

VICTORIA CITY COUNCIL
December 15, 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 15, 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

OTHERS PRESENT

Dale Fowler, President Victoria
 Economic Development Corporation

Louise Hull Patillo, Vice President
 Victoria Sales Tax Development Corp.

Tom Schmidt, Engineer
 Urban Engineering

STAFF PRESENT

Charles E. Windwehen, City Manager
 Charmelle Garrett, Deputy City Manager
 Thomas A. Gwosdz, City Attorney
 Gilbert P. Reyna, Jr., Director, Finance
 John Kaminski, Director, Development Services
 Lynn Short, Director, Public Works
 Jerry James, Director, Environmental Services
 Bruce Ure, Police Chief
 Vance Riley, Fire Chief
 Doug Cochran, Director, Parks and Recreation
 Dayna Williams-Capone, Director, Library
 Rick Henrichs, Director, Information Technology
 Jared Mayfield, Planning Manager
 Ray Miller, Deputy Director, Development Services
 Andrew Jacob, Assistant Finance Director
 Scarlet Swoboda, City Secretary
 George E. Hyde, Special Counsel

WORK SESSION

A Status Report on the Design of the Downtown Streets and Sidewalks Improvement Project

Director of Public Works, Lynn Short provided the final engineering design report on the project, which will be called the Main Street and DeLeon Plaza Improvement Project. The area is a five block area along Main Street from Commercial to Juan Linn as well as one block of Forrest, Constitution, and Bridge Streets. He reported that in July the project was discussed regarding replacing the sidewalks, overlaying the streets, and making the entire area compliant with the Americans with Disabilities Act (ADA), following the replacement of water and sewer lines within that area. At that time it was the consensus of Council to move forward with the design of the project, using brick pavers in the curb extensions and sidewalks at an estimated cost of \$2.75 million. He provided photo's of the design of the curb extensions, sidewalks, paver colors, and patterns. He advised that instead of replacing all of the vertical sign posts they would be painted black.

Mr. Short advised that during the Victoria Sales Tax Development Corporation (VSTDC) meeting held in October, several of the board members wanted to incorporate trees into the project. He and staff were hesitant at the time, but following several meetings with consultants he felt like they had found a solution that staff could recommend without any hesitation of future damage to infrastructure. Approximately 50 small ornamental trees could be installed in smaller curb extensions with some in the eyebrow extension at the intersections. Currently there were 177 standard parking spaces and two (2) handicap spaces, following reconfiguration and restriping there would be 173 standard parking spaces and six (6) handicap accessible spaces.

Louise Hull Patillo, 802 W. Power, board member of the VSTDC commented that while the City was digging up the streets and sidewalks for this project it would be a good time to consider a watering system and plant trees. The watering system would cut down on the maintenance costs incurred by the Parks Department. She advised that \$10,000 was needed for the trees, and she had solicited through private donations \$11,650.

Mr. Short requested direction from Council on whether to include trees in the project, and whether to move forward with advertising the project for bid. He received consensus from Council on both items. He anticipated going out for bid in February, bringing a contract to Council in March, having a contractor on site by June 2010, with an estimated completion date in December 2011.

CITIZENS COMMUNICATION

Tony Corte, 506 Buena Vista, commented that there were deadlines that had to be met regarding the wastewater treatment plant, the property owner had made a fair offer, and the area had very few residents in close proximity to the property proposed. The Council went through a long debate about keeping the tax rate down and he did not want to lose everything gained from that. The proposed site was the best site and Council needed to get the ball rolling.

Tony Davila, Houston resident commented that he owned property near the proposed site and planned to build a home on it when he retired, expressing concern that his property value would go down. He was opposed to the plant being built there, and questioned where the big pipeline ran, with Mr. Short showing him on a map to point out their locations. Mr. Davila suggested looking at the property on the south side of Highway 59. He commented that the sidewalk improvements was a good idea to make the City pretty.

