

**MINUTES
OF
CITY OF WHARTON
SPECIAL CITY COUNCIL MEETING
JANUARY 20, 2009**

Mayor David W. Samuelson declared a Special Meeting duly open for the transaction of business at 5:32 P.M. Mayor David W. Samuelson led the opening devotion and then led the pledge of allegiance.

Councilmembers present were: Mayor David W. Samuelson, Councilmembers Lewis Fortenberry, Jr., Ken Freese, Don Mueller, and Jeff Gubbels.

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

Staff members present were: City Manager Andres Garza, Jr., Finance Director Joyce Vasut, City Secretary Lisa Olmeda, Assistant to City Manager Jackie Jansky, EMS Director John Kowalik, Emergency Management Coordinator Jim Cooper, and Assistant City Attorney Amy Rod.

Visitors present were: None.

The second item on the agenda was Roll Call and Excuses Absences. Councilmember Don Mueller made a motion to excuse the absence of Councilmember V. L. Wiley, Jr. and Domingo Montalvo, Jr. from the Special City Council meeting held January 20, 2009. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The third item on the agenda was Public Comments. No comments were given. No action was taken.

The fourth item on the agenda was to review and consider the proposed Emergency Services District No. 3:

A. **Resolution:** A resolution of the City of Wharton, Texas, to petition the Wharton County Commissioner's Court to call an election for the Creation of the proposed Emergency Services District No. 3. City Manager Andres Garza, Jr. stated that the City Council Finance Committee met January 16, 2009 and discussed the proposed ESD No. 3. He said that the Committee voted to recommend that the City Council consider moving forward with the proposed district using the Wharton Emergency Medical Service (EMS) service area. He then presented a copy of the draft resolution required for the district and a copy of a map indicating the area the proposed district would encompass. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2009-06, which read as follows:

CITY OF WHARTON

RESOLUTION NO. 2009-06

A RESOLUTION OF THE CITY OF WHARTON, TEXAS, TO PETITION THE WHARTON COUNTY COMMISSIONER'S COURT TO CALL AN ELECTION FOR THE CREATION OF THE PROPOSED EMERGENCY SERVICES DISTRICT NO. 3

WHEREAS, the City of Wharton, Texas, wishes to create an Emergency Services District No. 3; and

WHEREAS, the proposed District will be organized as provided by Article III, Section 48-e of the Texas Constitution and Chapter 775 of the Health & Safety Code to provide certain emergency services, including emergency ambulance services, emergency medical services, and ambulance transport; and

WHEREAS, the City Council of the City of Wharton, Texas, wish to request that the District include certain property, located in the City's municipal and extraterritorial jurisdiction, in the territory of the proposed Wharton County Emergency Services District No. 3 (the "District") such District territory being described in Exhibit "A" attached hereto and incorporated herein for all purposes.

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

Section I. The City Council of the City of Wharton hereby petitions the Wharton County Commissioner's Court to call an election in order to create an Emergency Services District No. 3.

Section II. The proposed District will be organized as provided by Article III, Section 48-e of the Texas Constitution and Chapter 775 of the Health & Safety Code to provide certain emergency services, including emergency ambulance services, emergency medical services, and ambulance transport.

Section III. The City Council of the City of Wharton, Texas, requests that the District include certain property, located in the City's municipal and extraterritorial jurisdiction, in the territory of the proposed Wharton County Emergency Services District No. 3 (the "District") such District territory being described in Exhibit "A" attached hereto and incorporated herein for all purposes.

Section IV. This resolution shall take effect immediately from and after its passage by the City Council of the City of Wharton, Texas.

PRESENTED, PASSED AND APPROVED by the City Council of the City of Wharton, Texas, this the 20th day of January 2009.

CITY OF WHARTON

David W. Samuelson, Mayor

ATTEST:

Lisa Olmeda, City Secretary

APPROVED AS TO FORM:

Paul Webb, City Attorney

Councilmember Don Mueller seconded the motion. All Councilmembers and Mayor David W. Samuelson voted in favor.

B. **Ordinance:** An ordinance of the City Council of the City of Wharton, Texas, consenting to the Creation of the Wharton County Emergency Services District No. 3 and to include certain territory within the Municipal and Extraterritorial Jurisdiction of the City of Wharton; Creating a Savings Clause and Providing for an Effective Date. City Manager Andres Garza, Jr. presented a copy of the draft ordinance. EMS Director John Kowalik stated that the lines were established with the creation of ESD #1, since the owners of Pierce Ranch requested EMS calls out of Wharton instead of El Campo due to the level of basic service provided in El Campo. He then presented a map from Wharton dispatch center. After some discussion, Councilmember Lewis Fortenberry, Jr. made a motion to approve Ordinance No. 2009-01, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2009-01**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS, CONSENTING TO THE CREATION OF THE WHARTON COUNTY EMERGENCY SERVICES DISTRICT NO. 3 AND TO INCLUDE CERTAIN TERRITORY WITHIN THE MUNICIPAL AND EXTRATERRITORIAL JURISDICTION OF THE CITY OF WHARTON; CREATING A SAVINGS CLAUSE AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

WHEREAS, the City Council of the City of Wharton, Texas, has requested the creation of the Wharton County Emergency Services District No. 3 (the "District") such District territory being described in Exhibit "A" attached hereto and incorporated herein for all purposes; and

WHEREAS, such request in the form of a resolution of the City of Wharton, Texas, which is attached hereto as "Exhibit B" and incorporated herein for all purposes; and

WHEREAS, the proposed District will be organized as provided by Article III, Section 48-e of the Texas Constitution and Chapter 775 of the Health & Safety Code to provide certain emergency services, including emergency ambulance services ,emergency medical services, and ambulance transport; and

WHEREAS, the consent of the City of Wharton is necessary in order for the portion of the City’s municipal and extraterritorial jurisdiction to be included within the territory of the proposed District.

