

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
OCTOBER 22, 2007**

Mayor Bryce D. Kocian declared a Regular Meeting duly open for the transaction of business at 7:00 P.M. Councilmember David Samuelson 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, Ken Freese, Don Mueller, and Ray Linseisen.

Councilmember absent was: Domingo Montalvo, Jr.

Staff members present were: City Manager Andres Garza, Jr., Finance Director Joyce Vasut, Deputy City Secretary Theresa Wittig, Assistant to City Manager Jackie Jansky, Planning Director Prudencio Arriaga, Sr., Community Services Director Jo Knezek, Airport Manager David Allen, Police Captain Richard Coleman, Building Official Assistant Lori Jaquez and City Attorney Paul Webb.

Visitors present were: Benjamin Sharp with Wharton Journal Spectator, David Schroeder with Wharton Economic Development Corporation, Carlos Cotton, Dr. Clark Spears, Bob Whitley, Bruce Williams, Wayne Allen, Jim Cheek, John Ball, Ron Sanders.

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 Domingo Montalvo, Jr. from the Regular City Council meeting on October 22, 2007. Councilmember Ray Linseisen 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 to review and consider the City of Wharton financial report for the month of September 2007. Finance Director Joyce Vasut presented the financial report for the month of September 2007 to the City Council and stated that the auditors would be reviewing the year-end financials. Mrs. Vasut stated that the total ad valorem taxes collected were \$1,817,867 and the sales tax for the month of August 2007 was \$167,865 with \$111,910 to the City and

\$55,955 to WEDC. She further stated the TexPool balance for September was \$2,815,412.50 with an average monthly yield of 5.133%. The Franklin Bank balance for September 2007 was \$767,484.81 with an average monthly yield of 5.250%. After some discussion, Councilmember Don Mueller made a motion to approve the City of Wharton Financial Report for the month of September 2007. Councilmember David Samuelson seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider the request by Mr. Jeff Rainer, Chairman for the Wharton Holiday Parade for the following:

- A. Ordinance: An ordinance approving the 2007 Chamber of Commerce & Agriculture Holiday Parade Permit and authorizing the Wharton Police Department to redirect traffic.
- B. City of Wharton to furnish five (5) tree lights for use at the point of line up.

City Manager Andres Garza, Jr. presented a copy of the letter dated October 2, 2007 from Mr. Jeff Rainer, Parade Chairman requesting City Council approval of the items. He also presented a copy of the draft ordinance approving the parade and authorizing the Wharton Police Department to redirect traffic. Chamber of Commerce Ron Sanders addressed the City Council and stated that the parade route would be the same as previous years. After some discussion, Councilmember David Samuelson made a motion to approve the request by Mr. Jeff Rainer, Chairman for the Wharton Holiday Parade for an ordinance: An ordinance approving the 2007 Chamber of Commerce & Agriculture Holiday Parade Permit and authorizing the Wharton Police Department to redirect traffic, and the City of Wharton to furnish five (5) tree lights for use at the point of line up. Ordinance No. 2007-25, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2007 - 25**

AN ORDINANCE APPROVING THE 2007 CHAMBER OF COMMERCE & AGRICULTURE HOLIDAY PARADE PERMIT AND AUTHORIZING THE POLICE DEPARTMENT TO REDIRECT TRAFFIC.

WHEREAS, the Wharton Chamber of Commerce and Agriculture has filed an application for a parade permit with the City of Wharton Police Department as required under the City of Wharton Code of Ordinances, Chapter 82, Article III, Sec. 82-91; and

WHEREAS, the requested parade route requires the City of Wharton to close State Highway 60 (Burlson Street and Milam Street) from its intersection with Alabama Road and Polk Street; and

WHEREAS, the closure of State Highway 60 will be for a time of less than four (4) hours; and

WHEREAS, the closure will require the detouring of all traffic according to the map (Attachment A) attached to this ordinance; and

WHEREAS, the routing of all traffic will include truck traffic to Alabama Road which is prohibited by ordinance; and

WHEREAS, the City Council wishes to suspend for the duration of the parade the enforcement of said ordinance of trucks traveling on Alabama Road; and

WHEREAS, if there are any other ordinances that would be violated because of the re-routing of all traffic their suspension is hereby authorized.

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

Section I. The parade permit for the Wharton Chamber of Commerce and Agriculture is hereby approved.

Section II. The parade route is hereby approved as detailed in the attached map (Attachment A) which is hereby made part of this ordinance.

