

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

ATTEST: Scarlet Swoboda
SCARLET SWOBODA, City Secretary

VICTORIA CITY COUNCIL
September 7, 2010

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, September 7, 2010 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
Paul Polasek, Mayor Pro-Tem
Denise Rangel
Gabriel Soliz arrived at 5:03 p.m.
David Hagan
Tom Halepaska

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
Cheryl Marthiljohni, Director, Human Resources
Rick Henrichs, Director, Information Technology
Jerry James, Director, Environmental Services
O. C. Garza, Director, Communications
Jared Mayfield, Deputy Dir., Development Services
Darryl Lesak, Asst. Director Environmental Services
Scarlet Swoboda, City Secretary

MEMBERS ABSENT

Joe Truman

ITEMS FROM COUNCIL

Cm. Rangel requested a report from the Police Department on the kids crossing the street mid-block on John Stockbauer near the East High School at the next meeting.

Cm. Hagan requested an update on the timeline of awarding the project to reroute the Hike and Bike Trail near John Stockbauer. Staff advised that a contract was awarded to Ranger Construction and they should be starting the project in a few weeks.

Proclamations

City Attorney, Thomas A. Gwosdz advised that the first proclamation was for the Victoria Fire Department and their Association with the Muscular Dystrophy Association (MDA) in support of the "Fill the Boot" campaign. He read the proclamation in part declaring September 2010 "Victoria Firefighters Month."

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Claire Nelson, with MDA in Houston, Texas along with Ray Mitchell, 603 S. Liberty, Victoria Firefighter and President of Local #3679 Firefighter Association thanked the Council for allowing the firefighters to go out on behalf of MDA this weekend for the "Fill the Boot" campaign. Ms. Nelson stated that there are 43 diseases that MDA covers, with none of them having a cure. One of those diseases is Amyotrophic Lateral Sclerosis (ALS). She then introduced Bill Hassel, 108 Cherrystone Circle, who thanked Council for supporting this effort. He stated that they were helping three people in Victoria with ALS, including himself, along with 20 others with muscular dystrophy neuromuscular diseases.

City Attorney Gwosdz read the second proclamation in part for Sure B.E.T. HOSTS Mentoring/Tutoring Program declaring the month of September as "Mentoring Month." Robert Loeb, 608 Country Club and Rhonda Fotiades, 204 Dunbar thanked the Council, advising that the mentoring program has been successful and would be in five schools this year, including both high schools.

Cm. Soliz announced that he was going to have a Town Hall meeting September 15, 2010 at VFW at 6:30 p.m.

CITIZENS COMMUNICATION

John Swanson, 205 Cannon commented on the budget suggesting that no matter what the Council decides to cut or not cut from the budget someone will think it is the wrong thing. He pointed out that what differentiates city residents from county residents in terms of the benefits they receive for their tax dollar is city trash pickup, sewer and water service. Other things that people want are good streets and police. He suggested making cuts in the Fire Department by cutting one station and its crew, which would be a big savings. He commented that one of the tough parts of the Fire and Police is that once you pay them, you have to pay them through their retirement; it is not a 20-year payout and that is very expensive.

ORDINANCE 2010-16 – LIVE ANIMAL SALES

City Attorney, Thomas A. Gwosdz, read the caption of Ordinance 2010-16, which amends Section 4-43 of the Victoria City Code to prohibit the sale of live animals from an outdoor location visible from an arterial or collector street. Second and Third Reading. Thomas A. Gwosdz.

Mayor Armstrong stated that Cm. Truman was absent but had asked that Council postpone the vote until he could attend.

Cm. Polasek suggested enforcing the current ordinances for several-months. It was clear to him that those selling were not following the current laws, they do not have a permit, and they do not have permission from the property owners. He suggested calling to complain to the corporate offices of the business where animal sales are taking place in their parking lots. He understood that the Police Department has other items that are more important, but our current laws need to be enforced.

Cm. Halepaska commented that what he sees is the people selling on public right-of-way, which is illegal, suggesting that this ordinance would make it clear that it is not allowed. He questioned who would enforce the ordinance, Animal Control or the Police Department.

