

MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
MAY 9, 2005

Mayor Bryce D. Kocian declared a Regular Meeting duly open for the transaction of business at 7:02 P.M. Councilmember Ken Freese led the opening devotion and then Mayor Bryce D. Kocian led the pledge of allegiance.

Councilmembers present were: Mayor Bryce D. Kocian, Councilmembers V. L. Wiley, Jr., David Samuelson, Ken Freese, Don Mueller, and Ray Linseisen.

Councilmember absent was: Domingo Montalvo, Jr.

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 Assistant Lori Jaquez, Facilities Maintenance Director Bob Baker, and City Attorney Paul Webb.

Visitors present were: Benjamin Sharp with Wharton Journal Spectator, Carlos Cotton, David Schroeder, Lewis Fortenberry, Garland Mann, Glenn Eldert, David Allen, Debbie Allen, Jonathan Kulak, Jim Cockrell, and Louis 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. City Manager Andres Garza, Jr. stated that the Youth Activity Committee was conducting a car wash fundraiser for the Santa Fe Trail Project at Wal-Mart on Saturday, May 14, 2005.

Mayor Bryce D. Kocian then presented the National Nursing Home Week Proclamation. 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 April 11, 2005 and April 25, 2005 and the special meeting held April 18, 2005. After some discussion, Councilmember Don Mueller made a motion to approve the Wharton City Council minutes of the regular meetings held April 11, 2005 and April 25, 2005 and the special meeting held April 18, 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 request by Mr. Louis Edwards; 204 Mahan, Pecan Acres, Block 1, Lot 8 for a front property line setback variance and a interior side yard setback variance for the placement of a 20 feet x 23 feet carport. City Manager Andres Garza, Jr. presented a copy of the memorandum dated April 25, 2005 from Building Official

Ronnie Bollom concerning the 50% variance request by Mr. Louis Edwards; 204 Mahan, Pecan Acres, Block 1, Lot 8 for a front property line setback variance and a interior side yard setback variance for the placement of a 20 feet x 23 feet carport. He then presented a copy of the Application for Variance and photographs of Mr. Edwards' property. Building Official Assistant Lori Jaquez addressed the City Council and stated that the variance request would allow the placement of the carport on the fence line. She stated that Building Official Ronnie Bollom had indicated that the placement of the carport would not cause problems. Councilmember Don Mueller asked about the drainage. Mr. Louis Edwards addressed the City Council and stated that gutters would be installed on the carport in order for the drainage of rain water to run off would be diverted with the drainage to the front of the property. After some discussion, Councilmember Don Mueller made a motion to approve the request by Mr. Louis Edwards; 204 Mahan, Pecan Acres, Block 1, Lot 8 for a front property line setback variance and a interior side yard setback variance for the placement of a 20 feet x 23 feet carport. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The seventh on the agenda was review and consider the Wharton Regional Airport – Airport Development Plan and Proposed Airport Improvement Project. City Manager Andres Garza, Jr. stated that during the March 29, 2005 special meeting of the Airport Board, the Airport Board voted to meet with the Wharton City Council Finance Committee to discuss the proposed projects under the NPE grant program, Airport Terminal grant program, the Capital Improvement program, and other funding sources. He stated that those proposed projects included the construction of additional commercial hangar space, new terminal building, relocating the fuel farm, extending the runways and taxiways. He said the Airport Board met with the City Council Finance Committee on May 3, 2005 and discussed the project at length. He said that Board Chairman David Allen gave a power point presentation outlining the proposed projects. After the presentation, a discussion was held regarding the projects. The City Council Finance Committee Members requested the presentation be made to the City Council. Mr. Garza presented a copy of an email dated April 18, 2005 from Col. Ronald G. Fountain, Squadron Leader of the River Bend Squadron, West Texas Wing, CAF regarding locating to the Wharton Regional Airport. He stated that Col. Fountain had expressed his interest in Wharton Regional Airport and the need for a large hangar. He stated that he had received an email dated April 12, 2005 from Chief Pilot Ken Grantham of Turner Holdings outlining several suggestions for improvements that could be made at the airport. Airport Board Chairman Allen addressed the City Council and presented the power point presentation. He stated the sources of funding included NPE funding from 2003, 2004, and 2005, terminal building funding and other capital improvement funding totaling over \$1.88 million. This funding along with the \$100,000 from the Wharton Economic Development Corporation and additional funds from a proposed bond would allow for the following projects: runway end identifier lights (REILS) installation, drainage improvements, hangar construction of a corporate hangar, terminal building, automobile parking, relocation of fuel, aircraft apron extension, 500 foot runway extension, taxiway extension, and edge lighting system extension, as summarized below:

Project	Fiscal Year	Total Cost	State	Local Available	Local Needed
Drainage and REIL	2005-06	\$166,667	\$150,000	\$16,667	-
Hangar Construction	2005-06	316,667	216,667	100,000	-
Terminal Building	2006-07	445,000	222,500	-	222,500

Automobile Parking	2006-07	55,000	27,500	-	27,500
Relocation of Fuel Farm	2006-07	100,000	50,000	-	50,000
Aircraft Apron Expansion	2006-07	600,000	540,000	-	60,000
Runway, Taxiway & Lighting	2007-08	<u>750,000</u>	<u>675,000</u>	-	<u>75,000</u>
TOTALS		\$2,433,334	\$1,881,667	\$116,667	\$435,000

Mr. Allen also stated that the proposed projects would require \$435,000 of new bonds. He said the City could refinance 2000 Bond Fund balance of \$152,000 that was currently owed by the Airport, resulting in a total bond issue of approximately \$600,000. He stated that the pay-out would be approximately \$47,000 per year for 20 years. He further stated that the Airport currently paid approximately \$40,000 per year and the increase in bond payments would be an additional \$7,000 per year.

He stated that for 2 ½ million dollars of projects, it would cost the Airport fund an additional \$5,250 per year. He stated that the investment would be for economic development. City Manager Andres Garza, Jr. stated that if City Council approved the plan, then the City Staff would submit the required information to the State for its consideration. Mr. Glenn Erdelt addressed the City Council and publicly commended David Allen for all the time he put into developing this project. Mayor Bryce D. Kocian publicly thanked Mr. Allen for serving on the Airport Board. After some discussion, Councilmember David Samuelson made a motion to approve the Wharton Regional Airport Board's recommendation for the Airport Development Plan and proposed Airport Improvement Projects, which consisted of refinancing the 2000 Bond Fund balance, issuing of new bond funds, and notifying the State of the City's desire to participate in the available grant programs. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The eighth item on the agenda was review and consider aggregated electrical service for City facilities. City Manager Andres Garza, Jr. stated that the City of Wharton was a member of the Governmental Aggregation Project (GAP), which was formed to purchase electric service. He stated that the group had requested bids for electrical service that would be received Tuesday, May 10, 2005. He stated that the contract would be provided to the City on Wednesday, May 11, 2005 for execution. He stated that he was requesting City Council authorization to execute the recommended contract if the City Staff felt it would be beneficial to the City. He stated that he would then present the contract to the City Council during the May 23, 2005 City Council meeting for ratification. He stated that the City Staff would look at the best rate for 1, 2 or 3 years. After some discussion, Councilmember Ray Linseisen made a motion to authorize the City Manager authorize to execute the recommended contract for aggregated electrical service for City facilities. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The ninth 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. presented Mr. Jonathan Kulak's proposal for a residential development on FM 3012 to the City Council. He introduced Mr. Kulak and stated that Mr. Kulak had not been able to attend the last two City Council meetings to present his proposal. Mr. Jonathan Kulak addressed the City Council and stated that he met with the Public Works Committee and was requesting the residential development agreement be approved

with a \$50.00 per linear foot reimbursement for approximately 1500 linear feet of front lot lines. He stated that the reimbursement would be approximately \$75,000. He stated that the repayment would be paid in 17 individual payments as each house was sold and approved for occupancy by the City of Wharton Building Official. He stated that the homes would be valued at \$130,000 to \$170,000. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the proposal for residential development incentive reimbursement submitted by Mr. Jonathan Kulak for a proposed subdivision to be located on FM 3012. Councilmember David Samuelson seconded the motion. All voted in favor.