Section III. The closure of all streets as indicated in said map identified in Section II are hereby authorized.

Section IV. The traffic detour plan as identified in Section III above is hereby approved.

Section V. The Chief of Police and City Staff are hereby authorized to make the necessary expenditures needed to ensure the safety of the public.

Section VI. This ordinance shall become effective on the 20th day of November 2007 and remain in effect until such time that the parade concludes.

Passed, Approved and Adopted this 22nd day of October 2007.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST

THERESA WITTIG

Deputy City Secretary

Councilmember Don Mueller seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider the request by Mr. John A. Ball, Owner of the Party Mouse, for City of Wharton assistance to close Fulton Street between Milam and West Burleson for the Party Mouse 2nd Annual Halloween Celebration to be held October 27, 2007 from 5:00 p.m. to 8:30 p.m. City Manager Andres Garza, Jr. presented a copy of the letter dated October 5, 2007 from Mr. John A. Ball, owner of the Party Mouse, requesting the City

Council to consider approving the closure of Fulton Street between Milam and West Burleson for the 2nd Annual Halloween Celebration to be held October 27, 2007 from 5:00 p.m. to 8:30 p.m. Mr. John Ball addressed the City Council and stated that the event was the same as last year. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the request by Mr. John A. Ball, Owner of the Party Mouse, for City of Wharton assistance to close Fulton Street between Milam and West Burleson for the Party Mouse 2nd Annual Halloween Celebration to be held October 27, 2007 from 5:00 p.m. to 8:30 p.m. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider the recommendation by the Mayor's Committee on People with Disabilities to place ADA restroom signage in the Civic Center and at Riverfront Park. City Manager Andres Garza, Jr. stated that the Mayor's Committee on People with Disabilities met Tuesday, October 9, 2007 and was recommending the City Council consider approving the replacement of signage at various locations in Wharton that indicated the location of handicap restroom facilities. He stated that the signage would be mainly at the Civic Center and Riverfront Park. He then presented a copy of the memorandum dated October 16, 2007 from Dr. Clark Spears, Chairman of the Committee providing the recommendation. Building Official Lori Jaquez stated that the Committee met and was requesting City Council approval. Dr. Clark Spears addressed the City Council and stated that additional signage was needed for the Civic Center, Riverfront Park restrooms and handicap parking for the downtown area. Mayor Bryce D. Kocian authorized the City Staff to order additional signage in the downtown area indicating the location of the ADA accessible restrooms located at the Civic Center and at Riverfront Park. After some discussion, no action was taken.

The ninth item on the agenda was to review and consider an ordinance approving budget amendments to the Budget for the City of Wharton, Texas, for Fiscal Year 2006 - 2007. City Manager Andres Garza, Jr. stated that the City Council Finance Committee met October 18, 2007 and was recommending the City Council consider approving the fiscal year 2006 – 2007 budget amendments. He then presented a copy of the memorandum dated October 18, 2007 providing the recommendation. He also presented a draft ordinance approving the amendments. Finance Director Joyce Vasut present the budget amendments. After some discussion, Councilmember Ray Linseisen made a motion to approve Ordinance No. 2007-26, which read as follows:

**CITY OF WHARTON, TEXAS
ORDINANCE NO. 2007 - 26**

**AN ORDINANCE APPROVING AMENDMENTS TO THE
BUDGET FOR THE CITY OF WHARTON, TEXAS FOR
THE FISCAL YEAR 2006 - 2007.**

WHEREAS, the City Council of the City of Wharton, Texas finds and determines it necessary to revise the 2006-2007 budget to better reflect actual revenues and expenditures in operations and activities during the fiscal year; and,

WHEREAS, the City Council finds and determines that these amendments to the budget are for municipal purposes.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Wharton, Texas that the 2006-2007 Budget be amended as per Attachment "A."

And is adopted by the following favorable majority of votes of the members of the City Council of the City of Wharton, Texas in a duly assembled city council meeting by the following majority:

V. L. Wiley, Jr. Voted Yes
Councilmember District No. 1

David Samuelson Voted Yes
Councilmember District No. 2

Ken Freese Voted Yes
Councilmember District No. 3

Donald Mueller Voted Yes
Councilmember District No.4

Domingo Montalvo, Jr. Voted Absent
Councilmember At Large Place No. 5

Ray Linseisen Voted Yes
Councilmember at Large Place No. 6

Bryce D. Kocian Voted Yes
Mayor

Separability

If any court of competent jurisdiction rules that any section, subsection, sentence, clause, or portion of this ordinance is invalid or unconstitutional, any such portion shall be deemed to be a 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, this 22nd 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 Ken Freese seconded the motion. All voted in favor.

