

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
MAY 27, 2008**

Mayor David W. Samuelson declared a Regular Meeting duly open for the transaction of business at 7:00 P.M. Mayor Samuelson led the opening devotion and then led the pledge of allegiance.

Councilmembers present were: Mayor David W. Samuelson, Councilmembers V. L. Wiley, Jr., Lewis Fortenberry, Jr., Ken Freese, Domingo Montalvo, Jr., and Jeff Gubbels.

Councilmember absent was: Don Mueller.

Staff members present were: City Manager Andres Garza, Jr., Finance Director Joyce Vasut, City Secretary Lisa Olmeda, Assistant to City Manager Jackie Jansky, Public Works Director Carter Miska and City Attorney Paul Webb.

Visitors present were: David Schroeder with Wharton Economic Development Corporation, Carlos Cotton with Jones & Carter, Ron Sanders with Wharton Chamber of Commerce & Agriculture, David Copeland, Louis Edwards, and Mark Wooldridge.

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 Don Mueller from the Regular City Council Meeting held May 27, 2008. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The third item on the agenda was Public Comments. Mr. David Copeland addressed the City Council and stated that services extended to the citizens of Wharton should be customer service. He stated that he received a letter from Public Works Director Carter Miska regarding the trees in front of his residence that had branches lower than 14 feet. He stated that the letter stated that the 14 feet clearance would allow the solid waste trucks to move safely and easily. He stated if a fire truck could maneuver around the trees, then the solid waste trucks should do the same. He said that the City would remedy the condition if he did not cut the tree limbs. He said if someone took the City to court regarding this matter, then what documentation would the City provide to show how the tree limbs were measured and from what device measured and were photos taken of the violation. He also said that the Police Officers lack customer service training. No action was taken.

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

The fifth item on the agenda was to review and consider the appointment for Mayor Pro-Tem. After some discussion, Councilmember Ken Freese made a motion to appoint Don Mueller as Mayor Pro-Tem. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider the City of Wharton Financial Report for the month of April 2008. Finance Director Joyce Vasut presented the financial report for the month of April 2008 and stated that the fiscal year was at 58%. Mrs. Vasut stated that the general fund revenues were at 66.12% and the expenditures were at 55.23%. The total ad valorem taxes collected were \$1,826,902. The sales tax for the month of March 2008 was \$175,230 with \$116,820 to the City and \$58,140 to WEDC. The Franklin bank balance for April 2008 was \$1,665,776.96 with an average monthly yield of 3.0%. TexPool balance for April 2008 was \$524,377.54 with an average monthly yield of 2.4471%. After some discussion, Councilmember Ken Freese made a motion to approve the City of Wharton Financial Report for the month of April 2008. Councilmember Jeff Gubbels seconded the motion. All voted in favor.

The seventh item on the agenda was the Report: Progress report by Mr. Ron Sanders, Executive Director of the Chamber of Commerce & Agriculture. City Manager Andres Garza, Jr. stated that Wharton Chamber of Commerce & Agriculture Executive Director Ron Sanders requested to be placed on the Wharton City Council agenda in order to provide a progress report concerning the Chamber of Commerce activities. Mr. Ron Sanders addressed the City Council and publicly invited the City Councilmembers to attend the Chamber Breakfast on June 10, 2008 with speaker Sara Page from LCRA. He then presented complimentary tickets to City Council for the event. He said that the Chamber of Commerce & Agriculture was the front door of Wharton. He said that the Chamber acted as the greeting committee and the go to place for people. He stated that an Electric Coalition was formed with 32 local businesses. He then presented a new brochure for marketing the Civic Center. He stated that a Bridal Show and a Job Fair was held at the Civic Center. He said on June 24, 2008 an Emergency Preparedness Expo would be held. He said that a new logo was designed with the courthouse to unite the community instead of a bridge that divides. He then presented City Council with the Texas Highway Magazine to provide the Council with the article that was written about Wharton in the issue. He then stated that the website was 75% complete, which Mr. Jeremy Hyde of Web Unlimited, was designing. He stated that the George Bush Library was one of Mr. Hyde's clients. He stated that the mission of the Chamber of Commerce & Agriculture, as an advocate of Wharton, was to provide a better place to live, work and visit. After some discussion, no action was taken.

The eighth item on the agenda was to review and consider the request by Mr. Curtis Evans of Wharton Wave and Track Club for the following:

- A. Use of Pleasure Park for a Softball Tournament to be held June 27, 2008 through June 29, 2008.
- B. Waive applicable fees for the following:
 1. Use of Pleasure Park.
 2. Temporary permit for Possession/Consumption of Alcoholic Beverages in City Parks.
- C. Authorization to park a recreational vehicle in Pleasure Park parking lot.

