

**MINUTES  
OF  
CITY OF WHARTON  
REGULAR CITY COUNCIL MEETING  
OCTOBER 13, 2008**

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

Councilmembers present were: Mayor David W. Samuelson, Councilmember's 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, Police Chief Tim Guin, EMS Director John Kowalik, Fire Chief Bobby Barnett, and City Attorney Paul Webb.

Visitors present were: Barry Halvorson with Wharton Journal Spectator, David Schroeder with Wharton Economic Development Corporation, Carlos Cotton with Jones & Carter, Melanie Tiech, Val Gutierrez, Ron Sanders, and Art Schultz.

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 Don Mueller from the Regular City Council meeting held October 13, 2008. 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. Councilmember Domingo Montalvo, Jr. wished his daughter Happy 3<sup>rd</sup> Birthday. Barry Halvorson stated that the Wharton Tigers won the Homecoming Football game on Friday, October 10, 2008. 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 September 8, 2008 and September 22, 2008 and the emergency meeting held September 17, 2008. After some discussion, Councilmember Ken Freese made a motion to approve the Wharton City Council minutes of the regular meetings held September 8, 2008 and

September 22, 2008 and the emergency meeting held September 17, 2008 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 Recommendation by the Planning Commission for City Council consideration to approve:

A. Request by Mr. James Ferguson, Surveyor, on behalf of Reyes B. Bergara & WF (Aurora's Beauty Shop) 214 West Ahldag Avenue and Mr. Richard Tyler (Tyler's Jewelry & Pawn) 2310 North Richmond Road for a preliminary/final re-plat of Ahldag, Block 31 (Block 1), Lots 31B and Lot 31C and Block 32 (Block 1), Lot 32B.

City Manager Andres Garza, Jr. presented a copy of the Planning Commission Communications from the meeting held October 6, 2008 and a copy of the memorandum dated October 8, 2008 from Chairman A. J. Rath providing the Planning Commissions recommendation. He stated that the Planning Commission voted to recommend the City Council consider approving the request by Mr. James Ferguson, Surveyor, on behalf of Reyes B. Bergara & WF, owners of Block 31 (Block 1), Lot 31C and Block 32 (Block 1), Lot 32B (Aurora's Beauty Shop) and Mr. Richard Tyler owner of Block 31 (Block 1), Lot 31B (Tyler's Jewelry & Pawn) for a preliminary/final re-plat of Ahldag, Block 31 (Block 1) (Block 1) Lots 31B and Lot 31C and Block 32 (Block 1), Lot 32B with the contingency that Mr. and Mrs. Reyes abolish the lot line between Lot 31C and 32B; thereby, eliminating Lot 31C which would then become a part of Lot 32B. Assistant to City Manager Jackie Jansky stated that Mr. and Mrs. Bergara were in the process of selling a 50' x 52.5' portion of Lot 32B to Mr. Tyler; therefore, both 31B and 32B would need to be re-platted. She said that with the re-plat of 32B, 32B would be reduced from a conforming lot to a non-conforming lot by abolishing the lot line between 31C and 32B. She said that in accordance with the City of Wharton Code of Ordinances, City lots should be a minimum of 60' x 120' for a total area of 7,200 square feet. She said that in combining both lots, Lot 32B would then be 80' x 107.5' for a total area of 8,600 square feet, resulting in a conforming lot. She then presented a copy of the proposed re-plat along with photographs of the property. She stated that the replat would be contingent upon sale of the property. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the request by Mr. James Ferguson, Surveyor, on behalf of Reyes B. Bergara & WF (Aurora's Beauty Shop) 214 West Ahldag Avenue and Mr. Richard Tyler (Tyler's Jewelry & Pawn) 2310 North Richmond Road for a preliminary/final re-plat of Ahldag, Block 31 (Block 1), Lots 31B and Lot 31C and Block 32 (Block 1), Lot 32B. Councilmember Ken Freese seconded the motion. All voted in favor.

B. Request by Ms. Melanie Tiech, Evergreen Memorial Park, for a preliminary/final re-plat of the following located at 3511 East Alabama Road:

1. Section H, Blocks 12, 13, 14, 86 and 87;
2. Section I, Block 18, Lots 4, 5, and 11 and Block 73, Lots 1, 2, 7, 8, 9, 10;
3. Section J, Blocks 25 and 30.

