

VICTORIA CITY COUNCIL
January 5, 2010

CALL TO ORDER

A regular meeting of the Victoria City Council was called to order by Mayor Pro-Tem Halepaska at 5:00 p.m. Tuesday, January 5, 2010 in the Council Chambers, 107 W. Juan Linn, Victoria, Texas. The pledge of allegiance was said, and all citizens were welcomed.

MEMBERS PRESENT

Tom Halepaska, Mayor Pro-Tem
 Denise Rangel
 Gabriel Soliz
 Paul Polasek
 David Hagan
 Joe Truman

MEMBERS ABSENT

Will Armstrong, Mayor

OTHERS PRESENT

Dale Fowler, Executive Director, Victoria Economic Development Corp. (VEDC)
 Tom Schmidt, Engineer, Urban Engineering
 Randy Bena, Texas Department of Transportation (TxDOT)

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
 Vance Riley, Fire Chief
 Doug Cochran, Director, Parks and Recreation
 Rick Henrichs, Director, Information Technology
 Jerry James, Director, Environmental Services
 Roy Boyd, Deputy Chief of Police
 Darryl Lesak, Asst. Director Environmental Services
 O. C. Garza, Public Information Officer
 Scarlet Swoboda, City Secretary

CITIZENS COMMUNICATION

Steven Masek, Escondido, California, owner of Wienerschnitzel and his managing partner, John Egan, 503 Arabian asked that something be done about the median on N. Laurent at the intersection of Rio Grande and Laurent. Mr. Masek commented that median cut off access to their restaurant and has caused patrons to start using the driveway on Rio Grande, which is only intended to be an exit. They suggested that it was causing a safety hazard and requested a cut in the median to accommodate his patrons.

ITEMS FROM COUNCIL

Mayor Pro-Tem Halepaska requested a joint meeting with the County Commissioners to talks about the overpasses on Loop 463 at the special meeting on Tuesday, January 12, 2010. Staff would extend an invitation to them.

Cm. Truman requested follow-up on the graffiti abatement. Staff indicated that a report was already scheduled to be on the January 19, 2010 agenda.

Cm. Polasek asked for an update on the Red River Street. Staff indicated that base was put down, but because of the rain the contractor has not been able to continue.

PUBLIC HEARINGS AND ACTION

Mayor Pro-Tem Halepaska opened a public hearing on the following items:

ORDINANCE 2010-1 – REINVESTMENT ZONE AND TAX ABATEMENT FOR PERFORMANCE FOOD SERVICE-VICTORIA

City Attorney, Thomas A. Gwosdz, read the caption of Ordinance 2010-1, which determines that the Application for Designation of a Reinvestment Zone and Tax Abatement of Vistar d/b/a Performance Foodservice-Victoria meets the criteria for designating a reinvestment zone, designating as a reinvestment zone real property and associated structures at Tract I: 0.8906 acre

tract of land situated in Farm Block "B", East of Town in the original Four League Grant to the Town of Victoria, Victoria County, Texas and Tract II: Lot 1, Block 1 of the Groce Wearden Company Subdivision, an addition to the City of Victoria, Victoria County, Texas, also known as 204 N. Brownson. First Reading. Dale Fowler.

Dale Fowler with VEDC advised that this involved a \$1 million expansion to the current facility. They currently have approximately 200 employees and with this abatement they would be adding 10 new jobs. The abatement would be a four year phase and they could potentially see a savings of \$19,000 while the City would receive approximately \$9,000 in ad valorem taxes.

Mayor Pro-Tem Halepaska asked if there were any questions from Council or the audience.

Cm. Rangel asked what the safeguard was to make sure that the 10 new positions continued at that location. Mr. Fowler advised that those concerns would be addressed in the agreement that would require 12 months continuous service and maintain those new jobs.

Matt Ocker, 2307 FM 2615 voiced opposition to the abatement, commenting that he did not think government should be picking winners or losers. It should be a free market, and government should not take tax dollars to help out one business. He suggested cutting the budget, and let everyone get a piece of the pie.

Donna Pridgen, 415 Charleston, Vice President and General Manager of GEMCO Pelletizing Dies and Machining commented that she was a proponent for tax abatements. She advised they were one of eight companies in the world that provided the service that they provide to the petrochemical industry. They not only provide services in the United States, but 21 other countries. She commented that tax abatements bring in new revenue to a community. When they purchased the 15 acres on Lone Tree Road they had to pick up rollback taxes for five years because of an Ag exemption on the land. In the four years that they have been on the tax rolls here, they will have put \$250,863 into the coffers of this area. They also put in a \$2.5 million facility of which they paid to get off site utilities, they do business in Victoria, and they employed local contractors to build that facility.

