

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
DECEMBER 8, 2008**

Mayor David W. Samuelson 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 David W. Samuelson led the pledge of allegiance.

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

Councilmember absent was: 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, Emergency Management Coordinator Jim Cooper, Fire Chief Bobby Barnett, and City Attorney Paul Webb.

Visitors present were: Barry Halvorson with Wharton Journal Spectator, David Schroeder with Wharton Economic Development Corporation, Carlos Cotton with Jones & Carter, Paul Shannon, Rob Kolacny, and Cheryl Roach.

The second item on the agenda was Roll Call and Excuses Absences. Councilmember Lewis Fortenberry, Jr. made a motion to excuse the absence of Councilmember V. L. Wiley, Jr. from the Regular City Council meeting held December 8, 2008. Councilmember Ken Freese 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. Mayor David W. Samuelson stated that Councilmember V. L. Wiley, Jr. was in the hospital and was requesting Mr. Wiley be lifted up in prayers.

City Manager Andres Garza, Jr. stated that the City of Wharton Annual Employee Awards Banquet would be held on Thursday, December 11, 2008 at 6:00 p.m. at the Lodge.

Mayor David W. Samuelson stated that Mrs. Becky Samuelson and Mrs. Susan Freese had been working with Toys for Tots for many years, and publicly commended their dedication to the organization. He said that approximately 900 gifts would be given to children this year.

The fifth item on the agenda was to review and consider the reading of the minutes from the regular meetings held November 10, 2008 and November 24, 2008. After some discussion, Councilmember Jeff Gubbels made a motion to approve the Wharton City Council minutes of the regular meetings held November 10, 2008 and November 24, 2008 as presented. Councilmember Don Mueller seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider the recommendation by the Planning Commission for City Council consideration to approve the request by Mr. Rob Kolacny, Surveyor on behalf of Mr. James Bartosh, Superintendent for Wharton Independent School District, for a preliminary/final re-plat of Lily B. Outlar S/D, Block 1 and City of Wharton, Block 62. City Manager Andres Garza, Jr. stated that that the Planning Commission met on Monday, December 1, 2008 and discussed the request. Assistant to City Manager Jackie Jansky presented a copy of the proposed re-plat prepared by Mr. Kolacny. She said that the City of Wharton would retain street easements along M.L.K. Blvd. and Bailey Streets. She said that WISD was in the process of conveying a portion of WISD property to Just Do It Now; however, WISD would retain the majority of Block 62. She then presented a copy of a drawing that indicated the portion that would be retained by WISD. She also presented a copy of the memorandum dated December 1, 2008 from Planning Commission Chairman A. J. Rath providing the Planning Commissions recommendation for the City Council to consider approving the preliminary/final replat. Mr. Rob Kolacny stated that two service buildings located on the south side of Bailey Street next to the track would remain Wharton Independent School District's (WISD) property. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the request by Mr. Rob Kolacny, Surveyor on behalf of Mr. James Bartosh, Superintendent for Wharton Independent School District, for a preliminary/final re-plat of Lily B. Outlar S/D, Block 1 and City of Wharton, Block 62. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The seventh item discussed on the agenda was to review and consider an ordinance amending the City of Wharton Code of Ordinances, Chapter 82 Traffic, Section 82-132 No Parking Zones-All Times; 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. City Manager Andres Garza, Jr. stated that the Public Works Department had removed two (2) parking spaces on Fulton Street across from New First Bank in an effort to improve vehicular turning from Milam Street onto Fulton Street. He said that an amendment to the ordinance was needed to reflect that section of the street that would be No Parking. He said that the City Council Public Works Committee met on November 24, 2008 and voted to recommend the City Council consider approving the amendment to the City of Wharton Code of Ordinances, Chapter 82 Traffic, Section 82-132 No Parking Zones-All Times. He then said that he received an email dated November 17, 2008 from Ms. Cheryl Roach, Vice President of NewFirst National Bank, who indicated that the bank representatives did not wish the parking spaces to be eliminated. He said that he had met with her on December 2nd and discussed the issue. He said that he told Ms. Roach that the City removed the spaces after painting striping on the roadway because there was not enough room for the parking spaces. He said that he had informed Ms. Roach that the City Council would be considering the proposed amendment to the ordinance. He said that additional amendments were needed to be made to Chapter 82 to reflect school zone changes, police

parking, etc. Ms. Cheryl Roach addressed the City Council and stated from the beginning of the project, she was displeased. She stated that the ramps were not designed properly, which used a majority of the roadway. She stated that there was an issue of parking. She stated that she would present pictures of ramps constructed in other cities for City Council consideration to modify the current ramp in Wharton. Mayor David W. Samuelson stated that the problem was that the curb was high. After some discussion, no action was taken.

