

**MINUTES  
OF  
CITY OF WHARTON  
REGULAR CITY COUNCIL MEETING  
JANUARY 14, 2008**

Mayor Bryce D. Kocian 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 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, Domingo Montalvo, Jr. and Ray Linseisen.

Councilmember absent was: None.

Staff members present were: City Manager Andres Garza, Jr., Finance Director Joyce Vasut, Assistant to City Manager Jackie Jansky, City Secretary Lisa Stavena, Planning Director Prudencio Arriaga, Police Chief Tim Guin, Building Inspector Ronnie Bollom, and City Attorney Paul Webb.

Visitors present were: Ben Sharp with Wharton Journal Spectator, David Schroeder with Wharton Economic Development Corporation, Carlos Cotton, Fred Kuykendall, Trish Kuykendall, Ellis Hurd, Bruce Williams, Henry Thiele, and Raymond Harrison.

The third item on the agenda was Public Comments. Mr. Ellis Hurd addressed the City Council and commended Building Inspector Ronnie Bollom and Code Enforcement Officer Jimmy Nickolyn on the progress at west end. He stated that 15 homes had been demolished. He stated that he reported trash by Woods Bar-B-Que and the next morning, all trash was removed. He stated that he really appreciated the action the City Staff was taking and encouraged to keep up the efforts. No action was taken.

The fourth item on the agenda was Wharton Moment. Councilmember Ken Freese stated that Habitat for Humanity was constructing the third home in west end and encouraged organizations to get involved. He stated that every Saturday, volunteers help with the construction of the new home. City Manager Andres Garza, Jr. stated that a total of 45 new homes had been construction through the HOME Program.

Councilmember Don Mueller stated that the dumpster fencing was appealing. City Manager Andres Garza, Jr. stated that the property owners had to comply with the City ordinance. No action was taken.

The fifth item on the agenda was to review and consider the reading of the minutes from the regular meeting held December 10, 2007 and the special meeting held December 20, 2007. After some discussion, Councilmember Ray Linseisen made a motion to approve the Wharton City Council minutes of the regular meeting held December 10, 2007 and the special meeting held December 20, 2007 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 a resolution of the Wharton City Council supporting the Wharton County application for a Flood Protection Planning Grant filed with the Texas Water Development Board. City Manager Andres Garza, Jr. presented a copy of the letter dated December 6, 2007 from Wharton County Judge John W. Murrile requesting the City of Wharton's support for a grant application submitted by Wharton County to the Texas Water Development Board (TWDB) for funding for a flood protection study for the Tres Palacios River Water shed in Wharton and Matagorda Counties. He also presented a draft resolution providing the City's support of the application. He said that once Wharton County received the City's letter of support and resolution, Wharton County would forward the documents to the TWDB. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2008-01, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2008-01**

**A RESOLUTION OF THE WHARTON CITY COUNCIL SUPPORTING THE WHARTON COUNTY APPLICATION FOR A FLOOD PROTECTION PLANNING GRANT FILED WITH THE TEXAS WATER DEVELOPMENT BOARD.**

**WHEREAS,** Wharton County, Texas, desires to develop a Flood Protection Planning Study for the Tres Palacios River Watershed; and

**WHEREAS,** the Wharton City Council wishes to lend its support to Wharton and Matagorda Counties and the City of El Campo and the application that was filed with the Texas Water Development Board for funding for the proposed Flood Protection Planning Study for the Tres Palacios River Watershed; and

**WHEREAS,** the proposed Flood Protection Planning Study to be conducted by Wharton County shall determine proposed planning efforts to identify viable solutions for flood reduction.

**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 supports the application submitted by Wharton County to the Texas Water Development Board for a Flood Protection Planning Grant to assist with funding a Flood Protection Planning Study of the Tres Palacios River Watershed for Wharton and Matagorda Counties and the City of El Campo.