Cm. Hagan commented that rather than voting for a tax abatement that would benefit one particular business he would prefer to look for opportunities to cut the budget in ways that would meaningfully provide tax relief for all businesses across the community and the citizens. He advised he would be voting no on the ordinance.

Cm. Soliz asked if Performance FoodService-Victoria was not approved for the tax abatement would that deter them from expanding. Mr. Fowler commented that he did not know that answer but abatement was a contributing factor in their decision to expand at that location.

Cm. Polasek commented that they would be paying more taxes; they would just phase in that incremental amount. He suggested that it was more about keeping the facility in Victoria than keeping 10 new positions; it deepens their roots in the community. He asked how this facility differed from a business like Home Depot, with Mr. Fowler advising that it was a philosophical decision made by the Council and County Commissioners some time ago that they would invest in projects that create primary jobs. They specifically address qualifying businesses as those that are manufacturing, regional service centers, distribution, and other primary businesses. Those are the types of jobs that the local economy spins off of.

Mayor Pro-Tem Halepaska commented that the Council tries to make a positive business community, wants to keep the tax base low, tax rate low, improve the streets, and we do the best we can. When you have 100% of nothing it is nothing. We are not paying out anything, if they build something we give them a piece of that off, we put out nothing. I think we can have low taxes and incentives at the same time.

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

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AYES: Council Members Rangel, Soliz, Polasek, Truman, and Mayor Pro-Tem Halepaska
NAYS: Council Member Hagan

Caption:

AN ORDINANCE DETERMINING THAT THE APPLICATION FOR DESIGNATION OF A REINVESTMENT ZONE AND TAX ABATEMENT OF VISTAR D/B/A PERFORMANCE FOODSERVICE-VICTORIA MEETS THE CRITERIA FOR DESIGNATING A REINVESTMENT ZONE, DESIGNATING AS A REINVESTMENT ZONE REAL PROPERTY AND ASSOCIATED STRUCTURES AT TRACT I: 0.8906 ACRE TRACT OF LAND SITUATED IN FARM BLOCK "B", EAST OF TOWN IN THE ORIGINAL FOUR LEAGUE GRANT TO THE TOWN OF VICTORIA, VICTORIA COUNTY, TEXAS AND TRACT II: LOT 1, BLOCK 1 OF THE GROCE WEARDEN COMPANY SUBDIVISION, AN ADDITION TO THE CITY OF VICTORIA, VICTORIA COUNTY, TEXAS, ALSO KNOWN AS 204 N. BROWNSON, ESTABLISHING THE BOUNDARIES THEREOF AND OTHER MATTERS RELATING THERETO, DETERMINING THAT THE CITY OF VICTORIA INTENDS TO ENTER INTO AN AGREEMENT FOR TAX ABATEMENT WITH SAID ENTITIES, ESTABLISHING REQUIREMENTS FOR SAID AGREEMENT, PROVIDING FOR SEVERABILITY; AND DECLARING AN EFFECTIVE DATE.

ORDINANCE 2010-2 – AMENDING CHAPTERS 2, 20 AND 21 OF THE CITY CODE

City Attorney, Thomas A. Gwosdz, read the caption of Ordinance 2010-2, which amends Chapters 2, 20, and 21 of the Victoria City Code to amend various development regulations,. First Reading. John Kaminski.

Mayor Pro-Tem Halepaska asked if there were any questions from Council or the audience.

Cm. Polasek asked why parts of section I were struck out of the ordinance regarding placing manufactures home on a private lot, with Director of Development Services, John Kaminski advising it was to put that land use on the same playing field as a residential lot. Smaller lots cause problems and it is hard to regulate the land use. He advised that staff and the Planning Commission recommended these changes.

Cm. Rangel asked whether this would restrict turning homes into apartments or duplexes in the historic district. Mr. Kaminski advised that the amendment only deals with restrictions regarding manufactured homes in the historic district.

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

AYES: Council Members Rangel, Soliz, Polasek, Hagan, Truman, and Mayor Pro-Tem Halepaska
NAYS: None

Caption:

AN ORDINANCE AMENDING CHAPTERS 2, 20, AND 21 OF THE VICTORIA CITY CODE TO AMEND VARIOUS DEVELOPMENT REGULATIONS, REPEALING CONFLICTING ORDINANCES, PROVIDING FOR SEVERABILITY, PROVIDING FOR CODIFICATION AND SAVINGS, PROVIDING FOR ENFORCEMENT, PROVIDING A PENALTY NOT TO EXCEED \$500 UPON CONVICTION AND PUBLICATION, AND DECLARING AN EFFECTIVE DATE.

Mayor Pro-Tem Halepaska closed the public hearings.