Henry Perez, 2205 S. Laurent, directed his comments to Council Members Rangel, Soliz, Hagan, and Truman. They had been on the side of the people in the neighborhood and voted the proposed site down, and he expressed hope that they would continue to vote it down and stand firm on their vote. He asked them not to let the Mayor or City Manager intimidate them. He suggested that this project should have been done 10 years ago, but he did not want it in his backyard.

Bill White, 106 Garden Place, thanked the Council for the job that they all undertake, commenting that they take a lot of comments week after week from citizens, and he expressed appreciation for what they do for the community. He asked members of Council to consider their individual talents, and asked them if they have the talent to pick the location for a major capital project. He asked if they had the talent to study the economics and the engineering to make that decision. He suggested that what they have the talent to do is fund it and manage it, and let the advisors do what they do best and get on with the project.

Jan Scott, 109 Newport Drive, commented that she served on the Planning commission for a number of years and one thing she learned as chairperson, was that nobody likes change, be it good or bad. The people who come out to tell you they are against a project are the people that do not want the change. The folks that are ambivalent or are benefited by the project do not come tell you that it is a great project. During these discussions she had not seen anyone come and say that this is not the best site. She asked Council to stop and think about the impact of their decision; those decisions will impact all of the citizens, they will impact the future, so please make the right decision and do not delay this project.

Robert Dawson 203 Hopkins, commented that if the Council has agreed that noise will not be a problem, and that odor will not be a problem, and no matter where you put this there will be complaints. As a taxpayer and high water user, he suggested getting on with the program and go with the most economical and logical place and get the job done.

Robert Foley, 1506 S. Willow expressed concerns with the odor near the Willow Street plant suggesting that something needed to be done. He commented that the proposed site for a new plant was not a good place, a better location needed to be found. Mayor Armstrong advised that when the new plant is built the Willow Street plant would be shut down.

Chris Ureste, 1203 S. Laurent, commented that the proposed plant would be behind her house and asked the Council to please not build the plant in their backyard. The people in the neighborhood cannot sell their homes and move to the north side of town. She thanked some of the Council for listening to their concerns and caring.

CITY COUNCIL MINUTES
December 15, 2009

Rose McNary, 1305 Odem Street, commented that she lives across from where the plant would be built. She lived near the one on Highway 59 and the odor was terrible. She commented that the citizens would rather pay more taxes to have the plant moved somewhere else.

John Clegg, 3377 Lower Mission Valley Road, and owner of several businesses in the City commented that there were approximately 20,000 water meters in Victoria, so any decision made would impact all rate payers. He was in favor of the cheapest alternative. There is a system of huge pipes in the City and the whole City slopes toward the river; the proposed site is the best site because of gravity alone. The plant needs to go where the pipes are, and there are very few houses near that site. Operating costs also needed to be considered, and if the plant is built on any other site it would cost a lot more money. The City recently built a new fire station, and the people that live near that station probably do not like it when the sirens blare on a call. When City facilities are placed anywhere it is going to have an impact on someone. This is the best site, the engineers have told Council that it is the best site, Council needs to do the right thing and vote for this site, and get on down the road.

Rosalinda Garcia, 503 E. Forrest, Apt. A, commented that the City has not looked at all the options. The sewer plant has been on the south side of town forever, the smell has not gone away, and there will be noise associated with the plant. She suggested a tax credit on their bills if the plant is built on the south side. She suggested that there had to be another site other than the one the City was being held hostage for, and look for other possibilities.

Elton Calhoun, 203 Willow Way, commented that the engineers have studied this project and come up with the best solution. The City is a business and if we do not do what is right for the City and run it like a business, and conserve where we can, we are not going to grow the City. Any project the City does needs to be looked at from a business standpoint to make sure the best solution is reached. The City staff has come up with the best alternative, they have looked at the cost, now let's move on with it.

Erik Ganauser, 1402 S. Laurent, commented that he felt the decision had already been made. He was a businessman and understands cost benefits, and the greater good of the public, but a lot of residents will be affected and suggested Site 5 as a better choice. He suggested that the lowest bid may not always be the best bid. He suggested that the good faith money to keep the contract on the table may not have been the wisest choice. He expressed hope that the decision could be finalized for Site 5.

