

MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
APRIL 11, 2005

Mayor Pro-Tem Don Mueller declared a Regular Meeting duly open for the transaction of business at 7:04 P.M. Councilmember Ray Linseisen led the opening devotion and then Mayor Pro-Tem Don Mueller led the pledge of allegiance.

Councilmembers present were: Councilmembers V. L. Wiley, Jr., David Samuelson, Ken Freese, Don Mueller, Domingo Montalvo, Jr., and Ray Linseisen.

Councilmember absent was: Mayor Bryce D. Kocian.

Staff members present were: City Manager Andres Garza, Jr., Finance Director Joyce Vasut, City Secretary Lisa Stavena, Assistant to City Manager Jackie Jansky, Building Official Ronnie Bollom, Community Services Director Jo Knezek, and City Attorney Paul Webb.

Visitors present were: Benjamin Sharp with Wharton Journal Spectator, Carlos Cotton, Gary Bullard, David Schroeder, and Lewis Edwards.

The third item on the agenda was the Public Comments. No comments were given. No action was taken.

The fourth item on the agenda was Wharton Moment. No action was taken.

The fifth item on the agenda was to review and consider the reading of the minutes from the regular meetings held March 14, 2005 and March 28, 2005 and the special meeting held March 5, 2005. After some discussion, Councilmember Ken Freese made a motion to approve the Wharton City Council minutes of the regular meetings held March 14, 2005 and March 28, 2005 and the special meeting held March 5, 2005 as presented. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider the recommendation from the Planning Commission to the City Council regarding the request by Mr. Charlie Wicke (Owner) on the final re-plat of 1606 North Rusk, Wm. Kincheloe, Block 64A.5. City Manager Andres Garza, Jr. presented a copy of the memorandum dated April 5, 2005 from Planning Commission Chairman A. J. Rath providing the recommendation by the Planning Commission for the City Council to consider approving the request by Mr. Charlie Wicke for the final re-plat of 1606 North Rusk, Wm. Kincheloe, Block 64A.5. He stated that the City Council had approved the preliminary re-plat during the regular February 28, 2005 City Council meeting. After some discussion, Councilmember Ken Freese made a motion to approve the request by Mr. Charlie Wicke

(Owner) on the final re-plat of 1606 North Rusk, Wm. Kincheloe, Block 64A.5. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The seventh on the agenda was review and consider a resolution amending the City of Wharton Resolution No. 2004-28 establishing a residential development incentive policy for the City of Wharton, Texas. City Manager Andres Garza, Jr. stated that during the April 12, 2004 regular City Council meeting, the City Council approved Resolution No. 2004-28 establishing a residential development incentive policy. He stated that on March 31, 2005, the City Council Public Works Committee discussed the residential development incentive policy and determined that Item No. 1.D. and Item 4 needed to be clarified. He stated that in order to bring clarity to the policy, the Committee was recommending the City Council consider amending Item No. 4 to state that the contractor would be reimbursed a maximum of \$50.00 per linear foot of the front lot line with a maximum of \$5,000.00 per lot. He stated that the cap would limit the reimbursement and the amount would be paid back in 5 years. Finance Director Joyce Vasut stated that the formula was based on the CAD Assessed Value/\$100 X Current Tax Rate X 5 years = Maximum Reimbursement. He then presented a copy of the policy, which indicated the proposed changes. After some discussion, no action was taken.

The eighth item on the agenda was review and consider a proposal for residential development incentive reimbursement submitted by Mr. Jonathan Kulak for a proposed subdivision to be located on FM 3012. City Manager Andres Garza, Jr. stated that at the Public Works Committee meeting of March 31, 2005, the Committee met and heard a presentation by Mr. Jonathan Kulak regarding his proposed subdivision on FM 3012. He stated that Mr. Kulak was proposing a twenty-lot subdivision which was located inside the City limits. He stated that three of the proposed home sites have access to City water and sewer, seventeen of the lots would be eligible for the incentive policy. He stated that Mr. Kulak was requesting a residential development agreement with a \$50.00 per linear feet of the front lot lines for reimbursement. He stated that the reimbursement would be approximately \$75,000. He then presented a copy of the preliminary cost estimates prepared by Mr. Carlos Cotton, P.E. of Jones & Carter, Inc. He stated if the City Council accepted the proposal then a formal agreement would be developed and presented to the City Council for final approval. He said that Mr. Kulak could not be present. After some discussion, no action was taken.