ADMISSION:

JOYCE VASUT
Director of Finance

The tenth item on the agenda was to review and consider the fiscal year 2006-2007 write-off of EMS delinquent accounts. City Manager Andres Garza, Jr. stated that the City Council Finance Committee met October 18, 2007 and was recommending the City Council consider approving the fiscal year 2006 – 2007 write-off of EMS delinquent accounts. He then presented a copy of the memorandum dated October 18, 2007 providing the recommendation. Finance Director Joyce Vasut stated that write-offs for the 2006-2007 EMS delinquent accounts totaled \$504,000. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the fiscal year 2006-2007 write-off of EMS delinquent accounts. Councilmember David Samuelson seconded the motion. All voted in favor.

The eleventh item on the agenda was Public Hearing: In accordance with Section 1-n(d), Article VIII of the Texas Constitution, a public hearing may be held regarding the taxation of goods in transit as defined by Tex. Tax Code 11.253(a)(2), as amended by House Bill 621. City Manager Andres Garza, Jr. presented a copy of the HB 621 regarding the Exemption of Tangible Personal Property in Transit. He also presented a copy of information the City Staff received that explained HB 621. In accordance with Section J, Page 5, of HB 621, the governing body must hold a public hearing to determine whether or not to tax tangible personal property in transit, which would otherwise be exempt in accordance with the bill. He stated that official action must take place prior to January 1 of the first tax year in which a governing body proposes to tax goods in transit.

Mayor Bryce D. Kocian opened the Public Hearing for public comment at 7:47 p.m.

No comments were given.

Mayor Bryce D. Kocian closed the Public Hearing at 7:48 p.m.

The twelfth item on the agenda was to review and consider an ordinance of the City of Wharton, Texas, to tax tangible personal property in transit which would otherwise be exempt pursuant to Texas Tax Code, Section 11.253. City Manager Andres Garza, Jr. presented a copy of the draft ordinance of the City of Wharton, Texas, to tax tangible personal property in transit which would otherwise be exempt pursuant to Texas Tax Code, Section 11.253. He stated that on October 8, 2007, the Finance Committee met and discussed the ordinance and voted to recommend the City Council consider approving to opt out of the exemption and to adopt the ordinance that would tax tangible personal property in transit that would otherwise be exempt per the Texas Tax Code, Section 11.253. He then presented a copy of the memorandum dated October 8th from the Finance Committee. After some discussion, Councilmember made a motion to approve Ordinance No. 2007-27, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2007-27**

**AN ORDINANCE OF THE CITY OF WHARTON, TEXAS, TO TAX TANGIBLE
PERSONAL PROPERTY IN TRANSIT WHICH WOULD OTHERWISE BE EXEMPT
PURSUANT TO TEXAS TAX CODE, SECTION 11,253.**

WHEREAS, the 80th Texas Legislature in Regular Session has enacted House Bill 621 to take effect January 1, 2008, which added Tex. Tax Code §11.253 to exempt from taxation certain tangible personal property held temporarily at a location in this state for assembling,

storing, manufacturing, processing or fabricating purposes (goods-in-transit) which property has been subject to taxation in the past; and

WHEREAS, Tex. Tax Code §11.253(j) as amended allows the governing body of a taxing unit, after conducting a public hearing, to provide for the continued taxation of such goods-in-transit; and

WHEREAS, the City Council of the City of Wharton, Texas, having conducted a public hearing as required by Section 1-n(d), Article VIII, Texas Constitution, is of the opinion that it is in the best interest of the City to continue to tax such goods-in-transit.

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

Section I. The goods-in-transit, as defined by the Tex. Tax Code 11.253(a)(2), as amended by House Bill 621, enacted by the 80th Texas Legislature in Regular Session, shall remain subject to taxation by the City of Wharton, Texas.

Section II. This ordinance shall become effective on the date of its passage.

PASSED, APPROVED, and ADOPTED by the City Council of the City of Wharton, Texas, on the 22nd 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 David Samuelson seconded the motion. All voted in favor.

The thirteenth item on the agenda was to review and consider the request by Mr. Laurance Armour, III, President of ARC of East Wharton County for the following:

- A. **Resolution:** A resolution of the Wharton City Council approving the extension to the lease agreement between the City of Wharton and ARC of East Wharton County for the 0.45 acre tract of land situated in the William Kincheloe League, Abstract 38 and authorizing the Mayor of the City of Wharton to execute the agreement.