Donald Elder, 23 Meadowview, commented that there were three things that have been talked about. The site, which is surrounded by trees; the noise, there are no sounds associated with the project; and smell, at least three of the Council Members went to sites that utilize the capabilities and technologies that would be utilized in the plant and they reported that there was not a smell problem. Studies have been done by a number of consultants, all three issues have been mitigated, and the site is the most economical thing to do and the easiest project. He felt the City should move on with the project.

Emmet Alvarez, 702 E. River, thanked Cm. Rangel and Cm. Truman for holding a town hall meeting on this issue and suggested that it might be a good idea for other Council Members to do the same thing for other issues that arise. He suggested inviting the Texas Commission on Environmental Quality (TCEQ), who was forcing the City to increase capacity to come to Victoria, and address why they were requiring this action. He questioned whether there were grandfathered provisions, extensions, or waivers that could be available or what other options there were. He disagreed that there would not be a noise issue, not because of the plant, but if a City yard is placed next to the plant, trucks and other equipment would be coming in and out at all hours. He suggested getting only the amount of land needed for the wastewater plant. He suggested that there was a lot of neglect in the south side and other improvements needed to be made.

Jack A. Mullins, 224 Ridgewood, addressed condemnation proceedings and the amount of time or money it might take. He commented that the necessity for acquiring property for a public purpose and the reasonable value might be determined by the appraisals or sales of other properties and would be all the evidence needed. He suggested that since the properties being discussed did not have many homes on them the time should be relatively fast. He also suggested that the costs would

not be that much either because the city attorneys should be able to handle the legal issues. He suggested the Council needed to do more homework on the amounts at stake, the costs, and benefits.

Tony McGarrah, 96 Live Oak Drive, Inez, Texas, owner of the property in question as Site 1 was upset over the comments that had been made. He and his partners had been vilified in the press and it was shameful. He commented that this was a free market society and to suggest condemning someone's property was not right. He had negotiated in good faith with the City for a fair market price. He and his partners put up their homes to purchase the property and if it is condemned they would lose their homes as well. He commented that if there were not already an option agreement on the property, and the threat of condemnation, things would be a lot different. If the option deadline passes and the City does not buy the property that is the City's prerogative, it was offered through a negotiated deal for a good price regardless of what he and his partners paid for it. If condemnation proceedings are started it would not be without a long lengthy legal battle, which would cost the City, and he and his partners were willing to do it.

RESOLUTION 2009-210R – WASTEWATER TREATMENT PLANT PROPERTY

The resolution authorizes 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.

City Attorney, Thomas A. Gwosdz advised that the resolution was tabled at the last meeting. A motion was made to adopt and seconded, subsequent to the motion and second, it was then tabled. He advised that there needed to be a motion to take the item from the table and seconded and a majority vote to take it from the table. If that happens that item resumes the position it was in at the last meeting, before it was tabled. The item has already received a motion and second of its own. If the item is not taken from the table it will die for lack of a second at this meeting, but could be placed on a new agenda in the future as a new item.

Cm. Polasek moved to take the item from the table, with Cm. Halepaska seconding the motion. The motion passed by the following vote:

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

The original motion was open for discussion. Mayor Armstrong asked each member which site they thought was the best site. Council Members Rangel, Soliz, Hagan, and Truman preferred Site 5, with Council Members Polasek, Halepaska, and Mayor Armstrong preferring Site 1. Mayor Armstrong asked staff and Tom Schmidt, with Urban Engineering to provide a worst case scenario with Site 5 such as legal, engineering, or cost ramifications.

City Attorney, Thomas A. Gwosdz advised that it was his recommendation to have that discussion in executive session; however Mayor Armstrong wanted the discussion in open session. Mr. Gwosdz advised that Attorney-client privilege would need to be waived by the Council as a whole before any discussion. A motion and vote would need to be taken to waive the privilege.