City Manager Andres Garza, Jr. presented a copy of the Planning Commission Communications from the meeting held October 6, 2008 and a copy of the memorandum dated October 8, 2008 from Chairman A. J. Rath providing the Planning Commissions recommendation. He stated that the Planning Commission voted to recommend that the City Council consider approving the preliminary final re-plat of the Evergreen Memorial Park sections. Assistant to City Manager Jackie Jansky stated that although Evergreen Memorial Park was located outside of the City's

limits, the property was still located within the City's extraterritorial jurisdiction (ETJ), and therefore, the re-plat must be filed through the City of Wharton in accordance with the City's Code of Ordinances. She then presented a copy of a map indicating the location of the property to the City's limits. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the request by Ms. Melanie Tiech, Evergreen Memorial Park, for a preliminary/final re-plat of the following located at 3511 East Alabama Road: Section H, Blocks 12, 13, 14, 86 and 87; Section I, Block 18, Lots 4, 5, and 11 and Block 73, Lots 1, 2, 7, 8, 9, 10; and Section J, Blocks 25 and 30. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider the request by Mr. Val Gutierrez, representing Wharton Church of God, for an over 50% variance to construct a 35' x 65' building over an interior property line located at Washington Homes, Block 3, Lot 17 & 18; 404 Moutray Avenue. City Manager Andres Garza, Jr. presented a copy of the memorandum dated October 8, 2008 from Assistant to City Manager Jackie Jansky providing a copy of the application for an over 50% variance request submitted by Mr. Val Gutierrez on behalf of Wharton Church of God located at Washington Homes, Block 3, Lot 17 & 18. Mrs. Jansky stated that Mr. Gutierrez was requesting City Council consideration to approve the variance to construct a 35' x 65' building over the interior property line. She then presented a copy of the application and a copy of a map indicating the location of the property. She also presented a copy of the drawing of the proposed building. She stated that this item was presented to the City Council during the regular December 10, 2007 City Council meeting and was approved. She then presented a copy of the December 10, 2007 City Council minutes regarding the item. She said that the City Council approved the variance; however, the variance expired. She said that in accordance with the City of Wharton Code of Ordinances, Chapter 18 Building and Construction, Section 18-77 Building Setback Requirements, Item H, Variances, the variance approved by the City Council shall be effective for six months from the date the City Council approved it; therefore, the original request expired June 10, 2008. She then presented copies of photographs of the property. After some discussion, Councilmember Ken Freese made a motion to approve the request by Mr. Val Gutierrez, representing Wharton Church of God, for an over 50% variance to construct a 35' x 65' building over an interior property line located at Washington Homes, Block 3, Lot 17 & 18; 404 Moutray Avenue. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider a resolution of the Wharton City Council approving a Mutual Aid Agreement for Emergency Medical Services between Fort Bend County and the City of Wharton and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. presented a copy of the memorandum dated October 2, 2008 from EMS Director John Kowalik providing the proposed EMS Mutual Aid Agreement with Fort Bend County. He said that the current agreement expired on September 30, 2008. He said that he forwarded the agreement to City Attorney Paul Webb requesting his recommendation. He then presented a copy of the letter dated October 9, 2008 from Mr. Webb providing his recommendation that the City Council could approve the Mutual Aid Agreement as presented. He then presented a copy of the agreement and a draft resolution approving the agreement. EMS Director John Kowalik stated that the agreement was a standard two year agreement. City Attorney Paul Webb stated that he had no objections to the agreement presented. After some

discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2008-64, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2008 – 64**

**A RESOLUTION APPROVING THE MUTUAL AID AGREEMENT FOR EMERGENCY MEDICAL SERVICES BETWEEN FORT BEND COUNTY AND CITY OF WHARTON; AUTHORIZING THE MAYOR OF THE CITY OF TO EXECUTE ALL DOCUMENTS RELATING TO SAID AGREEMENT.**

**WHEREAS,** the City of Wharton City Council wishes to approve an Emergency Medical Services (EMS) Mutual Aid Agreement between the City of Wharton and Fort Bend County; and

**WHEREAS,** the City of Wharton and Fort Bend County wishes to be bound by the conditions as set forth in the agreement; and

**WHEREAS,** the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute all documents relating to said agreement.

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

**Section I.** That the City Council of the City of Wharton hereby approves the Emergency Medical Services (EMS) Mutual Aid Agreement between the City of Wharton and Fort Bend County.

**Section II.** That the City Council of the City of Wharton hereby authorizes the Mayor of the City of Wharton to execute all documents relating to said agreement.