City Manager Andres Garza, Jr. presented a copy of the lease agreement between the City of Wharton and the ARC of East Wharton County for a 0.45 acre of land situated in the William Kincheloe League, Abstract 38, that was being utilized by the Wharton Enterprises. He also presented a copy of the letter dated October 5, 2007 from Mr. Laurance Armour, III, President of ARC, requesting that the City consider approving an extension to the lease in accordance with Section 15 of the agreement. He stated that the current agreement was due to expire on November 1, 2007. He stated that Mr. Armour had requested that the City Council also consider the contribution of the property or to negotiate a sale of the property to ARC. He further said that the City Council Finance Committee met October 18, 2007 and discussed Mr. Armour's requests, which the Committee Members voted to recommend the City Council consider approving the request to extend the contract the additional ten (10) year period. He then presented a copy of a draft resolution approving the lease agreement extension and a draft amendment to the lease; however, the Committee did not take action regarding the contribution or negotiation of the sale of the property until an opinion could be obtained from City Attorney Paul Webb. He then presented a copy of the memorandum dated October 18, 2007 from the Finance Committee providing their recommendation. After some discussion, Councilmember Ray Linseisen made a motion to approve Resolution No. 2007-93, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2007 - 93**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE EXTENSION TO THE LEASE AGREEMENT BETWEEN THE CITY OF WHARTON AND ARC OF EAST WHARTON COUNTY FOR THE 0.45 ACRE TRACT OF LAND SITUATED IN THE WILLIAM KINCHELOE LEAGUE, ABSTRACT 38 AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, the City of Wharton and ARC of East Wharton County entered into a thirty (30) year lease agreement for the City of Wharton property described as a 0.45 acre tract of land situated in the William Kincheloe League, Abstract 38, and

WHEREAS, the lease agreement is due to terminate November 1, 2007; and

WHEREAS, the City of Wharton and ARC of East Wharton County hereby wish to extend the lease agreement as per Section 15 of the original lease for an additional ten (10) year period; and

WHEREAS, the Wharton City Council wishes to approve the lease agreement extension; 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 Wharton City Council hereby approves the lease agreement extension for an additional ten (1) year period with ARC of East Wharton County.
- Section II.** That the City Council of the City of Wharton hereby authorizes the Mayor Bryce D. Kocian of the City of Wharton to execute the amendment to the aforementioned lease agreement.
- Section III.** That this resolution shall become effective immediately upon its passage.

Passed, Approved, and Adopted this 22nd day of October 2007.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

THERESA WITTING

Deputy City Secretary

Councilmember Don Mueller seconded the motion. All voted in favor.

- B. Consider the contribution of the property or to negotiate a sale of the property to ARC. After some discussion, no action was taken.

The fourteenth item on the agenda was to review and consider the request by Mr. Bill Joines, on behalf of Josef's Farm for the following:

- A. Move and level dirt excavated from the property the City purchased from Josef's Farm, Inc. to a four acre tract behind Mr. Joines' residence off of Highway 60.
- B. Fill low land starting at Highway 60 to where the box culverts were installed under Highway 60 back to the City acquired property.
- C. Permit Mr. Joines to remove top soil from said acquired property to fill low spots on five acres beside Mr. Joines' shop off of Highway 60.
- D. Reset culvert sections.
- E. Maintain road to the project during the duration that the road is being used to complete the project.

City Manager Andres Garza, Jr. presented a copy of the letter dated October 10, 2007 from Mr. Bill Joines, representative of Josef's Farm, Inc. requesting the items. He stated that the City Council Finance Committee met October 18, 2007 and was recommending the City Council

consider not to approve the requests. He stated that during the negotiation phase of the acquisition of the property from Josef's Farm, the agreement did not include the items listed above. He further said that City Attorney Paul Webb advised the Finance Committee that since the agreement did not include those provisions, that the City could not give the property to Josef's Farms. He told the Committee Members that the City should either stock pile the dirt excavated from the land purchased from Josef's Farms or to place the dirt for sale through public sale. He then presented a copy of the memorandum dated October 18, 2007 from the Finance Committee providing their recommendation. City Attorney Paul Webb recommended the City Council deny the request. After some discussion, Councilmember David Samuelson made a motion to deny the request. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The fifteenth item on the agenda was to review and consider the request by Mr. Bob Whitley, owner of Idlewood Homes, for City Council approval to place various directional signs advertising the homes for sale located on Columbus Street. City Manager Andres Garza, Jr. presented a copy of the letter dated October 2, 2007 from Mr. Bob Whitley, owner of Idlewood Homes. He stated that Mr. Whitley was requesting the City Council to approve the placement of various directional signs advertising the homes for sale that were constructed on Columbus Street. He stated that he had submitted Mr. Whitley's request to Building Official Ronnie Bollom to obtain his interpretation of the City of Wharton Code of Ordinances concerning the request. He then presented a copy of Mr. Bollom's response. City Attorney Paul Webb stated that it would be a temporary sign and permission would have to be obtained from the property owners. After some discussion, Councilmember David Samuelson made a motion to approve the request by Mr. Bob Whitley, owner of Idlewood Homes, for City Council approval to place various directional signs advertising the homes for sale located on Columbus Street contingent upon the following:

