

MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
FEBRUARY 27, 2006

Mayor Bryce D. Kocian declared a Regular Meeting duly open for the transaction of business at 7:02 P.M. Councilmember V. L. Wiley, Jr. 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, and Don Mueller.

Councilmember absent was: Ken Freese, Domingo Montalvo, Jr. and Ray Linseisen.

Staff members present were: City Manager Andres Garza, Jr., Finance Director Joyce Vasut, Assistant to City Manager Jackie Jansky, Public Works Director Phil Bush, Planning Director Prudencio Arriaga, Sr., EMS Director John Kowalik, and City Attorney Paul Webb.

Visitors present were: Benjamin Sharp with Wharton Journal Spectator, David Schroeder, Lewis Fortenberry, Steve Van Manning, Stephanie Kutach, Leroy Dettling, Mary Nell Wiley, Carlos Cotton, Paul Scallon, Susan Scallon, Michael Siwerka, Dr. Albert Carothers, and Dean Gilmore.

The second item on the agenda was Roll Call and Excused Absences. Councilmember V. L. Wiley, Jr. made a motion to excuse the absence of Councilmember Ken Freese, Domingo Montalvo, Jr., and Ray Linseisen from the Regular City Council meeting held February 27, 2006. Councilmember David Samuelson seconded the motion. All voted in favor.

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

The fourth item on the agenda was the Wharton Moment. Mayor Bryce D. Kocian invited the public to attend that Wharton County Junior College Lecture that would be provided by Fred Zieman. He said the lecture would be held on March 2, 2006 at the Fine Arts Theater.

Mayor Bryce D. Kocian then presented the Black History month proclamation to Dr. Albert Carothers. No action was taken.

The fifth item on the agenda was to review and consider the City of Wharton financial report for the month of January 2006. Finance Director Joyce Vasut presented the financial report for the month of January 2006 and stated that the fiscal year was at 33%. Mrs. Vasut stated that the general fund revenues were at 45.04% and the expenditures were at 33.36%. The total ad valorem taxes collected were \$1,320,922. The sales tax for the month of December 2005 was

\$180,057 with \$120,038 to the City and \$60,019 to WEDCo. The TexPool balance for January 2006 was \$1,810,056.40 with an average monthly yield of 4.2714%. The bank balance was \$575,267.55. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the City of Wharton Financial Report for the month of January 2006. Councilmember Don Mueller seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider the over 50% variance request by Mr. Leroy E. Dettling for an interior side yard property line setback variance for the construction of an 11' x 22' addition to the existing garage located at 801 Pecan Street, Barbee, Block 1, Lots 11B and 12. City Manager Andres Garza, Jr. presented a copy of the memorandum dated February 14, 2006 from Planning Director Prudencio V. Arriaga, Sr. regarding the over 50% variance request. He also presented a copy of the application for variance submitted by Mr. Dettling and a copy of a plat indicating the location of the property. Mr. Dean Gilmore, contractor for Leroy Dettling, addressed the City Council and stated that the pitch of the roof would be the same as the existing structure and the runoff would not shed on the adjacent property. After some discussion, Councilmember David Samuelson made a motion to approve the over 50% variance request by Mr. Leroy E. Dettling for an interior side yard property line setback variance for the construction of an 11' x 22' addition to the existing garage located at 801 Pecan Street, Barbee, Block 1, Lots 11B and 12. Councilmember Don Mueller seconded the motion. All voted in favor.

The seventh item discussed on the agenda was to review and consider a resolution of the Wharton City Council authorizing early turnover and additional penalty on Delinquent Personal Property Taxes under Tex. Tax Code Section 33.11. City Manager Andres Garza, Jr. presented a copy of the letter dated January 21, 2006 from Mr. Michael J. Siwierka and Damon Edwards, Attorney's at Law for Linebarger Goggan Blair & Sampson, LLP, the City's delinquent tax attorneys, requesting the City Council approve a resolution authorizing early turnover and additional penalty on Delinquent Personal Property Taxes under Tex. Tax Code Section 33.11. He said that as Mr. Siwierka stated in his letter, the adoption of the resolution would result in an increase of delinquent tax collections by allowing the collections to begin in early April rather than July 1st of each year. He then presented a copy of the draft resolution authorizing early turnover and additional penalty on Delinquent Personal Property Taxes under Tex. Tax Code Section 33.11. Mr. Michael Siwierka addressed the City Council and stated that legislation created new law to assist schools with changes in the collection date from July 1st to April 1st; however, the City could take advantage of the change. He stated that the majority of delinquent accounts would still be presented to the firms for collection on July 1st since the new law only affected personal property, which was less than 5% of the total property. After some discussion, Councilmember David Samuelson made a motion to approve Resolution No. 2006-21, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2006-21**