The ninth item on the agenda was review and consider the abandonment of a ten (10) feet utility easement located in the William Kincheloe League, Abstract No. 38, Wharton County, Texas, being the east – west segment of a ten (10) feet utility easement conveyed from R. H. Vineyard to the City of Wharton. City Manager Andres Garza, Jr. stated that the City Staff met with Mr. Edwin Hawes Vineyard regarding the sewer line installation project between Richmond Road and Fulton Street. He stated that the city has an existing easement that crosses Mr. Vineyard's property. He stated that after the discussion with Mr. Vineyard, he agreed to provide the City an easement along the south end of his property provided the City abandon the existing easement. He then presented a copy of the release of easement agreement for the abandonment of a ten (10) feet utility easement located in the William Kincheloe League, Abstract No. 38, Wharton County, Texas, being the east – west segment of a ten (10) feet utility easement conveyed from R. H. Vineyard to the City of Wharton. After some discussion, Councilmember David Samuelson made a motion to approve the abandonment of a ten (10) feet utility easement located

in the William Kincheloe League, Abstract No. 38, Wharton County, Texas, being the east – west segment of a ten (10) feet utility easement conveyed from R. H. Vineyard to the City of Wharton. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The tenth item on the agenda was review and consider the ratification of the acceptance by Mayor Bryce D. Kocian on behalf of the City of Wharton for a ten (10) feet utility easement agreement between the City of Wharton and Edwin Hawes Vineyard located in the William Kincheloe League, Abstract 38, Wharton County, Texas, Tract No. One (1) and Tract No. Five (5). City Manager Andres Garza, Jr. presented a copy of the agreement that was executed by Mr. Vineyard and Mayor Bryce D. Kocian on April 5, 2005. He stated that the easement was executed and filed in order for Uticon, Inc. to install the sewer line between Richmond Road and Fulton Street. He stated that the easement agreement also allowed for considerations as outlined in the agreement. He stated that the City Staff was recommending the City Council ratify the acceptance of the easement agreement. After some discussion, Councilmember Ray Linseisen made a motion to ratify the acceptance by Mayor Bryce D. Kocian of a ten (10) feet utility easement agreement between the City of Wharton and Edwin Hawes Vineyard located in the William Kincheloe League, Abstract 38, Wharton County, Texas, Tract No. One (1) and Tract No. Five (5). Councilmember David Samuelson seconded the motion. All voted in favor.

The eleventh item on the agenda was review and consider the request by Mr. Byron Woods of Blue Dolphin Unlimited Investments, LP who is restoring the Tee Pee Courts located on U.S. Business 59 for City of Wharton Utility Services (water/sewer). City Manager Andres Garza, Jr. presented a copy of Mr. Woods' letter to Mayor Bryce D. Kocian regarding his request for City utility service. He stated that Mr. Woods' property was located outside the City limits. He stated that in the meeting with Mr. Woods, he had advised Mr. Woods that the City could extend utility service to his property at his cost, however City Council approval would be required. He stated that all costs associated with the service would be bore by the property owner. He stated that Mr. David Schroeder had informed him that Mr. Woods had requested assistance from the Wharton Economic Development Corporation (WEDCo). He stated that Mr. Woods' request would be considered by WEDCo on April 14, 2005. He then presented a preliminary cost estimate and site map's that indicated the location of the proposed lines. He stated that City Council authorization to provide services outside the City limits was required. He stated that if Mr. Woods proceeded to have the service lines installed, a formal agreement would be developed and presented to the City Council for final approval. He stated that the estimated cost to bring the utility services to the property would be approximately \$128,500. He stated that Mr. Woods attempted to acquire property adjacent to Walters Road; however, Mr. Woods was unsuccessful. He stated that the City of Wharton could possibly obtain an easement for the extension of the lines from Walters Road. Councilmember Don Mueller stated that a Lift Station should also be installed. He stated that the City should install a larger line than what was required for future expansion but require Mr. Woods to reimburse the City for the smaller required line. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the extension of the utility service to the property owned by Mr. Byron Woods, which was outside the City's corporate limits with Mr. Woods baring all costs for the service. Councilmember Ken Freese seconded the motion. All voted in favor.

