

**MINUTES
OF
CITY OF WHARTON
SPECIAL CITY COUNCIL MEETING
MAY 18, 2009**

Mayor David W. Samuelson declared a Special Meeting duly open for the transaction of business at 5:30 P.M. Mayor David W. Samuelson led the opening devotion and then led the pledge of allegiance.

Councilmember's present was: Mayor David W. Samuelson, Councilmembers V. L. Wiley, Jr., Lewis Fortenberry, Jr., Ken Freese, Don Mueller, and Jeff Gubbels.

Councilmember absent was: Domingo Montalvo, Jr.

Staff members present were: City Manager Andres Garza, Jr., Finance Director Joyce Vasut, City Secretary Lisa Olmeda, Assistant to City Manager Jackie Jansky, Police Chief Tim Guin, Emergency Management Coordinator Jim Cooper, Building Official Ronnie Bollom, Community Services Director Jo Knezek, and City Attorney Paul Webb.

Visitors present were: Barry Halvorson - Wharton Journal Spectator, Terry David Lynch, Carol Lynch, Sarah Lynch, Lynn Canales, Mary Lou Lynch, Christa Lynch, Fred Lara, Sherrie Guin, and Susan Freese.

The second item on the agenda was Roll Call and Excuses Absences. Councilmember V. L. Wiley, Jr. made a motion to excuse the absence of Councilmember Domingo Montalvo, Jr. from the Special City Council meeting held May 18, 2009. Councilmember Lewis Fortenberry, Jr. 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 Wharton Moment. No comments were given. No action was taken.

The fifth item on the agenda was a proclamation presented by Mayor David W. Samuelson proclaiming May 23, 2009 as "Buddy Poppy Day" in the City of Wharton, Texas. Mayor David W. Samuelson presented the proclamation, which read as follows:

Whereas, The annual distribution of Buddy Poppies by the Veterans of Foreign Wars of the United States has been officially

recognized and endorsed by governmental leaders since 1922; and

Whereas, VFW Buddy Poppies are assembled by disabled veterans, and the proceeds of this worthy fund-raising campaign are used exclusively for the benefit of disabled and needy veterans, and the widows and orphans of deceased veterans; and

Whereas, The basic purpose of the annual distribution of Buddy Poppies by the Veterans of Foreign Wars is eloquently reflected in the desire to “Honor the Dead by Helping the Living;” and

Whereas, The V.F.W. Post 4474 will distribute Buddy Poppies in the City of Wharton on May 23, 2009.

Now, Therefore, I, David W. Samuelson, as the Mayor of the City of Wharton, do hereby proclaim May 23, 2009 as

“Buddy Poppies Day”

and urge the citizens of this community to recognize the merits of this cause by contributing generously to its support through your donations for Buddy Poppies on the day set aside for the distribution of these symbols of appreciation for the sacrifices of our honored dead. I urge all patriotic citizens to wear a Buddy Poppy as mute evidence of our gratitude to the men and women of this country who have risked their lives in defense of the freedoms which we continue to enjoy as American citizens.

In Witness Whereof, I have set my hand and caused the seal of the City of Wharton to be affixed this 23rd day of May, in the year of our Lord two thousand nine A.D.
No action was taken.

The sixth item on the agenda was to review and consider submission of names of persons that could be appointed by the Wharton County Commissioner’s Court to serve on the Wharton County Emergency Services District No. 3 Board of Directors. City Manager Andres Garza, Jr. stated that the City Council may recommend a list of names of persons that could be appointed by the Wharton County Commissioner’s Court to serve on the Wharton County Emergency Services District No. 3 Board of Directors. City Manager Andres Garza, Jr. presented a letter from Councilmember Domingo Montalvo, Jr. for submitting: Ray Williamson and Larry Bubela.

Councilmember Jeff Gubbels submitted David Clark.

Councilmember Don Mueller submitted Dr. Keith Dowell, Dr. Herman Wolff, J. B. Koonce, and Leon Bannert.

Councilmember V. L. Wiley, Jr. submitted Curtis Edwards.

Mayor David W. Samuelson submitted Jeffrey Blair, Howard Singleton, Dr. William Yankowsky, Billie Jones, and Ken Freese.

Mr. Garza stated that a letter would be sent to Wharton County Judge Murrile with the names of persons that could be appointed by the Wharton County Commissioner's Court to serve on the Wharton County Emergency Services District (ESD) No. 3 Board of Directors. No action was taken.

The seventh item on the agenda was to review and consider a resolution of the Wharton City Council approving the action plan for the reduction of electricity costs for the City of Wharton Facilities. City Manager Andres Garza, Jr. presented a copy of the State Energy Conservation Office (SECO) Preliminary Energy Assessment and Service Agreement. He stated that SECO had developed a program that offered municipalities the opportunity to have energy efficiency audits conducted on City facilities by SECO and to offer suggestions on ways to reduce such costs at no cost to the City. He then presented a draft resolution approving the action plan for the reduction of electricity costs for City facilities. After some discussion, Councilmember Don Mueller made a motion to approve Resolution No. 2009-43, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2009-43**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE ACTION PLAN FOR THE REDUCTION OF ELECTRICITY COSTS FOR CITY OF WHARTON FACILITIES.