1. Submitting a complete sign for review.
2. Submitting a map indicating the exact location each sign would be placed.
3. Obtaining each property owners permission to place the sign on their respective properties. Written permission would be advisable.
4. Provide dates and times the signs would be placed and removed.
5. Submission of the information to Building Official Ronnie Bollom requesting a variance to the City of Wharton Code of Ordinances, Chapter 66 Signs and Advertising.

Councilmember Ken Freese seconded the motion. All voted in favor.

The sixteenth item on the agenda was to review and consider the request by Mr. Jim Cheek regarding the removal of landscaping located at the esplanade located at Richmond Road and Bolton Street. City Manager Andres Garza, Jr. presented a copy of the letter received by the City Staff October 18, 2007 from Mr. Jim Cheek to Mayor Bryce D. Kocian requesting to discuss the removal of the landscaping at the esplanade located at the corner of Richmond Road and Bolton Street. He stated that due to numerous complaints concerning visibility at the intersection, he had directed the Public Works Department to remove the landscaping in an effort to avoid a liability to the City should an accident occur at the intersection. Mr. Jim Cheek addressed the City Council and stated that there was no issue regarding the visibility. He stated that esplanade was donated by Rotary Club and Texas Department of Transportation in memory of former Mayor Armstrong. He said that the City did not have to completely remove the trees and plants. Mr. Garza stated

that traffic safety was the most important aspect for the City. After some discussion, no action was taken.

The seventeenth item on the agenda was to review and consider the Wharton Economic Development Corporation 2006 – 2007 Annual Report. City Manager Andres Garza, Jr. presented a copy of the memorandum dated October 18, 2007 from Wharton Economic Development Corporation (WEDC) Executive Director David Schroeder requesting that the WEDC 2006-2007 annual report be placed as an item on the City Council agenda. Mr. Schroeder discussed the following aspects of the annual report: financially, educationally, marketing and tourism, and City projects. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the Wharton Economic Development Corporation 2006 – 2007 Annual Report as presented. Councilmember Don Mueller seconded the motion. All voted in favor.

The eighteenth item on the agenda was to review and consider the requests for City Council approval of the following City of Wharton Ambulance Provider Permit Applications:

- A. Upscale EMS.
- B. Midas Care EMS.

City Manager Andres Garza, Jr. presented a copy of the Ambulance Provider Permit Applications that were submitted by Upscale EMS and Midas Care EMS. He also presented a copy of the memorandum dated October 17, 2007 from EMS Director John Kowalik indicating that the applications appeared to be in compliance with the rules and regulations with the Department of State Health Services and recommended approval. City Attorney Paul Webb recommended approval. After some discussion, Councilmember David Samuelson made a motion to approve the City of Wharton Ambulance Provider Permit Applications for Upscale EMS and Midas Care EMS. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The nineteenth item on the agenda was to review and consider a resolution of the Wharton City Council approving the Emergency Medical Service (EMS) Affiliation Agreement between Houston Community College and the City of Wharton and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. stated that the Houston Community College had requested the City of Wharton to enter into a EMS Affiliation Agreement for their EMS students. He stated that he had presented the proposed agreement to City Attorney Paul Webb who provided a response letter dated October 3, 2007. He stated that since that time, the City Staff presented Houston Community College with the preferred City of Wharton affiliation agreement, which the College had approved the agreement with minor changes. He then presented a copy of the proposed agreement and a draft resolution authorizing the Mayor to execute the agreement. After some discussion, Councilmember Ray Linseisen made a motion to approve Resolution 2007-94, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2007 - 94**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE
EMERGENCY MEDICAL SERVICE (EMS) AFFILIATION AGREEMENT BETWEEN
THE HOUSTON COMMUNITY COLLEGE AND THE CITY OF WHARTON AND**

AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID AGREEMENT.