The twelfth item on the agenda was review and consider Waste Management Company:

A. Request by Waste Management Company for a 2.8% fuel surcharge to Waste Management Company.

B. Ordinance: An ordinance amending Ordinance No. 1997-07 passed on April 28, 1997, which was subsequently and periodically amended by Ordinance No. 1998-08 passed April 27, 1998, Ordinance No. 2000-23 passed October 9, 2000, Ordinance No. 2001-11 passed August 27, 2001, and Ordinance No. 2002 passed September 9, 2002.

City Manager Andres Garza, Jr. stated on Wednesday, April 6, 2005, he had met with Mr. Gary Bullard of Waste Management Company who presented a letter received April 6, 2005 requesting a 2.8% fuel surcharge to Waste Management Company. He then presented a draft copy of the ordinance that amended the agreement between Waste Management and the City of Wharton. He stated that the rates in the proposed ordinance had been increased to reflect the 2.8% fuel surcharge. Mr. Gary Bullard with Waste Management addressed the City Council and stated that increase reflected the increase in fuel cost the company had experienced. Finance Director Joyce Vasut stated that the increase would be \$0.39 per residential customer per month and \$0.51 per commercial hand pickup customer per month. She stated that the commercial dumpster customers would receive an increase of \$3-\$5 per month. Mr. Garza stated that the City would need to give the customers a 30 days notice for the increase. Mrs. Vasut stated that the adopted rate would be effective on May 11-June 11 billing cycle and be reflected on the July 1, 2005 utility bill. After some discussion, Councilmember Ray Linseisen made a motion to approve Ordinance No. 2005-004, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2005-004**

AN ORDINANCE AMENDING ORDINANCE NO. 1997-07 PASSED ON APRIL 28, 1997, WHICH WAS SUBSEQUENTLY AND PERIODICALLY AMENDED BY ORDINANCE No. 1998-08 PASSED APRIL 27, 1998, ORDINANCE NO. 2000-23 PASSED OCTOBER 9, 2000, ORDINANCE NO. 2001-11 PASSED AUGUST 27, 2001 AND ORDINANCE NO. 2002- PASSED SEPTEMBER 9, 2002.

BE IT ORDAINED by the City Council of the City of Wharton, Texas that:

Chapter 86, Utilities and Service be amended as follows:

Section I. Charges for City Collection (Article III, Solid Waste Disposal, Section 86-98):

SCHEDULE A

**CONTRACTOR'S CHARGE SCHEDULE FOR
COLLECTION AND DISPOSAL OF SOLID WASTE**

There is hereby charged and assessed against each person owning, managing, operating, leasing or renting any premises or any place where kitchen garbage accumulates within the city the following charges for collection and disposal of garbage, refuse, trash, rubbish and other accumulates:

- (1) For residential curbside service, a maximum of six 33-gallon trash bags per service two times per week with bulky waste/brush one time per week and a take all service for brush

pickup only, at a rate of \$13.96 per month paid to contractor plus a 2.8% increase of \$.39 for a new rate of \$14.35 paid to contractor plus the \$1.00 administration fee retained by the City for a total of \$15.35 per month.

