

**MINUTES  
OF  
CITY OF WHARTON  
SPECIAL CITY COUNCIL MEETING  
OCTOBER 15, 2007**

Mayor Bryce D. Kocian declared a Regular Meeting duly open for the transaction of business at 5:02 P.M.

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

Councilmember absent were: V. L. Wiley, Jr., and Domingo Montalvo, Jr.

Staff members present were: City Manager Andres Garza, Jr., Finance Director Joyce Vasut, and Deputy City Secretary Theresa Wittig.

Visitors present were: Benjamin Sharp with Wharton Journal Spectator, Andy Morris with Navasota Energy.

The second item on the agenda was Roll Call and Excused Absences. Councilmember Ray Linseisen made a motion to approve the absence of Councilmember V. L. Wiley, Jr. and Domingo Montalvo, Jr. from the Special City Council meeting held October 15, 2007. 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 Executive Session: City Council may adjourn into an Executive Session in accordance with Section 551.087 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:** Proposed Industrial District Agreement between the City of Wharton and Navasota Wharton Energy Partners, LP.

Mayor Bryce D. Kocian adjourned into Executive Session at 5:05 p.m.

Mayor Bryce D. Kocian returned to Open Session at 5:22 p.m.

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

A. Review and consider: Proposed Industrial District Agreement between the City of Wharton and Navasota Wharton Energy Partners, LP.

The sixth item on the agenda was to review and consider an ordinance designating an area located within the extraterritorial jurisdiction of the City of Wharton, Texas, as the City of Wharton Industrial District No. 1. City Manager Andres Garza, Jr. presented a draft ordinance designating

an area located within the extraterritorial jurisdiction of the City of Wharton, Texas, as the City of Wharton Industrial District No. 1. After some discussion, Councilmember Ken Freese made a motion to approve Ordinance No. 2007-23, which read as follows:

**CITY OF WHARTON  
ORDINANCE NO. 2007-23**

**AN ORDINANCE DESIGNATING AN AREA LOCATED WITHIN THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF WHARTON, TEXAS, AS THE CITY OF WHARTON INDUSTRIAL DISTRICT NO. 1.**

**WHEREAS,** Section 42.044 of the Texas Local Government Code authorizes the Wharton City Council to designate any part of its extraterritorial jurisdiction as an industrial district and to treat that area designated in a manner considered by the Wharton City Council to be in the best interests of the City of Wharton, Texas; and

**WHEREAS,** the property owned by Navasota Wharton Energy Partners, LP, commonly known as the “Colorado Bend Energy Center,” described by metes and bounds attached hereto as Exhibit “A” is located within the extraterritorial jurisdiction of the City of Wharton, Texas; and procedures prescribed by the City Charter of the City of Wharton, Texas, and the laws of this state have been duly followed with respect to the territory described in the Exhibit “A” attached hereto.

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

**Section I.** The facts and recitations in the preamble and recitals of this ordinance are found and declared to be true and correct and adopted as part of this ordinance for all purposes.

**Section II.** The area described by metes and bounds attached hereto as Exhibit “A” and incorporated herein for all purposes is hereby designated as the City of Wharton Industrial District No. 1.

**Section III.** This ordinance shall become effective immediately upon its passage.

**PASSED, APPROVED, and ADOPTED** by the City Council of the City of Wharton, Texas, on the 15<sup>th</sup> day of October 2007.

CITY OF WHARTON, TEXAS

By: \_\_\_\_\_  
**BRYCE D. KOCIAN**  
Mayor

**ATTEST:**

\_\_\_\_\_  
THERESA WITTIG

**Deputy City Secretary**

**APPROVED AS TO FORM:**

---

PAUL WEBB  
**City Attorney**

Councilmember Ray Linseisen seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider a resolution of the Wharton City Council approving an Industrial District Agreement with Navasota Wharton Energy Partners, LP; Authorizing an Industrial District Payment to the City of Wharton; and Making various findings and provisions related to the subjects; and Authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. presented a draft resolution approving an Industrial District Agreement with Navasota Wharton Energy Partners, LP and authorizing an Industrial District Payment to the City of Wharton, and making various findings and provisions related to the subjects. After some discussion, Councilmember Don Mueller made a motion to approve Resolution No. 2007-92, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2007 - 92**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN INDUSTRIAL DISTRICT AGREEMENT WITH NAVASOTA WHARTON ENERGY PARTNERS, LP; AUTHORIZING AN INDUSTRIAL DISTRICT PAYMENT TO THE CITY OF WHARTON; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECTS; AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.**

**WHEREAS,** the Section 42.044 of the Texas Local Government Code enables cities and private entities to establish Industrial Districts; and

**WHEREAS,** the Wharton City Council approved Ordinance No. 2007-23 creating the City of Wharton Industrial District No. 1 as described in the Exhibit "A" attached hereto; and