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

Section I. The Wharton City Council hereby consents to the creation of the District as requested, subject to matters set forth in this ordinance.

Section II. This consent herein granted shall expire six months from the effective date of this ordinance; provided, however, if within such time the Petition has been approved by the Wharton County Commissioner’s Court and an election on the Petition has been scheduled by the Wharton County Commissioner’s Court, such consent shall continue in full force.

Section III. If any provision, section, exception, subsection, paragraph, sentence, clause or phrase of this ordinance or the application of same to any person or set of circumstances, shall for any reason be held unconstitutional, void or invalid, such invalidity shall not effect the validity of the remaining provisions of this ordinance or their application to other persons or sets of circumstances and to this end all provisions of this ordinance shall be declared to be severable.

Section IV. This ordinance shall take effect immediately from and after is passage by the City Council of the City of Wharton, Texas.

PRESENTED, PASSED AND APPROVED by the affirmative vote of the City Council of the City of Wharton, Texas, this the 20th day of January 2009.

CITY OF WHARTON

David W. Samuelson, Mayor

ATTEST:

Lisa Olmeda, City Secretary

APPROVED AS TO FORM:

Paul Webb, City Attorney

Councilmember Ken Freese seconded the motion. All Councilmembers and Mayor David W. Samuelson voted in favor.

C. **Resolution:** A resolution of the City Council of the City of Wharton, Texas, agreeing to reduce its property tax rate to fund the proposed Wharton County Emergency Services District No. 3. City Manager Andres Garza, Jr. presented a copy of the draft resolution. He stated that if the ESD was passed, the City would reduce its tax rate by \$0.04. After some discussion, Councilmember Lewis Fortenberry, Jr. made a motion to approve Resolution No. 2009-07, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2009-07**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS, AGREEING TO REDUCE ITS PROPERTY TAX RATE TO FUND THE PROPOSED WHARTON COUNTY EMERGENCY SERVICES DISTRICT NO. 3.

WHEREAS, by the Resolution No. 2009-06, the City of Wharton, Texas, agreed to request the Wharton County Commissioner's Court to hold an election for the creation of the Wharton County Emergency Services District No. 3 (the "District"); and

WHEREAS, by the adoption of the City of Wharton Ordinance No. 2009 – 01 the City of Wharton did not oppose the creation of the District; and

WHEREAS, the creation of the proposed District would assist with the funding of the City of Wharton, Texas Emergency Medical Services (EMS) in the City; and

WHEREAS, the funding for the Wharton EMS would be received from the proposed District; and

WHEREAS, the City of Wharton would be able to reduce its property tax rate; and

WHEREAS, if the creation of the District is approved, the City Council of the City of Wharton agrees to reduce its property tax rate by \$0.04 once funding for the District is received.

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

Section I. The Wharton City Council hereby approves to fund the City of Wharton Emergency Medical Services through the funding to be received for the proposed Wharton County Emergency Services District No. 3.

Section II. The Wharton City Council hereby agrees to reduce the property tax rate for the City of Wharton by \$0.04 once funding for the District is received.

Section III. This resolution shall take effect immediately from and after its passage by the City Council of the City of Wharton, Texas.

PRESENTED, PASSED AND APPROVED by the City Council of the City of Wharton, Texas, this the 20th day of January 2009.

CITY OF WHARTON

David W. Samuelson, Mayor

ATTEST:

Lisa Olmeda, City Secretary

APPROVED AS TO FORM:

Paul Webb, City Attorney
Councilmember Jeff Gubbels seconded the motion. All Councilmembers and Mayor David W. Samuelson voted in favor.

The fifth item on the agenda was to review and consider the quote for the installation of culvert pipe on Old Lane City Road for the Santa Fe Drainage Outfall Channel Project. City Manager Andres Garza, Jr. presented a copy of the memorandum dated January 16, 2009 from Public Works Director Carter Miska providing the quote for the installation of an 8' diameter culvert pipe under the Santa Fe Drainage Outfall Channel. He said that the quote was provided by Mercer Construction Company in the amount of \$23,205.00 and he was requesting City Council approval for Mercer to install the culvert in accordance with the quote. Mr. Miska addressed the City Council and stated that the City could recover costs on Hodges Lane to offset the installation of the culvert pipe. He said that with the lack of experience and safety issues, he was requesting to contract the service instead of City crews completing the required work. He stated that he consulted with Carlos Cotton, P.E. regarding the backfill and he recommended Caney soil be used. Councilmember Don Mueller suggested mixing one sack of lime with one yard of Caney soil. After some discussion, Councilmember Don Mueller made a motion to approve the quote for the installation of culvert pipe on Old Lane City Road for the Santa Fe Drainage Outfall Channel Project from Mercer Construction Company in the amount of \$23,205.00. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The sixth 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.

City of Wharton
Special City Council Meeting
January 20, 2009

The meeting adjourned at 5:57 p.m.

CITY OF WHARTON, TEXAS

By: _____
DAVID W. SAMUELSON
Mayor

ATTEST:

LISA OLMEDA
City Secretary