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

**Passed, Approved, and Adopted** this 13<sup>th</sup> day of October 2008.

**CITY OF WHARTON, TEXAS**

**By:** \_\_\_\_\_  
**DAVID W. SAMUELSON**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**LISA OLMEDA**  
City Secretary

Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider a resolution of the Wharton City Council approving an agreement between Blackboard Connect, Inc. (BCI) for Connect-CTY Emergency Callback System Services and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. presented a copy of the memorandum dated September 29, 2008 from Emergency Management Coordinator Jim Cooper providing the Emergency Call Back System (Connect-CTY Service) agreement between the City of Wharton and Blackboard Connect, Inc. (BCI). He said that Mr. Cooper indicated that the City Department Heads had listened to presentations from various companies who provide this service and the Department Heads chose the Connect-CTY service pending approval by the City Council and legal review. He then presented a copy of the agreement, responses to City Staff questions, and a draft resolution approving the agreement. He also presented a copy of the letter dated October 9, 2008 providing his recommendation that the City Council consider approving the agreement as presented. He stated that the Callback System could be utilized for all types of City activities. Councilmember Domingo Montalvo, Jr. stated that the utility companies should share the cost with the City or use their own system to notify City residents. Finance Director Joyce Vasut stated that the cost was based on number of contacts. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2008-65, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2008 – 65**

**A RESOLUTION APPROVING THE EMERGENCY CALLBACK SYSTEM (CONNECT-CTY SERVICE) BETWEEN THE CITY OF WHARTON AND BLACKBOARD CONNECT, INC.; AUTHORIZING THE MAYOR OF THE CITY OF TO EXECUTE ALL DOCUMENTS RELATING TO SAID AGREEMENT.**

**WHEREAS,** the Wharton City Council wishes to improve communication between the City of Wharton and the Wharton community during emergency related events; and

**WHEREAS,** the Wharton City Council wishes to approve the Emergency Callback System (Connect-CTY Services) agreement between the City of Wharton and Blackboard Connect, Inc.; and

**WHEREAS,** the City of Wharton and Blackboard Connect, Inc. wishes to be bound by the conditions as set forth in the agreement; and

**WHEREAS,** the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute all documents relating to said agreement.

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

**Section I.** That the City Council of the City of Wharton hereby approves the Emergency Callback System (Connect-CTY Services) agreement between the City of Wharton and Blackboard Connect, Inc.

**Section II.** That the City Council of the City of Wharton hereby authorizes the Mayor of the City of Wharton to execute all documents relating to said agreement.

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

**Passed, Approved, and Adopted** this 13<sup>th</sup> day of October 2008.

**CITY OF WHARTON, TEXAS**

**By:** \_\_\_\_\_  
**DAVID W. SAMUELSON**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**LISA OLMEDA**

**City Secretary**

Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider awarding Hotel/Motel Occupancy Grant Funds to eligible entities in the City of Wharton and authorizing the City Manager to disperse said funds. City Manager Andres Garza, Jr. stated that during the regular August 25, 2008 Wharton City Council meeting, the City Council approved the Resolution No. 2008-57 approving a Hotel/Motel Occupancy Grant Funds Program that allowed eligible entities to apply for excess revenue in the City of Wharton Hotel/Motel Fund. He stated that there was \$17,500.00 in excess revenues in the 2007-2008 budget year in the hotel/motel fund. He said that the City Staff sent applications to the following entities:

1. Chamber of Commerce.
2. Wharton County Historical Museum
3. Fiesta Hispano Americana.
4. Wharton Plaza Theatre.
5. Juneteenth Celebration Committee.
6. Wharton County Freedom Fest.
7. Wharton Technological Museum.

He said that only five (5) had submitted an application and on October 9, 2008, the City Council Finance Committee met and reviewed the recommendation made by the Selection Committee for the allocation of the funds. He said that the Finance Committee was recommending that the funds be allocated as stated in the resolution. Finance Director Joyce Vasut stated that the Selection Committee decided that the operational costs would not be considered for the grant. She stated that advertising and promotional items were considered. She stated that the Committee focused on funding on the following:

- The development and maintenance of websites, which would reach potential customers no matter their location.
- The Chamber's request to advertise in Texas Highways as long as the advertisement included mentioning specific destinations such as the museums or the Plaza Theatre.

◦ Postcards and brochures that would be mailed or placed outside the Wharton area. She stated that funds requested totaled \$42,282; however, the City of Wharton only had \$17,500 of available funds. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve Resolution No. 2008-66, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2008 – 66**

**A RESOLUTION OF THE WHARTON CITY COUNCIL AWARDING HOTEL/MOTEL OCCUPANCY GRANT FUNDS TO ENTITIES IN THE CITY OF WHARTON AND AUTHORIZING THE CITY MANAGER TO DISPERSE SAID FUNDS.**

**WHEREAS,** the City of Wharton had excess revenue in the October 1, 2007 to September 30, 2008 Hotel/Motel Fund; and

**WHEREAS,** during August 25, 2008 the Wharton City Council approved the Hotel/Motel Occupancy Funds Grant Program that eligible entities may apply for excess revenue in the City of Wharton Hotel/Motel Fund; and

**WHEREAS,** the City of Wharton received applications on September 30, 2008, which were reviewed by the Selection Committee and City Council Finance Committee on October 9, 2008; and

**WHEREAS,** the Wharton City Council wishes to award Hotel/Motel funding to the following entities on a reimbursement basis as follows:

Chamber of Commerce	\$6,509.00
The Plaza Theatre, Inc.	\$5,438.00
20 <sup>th</sup> Century Technology Museum	\$2,000.00
Wharton County Historical Museum	\$2,000.00
Wharton Freedom Festival, Inc.	\$2,000.00.

