

**MINUTES  
OF  
CITY OF WHARTON  
REGULAR CITY COUNCIL MEETING  
JANUARY 11, 2010**

Mayor David W. Samuelson declared a Regular Meeting duly open for the transaction of business at 7:01 P.M. Councilmember Terry David Lynch led the opening devotion and then Mayor David W. Samuelson led the pledge of allegiance.

Councilmembers present were: Mayor David W. Samuelson, Councilmembers Lewis Fortenberry, Jr., Terry David Lynch, Don Mueller, Domingo Montalvo, Jr., and Jeff Gubbels.

Councilmember absent was: Councilmember V. L. Wiley, Jr.

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, Building Official Ronnie Bollom, Community Services Director Jo Knezek, Airport Manager David Allen, and Assistant City Attorney Amy Rod.

Visitors present were: Barry Halvorson- Wharton Journal Spectator, David Schroeder- Wharton Economic Development Corporation, and Carlos Cotton – Jones & Carter, Inc.

The second item on the agenda was Roll Call and Excused Absences. After some discussion, Councilmember Lewis Fortenberry, Jr. made a motion to excuse the absence of Councilmember V. L. Wiley, Jr. from the regular City Council meeting held on January 11, 2010. Councilmember Terry David Lynch 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 Terry David Lynch congratulated the Wharton Fire Department on a successful Extravaganza held on Saturday, January 23, 2010. 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 December 14, 2009 and special meeting held December 29, 2009. After some discussion, Councilmember Don Mueller made a motion to approve the minutes from the regular meetings held December 14, 2009 and special meeting held December 29, 2009 as presented. Councilmember Terry David Lynch seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider an ordinance amending the City of Wharton Code of Ordinances, Chapter 18, Building and Construction, Article III. Construction Codes by adding Section 18-79 Off-Street Parking Requirements; Providing that a violation of the ordinance or any part of the Code as adopted hereby shall constitute a penalty upon conviction of a fine; Providing for severability and setting an effective date. Building Official Ronnie Bollom stated that the Planning Commission met on December 7, 2009 and voted to recommend the City Council consider approving the attached draft ordinance amending the City of Wharton Code of Ordinances, Chapter 18 Building and Construction, Article III Construction Codes by adding Section 18-79 Off-Street Parking Requirements. He stated that the ordinance would require a set number of parking spaces. Councilmember Domingo Montalvo, Jr. requested a fiscal note on the cost to enforce the ordinance be added. Councilmember Don Mueller requested modifying additional sections in Article III. Construction Codes. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to defer the ordinance to the City Council Public Works Committee. Councilmember Jeff Gubbels 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 the submission of an Energy Efficiency and Conservation Block Grant Application to the State Energy Conservation Office and authorizing the Mayor of the City of Wharton to execute all documents related to said application. Assistant to City Manager Jackie Jansky stated that during the regular October 26, 2009 Wharton City Council meeting, the City Council approved Resolution No. 2009-87 accepting the allocation of funding and possible acceptance of additional funds under the Energy Efficiency and Conservation Block Grant (EECBG) Program. She said that at that time, the City Council also approved the submission of the City's Notice of Intent to accept the EECBG allocation (\$35,000) under the American Recovery and Reinvestment Act (ARRA). She said that the deadline to submit Notice's of Intents by eligible entities had past and the State Energy Conservation Office (SECO) had reallocated the funding set aside for other entities and who chose not to participate in the program. She said that the City of Wharton had received notification in the email dated December 22, 2009 that the City's final allocated funding amount under the program was \$40,303. She then presented a copy of the application and information regarding eligible projects. She said that the City Staff was working with Mr. Chad Nobles of Seimans in conducting preliminary energy audits to determine areas within the City's facilities that may need energy efficiency improvements. She said that the deadline to submit applications for projects was January 15<sup>th</sup>; therefore, a resolution approving the applications submission was needed. She then presented a copy of a draft resolution approving the applications submission to SECO. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2010-01, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2010-01**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE SUBMISSION OF AN ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT APPLICATION TO THE STATE ENERGY CONSERVATION OFFICE AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID APPLICATION.**

**WHEREAS,** Congress passed the American Recovery and Reinvestment Act (ARRA) of 2009 and the President signed into law on February 17, 2009, to stimulate the economy and create jobs; and

**WHEREAS,** ARRA included \$3.2 billion in funding for the Energy Efficiency and Conservation Block Grants (EECBG) Program authorized in Title V, Subtitle E of the Energy Independence and Security Act (EISA) and signed into law on December 19, 2007; and

**WHEREAS,** the City of Wharton was allocated \$40,303.00 under the ARRA to be used to conduct energy efficiency projects to City facilities; and,

**WHEREAS,** The City of Wharton wishes to submit an application under the under the ARRA Energy Efficiency and Conservation Block Grant Program to conduct energy efficiency related projects; and,

**WHEREAS,** The Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute all documents related to said application.

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

**Section I.** The City of Wharton, through the City Manager, pursue all EECBG funding made available through ARRA and being allocated by the State Energy Conservation Office to be used to assist in reaching the City's goals of energy efficiency.