City Attorney, Thomas A. Gwosdz advised that the ordinance was drafted to be placed in Chapter 4 of the City Code, which is to be enforced by the Animal Control Department. However, the enforcement would probably fall upon the Police Department. The Police Chief stated that this ordinance would make enforcement much simpler, because otherwise the officers would have to check each vendor's permit.

Cm. Rangel commented that the proposed ordinance would not preclude individuals from selling pets, they can advertise in the newspaper or other media sites. Individuals who live on one of the streets in question could still put a sign up in their yard that they had puppies or kittens for sale. Cm. Hagan commented that if the ordinance would make enforcement simpler, he would rather do that.

Cm. Soliz asked if Animal Control has authority to issue a citation. The City Attorney advised that they did not have authority to issue a criminal citation, but they could issue a notice of violation, which would then go to Municipal Court.

Cm. Polasek moved to postpone the ordinance indefinitely, with Cm. Soliz seconding the motion. The motion **failed** by the following vote:

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

Cm. Soliz moved to separate the second and third reading of the ordinance. The motion **failed** for lack of a second.

Cm. Rangel moved that the ordinance pass on second and third reading, with Cm. Hagan seconding the motion. The ordinance passed on second and third reading by the following vote:

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

Caption:

AN ORDINANCE AMENDING SECTION 4-43 OF THE VICTORIA CITY CODE TO PROHIBIT THE SALE OF LIVE ANIMALS FROM AN OUTDOOR LOCATION VISIBLE FROM AN ARTERIAL OR COLLECTOR STREET, 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.

ORDINANCE 2010-18 – AMENDING CHAPTERS 12, 21 & 22

City Attorney, Thomas A. Gwosdz, read the caption of Ordinance 2010-18, which amends Chapters 12, 21 and 22 of the Victoria City Code to amend various development regulations. Second and Third Reading. John Kaminski.

Cm. Polasek moved that the ordinance pass on second and third reading, with Cm. Rangel seconding the motion. The ordinance passed on second and third reading by the following vote:

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

Caption:

AN ORDINANCE AMENDING CHAPTERS 12, 21 AND 22 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.

ORDINANCE 2010-19 – REGULATIONS FOR TELECOMMUNICATION TOWER

City Attorney, Thomas A. Gwosdz, read the caption of Ordinance 2010-19, which amends Chapter 21-108 of the Victoria City Code to amend regulations for telecommunication towers. Second and Third Reading. John Kaminski.

Cm. Soliz moved that the ordinance pass on second and third reading, with Cm. Rangel seconding the motion. The ordinance passed on second and third reading by the following vote:

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

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Caption:

AN ORDINANCE AMENDING CHAPTER 21-108 OF THE VICTORIA CITY CODE TO AMEND REGULATIONS FOR TELECOMMUNICATION TOWERS; 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.

PUBLIC HEARINGS

Mayor Armstrong opened a public hearing on the following items:

FIRST PUBLIC HEARING ON THE 2010-2011 FISCAL YEAR BUDGET

The first Public Hearing on the City of Victoria Budget for Fiscal Year 2010-2011 was held. Gilbert P. Reyna, Jr.

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

Matt Ocker, 2307 FM 2615 commended the staff that has made cuts in their budgets. He expressed concern for a grant from Parks and Wildlife to put in a splash pad. At a time when the City was cutting services at the Library and maintenance in other areas, adding another recreation venue did not seem like a good idea and suggested that Council reconsider the splash pad. He felt that the City should not jump for every Federal Program out there, because there are always strings attached and unintended consequences.

FIRST PUBLIC HEARING FOR THE 2010-2011 FISCAL YEAR TAX RATE

The first Public Hearing on the 2010-2011 City of Victoria Tax Rate was held. Gilbert P. Reyna, Jr.