**A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING EARLY
TURNOVER AND ADDITIONAL PENALTY ON DELINQUENT PERSONAL
PROPERTY TAXES UNDER TEX. TAX CODE SECTION 33.11.**

WHEREAS, The City of Wharton wishes to defray its cost of collection, as authorized by Tex. Tax Code §33.11, that it incurs under a contract for collection of delinquent property taxes between said County and a private law firm entered into pursuant to Tex. Tax Code §6.30; and

WHEREAS, Under said Section 33.11, the governing body of the City of Wharton is empowered to authorize the addition of a collection penalty in an amount that does not exceed the amount of the compensation specified in the contract with the private law firm; and

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

Section I. The Recitals set forth in this resolution are true and correct.

Section II. An additional penalty on delinquent taxes for tax years 2005 and subsequent years is hereby authorized and imposed, as provided by Section 33.11, Texas Tax Code, in the amount previously adopted by the City of Wharton as set out by Section 33.07, Texas Tax Code, of the delinquent tax, penalty and interest if the tax becomes delinquent on February 1 of a year and remains delinquent on the 60th day thereafter.

Section III: That this resolution shall become effective immediately upon its passage.

Passed, Approved, and Adopted this 13th day of February 2006.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

RHONDA CLAYTON

Deputy City Secretary

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

The eighth item discussed on the agenda was to review and consider the City of Wharton Annual Financial Report for Fiscal Year October 1, 2004 to September 30, 2005 by Harrison, Waldrop & Uherek, L.L.P. City Manager Andres Garza, Jr. stated that under separate cover, a draft copy of the City of Wharton Annual Financial Report for fiscal year October 1, 2004 to September 30, 2005 by Harrison, Waldrop & Uherek, L.L.P. was presented to City Council. He stated that on February 21, 2006, the report was presented to the City Council Finance Committee for their review. Mr. Steve Van Manning addressed the City Council and stated that the financial statements had been prepared in accordance with Generally Accepted Accounting Principals

(GAAP). He stated that the City maintained effective budgeting controls, with the objective to ensure compliance with legal provisions embodied in the annual budget, City Charter, and state law. He stated that the report was prepared in compliance with the legal requirement set forth by Section 31 of the Charter of City of Wharton, Texas, as amended. He stated that the the City received the Certificate of Achievement for Excellence in Financial Report for its comprehensive annual financial reports for the past fourteen years. He stated that Harrison, Waldrop & Uherek, L.L.P. was providing an unqualified opinion. After some discussion, Councilmember David Samuelson made a motion to approve the City of Wharton Annual Financial Report for Fiscal Year October 1, 2004 to September 30, 2005 by Harrison, Waldrop & Uherek, L.L.P. Councilmember Don Mueller seconded the motion. All voted in favor.

The ninth item discussed on the agenda was Executive Session: City Council may adjourn into an Executive Session in accordance with Section 551.074 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: The evaluation of City Manager and Finance Director regarding the City's financial matters.

The tenth item on the agenda 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 estate from Mr. Benedict Hundl for the Santa Fe Drainage Outfall Channel Project.

B. Discussion: Acquisition of real estate from Mr. Wilbert C. Hundl and Albina Hundl for the Santa Fe Drainage Outfall Channel Project.

C. Discussion: Acquisition of real estate from Mr. Bernard Svatek for the Santa Fe Drainage Outfall Channel Project.

Mayor Bryce D. Kocian adjourned into Executive Session at 7:31 p.m.

Mayor Bryce D. Kocian returned to Open Session at 8:20 p.m.

The eleventh item discussed on the agenda was Return to Open Session: Action on items discussed in Executive Session:

A. Return to Open Session: The evaluation of City Manager and Finance Director regarding the City's financial matters.

Mayor Bryce D. Kocian stated that no action would be taken.

The twelfth item on the agenda was Return to Open Meeting: Action on items discussed in executive session:

A. Review & Consider: Acquisition of real estate from Mr. Benedict Hundl for the Santa Fe Drainage Outfall Channel Project.