Cm. Polasek moved to waive attorney-client privilege for purposes of worst/best case scenario and legal ramification of this discussion, with Cm. Hagan seconding the motion. The motion passed by the following vote:

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

CITY COUNCIL MINUTES
December 15, 2009

Special Counsel, George E. Hyde, advised that the City was faced with a number of perspectives, none were necessarily wrong, they just all have consequences. He explained some of those consequences relating to:

- A contract for real property – A property owner who had accepted an offer could get a court to force the City to buy the property whether the City purchases a piece of property or not. That is a risk that should be considered.
- Population concerns and financial concerns – The Council is stewards of the taxpayer's money and they have to try to spend the money in the best way they can so that the taxpayer gets the most for their money. Council members have a duty to spend that money in the wisest and most conservative way to protect the citizens from waste.
- Condemnation proceedings – Generally a property owner will come in and assert a highest and best use analysis. That analysis is not on unimproved raw land but on what might be the most productive use of that property. The property value of a condemnation appraisal is different than just a regular land appraisal, the highest and best use of that property is determined, and then the individual is paid that amount. There are special and constitutional guidelines in regards to how to go about that process, very technical, and if something is skipped, that is a basis to dismiss the condemnation. That is when the attorney's fees are triggered and you have to pay the other side's attorney's fees and start all over.
- Participants support - sometimes you have to pay more money to satisfy the citizens, and sometimes it is the right thing to do to spend more money and not get the best deal in order to satisfy them. The concern in this instance is there are over 60,000 people in the community and it is all of their money that would be spent. You have to look at this and determine whether it is the right choice to spend the extra hundreds of thousands or millions of dollars to pick an alternative site, or do you take the conservative choice that guarantees the best price at the expense of making some people unhappy.

Mr. Hyde advised that Council had to make the hard decisions, and the public needs to remember that if the choice is to spend an extra \$4 million on this project, then that money will not be available for any other future projects. It will affect everything in the future. He further explained that commissioners are appointed who have special training in real estate law and practices by the County Judge to rule on condemnation proceedings.

It was pointed out that the current wastewater treatment plant is built in the floodplain and there were lawsuits from people on the other side of the river that contended that the dike at the current plant caused water to flood their property. Site 5 is also in the floodplain and it had been mentioned that it would cost approximately \$680,000 to add enough fill to raise the proposed plant above the floodplain. Mr. Hyde commented that it was a serious concern which could create risk and potential liability for that site, and there could be downstream affects from surface construction and the vehicles used getting in and out of the area which would also create a risk.

Director of Public Works, Lynn Short advised that when the existing wastewater treatment plant was constructed there were lawsuits. The \$680,000 mentioned would be for fill dirt and conducting a floodplain study, which would have to be done to build in the floodplain. The \$3 million talked about would be the cost of expanding the relief bridges which are directly in front of Site 5. Those relief bridges allow water from the Guadalupe River to go on downstream when it gets out of its banks. If they are blocked because a plant is built there, he felt that the flood study would show that others would be impacted. The City would be required to mitigate that and spend approximately \$3 million on top of the \$680,000 additional. It was pointed out that people can sue whether you actually harm them or not.

Cm. Rangel asked if costs would be passed on to the consumer if there were a number of lawsuits. She was informed that they would, also if the City's coverage was triggered under the Texas Municipal League (TML) there would be \$25,000 deductible per claim for them to provide defense. It was further pointed out that to go with Site 5 at the minimum it would cost an additional \$680,000 over the original \$19.5 million, but there was a strong feeling that an addition \$3 million would be tacked on because of the relief bridge issue. The rate payers would have to pay the additional cost. If Site 1 were selected there would be a base rate of \$1.02 for a ¾ inch meter, which most residences have. For every million of capital investment made beyond that a \$0.28 per month increase would be added. If Site 5 were selected an additional \$1.03 would be added to the \$1.02 increase.