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton, Texas to execute an agreement with Houston Community College for the purpose of offering EMT, EMT/ Intermediate and Paramedic Students the opportunity to utilize the City of Wharton E.M.S. Ambulance for the basic and advanced ambulance rotation; and

WHEREAS, the City of Wharton and Houston Community College wishes to be bound by the conditions as set forth in the agreement.

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 authorizes the Mayor of the City of Wharton, Texas to execute an affiliation agreement for purpose of offering EMT, EMT/ Intermediate and Paramedic Students the opportunity to utilize the City of Wharton E.M.S. Ambulance for the basic and advanced ambulance rotation with the Houston Community College.

Section. II. That the City of Wharton and the Houston Community College wishes to be bound by the conditions as set forth in the agreement.

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

Passed, Approved, and Adopted this the 22nd day of October 2007.

CITY OF WHARTON

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

THERESA WITTIG

Deputy City Secretary

Councilmember Ken Freese seconded the motion. All voted in favor.

The twentieth item on the agenda was to review and consider the request by the Public Works Department for City Council approval to purchase a 2007 XT 3300-72 New Dixie Chopper ZTR Mower from Turf Equipment & Supplies, Inc. in the amount of \$8,199.00. City Manager Andres Garza, Jr. presented a copy of the memorandum dated October 17, 2007 from Public Works Director Phil Bush requesting to purchase a 2007 XT 3300-72 new Dixie Chopper ZTR mower

from Turf Equipment & Supplies, Inc., which was located in Houston, Texas. He stated that the cost of the mower was \$8,199.00 and would be utilized by the Utility Department. He said that the mower would replace the 1995 John Deer, which was budgeted to be replaced this fiscal year. He stated that three quotes were received for the equipment. After some discussion, Councilmember David Samuelson made a motion to approve the request by the Public Works Department for City Council approval to purchase a 2007 XT 3300-72 New Dixie Chopper ZTR Mower from Turf Equipment & Supplies, Inc. in the amount of \$8,199.00. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The twenty-first item on the agenda was to review and consider the request by the Wharton Police Department to purchase two (2) four (4) door Crown Victoria Sedans, Police Package, through the Houston-Galveston Area Council. City Manager Andres Garza, Jr. stated that Police Chief Tim Guin was requesting the City Council to approve the purchase of two (2) four (4) door Crown Victoria Sedans, Police Package, through the Houston-Galveston Area Council (H-GAC). He then presented a copy of the contract pricing worksheet from H-GAC that indicated the purchase price of each unit would be \$22,762.13 each. He also presented a copy of the vehicle order information. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the request by the Wharton Police Department to purchase two (2) four (4) door Crown Victoria Sedans, Police Package, through the Houston-Galveston Area Council. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The twenty-second item on the agenda was to review and consider the Appointment of a City of Wharton Representative to serve on the Wharton County Appraisal District Board of Directors for the January 1, 2008 to December 31, 2009 term. City Manager Andres Garza, Jr. presented a copy of the letter dated October 4, 2007 from Ms. Tylene Gamble, Chief Appraiser of the Wharton County Appraisal District requesting the City of Wharton to designate a representative to serve on the Wharton County Appraisal District for the January 1, 2008 to December 31, 2009 term. After some discussion, Councilmember Don Mueller made a motion to appoint Mayor Bryce D. Kocian to serve on the Wharton County Appraisal District Board of Directors for the January 1, 2008 to December 31, 2009 term. Councilmember Ken Freese seconded the motion. All voted in favor.

The twenty-third item on the agenda was to review and consider the Appointment to the Youth Advisory Commission. City Manager Andres Garza, Jr. stated that applications had been received for the Youth Advisory Commission. He stated that the follows were a list of the names of the students who wish to serve on the Commission.