CITY MANAGER REPORTS

A report on a request for a median cut on North Laurent Street submitted by Steven A. Masek, President of Masek Enterprises LLC dba Wienerschnitzel

Director of Public Works, Lynn Short provided information regarding Mr. Masek's claims that the newly constructed median impeded access to his driveway. As a result customers were not

The minutes were amended on February 2, 2010
 with Resolution 2010-21R to reflect the comments —
 made by Randy Bena with TxDOT.

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able to enter his establishment north bound on Laurent and had started using the exit only driveway on Rio Grande. It was Mr. Masek’s opinion that it was causing a greater safety hazard than if there were no median on Laurent. Mr. Short consulted Tom Schmidt of Urban Engineering as well as Randy Bena with the Texas Department of Transportation, because of the proximity to a State highway intersection, about the cut in the median. Both stated that cutting the median was a bad idea and did not recommend a median cut. He advised that the intersection of Rio Grande and Laurent was the third busiest intersection in the City, with approximately 84,000 vehicles per day traffic count. He pointed out that a median was a traffic control device and was designed to control the flow of traffic, and keeps traffic flowing. Since the median was installed at that location there has been a 30 percent reduction in accidents at that intersection. Mr. Short advised that staff was opposed to a median cut.

Mr. Schmidt advised that the primary reason for a median is traffic safety. A median eliminates left turns, and potential conflicts from each side of the street. There is also a strong possibility that traffic would backup at the intersection on Rio Grande and cause conflict. He advised that there was a potential remedy by putting in another driveway entrance off Nueces; however Mr. Masek does not own that property and leases the whole site.

Cm. Halepaska commented that when TxDOT put in the medians on Navarro, businesses were not happy, but it has made the area so much safer. He suggested that Council needed to look at safety rather than the economics or politics of an issue. He further commented that he was reluctant to change something that certified engineers designed for safety purposes, pointing out that no one on Council was a traffic engineer.

Cm. Soliz asked why a turning lane was not included during the reconstruction of Laurent, with Mr. Schmidt advising that there was not enough room and buildings would have had to be taken and that was very expensive property. Cm. Soliz and Cm. Hagan requested placing the issue on a future agenda to cut the median and take out the remaining portion towards Nueces Street. Mr. Masek advised that he was willing to pay the first \$10,000 towards the cost of removing a portion of the median.

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 December 15, 2009 and special meeting of December 21, 2009.
2. **RESOLUTION 2010-1R – Sam Pack’s Five Star Ford –Six Police Sedans:** The resolution authorizes the purchase of six Year Model 2010 four-door police package patrol sedans from Sam Pack’s Five Star Ford of Carrollton, Texas through the State of Texas Purchasing Cooperative contract number 071-A2, in the amount of \$22,398.35 each including administration fees, for a total amount of \$134,390.10 (Ford Crown Victoria Police Interceptors). Darryl Lesak.
3. **RESOLUTION 2010-2R – Caldwell County Chevrolet – Four Police Sedans:** The resolution authorizes the purchase of four Year Model 2010 Chevrolet Impala police package cars from Caldwell Country Chevrolet of Caldwell, Texas through the Houston-Galveston Area Council of Governments (HGAC), in the amount of \$20,580 each, and administration fees, for a total amount of \$82,920. Darryl Lesak.
4. **RESOLUTION 2010-3R – Philpott Motors, Ltd. – Purchase of Four Ford Trucks:** The resolution authorizes the purchase of (1) one 2010 Ford Escape XLS, in the amount of \$18,383.24, (2) one 2010 Ford ½ ton Extended Cab Pickup, in the amount of \$17,137.19, (3) one 2010 Ford ¾ ton Regular Cab Pickup, in the amount of \$18,532.77, (4) one 2010 Ford ¾ ton Regular Cab Pickup with Service Body and 2000 lb. Crane, in the amount of \$32,048.77, and administration fees, from Philpott Motors, Ltd. of Nederland, Texas, through the Local Government Purchasing Cooperative (Buy Board) in the total amount of \$86,501.97. Darryl Lesak.