**WHEREAS,** the property owned by Navasota Wharton Energy Partners, LP, commonly known as the "Colorado Bend Energy Center," described by metes and bounds attached hereto as Exhibit "B" is located within the City of Wharton Industrial District No. 1; and

**WHEREAS,** the Wharton City Council has determined that it is in the best interest of the City and its citizens to enter into an Industrial District Agreement with Navasota Wharton Energy Partners, LP, a copy of which is attached hereto as Exhibit "C" (the "Agreement"); and

**WHEREAS,** the City of Wharton and Navasota Wharton Energy Partners, LP wishes to be bound by the conditions outlined in the Agreement; and

**WHEREAS,** the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute the Agreement.

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

**Section I.** That the facts and recitations in the preamble and recitals of this resolution and the referenced Agreement are found and declared to be true and correct and are hereby approved as part of this resolution.

**Section II.** That the Wharton City Council hereby approves the Industrial District Agreement between the City of Wharton and Navasota Wharton Energy Partners, LP.

**Section III.** That the Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute the Agreement.

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

**Passed, Approved, and Adopted** this 15<sup>th</sup> day of October 2007.

**CITY OF WHARTON, TEXAS**

By: \_\_\_\_\_  
**BRYCE D. KOCIAN**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**THERESA WITTIG**  
Deputy City Secretary  
Councilmember Ray Linseisen seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider an ordinance annexing the hereinafter described property in Wharton County Texas: A tract of land at least 1,000 feet wide being wider than 1,000 feet at some points parallel and adjacent to US 60 Highway beginning at the City of Wharton corporate limits to the southernmost corner of the land owned by Navasota Energy. City Manager presented a copy of a draft ordinance annexing the hereinafter described in Wharton County Texas: A tract of land at least 1,000 feet wide being wider than 1,000 feet at some points parallel and adjacent to US 60 Highway beginning at the City of Wharton corporate limits to the southernmost corner of the land owned by Navasota Energy. Councilmember Don Mueller abstained from discussion. After some discussion, Councilmember David Samuelson made a motion to approve Ordinance No. 2007-24 annexing property up the Navasota Energy property, the ordinance read as follows:

**CITY OF WHARTON**

**ORDINANCE NO. 2007-24**

**AN ORDINANCE ANNEXING THE HEREINAFTER DESCRIBED TERRITORY, IN WHARTON COUNTY TEXAS: A CERTAIN 65.31 ACRE TRACT OF LAND SITUATED IN THE RANDALL JONES 1.2 LEAGUE, ABSTRACT 36 AND THE JAMES TURLINSON ½ LEAGUE, ABSTRACT 63 IN WHARTON, COUNTY, TEXAS AS DESCRIBED IN THE METES AND BOUNDS ATTACHED HERETO AS EXHIBIT “A”; TO THE CITY OF WHARTON, WHARTON COUNTY, TEXAS, AND EXTENDING THE BOUNDARY LIMITS OF SAID CITY SO AS TO INCLUDE SAID HEREINAFTER DESCRIBED PROPERTY WITHIN SAID CITY LIMITS, AND GRANTING TO ALL INHABITANTS OF SAID PROPERTY ALL THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING SAID INHABITANTS BY ALL OF THE ACTS, ORDINANCES, RESOLUTIONS, AND REGULATIONS OF SAID CITY, AND ADOPTING A SERVICE PLAN.**

**WHEREAS,** Article I. Incorporation; Form of Government; Corporate and General Powers of the City of Wharton City Charter; Section 8 Extending city limits upon petition and Section 9 Extending and fixing city limits by ordinance as restricted by law, of the City Charter, of the City of Wharton, Texas, an incorporated city, authorizes the annexation of territory, subject to the laws of this state; and

**WHEREAS,** the procedures prescribed by the City Charter of the City of Wharton, Texas, and the laws of this state have been duly followed with respect to the territory described in the Exhibit “A” attached hereto; and

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

**Section I.** That the heretofore described property is hereby annexed to the City of Wharton, Wharton County, Texas, and that the boundary limits of the territory described in the attached Exhibit “A,” within the city limits of the City of Wharton, and the same shall hereafter be included within the territorial limits of said city, and the inhabitants thereof shall hereafter be entitled to all the rights and privileges of other citizens of the City of Wharton and they shall be bound by the acts, ordinances, resolutions, and regulations of said city.

**Section II.** A service plan for the area is adopted and attached as Exhibit “B.”

**Section III.** The City Secretary is hereby directed to file with the County Clerk of Wharton, Texas, a certified copy of this ordinance.

**Section IV.** This ordinance shall become effective immediately upon its passage.

**PASSED, APPROVED, and ADOPTED** by the City Council of the City of Wharton, Texas, on the 15<sup>th</sup> day of October 2007.