Tom Schmidt, Engineer with Urban Engineering advised that anything built in the floodplain is a potential lawsuit, and it will cause the river to rise upstream. He explained that relief bridges are built to allow more water to flow in a flood, and stressed the impact that building in front of those relief bridges would be. He advised that no matter where you built on Site 5 the relief bridges would be blocked. The site would have to be built up higher than the 1998 flood and the road into the Site would also have to be raised so that there was continual access to the site. The current plant has a levee around it, and in 1998 the plant was flooded, it was a nightmare, the cost to reconstruct was approximately \$17 million. It was his advice that you cannot or should not build this plant in the floodplain.

Cm. Rangel commented that at the town hall meeting it was suggested that a wetlands could be put in. Mr. Short advised that the water has to be discharged into the Guadalupe River and to discharge into a wetland, and then recollect and transmit to the river was not a good engineering practice. Cm. Soliz asked why the property for Site 5 was suggested, with Mr. Schmidt reminding him that he had asked them to. Mr. Schmidt also advised that there were two different property owners involved with this site and now that there is a public price out there it is hard to negotiate.

Cm. Rangel asked what type of buffers would be in the area around Site 1. Mr. Schmidt advised that 40 acres were chosen because that was the maximum area needed for any potential odor issue. There are vegetative plants planted for visual, and any sound that may come out of the plant. There are already a lot of oak trees around the site and additional plants would be planted in any bare areas.

Cm. Polasek questioned why some members would want to spend \$4 million more to go down the street. He commented that he was comfortable with staff recommendation. Cm. Truman commented that he was elected to represent his constituents and they do not like this site. His constituents accept the fact that the plant will have to be on the south side, but they do not want this site. He wanted to know if every feasible site had been looked at.

Mayor Armstrong commended Council Members Truman, Rangel, and Soliz for the effort and research they had done going to other cities and taking the smell test. He suggested that it is ok to change your mind after hearing all the information and looking at nine different sites.

Cm. Rangel advised that Site 5 was her preferred site and from her visit to Sugar Land she did not detect a smell. She had asked the Planning Department to give numbers on poverty, or low to moderate income in Victoria. In 2000, 42.4 percent of Victoria's population fit into that category. The tax rate was debated and discussed on how any tax rate would cause hardship for families. Mid-Coast Council helped 95 families last month in the area to prevent them from being homeless. We know there will be a monthly increase in the rates, but anything above that would be difficult for many citizens. Low to moderate income is not just in one area of town, it is all over. She values and respects her constituents, but she needed to speak for all the citizens.

Cm. Soliz commented that he had one question that he would like to ask in executive session.

Cm. Soliz moved to go into executive session, with Cm. Rangel seconding the motion. The motion passed by the following vote:

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

NAYS: Council Members Halepaska and Mayor Armstrong

EXECUTIVE SESSION

Mayor Armstrong announced that Council would recess into Executive Session at 7:40 p.m., in accordance with:

Texas Government Code § 551.071, consultation with attorney on matter involving legal and contractual matters 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 in accordance with Texas Government Code §551.072, to deliberate the

**CITY COUNCIL MINUTES
December 15, 2009**

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 the efforts to acquire 76.42 acres of real property, located in the vicinity of Ben Jordan and Odem Street, and consider possible options for the acquisition of real property and legal issues related to this proposed purchase of property for a wastewater treatment plant. Thomas A. Gwosdz.

The Council reconvened in regular session at 7:52 p.m. and considered the following:

Special Counsel, George E. Hyde, reminded Council that their action waiving attorney-client privilege for this item was back in effect. The discussions that took place in executive session are protected communications and should not be disclosed because the City Council as a whole had not waived the right to that protected speech.

Cm. Soliz stated that no matter what happens he would be supportive of whatever the decision is, because we have to get past this and move on. He hopes that everyone understands that what they were doing were for the best interest of the City as well the future citizens of Victoria. Cm. Rangel commented that her job was not only for her constituents but also those in the entire city.