WHEREAS, electricity is a constantly increasing cost and portion of the City budget; and

WHEREAS, the State Energy Conservation Office (SECO) will conduct a free energy audit; and

WHEREAS, The American Recovery and Reinvestment Act (ARRA) provides for grants for energy efficiency measures; and

WHEREAS, the State Energy Conservation Office will administer the grants provided by the ARRA; and

WHEREAS, the State Energy Conservation Office administers the LoanStar fund, a low interest loan program; and

WHEREAS, The City's electricity contract allows for the City to request an extension of the current contract that would allow for the blending of the current contract price with a new lower price resulting in an overall lower price for the electricity.

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

Section 1. The recitals contained in the preamble of this Resolution are determined to be true and correct and are hereby adopted as a part of this Resolution.

Section 2. The City Manager is directed to pursue all means to reduce the City's electricity costs and hereby appoints the City Manager to apply for and accept grants and loans for energy efficiency measures that will reduce the City's electricity costs.

Section 3. The City Manager is directed to renegotiate the City's electricity contract if the negotiations result in a lower overall rate for the City.

Section 4. All Resolutions and parts thereof in conflict herewith are hereby expressly repealed insofar as they conflict herewith.

Section 5. This Resolution shall take effect immediately from and after its adoption and it is accordingly so resolved.

Passed, Approved, and Adopted this 18th of May 2009.

CITY OF WHARTON, TEXAS

By: _____

DAVID W. SAMUELSON
Mayor

ATTEST:

LISA OLMEDA

City Secretary

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

The eighth item on the agenda was to review and consider an ordinance canvassing the election returns and declaring the results of the City Officers' Election held May 9, 2009. City Manager Andres Garza, Jr. presented a draft ordinance canvassing the election returns and declaring the results of the City Officers' Election held May 9, 2009. City Secretary Lisa Olmeda stated that the City of Wharton contracted with Wharton County Elections Department to conduct the election. After some discussion, Councilmember Ken Freese made a motion to approve Ordinance No. 2009-03, which read as follows:

CITY OF WHARTON, TEXAS
RESOLUTION NO. 2009-03

**A RESOLUTION CANVASSING THE ELECTION RETURNS AND
DECLARING THE RESULTS OF THE CITY OFFICERS'
ELECTION HELD ON MAY 9, 2009**

**BE IT RESOLVED by the City Council of the City of Wharton,
Texas:**

The City Council of the City of Wharton, Texas has canvassed the returns of the city officers' election held on the 9th day of May 2009, and the City Council finds and declares that the election returns were duly and legally made, that all of the votes counted at the election were valid and legal, and that each of the candidates in the election received the following numbers of votes;

Councilmember District No. 3

| | <u>Early Votes</u> | <u>Election Day</u> | |
|----------------------------|--------------------|---------------------|------------|
| <u>Total</u> | | | |
| Terry David Lynch | <u>136</u> | <u>103</u> | <u>239</u> |
| Billie Hollis Jones | <u>80</u> | <u>51</u> | <u>131</u> |
| Provisional Ballots | <u>0</u> | <u>0</u> | <u>0</u> |

The City Council of the City of Wharton, Texas pursuant to Certificate on March 19, 2009 in accordance with Texas Election Code, Section 2.051, 2.052 and 2.053 cancelled the election for Councilmember District No. 1 and Councilmember At Large Place No. 5 and declare unopposed:

Councilmember District No. 1

V. L. Wiley, Jr.

Councilmember At Large Place No. 5

Domingo Montalvo

The City Council further finds and declares that the election was duly called, that notice of the election was given in accordance with law, that the election was held in accordance with law, that **V. L. Wiley, Jr.** elected Councilmember District No. 1, **Terry David Lynch** was elected Councilmember District No. 3, and **Domingo Montalvo, Jr.** was elected Councilmember At Large - Place No. 5.

The City Council declares the above-named persons to be duly elected to the above-named offices, subject to the taking of their oaths of office as provided by the laws of the State of Texas and the charter of the City of Wharton, Texas.

Severability

If any court of competent jurisdiction rules that any section, subsection, sentence, clause, phrase, or portion of this resolution 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.

Passage and Approval

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, on the 18th day of May 2009.

CITY OF WHARTON, TEXAS

By: _____
DAVID W. SAMUELSON
Mayor

ATTEST:

LISA OLMEDA
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

Councilmember Jeff Gubbels seconded the motion. All voted in favor.

The ninth item discussed on the agenda was to administer Oath of Office to Elected Officials Councilmembers V. L. Wiley, Jr., Terry David Lynch, and Domingo Montalvo, Jr. City Attorney Paul Webb administered the Oath of Office to Elected Officials Councilmembers V. L. Wiley, Jr., and Terry David Lynch. No action was taken.

The ninth item discussed on the agenda was a Presentation of Plaque to Councilmember Ken Freese. Mayor David W. Samuelson presented a plaque to Ken Freese in recognition of exceptional leadership and dedicated service as the City of Wharton Councilmember District No. 3 from May 1997 to May 2009. No action was taken.

The eleventh item on the agenda was adjournment. Councilmember Don Mueller made a motion to adjourn. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The meeting adjourned at 5:58 p.m.

CITY OF WHARTON, TEXAS

City of Wharton
Special City Council Meeting
May 18, 2009

By: _____
DAVID W. SAMUELSON
Mayor

ATTEST:

LISA OLMEDA
City Secretary