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- 5. **RESOLUTION 2010-4R – Philpott Motors, Ltd. – Purchase of 2010 Ford F550 1-1/2 Crew Cab with Service body & Crane:** The resolution authorizes the purchase of a 2010 Ford F550 One and ½ ton Crew Cab with Service Body and Crane from Philpott Motors, Ltd. of Nederland, Texas through the Houston-Galveston Area Council of Governments (HGAC), in the amount of \$43,891.78, and administration fees, for a total amount of \$44,891.78. Darryl Lesak.
- 6. **RESOLUTION 2010-5R – Downtown Water and Sewer Replacements Phase I:** The resolution awards a bid for the Downtown Water and Sewer Line Replacements (PH I - Projects 3 & 4) project to SER Construction Partners, LTD., of Pasadena, Texas, in the amount of \$2,092,079. Lynn Short.
- 7. **RESOLUTION 2010-6R – Lighting Arrestor System Grant for Water Pumping Plant #3:** The resolution applies for a grant from the Texas Division of Emergency Management’s Hazard Mitigation Grant Program (HMGP), in the approximate amount of \$110,128 with a 25% City match of \$27,532, which will be used for the installation of a lightning arrestor system on Water Pumping Plant #3. Lynn Short.
- 8. **RESOLUTION 2010-7R – Reappointments to the Board of Directors of the Victoria Sales Tax Development Corporation:** The resolution reappoints Will Armstrong, Mayor, Joe Truman as Council Representative, and Lewis Neitsch and Louise Hull Patillo as Citizen Representatives to the Board of Directors of the Victoria Sales Tax Development Corporation. Scarlet Swoboda.
- 9. **RESOLUTION 2010-8R – Reappointing Health Authority:** The resolution reappoints Bain C. Cate, M.D. as the Health Authority for the City of Victoria to enforce State and Local Laws relating to public health. Scarlet Swoboda.

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, Mayor Pro-Tem Halepaska
NAYS: None

There being no further business, the meeting was adjourned at 6:16 p.m.

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

ATTEST: 
SCARLET SWOBODA, City Secretary

RESOLUTION NO. 2010- 21 R

A resolution amending the January 5, 2010 City Council minutes; and declaring an effective date.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VICTORIA, TEXAS.

1.

The January 5, 2010 City Council minutes are hereby amended to add the following:

Randy Bena, Victoria Area Engineer, Texas Department of Transportation responded to a question ask by a member of Council regarding which option he thought was the most resolvable. The options discussed were 1) building a driveway off Nueces Street, 2) removing the U-turn sign, or 3) cutting the median.

Mr. Bena commented that he would have to answer that question as an engineer or as a citizen of Victoria, not from TxDOT. I cannot give you a TxDOT opinion on that, but I do have an opinion from my experience. What Mr. Short said about the cut in the median not being a good idea, he agreed with that it is not a good idea, because a cut in that median is more or less senseless without taking out the back end of the median too; take it out all the way to Nueces. That option to him was the best option that we have got here.

From TxDOT's standpoint, there concern is that the driveway on Rio Grande, it is not really obvious that it is an exit only, the way things are set up there, and you have the drive through and people coming out of the drive through come out of that driveway. He has seen plenty of cars come up there and want to turn right in there and some of them make it, some of them come up and hesitate because a car is coming out, there is conflict because someone just slammed on their breaks. We have seen that happen already. TxDOT's concern is mainly that the driveway on Rio Grande does not become an entrance driveway. That would not even be considered as an option by TxDOT.

As far as any options to get to this location, if the driveway could not be constructed back on Nueces, then in his opinion cutting off that median even with that driveway, and taking it out to Nueces would be the best option. As Mr. Schmidt said a cut in the median would not work, you would have conflicts with people trying to get in and out through a little ole cut, and the rest of the median would be senseless.

He somewhat agreed with the U-turn situation, because it is not very wide there to make U-turns, but you could simply cut that median off even with the driveway and still put your U-turn sign there for the rest of the people. You don't want drivers to go through the intersection, they really wanted to go down Rio Grande and turn a U-turn and get to Rio Grande. You do not want them doing that.

Mr. Bena stated that presented with just these options, if number one is not a valid possibility or easy enough to do, or too restrictive on the land owner for cost, or he cannot work the deal (putting in a driveway off Nueces) then the best option would be to cut the median off. That would still be putting in the no U-turn sign.

2.

This resolution shall become effective immediately upon adoption.

PASSED, this the 2nd day of February, 2010.

AYES: 7

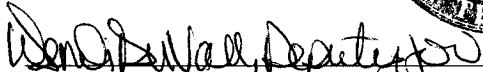
NAYS: 0

ABSTENTIONS: 0

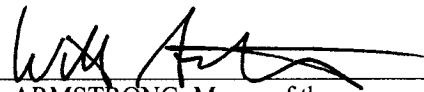
APPROVED AND ADOPTED, this the 2nd day February, 2010.



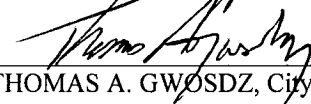
ATTEST:


SCARLET SWOBODA, City Secretary

Distribution: Finance Department
Legal Department


WILL ARMSTRONG, Mayor of the
City of Victoria, Texas

APPROVED AS TO LEGAL FORM:


THOMAS A. GWOSDZ, City Attorney

Copies Sent: **FEBRUARY 3, 2010**