City Manager Andres Garza, Jr. stated that the Wharton Wave Softball Team would be participating in the annual Freedom Fest Event by conducting the annual softball tournament scheduled for June 27 – 29, 2008 in Pleasure Park. He then presented a copy of the email dated May 22, 2008 from Mr. Curtis Evans providing his request. He also presented a copy of the Softball Field Reservation Form and the required application form for the temporary permit for the possession of alcoholic beverages. He said that he was authorized to approve the temporary permit for alcoholic beverages; however, the City Council could consider waiving the fee for the permit. He said that additionally, there would be some participants in the tournament who would be traveling from out of town and were requesting to park their recreational vehicles in the Pleasure Park parking lot. He then presented a copy of the memorandum dated May 14, 2008 from Police Chief Tim Guin with his recommendation regarding the application submitted by Mr. Curtis Evans for the permit for the possession/consumption of alcoholic beverages in City Parks. He said that Chief Guin indicated in his memorandum that the application appeared to comply with the City of Wharton Ordinance No. 2002-22. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the request by Mr. Curtis Evans of Wharton Wave and Track Club for the use of Pleasure Park for a Softball Tournament to be held June 27, 2008 through June 29, 2008; waive applicable fees for the use of Pleasure Park, and the temporary permit for Possession/Consumption of Alcoholic Beverages in City Parks; and authorization to park a recreational vehicle in Pleasure Park parking lot. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider the request by Mr. Brandon Cruz on behalf of the Wharton Masonic Lodge #621 for the following:

- A. Use of Riverfront Park to hold a Bar-b-que Cook-off Friday, July 25, 2008 through Saturday, July 26, 2008.
- B. Variance from the City of Wharton Code of Ordinances, Chapter 54 Parks and Recreation, Section 54-2 Operating or parking motor vehicles in parks.
- C. Variance for the City of Wharton Code of Ordinances, Chapter 54 Parks and Recreation, Section 54-7 Hours of use of city parks.
- D. Waive applicable fees for the following:
 1. Use of Riverfront Park.
 2. Temporary permit for Possession/Consumption of Alcoholic Beverages in City Parks.

City Manager Andres Garza, Jr. stated that Mr. Brandon Cruz, on behalf of the Wharton Masonic Lodge #621, was requesting to hold the third annual Bar-b-que cook-off on July 25 – 26, 2008 in Riverfront Park. He said that the Cook-off was being held to raise funds for scholarships to Wharton County Junior College. He then presented a copy of Mr. Cruz's letter dated May 12, 2008 providing his request. Mr. Cruz addressed the City Council and stated that the Wharton Masonic Lodge #621 was requesting the waiver of the fees since the funds raised was for scholarships to Wharton County Junior College. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the request by Mr. Brandon Cruz on behalf of the Wharton Masonic Lodge #621 for the use of Riverfront Park to hold a Bar-b-que Cook-off Friday, July 25, 2008 through Saturday, July 26, 2008; variance from the City of Wharton Code of Ordinances, Chapter 54 Parks and Recreation, Section 54-2 Operating or parking motor vehicles in parks; variance for the City of Wharton Code of Ordinances, Chapter 54 Parks and Recreation, Section 54-7 Hours of use of city parks; and waiver of applicable fees for the use of

Riverfront Park and the temporary permit for Possession/Consumption of Alcoholic Beverages in City Parks. Councilmember Ken Freese seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider an ordinance amending the City of Wharton Code of Ordinances, Chapter 82 Traffic, Article IV. Parking, Section 82-132 No Parking Zones – All Times and Section 82-134 No Standing/No Stopping Zones; Providing that a violation of the ordinance or any part of the Code as adopted hereby shall constitute a penalty upon conviction of a fine; providing for severability and setting an effective date. City Manager Andres Garza, Jr. presented a copy of the letter dated May 6, 2008 from Mr. Mark D. Wooldridge, P.E., Area Engineer for the Texas Department of Transportation (TxDOT) providing his request for the City Council to consider amending the City of Wharton Code of Ordinances to include no parking and no standing provisions along the newly constructed access roads to US Highway 59 off of FM 102. He also presented a copy of the drawing provided by Mr. Wooldridge indicating the location of the areas that would be regulated by the ordinance amendment. He then presented a draft ordinance amending the City of Wharton Code of Ordinances, Chapter 82 Traffic, Article IV. Parking, Section 82-132 No Parking Zones – All Times and Section 82-134 No Standing/No Stopping Zones. Mr. Mark Wooldridge addressed the City Council and stated that Texas Department of Transportation was requesting no parking and no standing from FM 102 to 500 feet south, west side and no parking from FM 102 to 500 feet north, east side in order to improve safety on the frontage road. After some discussion, Councilmember Ken Freese made a motion to approve Ordinance No. 2008-06, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2008-06**

AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 82 TRAFFIC, ARTICLE IV. PARKING, SECTION 82-132 NO PARKING ZONES – ALL TIMES AND SECTION 82-134 NO STANDING/NO STOPPING ZONES; PROVIDING THAT A VIOLATION OF THE ORDINANCE OR ANY PART OF THE CODE AS ADOPTED HEREBY SHALL CONSTITUTE A PENALTY UPON CONVICTION OF A FINE; PROVIDING FOR SEPARABILITY AND SETTING AN EFFECTIVE DATE.