**Section II.** The City of Wharton wishes to submit an application for projects under the Energy Efficiency and Conservation Block Grant Program to the State Energy Conservation Office.

**Section III.** That the Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute all documents related to said application.

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

**Passed, Approved, and Adopted** this the 11<sup>th</sup> day of January 2010.

**CITY OF WHARTON**

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

**ATTEST:**

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

City Secretary

Councilmember Lewis Fortenberry, 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 Fixed Base Operator Hangar Lease Agreement between the City of Wharton and The Dynasty Group and authorizing the Mayor of the City of Wharton to execute the agreement. Airport Manager David Allen said that during the November 9, 2009 regular Wharton City Council meeting, the City Council approved to enter into a lease agreement for the large commercial hangar with Memorial Aviation owned by Mr. Elliott Weiss; however, since that time, Mr. Weiss had declined to accept the hangar and withdrew from executing the agreement. He said that the Wharton Regional Airport Board met on January 5, 2010, and reviewed an agreement for the hangar submitted by Mr. Gerry Shore owner of The Dynasty Group. He said that the agreement was submitted to Mr. Shore, which he submitted back to the City signed. He said that the Airport Board voted to recommend the City Council consider authorizing the Mayor to execute the agreement. He said that there would not be any build out; the building would be leased as is. City Manager Andres Garza, Jr. presented a copy of the Board's recommendation memorandum dated January 6, 2010, a draft copy of a resolution approving the agreement and a copy of the agreement. After some discussion, Councilmember Jeff Gubbels made a motion to approve Resolution No. 2010-02, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2010-02**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING  
FIXED BASE OPERATOR HANGAR LEASE AGREEMENT BETWEEN  
THE CITY OF WHARTON AND THE DYNASTY GROUP AND  
AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO  
EXECUTE THE AGREEMENT.**

**WHEREAS**, the City of Wharton received proposals for the lease of the large commercial hangar located at the Wharton Regional Airport; and

**WHEREAS**, the City of Wharton City Council wishes enter into an agreement with The Dynasty Group; and

**WHEREAS**, the City of Wharton and The Dynasty Group 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 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 to execute a Fixed Base Operator Hangar Lease Agreement for the large commercial hangar located at the Wharton Regional Airport between the City of Wharton and The Dynasty Group.

**Section II.** That the City of Wharton and The Dynasty Group are hereby 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 11<sup>th</sup> day of January 2010.

**CITY OF WHARTON, TEXAS**

**By:**

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

**ATTEST:**

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

City Secretary

Councilmember Terry David Lynch seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider the recommendation by the City Council Consultant Selection Committee for the City Council to consider approving the final scoring results for Professional Engineering Services for the Ahldag Addition Sanitary Sewer Improvement Project, TxCDBG Contract No. R729710 and to authorize the Committee to begin contract negotiations with Jones & Carter, Inc. for said project. City Manager Andres Garza, Jr. stated that the City Council Consultant Selection Committee met on December 18, 2009 and held interviews with the five firms that submitted a response to the City's Requests for Proposals for professional engineering services for the Ahldag Addition Sanitary Sewer Improvement Project, TxCDBG Contract No. R729710. He said that the five firms were as follows:

Jones & Carter, Inc.

KSA Engineering, Inc.

BEFCO Engineering, Inc.

Kelly R. Kaluza & Associates, Inc.

Weishuhn Engineering.

He said that the firms were ranked by each Committee Member and the scores were tallied. He said that the Committee consisted of: Public Works Director Carter Miska, himself, and Councilmembers Domingo Montalvo, Jr., Don Mueller, and V. L. Wiley, Jr. He then presented a copy of the final ranking of each firm with Jones & Carter, Inc. scoring the highest. He said that in accordance with the guidelines and criteria for selecting a firm, contract negotiations shall begin with the highest ranking firm. He said that should negotiations fail, then the negotiations would proceed to the next highest ranking firm and so forth; therefore, the Consultant Selection Committee was seeking City Council approval of the final scoring of the firms and authorization to begin contract negotiations with Jones & Carter, Inc. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the final scoring results and to authorize the Committee to begin contract negotiations with Jones & Carter, Inc. for the Ahldag Addition Sanitary Sewer Improvement Project, TxCDBG Contract No. R729710. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

City of Wharton  
Regular City Council Meeting  
January 11, 2010

The tenth item on the agenda was Executive Session: City Council may adjourn into an Executive Session in accordance with Section 551.071 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: Contemplated Litigation - Waste Management.

Mayor David W. Samuelson adjourned into Executive Session at 7:18 p.m.

Mayor David W. Samuelson Returned to Open Meeting at 7:41 p.m.

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

A. Review & Consider: Contemplated Litigation - Waste Management.

Mayor David W. Samuelson stated that no action would be taken.

The twelfth item on the agenda was to review and consider City Council Committees, Boards and Commission's Reports:

A. City Council Consultant Selection Committee meeting held January 5, 2010.

B. City Council Finance Committee meeting held January 5, 2010.

C. Wharton Regional Airport Board meeting held January 5, 2010.

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

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

The meeting adjourned at 7:42 p.m.

CITY OF WHARTON, TEXAS

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

ATTEST:

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