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

**Section I.** That the City Council of the City of Wharton hereby approves to award the Hotel/Motel Occupancy Funds to the afore-mentioned eligible entities on a reimbursement basis.

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

**Passed, Approved, and Adopted** this 13<sup>th</sup> day of October 2008.

**CITY OF WHARTON, TEXAS**

**By:** \_\_\_\_\_

**DAVID W. SAMUELSON**  
Mayor

**ATTEST:**

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**LISA OLMEDA**  
**City Secretary**

Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The eleventh item on the agenda was to review and consider a resolution of the Wharton City Council designating a Consultant Selection Committee and selection criteria for the procurement of Professional Engineering Services for the City of Wharton Ahldag Addition Sanitary Sewer Improvement Project, TxCDBG Contract No. 728459. City Manager Andres Garza, Jr. stated that during the regular July 14, 2008 Wharton City Council meeting, the City Council approved the Office of Rural Community Affairs (ORCA) TxCDBG Contract No. 728459 for the Ahldag Addition Sanitary Sewer Improvement Project. He said that the City Staff was ready to move forward to procure the services of a professional engineering firm to design the plans and specifications needed for the construction of the improvements. He then presented a draft resolution designating a Consultant Selection Committee and approving the Selection Criteria. He also presented a copy of the ORCA procurement procedures. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2008-67, which read as follows:

**CITY OF WHARTON**  
**RESOLUTION NO. 2008- 67**

**A RESOLUTION OF THE WHARTON CITY COUNCIL DESIGNATING A CONSULTANT SELECTION COMMITTEE AND SELECTION CRITERIA FOR THE PROCUREMENT OF PROFESSIONAL ENGINEERING SERVICES FOR THE CITY OF WHARTON AHLDAG ADDITION SANITARY SEWER IMPROVEMENT PROJECT, TXCDBG CONTRACT NO. 728459.**

**WHEREAS**, the City of Wharton has been awarded grant funds from the Office of Rural Community Affairs under the Texas Community Development Block Grant Program, TxCDBG Contract No. 728459; and

**WHEREAS**, the City of Wharton wishes to follow the State of Texas Procurement Process for Professional Services; and

**WHEREAS**, the City Council wishes to designate a consultant selection committee (Attached A) for the procurement of professional engineering services the Ahldag Addition Sanitary Sewer Improvement Project; and

**WHEREAS**, the Consultant Selection Committee will recommend an engineering firm to the City Council for consideration; and

**WHEREAS**, it is the responsibility of the consultant selection committee follow the below listed recommended guidelines (Attached B):

- a. Procurement Provisions for Professional Services,
- b. The Texas Engineering Practice Act,
- c. Procurement Standards, Uniform Grant and Contract Management Standards,
- d. Texas Government Code - Chapter 2254 Professional and Consulting Services, Subchapter A. Professional Services,
- e. Proposal Rating Sheet for Engineering Services.

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

**Section I:** The City Council hereby designates a consultant selection committee for the procurement of professional engineering services for the Ahldag Addition Sanitary Sewer Improvement Project.

**Section II:** The City of Wharton hereby accepts the State of Texas Procurement Process procedures for Professional Services (Attached B).

**Section III:** This resolution will become effective immediately upon its passage.

**Passed, Approved and Adopted this 13<sup>th</sup> day of October 2008.**

**CITY OF WHARTON, TEXAS**

**By:** \_\_\_\_\_  
**DAVID W. SAMUELSON**  
Mayor

**Attest:**

\_\_\_\_\_  
**LISA OLMEDA**  
City Secretary  
Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The twelfth item on the agenda was to review and consider the Wharton Regional Airport Lease Agreements:

- A. Proposed Fixed Base Operator (FBO) Lease Agreement with Dynasty Aviation.
- B. Schlumberger Agreement.

City Manager Andres Garza, Jr. presented a copy of the letter dated September 29, 2008 to Mr. Gerry Shore, Dynasty Aviation, requesting that he provide information that would assist the City of Wharton in determining if Dynasty Aviation was a bona fide company or if he would be interested in a proposed ground lease. He then presented a copy of the letter dated October 7, 2008 providing his response. He said that Mr. Shore indicated that he was unable to provide the information requested at this time; therefore, he was recommending the City Council consider