B. Review & Consider: Acquisition of real estate from Mr. Wilbert C. Hundl and Albina Hundl for the Santa Fe Drainage Outfall Channel Project.

C. Review & Consider: Acquisition of real estate from Mr. Bernard Svatek for the Santa Fe Drainage Outfall Channel Project.

Mayor Bryce D. Kocian stated that no action would be taken.

The thirteenth item discussed on the agenda was the City of Wharton Parks Master Plan:

A. Presentation.

Mr. Paul Scallon of the Lower Colorado River Authority (LCRA) presented the proposed City of Wharton Parks Master Plan. He stated that the key concepts was to improve the existing parks and develop three new parks that would consist of the boat ramp, sports complex, and the railroad depot. No action was taken.

B. **Resolution:** A resolution of the Wharton City Council approving the City of Wharton Parks Master Plan.

City Manager Andres Garza, Jr. presented a copy of the memorandum dated February 10, 2006 regarding the proposed City of Wharton Parks Master Plan as approved by the Parks Planning Committee. He stated that during the June 14, 2004 regular Wharton City Council meeting, the City Council appointed a Parks Planning Committee to work in conjunction with the City Staff and LCRA Staff to develop a Parks Master Plan to be utilized in improving the City's park system. The Committee and City Staff, working with Mr. Paul Scallon of LCRA had developed the proposed plan. He then presented a copy of the resolution. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve Resolution No. 2006-22, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2006 - 22**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE CITY OF WHARTON PARKS MASTER PLANS.

WHEREAS, A need existed to develop a plan for the development and/or improvement of the City of Wharton's current park system; and

WHEREAS, On June 14, 2004, the Wharton City Council appointed a Parks Planning Committee to work in conjunction with the City Staff and the Lower Colorado River Authority to develop a Parks Master Plan; and

WHEREAS, The Wharton City Council wishes to approve the City of Wharton Parks Master Plan.

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

Section I. That the Wharton City Council hereby approves the City of Wharton Parks Master Plan.

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

Passed, Approved, and Adopted this the 27th day of February 2006.

CITY OF WHARTON

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

RHONDA CLAYTON

Deputy City Secretary

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

The fourteenth item on the agenda was to review and consider the construction of the Parking Lot for the City of Wharton Santa Fe Trail Project. City Manager Andres Garza, Jr. stated that during the February 13, 2006 City Council meeting, the City Staff was authorized to proceed with certain construction aspects of the project. He said that one of the projects included the construction of the parking lot. He said that the plans and specifications called for the parking lot to be constructed of concrete; however, the City Staff was requesting that the City Council authorize the construction of the parking lot to be of asphalt materials. Public Works Director Phil Bush stated that the parking lot could be constructed with limestone and asphalt. He stated that the parking lot could also be curb and gutter. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the construction of the Parking Lot with asphalt materials for the City of Wharton Santa Fe Trail Project. Councilmember David Samuelson seconded the motion. All voted in favor.

The fifteenth item on the agenda was to review and consider a resolution of the Wharton City Council approving an agreement with Houston Pipe Line Company LP Edna – Texas City for the Santa Fe Drainage Outfall Project and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. presented a copy of the letter dated February 13, 2006 to Mr. Carlos P. Cotton, P.E. of Jones & Carter, Inc. from Mr. Michael R. McMullen, Right of Way Agent for the Houston Pipe Line Company LP providing the City with a copy of the agreement for the relocation of the pipeline for the Santa Fe Drainage Outfall Channel Project. He also presented a copy of a draft resolution authorizing Mayor Bryce D. Kocian to execute the agreement. He said that the cost to relocate the line was \$235,772.00. He said that Mr. Cotton had reviewed the contract and drawings provided by Houston Pipe Line and had determined that they were in compliance with the specifications calculated by Jones & Carter, Inc. for the project. He stated that City Attorney Paul Webb had reviewed the contract. Mr. Carlos Cotton addressed the City Council and stated that the project would be completed in three months. After some discussion, Councilmember Don Mueller made a motion to approve Resolution No. 2006-23, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2006 - 23**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN AGREEMENT WITH HOUSTON PIPE LINE COMPANY LP'S EDNA – TEXAS CITY FOR THE SANTA FE DRAINAGE OUTFALL PROJECT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