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

Chapter 82 Traffic, Article IV. Parking, Section 81-132 No Parking Zones – All Times and Section 82-134 No Standing/No Stopping Zones, shall be amended as follows:

Sec. 82-132. No parking zones--All times.

The following no parking zones, in addition to those established by authority of the council and not in conflict with this section, are established in the city:

North Abell Street, both sides, from its intersection with Ahldag Avenue to its intersection with East Belle Avenue.

West Alabama Street, from a point of its intersection with North Polk Street, in a westerly direction to North Richmond Road.

Bailey Street, north side, from a point 216 feet west of its intersection with Outlar Street for a distance of 449 feet in a westerly direction; such no parking zone extending from a point 30 feet east of the bus entrance to a point 30 feet west of the bus exit.

East Belle Avenue, south side, from its intersection with North Abell Street to its intersection with Alabama Road.

East Belle Avenue, south side of 100 block east, beginning at a point 140 feet from its intersection with North Fulton Street and continuing in an easterly direction for 56 feet.

East Boling Highway, FM 1302, both sides, in the 900 block from Pioneer Avenue and extending east to Alabama Road.

West Boling Road, FM Road 1301, north side, at a point beginning 142.75 feet west of its intersection with North Fulton Street in a westerly direction a distance of 78 feet.

Briar Lane, beginning at its intersection with Price Drive and continuing in a westerly direction 20 feet on the side of the street across from the Holy Family Catholic Church.

Briar Lane, northeast side, at its intersection with Hodges Lane to include the width of Hodges Lane at such intersection plus a distance of 20 feet on each side of the intersection.

Burleson Street, north side, from its intersection with North Richmond Road to its intersection with Resident Street (except the block on Burleson Street between Houston Street and Fulton Street where parking on both sides shall be permitted).

FM 102, north side, for a distance of 120 feet on both the east and west sides of its intersection with Regional Medical Drive.

FM 102, south side, for a distance of 120 feet on both the east and west sides of its intersection with Mattie Street.

Fulton Street, on the east side of the 200 block of Fulton Street on the north line of the New Hope Baptist Church property to the south line of the Rob Hamilton property shall be a no parking area seven days a week and 24 hours per day, except for duly authorized personnel of the city fire department and city ambulance service as they may be permitted under the rules and regulations of these particular departments.

Mattie Street, with Hendon Street.

West Milam Street, north side, from the 900 block to the 1100 block.

West Milam Street, both sides beginning at the intersection of Outlar Street and continuing to the cul-de-sac or pedestrian entrance of Harris Park.

Nelson Lane, the west side of Nelson Lane beginning at the intersection of FM 102 and extending a distance of 265 feet south.

Mockingbird Street, both sides, from its intersection with Pecan Street to its intersection with Rusk Street.

Price Drive, beginning at its intersection with Briar Lane and continuing in a northerly direction 20 feet on the side of the street across from the Holy Family Catholic Church.

Regional Medical Drive, from its intersection at FM 102 to its intersection with the east frontage road of U.S. Highway 59.

Resident Street, west side, from its intersection with Burlison Street to its intersection with Milam Street.

Richmond Road, both sides, from the south city limits at its intersection with the Colorado River and continuing in a northerly direction to the intersection of North Richmond Road with FM 1301.

North Richmond Road, within 36 feet of either side of the centerline of the street beginning at a point 400 feet north of its intersection with FM 1301 and continuing in a northerly direction to the city limit line.

Rusk Street, east side, from a point of its intersection with Mockingbird Lane in a southerly direction to a point perpendicular from the intersection of Kelly Street.

North Rusk Street, in the 100 block, from East Milam Street and extending north to East Caney Street.

North Sheppard Street, east side, to its intersection at West Caney Street.

South Sheppard Street, west side, to its intersection at Burlison Street.

Speed Street, west side, from a point at its intersection with Center Street in a southerly direction to its intersection with Alabama Street.

West Stadium Road, from its intersection with FM 1301 to its intersection with Barfield Road. State Highway 1301, both sides, from its intersection with Pioneer Street to its intersection with Alabama Road.

