2009**

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

Caption:

AN ORDINANCE AMENDING CHAPTER 24 OF THE VICTORIA CITY CODE TO CHANGE MISCELLANEOUS FEES THEREIN, REPEALING CONFLICTING PARTS OF EXISTING ORDINANCES, PROVIDING FOR SEVERABILITY, PROVIDING FOR CODIFICATION AND SAVINGS, AND DECLARING AN EFFECTIVE DATE.

RESOLUTION 2009-204R – MEDICAL TRANSFER SERVICES PERMITS

The resolution authorizes issuance of Medical Transfer Services Permits to Marilyn D. Porter d/b/a MP Ambulance Service, Inc.; Charles Sargent d/b/a Quality Ambulance Service; ALS Ambulance Services, Inc. d/b/a Regional Ambulance Service; Clay Wiatrek d/b/a Sacred Heart Medical Service; and Craig LeBlanc d/b/a Southern Cross Ambulance, Inc. Scarlet Swoboda.

Cm. Polasek 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

ORDINANCE 2009-29 – BUILDING AND STANDARDS COMMISSION

City Attorney, Thomas A. Gwosdz, read the caption of Ordinance 2009-29, which amends Section 2-116(a) of the Victoria City Code to change the composition of the Building and Standards Commission. First Reading. John Kaminski.

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

Cm. Halepaska 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 SECTION 2-116(A) OF THE VICTORIA CITY CODE TO CHANGE THE COMPOSITION OF THE BUILDING AND STANDARDS COMMISSION; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR CODIFICATION; AND DECLARING AN EFFECTIVE DATE.

Mayor Armstrong closed the public hearings.

CITY MANAGER REPORTS

- **Appointments to the Building and Standards Commission** - City Secretary, Scarlet Swoboda reported that due to the change in composition of the aforementioned commission the following individuals had been contacted and would be willing to be appointed. Harold Cade, Nick Hinojosa, Rawley McCoy, C. W. Settles, John Acosta, Dorothy Harris, and Scott Lee. It was the consensus of Council to bring forward a resolution for appointment at the next regular meeting.

CITY COUNCIL MINUTES
December 1, 2009

CONSENT AGENDA: all consent agenda items listed are considered to be routine by the city council and will be enacted by one motion. There was 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 were available for public review.


1. **APPROVAL OF MINUTES** – The regular meeting of November 17, 2009.
2. **RESOLUTION 2009-205R – 2009-10 Sanitary Sewer Line Cleaning Project:** The resolution awards the 2009-10 Sanitary Sewer Line Cleaning Project to CleanServe Inc. of Pearland, Texas for its low bid of \$57,947.50. Lynn Short.
3. **RESOLUTION 2009-206R – 2009-10 Crack Seal Project:** The resolution awards the 2009-10 Crack Seal Project to SCR Construction Co, Inc., of Richmond, Texas, for its low bid of \$520,000 which includes the base bid and additive items 2 through 7. Lynn Short.
4. **RESOLUTION 2009-207R – Holiday Parade Vendors Permit Variance:** The resolution grants variances to Sections 14-52(a), 14-55(a), 14-56(a), and 14-60(a) of the Victoria City Code, which govern the City’s requirements for Itinerant Vendors, Solicitors, and Outdoor Sales to vendors operating at the Holiday Parade on December 5, 2009. Scarlet Swoboda.
5. **RESOLUTION 2009-208R – Purchasing Police Digital Radio System:** The resolution authorizes a System Purchase Agreement and all other documents necessary to purchase a replacement 800 MHz digital radio system from Motorola, Inc. via the Houston-Galveston Area Council of Governments (HGAC) in the amount of \$6,100,484.00. Jesse Turner.
6. **RESOLUTION 2009-209R – 2009 Statewide Transportation Enhancement Program Call for Projects:** The resolution authorizes the Texas Department of Transportation 2009 Statewide Transportation Enhancement Program Call for Projects, in the approximate amounts of (1) \$888,322 with a 20% City match of \$177,665, which will be used for the Red River Corridor Enhancement Project, and (2) \$486,000 with a 20% City match of \$97,200, which will be used for the Jim Branch Outfall Trail Project. John Kaminski.

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

There being no further business, the meeting was adjourned at 7:43 p.m.

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

ATTEST: 
SCARLET SWOBODA, City Secretary