City Attorney, Thomas A. Gwosdz read the resolution again and reminded all that the motion and second were carried over from the prior meeting when the resolution was tabled.

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

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

City Attorney, Thomas A. Gwosdz, read the caption of Ordinance 2009-2010E, which amends 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.

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

Cm. Polasek moved that the ordinance pass on first reading, with Cm. Halepaska seconding the motion. The ordinance passed on first 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 TRANSFERRING \$375,000.00 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, REPEALING ALL CONFLICTING ORDINANCES, PROVIDING FOR SEVERABILITY; AND DECLARING AN EFFECTIVE DATE.

Mayor Armstrong announced that there would be a special meeting on Monday, December 21, 2009 at 5:00 p.m. to address the second and third reading of the budget amendment ordinance dealing with the wastewater treatment plant.

CITY MANAGER REPORTS

- **2010 First Quarter Board Appointments** - City Secretary, Scarlet Swoboda reported that the Victoria Sales Tax Development Corporation had four appointments for consideration, Mayor Will Armstrong, Cm. Joe Truman, Lewis Neitsch, and Louise Hull Patillo; and Bain C. Cate, M.D, the Health Authority for the City was up for reappointment. It was the consensus of Council to move forward with the reappointments at the next meeting.
- **Report on Texas Department of Transportation (TxDOT) Agreement for Overpass Funding** – City Manager, Charles E. Windwehen provided a handout highlighting terms of a possible agreement. The shared funding between TxDOT, the City of Victoria, and Victoria County for making improvements of overpasses at Salem and Mockingbird intersections would be brought back to Council in February for consideration. This was a good opportunity to leverage funds for the project, and would improve traffic flow making the area much safer.

Mayor Armstrong announced a short break at 8:05 p.m. The Council reconvened at 8:14 p.m.

RESOLUTION 2009-219R – REINVESTMENT ZONE AND TAX ABATEMENT AGREEMENT FOR PERFORMANCE FOODSERVICE

The resolution accepts an application for designation of a Reinvestment Zone and a Tax Abatement Agreement from Vistar d/b/a Performance Foodservice - Victoria for the expansion and modernization of a warehouse and distribution facility located at 204 North Brownson in Victoria Texas and sets a public hearing for consideration of such application. Dale Fowler.

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

ITEMS FROM COUNCIL

There were none.

PUBLIC HEARINGS AND ACTION

Mayor Armstrong opened a public hearing on the following items:

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. Second and Third 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 second and third reading, with Cm. Halepaska seconding the motion. The ordinance passed on second and third reading by the following vote:

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

CITY COUNCIL MINUTES
December 15, 2009

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.

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. Second and Third 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 second and third reading, with Cm. Truman seconding the motion. The ordinance passed on second and third reading by the following vote:

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

Caption:

AN ORDINANCE AMENDING 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.

PUBLIC HEARING - COMMUNITY DEVELOPMENT BLOCK GRANT REPORT

A public hearing on the Community Development Block Grant (CDBG) Consolidated Annual Performance and Evaluation Report (CAPER) for the period from October 1, 2008 to September 30, 2009. John Kaminski.

Director of Development Services, John Kaminski advised that they had a number of activities over the past program year: The Lone Tree Acres sidewalk project; Anthony sidewalk project; street lighting improvement project in Lone Tree Acres; demolition of eight homes; and two neighborhood cleanup projects. Collaboration with Keep Victoria Beautiful had increased participation. The mortgage assistance program participation was low last year, with no new funds programmed because there were funds still available from the prior year to draw upon. The program was re-evaluated, and recommendations were made to change maximum amounts from \$1,500 to \$2,500 in hopes of increasing participation. The Swan Crossing project continues, and 10 children were assisted with scholarships to attend the Parks and Recreation Departments Youth Summer Day Camp. The overall expectations were exceeded in most areas. He added that the City provides technical support for grant writing to the Homeless Coalition and Mid-Coast Family Services.

Mayor Armstrong closed the public hearing.