Sunny Lane, north side, from its intersection with Alabama Road in a southerly direction a distance of 130 feet.

Sunny Lane, both sides, from its intersection with Alabama Road to its intersection with Oriole Lane.

US 59 East Frontage Road near FM 102, from FM 102 to 500 feet north, east side.

US 59 East Frontage Road near FM 102, from FM 102 to 500 feet south, west side.

Sec. 82-133. Same--Designated hours.

The following no parking zones are established in the city during the designated times:

(1) From 7:30 a.m. to 4:00 p.m.:

Alabama Road, both sides from FM 1301 to Stadium Street and along the west side of Alabama Road from Stadium Street to Ahldag Avenue.

Lazy Lane, both sides, from a distance of 325 feet in an easterly direction of its intersection with North Rusk Street.

Pioneer Avenue, both sides, from its intersection with FM 1301 to Ahldag Avenue.

(2) From 7:30 a.m. to 8:30 a.m. and from 3:00 p.m. to 4:00 p.m.:

Abell Street, beginning on the east side of Abell Street 270 feet from its intersection with Alabama Street and continuing 134 feet north.

Martin Luther King Boulevard, north side.

(3) From 8:00 a.m. to 4:00 p.m.:

Frankie Avenue, one block off Pioneer Avenue.

Helms Street, one block off Pioneer Avenue.

Tennie Avenue, one block off Pioneer Avenue.

University Avenue, one block off Pioneer.

(4) From 8:00 a.m. to 5:00 p.m.:

Fulton Street, in the 200 block between the south boundary line and the north boundary line of the New Hope Baptist Church property, Monday through Friday, inclusive, of each week, except vehicles of the city fire department and city ambulance service.

(5) From 9:00 p.m. to 6:00 a.m.:

South Wilkes Street, west side.

(6) From 6:00 a.m. to 3:00 a.m.:

Branch Street, west side, from its intersection with Hendon Street to the south a distance of 300 feet.

Branch Street, east side, from its intersection with Canton Street to its intersection with Wilson Street.

Sec. 82-134. No standing/no stopping zones.

(a) *Designated*. The following areas are designated as no standing/no stopping zones:

Mockingbird Lane, from its intersection with Pecan Street to its intersection with Rusk Street.

Sunny Lane, from its intersection with Alabama Road to its intersection with Oriole Lane.

US 59 East Frontage Road near FM 102, from FM 102 to 500 feet south, west side.

(b) *Partially, totally blocking traffic prohibited*. No person shall stand or cause a vehicle to stop in any of the areas described in subsection (a) of this section in such a manner as to partially or totally block any vehicular traffic.

(c) *Signs*. The city council authorizes the chief of police to cause signs to be erected designating the areas described in subsection (a) of this section as no standing/no stopping zones.

Severability

If any court of competent jurisdiction rules that any section, subsection, sentence, clause, phrase, or portion of this ordinance is invalid or unconstitutional, any such portion shall be deemed to be a separate, distinct, and independent provision, and any such ruling shall not affect the validity of the remaining portions hereof.

Fine and Penalty for Violations

Except as otherwise provided in this chapter, any person found guilty of intentionally, knowingly or recklessly violating any provision of this article and upon conviction thereof in the municipal court shall be fined in accordance with the terms of Section 1-5 of the Code of Ordinances of the City of Wharton, Texas.

Effective Date

This Ordinance shall become effective on the 7th day of June 2008 at 12:00 a.m.

Passage and Approval

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, on the 27th day of May 2008.

CITY OF WHARTON, TEXAS

By: _____

DAVID W. SAMUELSON

Mayor

ATTEST:

LISA OLMEDA

City Secretary

APPROVED AS TO FORM:

PAUL WEBB

City Attorney

Published in the Wharton Journal Spectator Saturday, May 21, 2008 and Saturday, June 7, 2008. Councilmember Jeff Gubbels seconded the motion. All voted in favor.

The eleventh item on the agenda was to review and consider the City of Wharton Signatories:

- A. Resolution:** A resolution authorizing signators on the City's bank depository contract with Franklin Bank.

City Manager Andres Garza, Jr. stated that with the recent May 10, 2008 City Election, the Chief Elected Official must be named as a designated signatory for the City of Wharton accounts. He then presented a draft resolution updating the designated signatories to reflect Mayor David W. Samuelson. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2008-32, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2008 - 32**

Resolved that the City Council of the City of Wharton, Texas hereby authorizes the following officers of the City of Wharton to the City's bank depository contract with Franklin Bank:

1. Andres Garza, Jr., City Manager

Signature

2. Joyce Vasut, Finance Director

Signature

3. David W. Samuelson, Mayor

Signature