1. Nathaniel Allen – 7th grade
2. Joy Cantu -8th grade
3. Mariela Delgado – 8th grade
4. Katelyn Douglas – 8th grade
5. Curtis Wade Evans, Jr. – 12th grade
6. Devyn Flynn – 8th grade
7. Shea Flynn – 12th grade
8. Mikeisha Foster – 7th grade
9. Sharneace Johnson – 12th grade

10. Shaina Lowe – 11th grade
11. Cortni May – 9th grade
12. K. Rhodes – 11th grade
13. Hailey Welch – 8th grade

He also presented a copy of the Resolution No. 2002-18 creating the Commission. He stated that the resolution stated that the Commission was to be comprised of two members each from grades 7th through 12th, two from each private school grades 7 or higher, 6 members at large and two adult advisors and one volunteer coordinator. He stated that there were currently 13 students interested in serving and one adult advisor. After some discussion, Councilmember Ken Freese made a motion to appoint the following to the Youth Advisory Commission:

- Nathaniel Allen – 7th grade
- Joy Cantu -8th grade
- Mariela Delgado – 8th grade
- Katelyn Douglas – 8th grade
- Curtis Wade Evans, Jr. – 12th grade
- Devyn Flynn – 8th grade
- Shea Flynn – 12th grade
- Mikeisha Foster – 7th grade
- Sharneace Johnson – 12th grade
- Shaina Lowe – 11th grade
- Cortni May – 9th grade
- K. Rhodes – 11th grade
- Hailey Welch – 8th grade

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

The twenty-fourth item on the agenda was to review and consider the request by Councilmember Domingo Montalvo, Jr. to attend the Texas Municipal League 95th Annual Conference November 6 – 9, 2007 in Dallas, Texas. City Manager Andres Garza, Jr. stated that Councilmember Domingo Montalvo, Jr. was requesting City Council authorization to attend the 95th Annual Texas Municipal League Conference to be held in Dallas, Texas, November 6 – 9, 2007. He stated that Councilmember Montalvo was seeking City Council approval for only the registration fees to be paid from the City Council continuing education budget. After some discussion, Councilmember Ray Linseisen made a motion to approve the request by Councilmember Domingo Montalvo, Jr. to attend the Texas Municipal League 95th Annual Conference November 6 – 9, 2007 in Dallas, Texas for the amount of \$295.00. Councilmember Ken Freese seconded the motion. All voted in favor.

The twenty-fifth item on the agenda was to review and consider the Status Report on City of Wharton Projects. City Manager Andres Garza, Jr. presented the memorandum, which read as follows:

FLOOD PLAIN MANAGEMENT

The U.S. Army Corp of Engineers Lower Colorado River Phase I Report - City of Wharton Flood Prevention Project and Recommended report was located at the Wharton County Library and the office

of the City of Wharton City Secretary for viewing or the report may be viewed on line at <http://www.swf.usace.army.mil/pubdata/notices/LowerColorado/>.

The House and Senate Conference had approved the conference report. The House approved the report by a 381 to 40 vote. The Senate would take up the report on September 24th for a vote. Chairperson of the Senate Water Resources Committee Senator Boker of California had indicated that there were enough votes in the House and Senate to overturn a veto by the President. The President had issued a veto notice.

The project was continuing to move forward. In regards to the pre-construction, engineering and design (PED) aspect of the project, the LCRA Board had approved their continuing as sponsor of the PED. The Corp had approved the necessary agreements to continue the work. The agreement with LCRA for the PED had been executed by both entities. The \$200,000.00 available in the USCOE budget for FY 2007 had been allocated to the Wharton Project.

DRAINAGE:

1. Santa Fe Outfall Channel.

The Public Works Department and Wharton County Precinct No. 1 had dug approximately 4,300 feet of ditch and slopes. The box culverts had been laid across FM 1299, Hwy. 60 and under the pipeline. The contractor was continuing to work on the road crossings and end treatments.

WATER/SEWER IMPROVEMENTS:

1. Wharton Industrial Park Sanitary Pump Station.

R & B Group, Inc., had begun construction. The Company started excavation and had ran into groundwater. The Company was in the process of dewatering and would begin excavation again next week.

The Public Works Department had installed approximately 8,500 feet of the total 11,800 feet of force main required. This project was on going and would continue as soon as the weather permits.

2. Sanitary Sewer Lines.

Matula & Matula Construction Company had begun construction. The Company had completed the tap and waterline installation for Taco Bell/KFC and installed the tap and fireplug for Armstrong Street. The boring under Business 59 had also been completed. The asphalt should be laid today. The contractor would then move to Olive Street to conduct the needed improvements.

STREET IMPROVEMENTS

1. U.S. 59/FM 102 Intersection Upgrade.

Angel Brothers had completed approximately 80% of the fill operation of the project. They would begin placing the gravel base at the end of the week or the first of next week. coordination with TxDOT had worked well.

2. Road Extension Project between FM 1301 and County Road 235.

Jones & Carter, Inc. was working on the survey for the purchase of the land being acquired from Union Pacific Railroad, which should be complete within the next two weeks. Unovate Environmental Services would be conducting the Phase I Environmental Study. A representative had discussed the proposed study October 18, 2007 and he also conducted a site visit the same day.