The tenth item on the agenda was review and consider a resolution of the Wharton City Council establishing a Citizen's Police Academy to be conducted by the City of Wharton Police Department. City Manager Andres Garza, Jr. stated that at the March 5, 2005, Strategic Planning meeting, Chief Tim Guin presented a proposed Citizen's Police Academy that he felt would be a tool for the Police Department to improve communications with citizens. He stated that the program framework had been completed and the Department was requesting the City Council's authorization to implement the program. He then presented a copy of the memorandum dated May 5, 2005 from Police Chief Tim Guin regarding the Citizen's Police Academy. He stated that as Chief Guin's letter stated, the Citizen's Police Academy was a police department interactive program designed to educate the public about the criminal justice system and ways to reduce crime. He stated that Captain Richard Coleman would make a power point presentation on the proposed program. He then presented a draft resolution establishing a Citizen's Police Academy. Police Captain Richard Coleman addressed the City Council and publicly thanked City Secretary Lisa Stavena and Finance Director Joyce Vasut for their time contributed to the program. He stated that the instructors would be City Staff. He then gave the presentation regarding the Citizens Police Academy to the City Council. After some discussion, Councilmember Ray Linseisen made a motion to approve Resolution No. 2005-22, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2005-22**

A RESOLUTION OF THE WHARTON CITY COUNCIL ESTABLISHING A CITIZEN'S POLICE ACADEMY TO BE CONDUCTED BY THE CITY OF WHARTON POLICE DEPARTMENT.

WHEREAS, the Wharton City Council has determined that there was a need to bring awareness to the citizens of Wharton regarding the criminal justice system and ways to reduce crime; and

WHEREAS, the Wharton City Council wishes to establish a Citizen's Police Academy; and

WHEREAS, the Citizen's Police Academy would be an interactive Police Department Program whose main purpose would be to provide public information on the management of the Police Department and policies and procedures, through a series of classes that would be instructed by Police Officers; and

WHEREAS, the Citizen's would be educated in the officer selection process, officer training, the duties of the uniformed patrol officer, investigation skills, tactical operations, canine unit, firearms safety, vice and narcotics, communications, crime scene search, crime prevention, and a ride along thus allowing the graduates of the academy to become better-informed citizens.

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

Section I. The Wharton City Council hereby establishes a Citizen's Police Academy to be conducted by the Wharton Police Department to better educated the citizens of the City of Wharton in the criminal justice system and ways to reduce crime.

Section II. That this resolution shall be come effective immediately upon its passage.

Passed, Approved, and Adopted this 9th day of May 2005.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

LISA STAVENA

City Secretary

Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The eleventh item on the agenda was review and consider the Wharton Municipal Pool Schedule for 2005. City Manager Andres Garza, Jr. presented a copy of the memorandum dated May 3, 2005 from Facilities Maintenance Director Bob Baker regarding the Wharton Municipal Pool Schedule for 2005. He then presented a copy of the pool schedule, season pass form, application for swimming lessons, rental form terms and conditions, application for season pass and a water aerobic consent form with the opening date of May 31, 2005 pending completion of the repairs to the Wharton Municipal Pool Project. Facilities Maintenance Director Bob Baker addressed the City Council and stated that Kayla Bollom and Jim Cody would serve as the Pool Managers. After some discussion, Councilmember Ken Freese made a motion to approve the Wharton Municipal Pool Schedule for 2005. Councilmember David Samuelson seconded the motion. All voted in favor.

The twelfth item on the agenda was review and consider appointment to the Building Standards Commission. City Manager Andres Garza, Jr. stated that there was currently a vacant position in the Building Standards Commission, which the City Council would be able to make an appointment at this time. After some discussion, Councilmember Ray Linseisen made a motion to appoint Paul Fertsch to the Building Standards Commission. Councilmember Don Mueller

seconded the motion. Councilmembers David Samuelson, Ken Freese, Don Mueller, and Ray Linseisen voted for the motion. Councilmember V. L. Wiley, Jr. voted against the motion. The motion carried. Councilmember V. L. Wiley, Jr. stated that he selected Louis Edwards and City Staff Ronnie Bollom selected Paul Fertch; therefore councilmember's selection should take precedence over a Staff member. City Attorney Paul Webb stated that any councilmember could make a motion with anyone making a recommendation. Councilmember V. L. Wiley, Jr. requested that City of Wharton obtain an Attorney General opinion due to the conflict of interest since both Building Official Ronnie Bollom and Paul Fertch were school board members. City Attorney Paul Webb stated that he would request an Attorney General's Opinion if directed by the City Council.