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

**Passed, Approved, and Adopted** this 14<sup>th</sup> day of January 2008.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

\_\_\_\_\_  
**LISA STAVENA, 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 Wharton County Precinct No. 1 Commissioner Mickey Reynolds for the City of Wharton to donate soil excavated from the Santa Fe Drainage Outfall Channel Project for use at the proposed Wharton County Precinct 1 Facility to be located off of County Road 3012. City Manager Andres Garza, Jr. presented a copy of the letter received January 8, 2008 from Wharton County Precinct No. 1 Commissioner Mickey Reynolds requesting the City of Wharton to donate approximately 500 yards of soil that was being excavated from the Santa Fe Drainage Outfall Channel. He said that the soil would be used for the foundation of the new Wharton County Precinct 1 facility to be located off of County Road 3012. He said that the City Council Public Works Committee met Friday, January 11, 2008 and was recommending the City Council consider approving the donation of the soil. He stated that an interlocal agreement would be submitted to Wharton County Precinct No. 1 for execution. Mayor Bryce D. Kocian stated that the interlocal agreement should reflect Wharton County to haul and use the soil for the foundation of the new facility. After some discussion, Councilmember Ken Freese made a motion to approve the request by Wharton County Precinct No. 1 Commissioner Mickey Reynolds for the City of Wharton to donate soil excavated from the Santa Fe Drainage Outfall Channel Project for use at the proposed Wharton County Precinct 1 facility to be located off of County Road 3012. Councilmember Don Mueller seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider City Council authorization for the City Staff to pursue the re-routing of FM 102 under the Road Extension Project between FM 1301 and County Road 235. City Manager Andres Garza, Jr. stated that the City Council Public Works Committee met January 11, 2008 and was requesting City Council authorization for the City Staff to pursue the re-routing of FM 102 under the Road Extension Project between FM 1301 and County Road 235. He said that currently, the City of Wharton, through Mr. Carlos Cotton, P.E. of Jones & Carter, Inc. was working with the Kansas City Southern (KCS) Railroad in an effort to receive assistance from KCS to build an overpass over the railroad right-of-way that passed through the proposed road extension project between FM 102 and County Road 235. He said that it had been suggested that FM 102 could be re-routed in an effort to create a safer entrance to FM 102. He then presented a copy of a map indicating a proposed route. He stated that the rail would operate 8 to 9 trains per day and then up to 20 trains per day. He stated that with the volume of

operation, an overpass would be the solution for the citizens of Wharton. Councilmember Don Mueller stated that the roads could be tied closer together to save real estate property. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to authorize the City Staff to pursue the re-routing of FM 102 under the Road Extension Project between FM 1301 and County Road 235. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider the request by Mr. Frederick Kuykendall for a variance from the required five (5) feet interior side yard setback to construct a residence over a property line at 2720 North Texas, Hawes 4<sup>th</sup>, Block 16, Lot 4A, 5, 22, and 23A. City Manager Andres Garza, Jr. presented a copy of the memorandum dated January 9, 2008 from Planning Director Prudencio V. Arriaga, Sr. providing the request by Mr. Frederick Kuykendall for a variance from the required five (5) feet interior side yard setback to construct a residence over a property line at 2720 North Texas, Hawes 4<sup>th</sup>, Block 16, Lot 4A, 5, 22, and 23A. Planning Director Prudencio Arriaga stated that the property owner desired to construct a 50 X 26 home over Lots 22 and 23 A. He stated that no additional variances would be requested. After some discussion, Councilmember Ray Linseisen made a motion to approve the request by Mr. Frederick Kuykendall for a variance from the required five (5) feet interior side yard setback to construct a resident over a property line at 2720 North Texas, Hawes 4<sup>th</sup>, Block 16, Lot 4A, 5, 22, and 23A. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider the recommendation by the Planning Commission for the City Council to consider approving a request by Ms. Rosemary A. Rust for approval of the preliminary/final re-plat of the Rust Fifth Addition being a subdivision of 1.7932 acres out of the Alexander Jackson Timber League, A-34. City Manager Andres Garza, Jr. stated that the Planning Commission met January 10, 2008 to review the request by Ms. Rosemary A. Rust for approval of the preliminary/final re-plat of the Rust Fifth Addition being a subdivision of 1.7932 acres out of the Alexander Jackson Timber League, A-34. He then presented a copy of the memorandum dated January 10, 2008 from Planning Commission Chairman A. J. Rath recommending the City Council consider approving Ms. Rust's request. Planning Director Prudencio V. Arriaga, Sr. stated that the site would be constructed for a motel. He stated that the road would become Dewberry Drive and the drainage would be carried to the Wal-Mart ditch. He stated that there was a temporary cul-de-sac. After some discussion, Councilmember David Samuelson made a motion to approve the request by Ms. Rosemary A. Rust for approval of the preliminary/final re-plat of the Rust Fifth Addition being a subdivision of 1.7932 acres out of the Alexander Jackson Timber League, A-34. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The eleventh item on the agenda was to review and consider an ordinance amending the City of Wharton Code of Ordinances, Chapter 82 Traffic, Article II. Operation of Vehicles, Section 82-63 Stop intersections designated and Section 82-64 Yield right-of-way intersections; Providing for Severability; Providing that a violation of the ordinance or any part of the Code as Adopted hereby shall constitute a penalty upon conviction and setting an effective date. City Manager Andres Garza, Jr. stated that the Public Works Department had installed the required signage at the intersection of Tiger Avenue, County Road 166 and Jr. College Blvd. He said that since the intersection had required more signage that was needed prior to the improvements, the City of