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

ORDINANCE 2010-2011 – APPROVING AND ADOPTING THE 2010-2011 FISCAL YEAR BUDGET FOR THE CITY OF VICTORIA

City Attorney, Thomas A. Gwosdz, read the caption of Ordinance 2010-2011, which approves and adopts a budget for operating the municipal government of the City of Victoria for the Fiscal Year beginning October 1, 2010, and ending on September 30, 2011; appropriates money for the various funds and purposes of such budget including appropriations of money to pay interest and principal sinking fund requirements on all indebtedness; and repeals all conflicting ordinances and appropriations. First Reading. Gilbert P. Reyna, Jr.

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

Cm. Hagan complimented staff for making difficult decisions and the community appreciates that, but he would vote against the budget because he was uncomfortable with moving the tax rate from \$.645 to \$.65. He expressed concern that difficult times were still ahead of us and he would like to see taxpayers hold on to every penny they can.

Cm. Halepaska commented that \$5 saved this year on one-half cent tax is going to cost a lot more than that in years to come. This is a fiscally prudent budget, and all departments have equally shared the suffering by cutting approximately \$2 million out. The one-half cent will keep an even stream on repairs and streets and we will be better off, than denying for one year and then trying to make up the following year. It would cost the taxpayers much more than the one-half cent is worth.

Cm. Polasek commented on the grant and splash pad that was commented on earlier. He advised that we have applied for those grants for years and the City has always had to meet certain criteria. Council did consider not funding or accepting the grant, but if we had done that, the City

would have little chance of receiving a grant in the future. Cm. Rangel commented that the splash pad was not a water park; it will also have restrooms and a parking lot. Mayor Armstrong commented that it would enhance the community.

Cm. Soliz commented that he would like to focus on things that Council could agree on initially. He was looking at three specific areas of the budget, the tax rate, increasing the General Fund reserve, and one-time expenditures. He would be bringing them up in the form of amendments at the next meeting. If he could get agreement from Council on two of the three items, then he would agree with the overall budget. He commended staff on the hard decisions and cuts they had to make.

Cm. Halepaska commented that he thought they had gone through these items for months and had hoped that most objections had already been discussed.

Cm. Halepaska moved that the ordinance pass on first reading, with Cm. Rangel 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 and Hagan

Caption:

AN ORDINANCE APPROVING AND ADOPTING A BUDGET FOR OPERATING THE MUNICIPAL GOVERNMENT OF THE CITY OF VICTORIA FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2010, AND ENDING ON SEPTEMBER 30, 2011; APPROPRIATING MONEY FOR THE VARIOUS FUNDS AND PURPOSES OF SUCH BUDGET INCLUDING APPROPRIATIONS OF MONEY TO PAY INTEREST AND PRINCIPAL SINKING FUND REQUIREMENTS ON ALL INDEBTEDNESS; REPEALING ALL CONFLICTING ORDINANCES AND APPROPRIATIONS; PROVIDING FOR SEVERABILITY; AND DECLARING AN EFFECTIVE DATE.

City Manager, Charles E. Windwehen commented that the budget addresses the Motel Tax Fund, which funds the Visitor and Conventions Bureau, Community Center, and the Main Street Project. It does not address funding for other agencies that have been funded for several years. He recommended accepting applications from those agencies in October so that Council can make a decision in December. Advertisements would be on the City website, TV15, and in the local newspaper. It was the consensus of Council to move forward with the recommendation.

ORDINANCE 2010-21 – SETTING THE TAX RATE FOR THE 2010-2011 FISCAL YEAR

City Attorney, Thomas A. Gwosdz, read the caption of Ordinance 2010-21, which sets the Tax Rate at a total rate of \$0.6500 per \$100 of property valuation and levy's a tax upon all property subject to taxation within the City of Victoria, Texas for the 2010 Tax Year for the use and support of Municipal Government of the City of Victoria, provides for the assessment and collection of taxes, apportions said levy among the various funds and items for which revenue must be raised includes providing a sinking fund for the retirement of the bonded debt of the City, and provides for penalties and interest for delinquent taxes as prescribed by the Texas Tax Code. First Reading. Gilbert P. Reyna, Jr.