The thirteenth item on the agenda was review and consider City of Wharton Construction Projects:

A. Waterline and Sanitary Sewer Replacement Project – Uticon, Ltd., Pay Request No. 3. City Manager Andres Garza, Jr. presented a copy of the Pay Request No. 3 for Uticon, Ltd. for the City of Wharton Waterline and Sanitary Sewer Replacement Project. After some discussion, Councilmember Don Mueller made a motion to approve the Waterline and Sanitary Sewer Replacement Project – Uticon, Ltd., Pay Request No. 3 in the amount of \$90,218.61. Councilmember Ray Linseisen seconded the motion. All voted in favor.

B. Richmond Road Sanitary Sewer Rehabilitation Project – rePipe Texas, Inc., Change Order No. 2.

City Manager Andres Garza, Jr. presented a copy of the Change Order No. 2 for rePipe, Texas, Inc. for the City of Wharton Richmond Road Sanitary Sewer Rehabilitation Project. After some discussion, Councilmember Don Mueller made a motion to approve Richmond Road Sanitary Sewer Rehabilitation Project – rePipe Texas, Inc., Change Order No. 2 for installation of the twelve-inch (12") cured-in-place liner from the ten-inch (10") cured-in-place liner in the amount of \$3,192.00. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The fourteenth item on the agenda 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. A. Discussion: Acquisition of right-of-way from Hawes Estate for the Ahldag Addition drainage project.

Mayor Pro-Tem Don Mueller adjourned into Executive Session at 8:10 p.m.
Mayor Pro-Tem Don Mueller returned to Open Session at 8:36 p.m.

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

A. Review and consider: Acquisition of right-of-way from Hawes Estate for the Ahldag Addition drainage project.
No action was taken.

The sixteenth item on the agenda was review and consider an ordinance declaring a public necessity for the acquisition of fee simple title to 5.14 acres of land, out of Tract 55 and 56C, William Kincheloe League, Abstract 38, Wharton, Wharton County, Texas, as conveyed to the Hawes Family Estate, for a public purpose, namely the acquisition, improvement and maintenance of the Ahldag Addition Drainage Outfall Project; and authorizing the City Attorney and the Law Offices of Davidson & Troilo, A Professional Corporation, to file eminent domain proceedings; Ratifying and Affirming all prior acts and proceedings done or initiated by Attorneys and Employees of the City to acquire such property; Authorizing all other lawful action necessary or incidental to such acquisitions or eminent domain proceedings. City Manager Andres Garza, Jr. presented the public purpose ordinance for the acquisition of the property. After some discussion, Councilmember David Samuelson made a motion to approve Ordinance No. 2005-05, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2005-05**

AN ORDINANCE DECLARING A PUBLIC NECESSITY FOR THE ACQUISITION OF FEE SIMPLE TITLE TO 5.14 ACRES OF LAND, OUT OF TRACT 55 AND 56C, WILLIAM KINCHELOE LEAGUE, ABSTRACT 38, WHARTON, WHARTON COUNTY, TEXAS, AS CONVEYED TO THE HAWES FAMILY ESTATE, FOR A PUBLIC PURPOSE, NAMELY THE ACQUISITION, IMPROVEMENT AND MAINTENANCE OF THE AHLDAG ADDITION DRAINAGE OUTFALL PROJECT; AND AUTHORIZING THE CITY ATTORNEY AND THE LAW OFFICES OF DAVIDSON & TROILO, A PROFESSIONAL CORPORATION, TO FILE EMINENT DOMAIN PROCEEDINGS; RATIFYING AND AFFIRMING ALL PRIOR ACTS AND PROCEEDINGS DONE OR INITIATED BY ATTORNEYS AND EMPLOYEES OF THE CITY TO ACQUIRE SUCH PROPERTY; AUTHORIZING ALL OTHER LAWFUL ACTION NECESSARY OR INCIDENTAL TO SUCH ACQUISITION OR EMINENT DOMAIN PROCEEDINGS.