Wharton Code of Ordinances needed to reflect the changes. He then presented a draft ordinance amending the City of Wharton Code of Ordinances, Chapter 82 Traffic, Article II. Operation of Vehicles, Section 82-63 Stop intersections designated and Section 82-64 Yield right-of-way intersections by adding the following:

- A. Stop Intersection located at Jr. College Blvd. at its intersection with Tiger Avenue.
- B. Yield Right-of-Way at the intersection of Jr. College Blvd. at Tiger Avenue and Jr. College Blvd. at County Road 166.

He then presented a copy of the memorandum dated January 10, 2008 from Police Chief Tim Guin providing his recommendation that the Code of Ordinance be amended to reflect the additional signage. Police Chief Tim Guin stated that the layout of the intersection was created by a Traffic Engineer. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Ordinance No. 2008-01, which read as follows:

**CITY OF WHARTON  
CODE OF ORDINANCES  
NO. 2008-01**

**AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 82 TRAFFIC ARTICLE II. OPERATION OF VEHICLES, SECTION 82-63 STOP INTERSECTIONS DESIGNATED AND SECTION 82-64 YEILD RIGHT-OF-WAY INTERSECTIONS; PROVIDING FOR SEPARABILITY; PROVIDING THAT A VIOLATION OF THE ORDINANCES OR ANY PART OF THE CODE AS ADOPTED HEREBY SHALL CONSTITUTE A PENALTY UPON CONVICTION OF A FINEAND SETTING AN EFFECTIVE DATE.**

**BE IT ORDAINED** by the Wharton City Council that the City of Wharton Code of Ordinances, Chapter 82 Traffic, Article II. Operation of Vehicles, Section 82-63 Stop intersections designated and Section 82-64 Yield right-of-way intersections be amended by adding the following to the respective sections:

**Sec. 82-63. Stop intersections designated.**

Jr. College Blvd. at its intersection with Tiger Avenue.

**Sec. 82-64. Yield intersections designated.**

Jr. College Blvd. at its intersection with Tiger Avenue.  
Jr. College Blvd. at its intersection with County Road 166.

**Severability**

If any court of competent jurisdiction rules that any section, subsection, sentence, clause, phrase, or portion of this ordinance is invalid or unconstitutional, any such portion shall be deemed to be a separate, distinct, and independent provision, and any such ruling shall not affect the validity of the remaining portions hereof.

**Fine and Penalty for Violations**

Section 18-145 Any person violating any of the terms or provisions of this article shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than \$100.00 nor more than

the maximum provided in Section 1-5 for each offense. If the terms or provisions of this article are violated by any corporation or firm, the officers and agents actively in charge of the business of such corporation or firm and person actually performing the work for such corporation or firm shall be subject to the penalties provided in this section.

**Effective Date**

This Ordinance shall become effective on the 25<sup>th</sup> day of January 2008 at 12:01 a.m.

**Passage and Approval**

**PASSED AND APPROVED** by the City Council of the City of Wharton, Texas, on the 14<sup>th</sup> day of January 2008.

CITY OF WHARTON, TEXAS

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

**ATTEST:**

\_\_\_\_\_  
LISA STAVENA  
City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
PAUL WEBB  
City Attorney

Published in the Wharton Journal Spectator on Wednesday, January 16, 2008 and January 23, 2008.

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

The twelfth item on the agenda was to review and consider the Wharton Police Department/Municipal Court Facility Renovation Project – 1407 North Richmond Road:

- A. **Resolution:** A resolution of the Wharton City Council expressing intent to finance expenditures to be incurred for the renovation of the Wharton Police Station/Municipal Court Facility located at 1407 North Richmond Road.