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

Cm. Polasek commented that the proposed tax rate came in less than the effective tax rate of \$.6521. He reminded others that there is a tax freeze for 65 and older or handicapped individuals and their taxes have been frozen, so that difference has to be made up somewhere else. He stated that the tax rate cannot be equated to a tax increase, because valuations make the difference on whether a person pays more or not.

Cm. Soliz asked whether protested values are included in the calculations. It was pointed out that a portion of them are included. It was further pointed out that new properties are not included in the calculation. Finance Director, Gilbert P. Reyna, Jr. advised that 50% of the property values dropped this year, with 34% going up, and 16% stayed neutral.

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Cm. Halepaska moved that the ordinance pass on first reading, with Cm. Polasek 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 and Hagan

Caption:

AN ORDINANCE SETTING THE TAX RATE AT A TOTAL RATE OF \$0.6500 PER \$100 OF PROPERTY VALUATION AND LEVYING A TAX UPON ALL PROPERTY SUBJECT TO TAXATION WITHIN THE CITY OF VICTORIA, TEXAS FOR THE 2010 TAX YEAR FOR THE USE AND SUPPORT OF MUNICIPAL GOVERNMENT OF THE CITY OF VICTORIA, PROVIDING FOR THE ASSESSMENT AND COLLECTION OF TAXES, APPORTIONING SAID LEVY AMONG THE VARIOUS FUNDS AND ITEMS FOR WHICH REVENUE MUST BE RAISED INCLUDING PROVIDING A SINKING FUND FOR THE RETIREMENT OF THE BONDED DEBT OF THE CITY, PROVIDING FOR PENALTIES AND INTEREST FOR DELINQUENT TAXES AS PRESCRIBED BY THE TEXAS TAX CODE, REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND DECLARING AN EFFECTIVE DATE.

John Swanson, 205 Cannon asked what the total amount of the budget was, with staff responding \$160 million, which included a number of funds.

ORDINANCE 2010-22 – AMENDING RESIDENTIAL SOLID WASTE COLLECTION RATES

City Attorney, Thomas A. Gwosdz, read the caption of Ordinance 2010-22, which amends Section 24-141, “Residential Solid Waste Collection” of the Victoria City Code to increase the monthly fee for residential solid waste collection from \$16.25 per month to \$17.37 per month. First Reading. Jerry James.

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

Cm. Polasek commented that the increase was for collection of yard waste and not garbage collection.

Cm. Soliz 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, Soliz, Polasek, Hagan, Halepaska, and Mayor Armstrong

NAYS: None

Caption:

AN ORDINANCE AMENDING SECTION 24-141, “RESIDENTIAL SOLID WASTE COLLECTION” OF THE VICTORIA CITY CODE TO INCREASE THE MONTHLY FEE FOR RESIDENTIAL SOLID WASTE COLLECTION FROM \$16.25 PER MONTH TO \$17.37 PER MONTH; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR CODIFICATION; PROVIDING FOR PUBLICATION; AND DECLARING AN EFFECTIVE DATE.

Mayor Armstrong closed the public hearings.

CITY MANAGER REPORTS

- **Report on StarTek Tax Abatement Agreement** - City Attorney, Thomas A. Gwosdz provided a brief overview of where the City stands with the abatement, but a large portion of the information was protected by the attorney/client privilege. He reported that StarTek had ceased operations in the building where the City had provided tax abatement. The owners of the building have been sent a letter notifying them of their default of the tax abatement agreement. If the City receives no response in 30 days, the City will proceed with termination. If the agreement is terminated, StarTek would be required to repay both the

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City and the County all of the taxes that have been abated under that agreement. He advised that Council could discuss this item in Executive Session, with Council consensus to do so.

- **Report considering an appointment to the Victoria Public Library Advisory Board.** City Secretary, Scarlet Swoboda. It was the consensus of Council to move forward with a resolution on the September 21, 2010 agenda to consider Dennis Tardan for reappointment.
- **Report on Republic Waste Services Landfill Fees** – Assistant Director of Environmental Services, Darryl Lesak presented an overview of small rate increases that will occur at the Landfill starting October 1, 2010.
- **Right-of-way Mowing** – Deputy Director of Development Services, Jared Mayfield reported that staff had mailed letters to residents that have right-of-way to mow, and have had a good response from most of them. He pointed out that the ordinance has been on the books since 1969 regarding right-of-ways, and it was an enforcement attempt for uniform application of that ordinance. An amendment will be coming to Council to address very wide right-of-ways.