BE IT ORDAINED BY THE WHARTON CITY COUNCIL:

SECTION 1. A public necessity is hereby declared for the City of Wharton to acquire fee simple title to certain privately owned real property of the Hawes Family Estate, (Estate of Edwin Hawes III, Steve Calhoun Hawes Trust, Gayle Ann Hawes Le Master Trust, Joan Grace Hawes Trust, and Barbara L. Hawes Trust), for the purpose of drainage improvements for the City of Wharton's Ahldag Addition Drainage Outfall Project located in District 2 of the City of Wharton, Wharton County, Texas. Said parcel is generally described as follows:

5.14 acres of land, out of Tract 55 and 56C, William Kincheloe League, Abstract 38, Wharton, Wharton County, Texas, bordered on the northeast by Baughman Slough, on the northwest by North Fulton Street, on the southeast by Junior College Blvd. (Lee's Lane) and is bordered on the southwest by the Rust Subdivision and is situated on the northeastern city limits of the City of Wharton. The subject strip of land that is about 460 feet northwest of Junior College Blvd, and starting at the northeastern edge of the Rust S/D and extending northeastward to Baughman Slough as shown in the attached "Exhibit A".

SECTION 2. In the event that the City staff is unable to acquire the property by negotiation by reason of its inability to agree with the owners thereof as to the value of the parcel, or is unable to acquire the parcel for any other reason, the City Manager, through the City Attorney and/or designated special counsel under the direction of the City Attorney, are hereby authorized and directed to institute and prosecute to conclusion all necessary proceedings to condemn the property. The City Attorney is hereby authorized to retain the services of the law firm of Davidson & Troilo, P.C. as special counsel as may be needed from time to time and to pay for the services rendered from any appropriations as may be made for the purpose.

SECTION 3. The prior actions and efforts of City Officials to negotiate the purchase of the necessary right-of-way and the steps taken to initiate and prosecute acquisition of the property are hereby ratified and affirmed.

SECTION 4. It is officially found, determined and declared that the meeting at which this Ordinance is adopted was open to the public, and that public notice of the time, place and subject matter of the public business to be conducted at such meeting, including this Ordinance, was given to all as required by the Texas Code Annotated, as amended, Title 5, Chapter 551, Government Code.

SECTION 5. If any part, section, paragraph, sentence, phrase, or word of this Ordinance is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this Ordinance shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid, or ineffective.

SECTION 6. This Ordinance shall be effective on the Friday, May 20, 2005 at 12:01 a.m.

PASSED AND APPROVED this the 9th day of May 2005.

CITY OF WHARTON

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

LISA STAVENA
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

Councilmember Ken Freese seconded the motion. All voted in favor.

The seventeenth item on the agenda was review and consider an Update on the Home Elevation Project. City Manager Andres Garza, Jr. stated that on Monday, May 2, 2005, members of the City Staff and himself had met with the three participants of the Home Elevation Project and informed them of the bids that were received regarding their homes. He stated that he had informed them of the series of contracts that were required to be executed to conduct the elevation of the two homes that received bids, which were located at 1908 MLK Blvd. and 515 Wilkes. He said that the home that was located on 1607 Columbine did not receive a bid from the contractor, Village Foundation Repair. He said that he met with Mr. Kevin Keating of Village Foundation Repair along with the Project Engineer Ms. Martha Juch, P.E., Building Official Ronnie Bollom, and Ms. Mary Foote of Unovate Environmental to discuss the project. He stated that in the meeting with the contractor, the contractor submitted a draft foundation plan that he would use for the homes to be elevated. He stated that Ms. Juch had submitted the plan to the Governor's Division of Emergency Management for their review and approval. He said that the City Staff was expecting all contracts to be executed by May 15th. He also said that in an effort to obtain a bid for the home located at 1607 Columbine, the City Staff published an invitation to bid, which the bids were due on May 20, 2005 at 10:00 a.m. with a non mandatory pre-bid conference scheduled for May 9, 2005 at 2:00 p.m. He stated that he had advised the property owner that if no bids were received, then the City would not be obligated to elevate the home. After some discussion, no action was taken.

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

- A. Wharton Regional Airport Board meeting held May 3, 2005.
- B. Finance Committee meeting held May 3, 2005.

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

The nineteenth item on the agenda was adjournment. After some discussion, Councilmember Don Mueller made a motion to adjourn. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The meeting adjourned at 8:38 p.m.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

City of Wharton
Regular City Council Meeting
May 9, 2005

LISA STAVENA
City Secretary