- (2) For small business or professional shop (commercial hand collection) a maximum of ten 33-gallon trash bags per service two times per week, at a rate of \$18.07 per month paid to contractor plus a 2.8% increase of \$.51 for a new rate of \$18.58 paid to contractor plus the \$1.00 administration fee retained by the City for a total of \$19.58 per month.
- (3) For all commercial and industrial services requiring containers the following rates schedule (which includes the \$1.00 administrative fee that is retained by the City) will apply based on container size and frequency or service:

Container Size	Pickup Frequency per Week				
	1	2	3	4	5
2 cu. yd.	\$43.12	\$76.62	\$104.55	\$139.28	\$174.62
3 cu. yd.	\$64.76	\$115.14	\$157.01	\$209.50	\$266.13
4 cu. yd.	\$86.49	\$139.58	\$209.50	\$280.17	\$349.26
6 cu. yd.	\$107.36	\$203.83	\$305.76	\$407.69	\$509.62
8 cu. yd.	\$135.87	\$271.79	\$407.69	\$543.60	\$679.50

- (4) For roll off service provided through the city's solid waste contract the following rates shall apply:

Delivery Fee:	\$84.46
Monthly rental:	\$116.92
Pull price:	\$322.71
+ plus disposal fees divided by 94%	

- (5) Charges for special and other unusual residential and commercial accumulations shall be based upon a charge of \$54.69 per half hour plus disposal fees of \$8.58 per cubic yard. The city will not provide special pickup for commercial tree trimmers, commercial haulers or construction contractors.
- (6) For city services accounts (not subject to billing and franchise fees):

Sludge:	\$374.35/pull
City roll-offs (plus \$6.62/cubic yard disposal)	\$283.55/pull

Section II. That this ordinance shall become effective 30 days after City Council approval (May 11, 2005) and will, therefore, be reflected on the July 1, 2005 utility bill.

Section III. That this increase reflects a 2.8% fuel surcharge adjustment and shall be reviewed on an annual basis, one-year from the effective date of this ordinance.

PASSED AND APPROVED this 11th day of April 2005.

**CITY OF WHARTON
WHARTON COUNTY, TEXAS**

DONALD MUELLER
Mayor Pro-Tem

ATTEST:

LISA STAVENA
City Secretary

WASTE MANGEMENT OF SOUTHEAST TEXAS

Division President and General Manager

ATTEST:

Division Vice President - Operations
Councilmember David Samuelson seconded the motion. All voted in favor.

The thirteenth item on the agenda was review and consider a resolution of the City Council of Wharton, Texas, authorizing the submission of the 2005 Home Program Application to the Texas Department of Housing and Community Affairs for Home Funds; adopting the Home Program Guidelines; and authorizing the Mayor of the City of Wharton to act as the Designated Authorized Representative in all matter pertaining to the City's participation in the program. City Manager Andres Garza, Jr. stated that the City was moving forward with the 2005 Home Program. He then presented a draft resolution authorizing the submission of the application to the Texas Department of Housing and Community Affairs for Home Funds, adopting the program guidelines and authorizing the Mayor of the City of Wharton to act as the designated authorized representatives and a copy of the program guidelines. He stated that the City Staff's position had been that the City apply for reconstruction of homes, even though rehabilitation of homes were also eligible. He stated that the City Council Housing Committee met on Monday, April 11, 2005 to discuss the program and was recommending the reconstruction of homes. He stated that rehabilitation required elevation of the structure when improvements exceeded 50% of the structure value. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2005-15, which read as follows:

**CITYOF WHARTON
RESOLUTION NO. 2005 - 15**

A RESOLUTION OF THE CITY COUNCIL OF WHARTON, TEXAS, AUTHORIZING THE SUBMISSION OF THE 2005 HOME PROGRAM APPLICATION TO THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS FOR HOME FUNDS; ADOPTING THE HOME PROGRAM GUIDELINES; AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO ACT AS THE DESIGNATED AUTHORIZED REPRESENTATIVE IN ALL MATTERS PERTAINING TO THE CITY'S PARTICIPATION IN THE PROGRAM.