CONSENT AGENDA: All consent agenda items listed are considered routine by the City Council and are enacted by one motion. There is no separate discussion of these items unless a Council member so requests, in which event the item is 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 special meeting of August 10, 2010, the special meeting of August 12, 2010, regular meeting of August 17, 2010, and special meeting of August 24, 2010.
2. **RESOLUTION 2010-140R – Replacement of Tactical Body Armor for Police Department:** The resolution authorizes the purchase of 14 sets of replacement tactical body armor and related protective equipment for the Police Department Swat team from GT Distributors, Inc. of Austin, Texas through Buy Board contract number 284-08, in the amount of \$40,603.64. Jesse Turner.
4. **RESOLUTION 2010-142R – Sixteenth Solid Waste Amendment:** The resolution authorizes the Sixteenth Amendment to the Containerized Commercial Solid Waste Collection and Disposal Services Contract between the City of Victoria and Waste Management of Texas, Inc., to allow modified fees for commercial solid waste collection services. Darryl Lesak.
5. **RESOLUTION 2010-143R – Sewer Line Inspection Camera and Tractor:** The resolution authorizes the sole source purchase of a sewer line inspection camera and tractor from R & R Environmental, Inc. of Hammond, Louisiana, in the amount of \$31,367. Jimmy Roach.
6. **RESOLUTION 2010-144R – Vital Statistics Contract:** The resolution authorizes a Contract with the Texas Department of State Health Services, Bureau of Vital Statistics, to provide on-line computer services. Scarlet Swoboda.

Cm. Hagan moved that items 1, 2, 4, 5, and 6 on the consent agenda be adopted, with Cm. Halepaska seconding the motion. Those items were adopted by the following vote:

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

3. **RESOLUTION 2010-141R – Public Safety Radio System:** The resolution authorizes Interlocal Agreements for Use of Public Safety Radio System with those entities that were previously utilizing the former City of Victoria radio system. Jesse Turner.

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

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

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RESOLUTION 2010-145R – VICTORIA COMMUNITY CENTER ANNEX PARTITION DOOR REPLACEMENT

The resolution awards a bid for the Accordion Door/Partition Removal and Replacement at the Victoria Community Center Annex to Coastal A.D.S., Inc. of Corpus Christi, Texas, for \$65,379. Doug Cochran.

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

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


EXECUTIVE SESSION

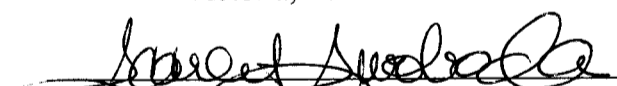
Mayor Armstrong announced that Council would recess into Executive Session at 6:42 p.m., in accordance with:

Texas Government Code § 551.087, to discuss or deliberate the offer of a financial or other incentive to a business prospect that the City Council seeks to have, locate, stay, or expand in or near the territory of the City of Victoria and with which the City of Victoria is conducting economic development negotiations. Thomas A. Gwosdz.

Texas Government Code § 551.071, consultation with attorney on matter involving pending or contemplated litigation or other matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act (to include, but not limited to training time under the Fair Labor Standards Act and StarTek Tax Abatement). Thomas A. Gwosdz.

The Council took no action taken and had nothing to report. There being no further business, the meeting was adjourned at 7:14 p.m.

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

ATTEST: 
SCARLET SWOBODA, City Secretary

VICTORIA CITY COUNCIL
September 9, 2010

CALL TO ORDER

A special meeting of the Victoria City Council was called to order by Mayor Will Armstrong at 5:00 p.m. Tuesday, September 9, 2010 in the Council Chambers, 107 W. Juan Linn, Victoria, Texas. The pledge of allegiance was said, and all citizens were welcomed.