CITY OF WHARTON, TEXAS  
By: \_\_\_\_\_

City of Wharton  
Regular City Council Meeting  
October 15, 2007

**BRYCE D. KOCIAN**  
Mayor

**ATTEST:**

---

THERESA WITTIG  
**Deputy City Secretary**

**APPROVED AS TO FORM:**

---

PAUL WEBB  
**City Attorney**

City of Wharton  
Regular City Council Meeting  
October 15, 2007

City of Wharton  
Regular City Council Meeting  
October 15, 2007

**EXHIBIT “B”**

**CITY OF WHARTON, TEXAS  
ANNEXATION SERVICE PLAN**

**Proposed Annexed Property:** A certain 65.31 acre tract of land as per the attached Exhibit “A” – Metes and Bounds Description.

**BUILDING INSPECTION**

*Existing Services:* None

*Services to be Provided:* Upon annexation, the area will be subject to comply with the City of Wharton Code of Ordinances. Building Inspections will be made available in accordance with City Code.

**FIRE**

*Existing Service:* Fire suppression service is available to the area. Primary fire response is provided by the Wharton Fire Department, located at 2010 N. Fulton, Wharton, Texas. Adequate fire suppression activities are afforded to the annexed area within current budget appropriation. Fire prevention activities are provided by the Fire Inspector office as needed.

*Services to be Provided:* **No additional services will be provided, as the existing service equals that which is available in the current city limits of Wharton.**

**HEALTH DEPARTMENT - HEALTH CODE ENFORCEMENT SERVICE**

*Existing Services:* Service is being provided by Wharton County.

*Services to be Provided:* Upon annexation, this area will be subject to all applicable Health Department – Health Code laws and service provided by the City of Wharton.

**LIBRARY**

*Existing Services:* The Wharton County Library is currently serving this area.

*Services to be Provided:* **No additional services will be provided, as the existing service equals that which is available in the current city limits of Wharton.**

**MAINTENANCE OF WATER AND WASTEWATER FACILITIES**

*Existing Services:* None

*Services to be Provided:* Any and all water or wastewater facilities owned or maintained by

the City of Wharton, Texas, at the time of proposed annexation shall continue to be maintained by the City of Wharton, Texas. Any and all water or wastewater facilities which may be acquired subsequent to the annexation of the proposed area shall be maintained by the City of Wharton, Texas, to the extent of its ownership.

### **MISCELLANEOUS**

All other applicable municipal services will be provided to the area in accordance with the City of Wharton's established policies governing extension of municipal services to newly annexed areas.

### **PARKS**

The City of Wharton, Texas, is not aware of the existence of any parks, playgrounds or swimming pools now located in the area proposed for annexation. In the event any such parks, playgrounds or swimming pools do exist and are public facilities, the City of Wharton, Texas, will maintain such areas to the same extent and degree that it maintains parks, playgrounds and swimming pools and other similar areas of the City now incorporated in the City of Wharton, Texas.

### **PLANNING**

*Existing Services:* None

*Services to be Provided:* Upon annexation, the area will be included in any planning efforts in accordance with the City of Wharton Code of Ordinances.

### **POLICE**

*Existing Services:* None

*Services to be Provided:* Currently, the area is under the jurisdiction of the Wharton County Sheriff's Office. However, upon annexation, the City of Wharton Police Department will extend regular and routine patrols to the area. It is anticipated that the implementation of police patrol activities can be effectively accommodated within the current budget and staff appropriation.

### **SANITARY SEWER SERVICE**

*Existing Services:* None

*Services to be Provided:* Upon annexation, sanitary sewer service would be available to this area in accordance with the City of Wharton Code of Ordinances and policies in place and within 2 ½ years with a possible extension not to exceed 4-1/2 years after annexation.

### **SOLID WASTE SERVICES**

*Existing Services:* None

*Services to be Provided:* Upon annexation, solid waste service would be available immediately to this area in accordance with the City of Wharton Code of Ordinances and policies in place.

### **STORM WATER MANAGEMENT**

*Existing Services:* None

*Services to be Provided:* None

### **STREET**

*Existing Services:* Wharton County is presently providing maintenance of County Road 140.

*Services to be Provided:* Maintenance of County Road 140 in the area annexed will be provided by the City of Wharton upon annexation.

### **STREET LIGHTING**

*Existing Services:* None

*Services to be Provided:* None

### **TRAFFIC ENGINEERING**

*Existing Services:* None

*Services to be Provided:* The City of Wharton will provide traffic engineering service upon annexation.

### **WATER SERVICE**

*Existing Services:* None

*Services to be Provided:* Upon annexation, water service would be available to this area in accordance with the City of Wharton Code of Ordinances and policies in place and within 2 ½ years with a possible extension not to exceed 4-1/2 years after annexation.

Councilmember Ken Freese seconded the motion. Councilmember Don Mueller abstained. The motion carried.

The ninth 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.

City of Wharton  
Regular City Council Meeting  
October 15, 2007

The meeting adjourned at 5:25 p.m.

CITY OF WHARTON, TEXAS

By: \_\_\_\_\_  
BRYCE D. KOCIAN  
Mayor

ATTEST:

\_\_\_\_\_  
THERESA WITTIG  
Deputy City Secretary