The City Staff and Jones & Carter, Inc. met with Mr. Lonnie Gregorcyk of the Texas Department of Transportation regarding the funding for the project. TxDOT indicated that funding was very tight and future funding may be an issue. The State encouraged the City to continue with the project and to build the county road. A discussion was also held regarding the possibility of tying in FM 102 to the proposed road and then building the overpass over the railroad right of way.

3. Columbus Street/Mulberry Street

This project was complete except for the installation of the surface treatment, which should be laid by Faltisek in the next two weeks.

4. Jr. College Blvd. – FM 1301 to Ahldag Street.

Construction was complete on the main portion of the road. Stripping and signage needed to be completed. The stretch north of Pioneer Avenue was being constructed this week.

WHARTON REGIONAL AIRPORT

1. 2007 RAMP Program.

2. Non-Primary Entitlement (NPE) Funds.

- a. Hangar Project –BLS had begun the foundation work for the hangar facility. This project was ongoing.

3. Airport Terminal Building Project.

The Texas Department of Transportation Aviation Division had notified the City Staff that the terminal building project had been slated for funding in the TxDOT fiscal year 2008; therefore, the project would be bid after September 1, 2007. The final design of the terminal building had been reviewed by the Texas Department of Transportation. TxDOT Project Manager Mr. John Greer would meet with the City Staff on October 22, 2007 to review the plans.

HOME PROJECTS

1. **2004 HOME Program (Special Needs)**

This project was complete and the City Staff was awaiting formal notification from the State regarding the project closure.

2. 2005 Home Program (Disaster Relief)

All homes had been demolished. Construction of the homes had begun. Nine homes would be conducted under this Disaster Relief Grant.

OTHER PROJECTS:

1. Santa Fe Trail Park Project.

The project had been completed and been inspected for compliance with ADA Standards. Any deficiencies would be addressed by the City Staff.

2. Southern Pacific Railroad Depot Restoration Project.

The restoration of the depot was complete. The City Staff had submitted the closeout documents to the State. The Bill of Sale and Severance Agreement and ground lease agreement between the City and the Texas Mexican Railway Company for the property located at 100 North Sunset Street had been executed by the City of Wharton and submitted to KCS for final execution.

3. Sidewalk Project.

Bids were received on October 11, 2007. Economic Construction was the low bidder and bids were within the budget. The City would be scheduling a meeting with Wharton County to determine if they are going to participate and pay for the portion of the project the County would be responsible for. The Public Works Committee would also meet in the near future to review the bid tabulations.

4. Fire Station Improvements.

The plans for the Fire Station Improvements had been completed and the City Staff was preparing to develop the plans for the improvements. A construction schedule was being developed prior to starting any work. This project was moving forward.

5. Police Station Building.

ARC Abatement had been completed the removal of the asbestos and Unovate Environmental Services had provided the air monitoring report which indicated the building was safe for remodeling.

The Public Works crews have removed the back walls from the storage area, removed electrical roll up doors, and removed the piling from the power pole storage area.
No action was taken.

The twenty-sixth item on the agenda was to review and consider the Council Committees, Boards and Commission's Reports:

- A. Mayor's Committee on People with Disabilities meeting held October 9, 2007.
- B. Beautification Commission meeting held October 10, 2007
- C. City Council Finance Committee meeting held October 18, 2007.

City Manager Andres Garza, Jr. presented the reports to the City Council. No action was taken.

The twenty-seventh item on the agenda was to review and consider the City Manager's Reports:

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| A. City Secretary/Personnel. | H. Legal Department. |
| B. Code Enforcement. | I. Municipal Court. |
| C. Community Services Department/
Civic Center. | J. Police Department. |
| D. E.M.S. Department. | K. Public Works Department. |
| E. Engineer/Planning Department. | L. Water/Sewer Department. |
| F. Facilities Maintenance Department. | M. Weedy Lots/Sign Ordinance. |
| G. Fire Department Incidents/Inspections. | N. Wharton Municipal Pool. |
| | O. Wharton Regional Airport. |

City Manager Andres Garza, Jr. presented the reports to the City Council. No action was taken.

The twenty-eighth item on the agenda was a presentation: Airport Manager David Allen provided a 2006-2007 summary of a presentation regarding the Wharton Regional Airport operations.

The twenty-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.

The meeting adjourned at p.m.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

THERESA WITTIG
Deputy City Secretary