City Manager Andres Garza, Jr. stated that the City Council Finance Committee met Monday, January 7, 2008 and was recommending the City Council consider approving the attached draft resolution expressing the City’s intent to finance expenditures to be incurred with the renovation of the new Police Station/Municipal Court Facility located at 1407 North Richmond Road. He also presented a copy of the analysis of the bids and estimated construction costs associated with the facilities renovation. He said that the Finance Committee was recommending that the City issue tax anticipation notes and to reimburse itself for the costs associated with the project, which would be paid by the City. He then presented a draft resolution expressing intent to finance the

expenditures to be incurred. He stated that the estimate of the project for construction was \$563,309.71, for other equipment and services was \$471,945.91. He stated that an additional \$665,000 was needed to complete the project, which the City could issue tax anticipation notes for seven years with a rate less than 4%. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2008-02, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2008-02**

**A RESOLUTION OF THE WHARTON CITY COUNCIL EXPRESSING INTENT TO FINANCE EXPENDITURES TO BE INCURRED FOR THE RENOVATION OF THE WHAROTN POLICE DEPARTMENT/MUNICIPAL COURT FACILITY LOCATED AT 1407 NORTH RICHMOND ROAD.**

**WHEREAS**, the City of Wharton, Texas (the "City"), is a home-rule city of the State of Texas, authorized to issue obligations to finance its activities pursuant to the Texas Government Code and other laws of the State of Texas, the interest on which is excludable from gross income for federal income tax purposes ("tax-exempt obligations") pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"); and

**WHEREAS**, the City will make, or has made not more than 60 days prior to the date hereof, payments with respect to the acquisition, construction, reconstruction or renovation and equipment of the property listed on Exhibit A attached hereto; and

**WHEREAS**, the City desires to reimburse itself for the costs associated with the property listed on Exhibit A attached hereto from the proceeds of tax-exempt obligations to be issued subsequent to the date hereof; and

**WHEREAS**, the City reasonably expects to issue tax-exempt obligations to reimburse itself for the costs associated with the property listed on Exhibit A attached hereto;

**NOW, THEREFORE**, be it resolved that:

**Section 1.** The City reasonably expects to reimburse itself for all costs that have been or will be paid subsequent to the date that is 60 days prior to the date hereof and that are to be paid in connection with the acquisition, construction, reconstruction or renovation of the property listed on Exhibit A attached hereto from the proceeds of tax-exempt obligations to be issued subsequent to the date hereof.

**Section 2.** The City reasonably expects that the maximum principal amount of tax-exempt obligations issued to reimburse the City for costs associated with the property listed on Exhibit A attached hereto will not exceed \$665,000.

**Section 3.** All resolutions and parts of resolutions in conflict herewith are hereby repealed to the extent of the conflict only.

Section 4. If any word, phrase, clause, sentence, paragraph, section or other part of this resolution or the application thereof to any person or circumstance shall ever be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of this resolution and the application of such word, phrase, clause, sentence, paragraph, section, or other part of this resolution to any other person or circumstance shall not be affected thereby.

Section 5. The City Council officially finds, determines and declares that a sufficient written notice of the date, hour, place and subject of each meeting at which this resolution was discussed, considered or acted upon was given in the manner required by the Texas Open Meetings Act, as amended, and that each such meeting has been open to the public as required by law at all times during such discussion, consideration and action. The City Council ratifies, approves and confirms such notices and the contents and posting thereof.

**PASSED AND APPROVED** this 14<sup>th</sup> day of January 2008.

**CITY OF WHARTON**

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Bryce D. Kocian  
Mayor

**ATTEST:**

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Lisa Stavena  
City Secretary

**EXHIBIT A  
DESCRIPTION OF PROPERTY**

<u>Item or Fund--Described by Character, Type or Purpose</u>	<u>Amount--Described by Cost, Quantity or Size</u>
New Police Station Build-out and Equipment	\$665,000.00

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

- B. Police Station/Municipal Court Building Air Conditioning System:
1. Bid Tabulation.
  2. **Resolution:** A resolution of the Wharton City Council awarding the bid for the Police Station/Municipal Court Air Conditioning System to Eldridge Air Conditioning & Heating Co. and authorizing the Mayor of the City of Wharton to execute the agreement.