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 were available for public review.

1. **APPROVAL OF MINUTES** – The regular meeting of December 1, 2009.

2. **RESOLUTION 2009-211R – CDBG Exterior Paint Program:** The resolution adopts program guidelines for the Community Development Block Grant (CDBG) Exterior Paint Program and declares an effective date. John Kaminski.
3. **RESOLUTION 2009-212R – Loan Star Libraries Grant Agreement:** The resolution authorizes the City Manager to execute the Loan Star Libraries Grant Agreement with the Texas State Library and Archives Commission, in the amount of \$30,346 with no City matching funds required. Dayna Williams-Capone.
4. **RESOLUTION 2009-213R – Emergency Management Services Program:** 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.
5. **RESOLUTION 2009-214R – Downtown Water and Sewer Line Replacement Project, Projects #5 and #6:** The resolution authorizes the City Manager to execute a Professional Services Agreement between the City of Victoria and Post, Buckley, Schuh and Jernigan, Inc. (PBS&J) for Surveying, Preliminary Design, Final Design, Permitting, Bidding and Construction Phase Services for Phase I, Projects #5 and #6 of the Downtown Water and Sewer Line Replacement Project in the amount of \$425,000. Lynn Short.
7. **RESOLUTION 2009-216R – Health Plan Stop-Loss Insurance:** The resolution authorizes the City Manager to award a contract for the City of Victoria’s Health Plan Stop-Loss Insurance to Union Labor Life Insurance Company/Fidelity Security of Silver Springs, Maryland, in the amount of \$20.69 per employee per month and \$56.60 per dependent family per month, in an estimated total amount of \$258,405, with a \$150,000 deductible. Danette Respondek.
8. **RESOLUTION 2009-217R – Building and Standards Commission Appointments:** The resolution appoints Harold Cade, Nick Hinojosa, Rawley McCoy, C. W. Settles, John Acosta, Dorothy Harris, and Scott Lee to the Building and Standards Commission. Scarlet Swoboda.

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

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

Items 6 and 9 were removed from the consent agenda by Cm. Rangel and Cm. Soliz.

6. **RESOLUTION 2009-215R – Lift Station Rehabilitation Highway 77 and Magruder Drive:** The resolution awards the Lift Station Rehabilitation Highway 77 & Magruder Dr. Lift Stations Project to Mercer Construction, Company of Edna, Texas for its low bid of \$380,976. Lynn Short.

Cm. Rangel 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

9. **RESOLUTION 2009-218R – Purchase 25 Digital in Car Video Camera Units:** The resolution authorizes the City Manager to execute all documents necessary to purchase 25 digital in car video camera units, including installation, hardware and software through the Houston Galveston Area Council of Governments (HGAC) from Coban Technologies, Inc., of Stafford, Texas, in the amount of \$229,919. Jesse Turner.

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

CITY COUNCIL MINUTES
December 15, 2009

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

**RESOLUTION 2009-220R – 2009 EDWARD BYRNE JUSTICE ASSISTANCE FORMULA
GRANT (JAG) PROGRAM – PURCHASE 800 MHZ DIGITAL RADIOS**

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

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

EXECUTIVE SESSION

City Attorney, Thomas A. Gwosdz advised that the following item would be pulled from the agenda and placed on a future agenda because of the lateness of the hour.

Texas Government Code § 551.071, consultation with attorney regarding the interpretation of the City Charter and local ordinances related to the authority of the City Manager, 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. Thomas A. Gwosdz.

There being no further business, the meeting was adjourned at 8:35 p.m.

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

ATTEST: Scarlet Swoboda
SCARLET SWOBODA, City Secretary

VICTORIA CITY COUNCIL
December 21, 2009

CALL TO ORDER

A special meeting of the Victoria City Council was called to order by Mayor Will Armstrong at 5:00 p.m. Monday, December 21, 2009 in the Council Chambers, 107 W. Juan Linn, Victoria, Texas. The pledge of allegiance was said, and all citizens were welcomed.