WHEREAS, the City Council of the City of Wharton, Texas, desires to develop a viable community, including decent housing and a suitable living environment principally for persons of low/moderate income; and

WHEREAS, certain substandard housing conditions exist which represent a health and safety threat to families residing in such structures; and

WHEREAS, the City Council of Wharton, Texas, supports the City's application for funding;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS:

1. That, a HOME application for HOME funds is hereby authorized to be filed on behalf of the City of Wharton with the Texas Department of Housing and Community Affairs.
2. That, the application be for \$495,000.00 of grant funds to carry out owner occupied housing reconstruction projects and eligible soft costs and \$19,800.00 for administration/operating funds.
3. That, the City adopt the Owner Occupied Assistance Program Design.
4. That, the City Council authorizes the Mayor of the City of Wharton to act as the City's Designated Authorized Representative to act in all manners in connection with the application and the City's participation in the HOME Program.
5. That, the City shall commit \$123,750.00 in the form of cash reserves for the general purpose to pay program costs before reimbursements are received from the State of Texas HOME Program.
6. That, the City shall contribute \$62,925.00 in the form of in-kind match for the purpose of demolition, clearance and/or disposal of waste for project units assisted through this program, connection of driveways to public streets, lot preparation, and/or the replacement of sewer lines, water lines, and sewer taps.

PASSED AND APPROVED this 11th day of April 2005.

CITY OF WHARTON

By: _____

Donald Mueller
Mayor Pro-Tem

Attest:

By: _____

Lisa Stavena

City Secretary

Councilmember David Samuelson seconded the motion. All voted in favor.

The fourteenth item on the agenda was review and consider an update of the Home Elevation Project. City Manager Andres Garza, Jr. stated that the City Staff had published the invitation to bid the Home Elevation Project for the fifth time. He stated that the bids were due to be opened on Thursday, April 21, 2005 at 2:30 p.m. He stated that currently, six (6) contractors had requested the bidder's package and the City Staff was working to locate other contractors who might be interested in the project. He then presented a copy of the letter dated March 31, 2005 from Mr. Steve Swango, Manager of the Office of Rural Community Affairs (ORCA) Community Development providing the Amendment No. 2 to the Contract No. 722067. He stated that the amendment did not include the provision that the City must execute a five-year forgivable loan with the property owners for ORCA's 25% match. He stated that the contract amendment also limits the elevation funds to include not more than three homes and lists the specific homes to be elevated. He stated that the projected date of completion would be July 30, 2005, and close out the project by August 31, 2005. After some discussion, no action was taken.

The fifteenth item was Executive Session: City Council may adjourn into an Executive Session in accordance with Section 551.072 of the Government Code, Revised Civil Statutes of Texas. Final action, decision or vote, if any with regard to any matter considered in Executive Session shall be made in Open Meeting.

A. Discussion: Acquisition of real property from Mr. and Mrs. Edward Guajardo; Hawes 5th, Block 40, Lot's 5, 6, & 7.

Mayor Pro-Tem Don Mueller adjourned into Executive Session at 7:50 p.m.

Mayor Pro-Tem Don Mueller returned to Open Session at 8:00 p.m.

The sixteenth item was Return to Open Session: Action on items discussed in Executive Session:

A. On the agenda was review and consider Acquisition of real property from Mr. and Mrs. Edward Guajardo; Hawes 5th, Block 40, Lot's 5, 6, & 7.

After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to authorize the City Staff to resubmit the original contract agreement amount to Mr. and Mrs. Edward Guajardo on Hawes 5th, Block 40, Lot's 5, 6, & 7 and allow Mr. and Mrs. Edward Guajardo to respond in writing within fourteen (14) days of receiving the notice. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The seventeenth item on the agenda was review and consider the City Council Committees, Boards and Commission's Reports:

- A. Wharton Regional Airport Board meeting held March 29, 2005.
- B. Public Works Committee meeting held March 31, 2005.
- C. Planning Commission meeting held April 4, 2005.
- D. Finance Committee Meeting held April 6, 2005.
- E. Wharton Economic Development Corporation meeting held April 6, 2005.

City of Wharton
Regular City Council Meeting
April 11, 2005

City Manager Andres Garza, Jr. presented the reports to the City Council. After some discussion, no action was taken.

The eighteenth item on the agenda was adjournment. After some discussion, Councilmember David Samuelson made a motion to adjourn. Councilmember Ken Freese seconded the motion. All voted in favor.

The meeting adjourned at 8:02 p.m.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

LISA STAVENA
City Secretary