The eighth item discussed on the agenda was to review and consider the City Council acceptance of a sixteen feet utility easement located in the William Kincheloe League, Abstract 38, Washington Homes Addition, Block 58, Lot 6. City Manager Andres Garza, Jr. presented a copy of the sixteen feet utility easement agreement that had been executed by Wharton County, Wharton County Junior College, Wharton County Emergency Services District No. 1, Coastal Bend Groundwater Conservation District, Wharton Independent School District for the property located at Lot 6, Block 58, Washington Homes Addition. He said that the easement was required in order for the City of Wharton to install a sanitary sewer line through the property in order to provide adequate sewer service to Lots 3C and 4B. He said that City Council acceptance of the easement was required. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the acceptance of a sixteen feet utility easement located in the William Kincheloe League, Abstract 38, Washington Homes Addition, Block 58, Lot 6. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The ninth item discussed on the agenda was to review and consider a resolution of the Wharton City Council approving an Affiliation Agreement pertaining specifically to EMS Education and City of Wharton EMS assuming the role of Clinical Affiliation for Field Internship between the City of Wharton and Wharton County Junior College and authorizing the City Manager of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. presented a copy of the letter dated November 5, 2008 from Ms. Maggie Mejorado, EMS Coordinator, Public Safety Training, for the Wharton County Junior College providing the Affiliation Agreement pertaining specifically to EMS Education and Wharton EMS assuming the role of Clinical Affiliation for Field Internship. He said that EMS Director John Kowalik and City Attorney Paul Webb reviewed the agreement. He then presented a copy of the letters providing their recommendation that the City Council consider approving the agreement and a copy of a draft resolution approving the agreement. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2008-76, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2008-76**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN AFFILIATION AGREEMENT PERTAINING SPECIFICALLY TO EMS EDUCATION AND THE CITY OF WHARTON EMS ASSUMING THE ROLE OF CLINICAL AFFILIATION FOR FIELD INTERNSHIP BETWEEN THE CITY OF WHARTON AND WHARTON COUNTY JUNIOR COLLEGE AND AUTHORIZING THE CITY MANAGER OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, the City of Wharton and the Wharton County Junior College wishes to enter into an Affiliation Agreement pertaining specifically to EMS Education and the City of Wharton EMS assuming the role of Clinical Affiliation for field internship; and

WHEREAS, the City of Wharton and the Wharton County Junior College wishes to be bound by the conditions as outlined in the agreement; and

WHEREAS, the Wharton City Council wishes to authorize the City Manager of the City of Wharton to execute the agreement.

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

Section I. The Wharton City Council hereby approves the Affiliation Agreement pertaining specifically to EMS Education and the City of Wharton EMS assuming the role of Clinical Affiliation for field internship between the City of Wharton and the Wharton County Junior College.

Section II. The Wharton City Council hereby authorizes the City Manager of the City of Wharton to execute the agreement.

Section III. This resolution shall become effective immediately upon its passage.

PASSED, APPROVED AND ADOPTED this 8th day of December 2008.

CITY OF WHARTON

DAVID W. SAMUELSON, MAYOR

ATTEST:

LISA OLMEDA, CITY SECRETARY

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

The tenth item discussed on the agenda was to review and consider a resolution of the Wharton City Council approving the 2008 Sub-Recipient Agreement under the Fiscal Year 2008 Homeland Security Grant Program between the City of Wharton and the Governor's Division of Emergency Management and authorizing the Mayor of the City of Wharton to execute all documents related to the agreement. City Manager Andres Garza, Jr. stated that during the regular July 28, 2008 Wharton City Council meeting, the City Council authorized the submission of a grant application to the Division of Emergency Management (DEM) under the Homeland Security Grant Program for funding to implement a Community Emergency Response Team (CERT) in the City of Wharton. He then presented a copy of the minutes from the meeting, and a copy of the letter dated November 21, 2008 from Mr. Jack Colley, DEM Chief providing the City of Wharton with the agreement for the sub-grant in the amount of \$5,000.00 for the program. He then presented a

copy of a draft resolution approving the agreement. Emergency Management Coordinator Jim Cooper stated that the grant would allow 50 individuals to be trained on basic techniques. He stated that individuals would receive 25 hours of class room training over an 8 week training period. He stated that a manual would be provided, along with a backpack, ID badge, shirt, and other essentials. He stated that the training would be available for Wharton County residents. He also stated that the individuals trained could assist the City of Wharton during emergency events if the City required additional assistance. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2008-77, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2008-77**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE 2008 SUB-RECIPIENT AGREEMENT UNDER THE FISCAL YEAR 2008 HOMELAND SECURITY GRANT PROGRAM BETWEEN THE CITY OF WHARTON AND THE GOVERNOR'S DIVISION OF EMERGENCY MANAGEMENT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO THE AGREEMENT ON BEHALF OF THE CITY OF WHARTON.

WHEREAS, On July 28, 2008, the Wharton City Council approved the submission of a grant application to the Governor's Division of Emergency Management for funding under the Homeland Security Grant Program to implement a Community Emergency Response Team (CERT); and

WHEREAS, the City of Wharton received funding in the amount of \$5,000.00 under the aforementioned grant program; and

WHEREAS, the City of Wharton and Governor's Division of Emergency Management 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 approves the agreement between the City of Wharton and the Governor's Division of Emergency Management for funding in the amount of \$5,000.00 under the Homeland Security Grant Program to implement a Community Emergency Response Team (CERT).

Section II. That the Wharton City Council hereby approves to authorize the Mayor of the City of Wharton to execute the agreement.

Section III. That the City of Wharton and Governor's Division of Emergency Management are hereby bound by the conditions as set forth in the agreement.

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

Passed, Approved, and Adopted this the 8th day of December 2008.

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 eleventh item on the agenda was to review and consider the Wharton Volunteer Fire Department:

A. Confirmation of the results of the election of Mr. Robert Barnett, Jr. as Fire Chief. City Manager Andres Garza, Jr. stated that the Wharton City Council may confirm the election of Mr. Robert Barnett, Jr. to serve as Fire Chief effective January 1, 2009. After some discussion, Councilmember Ken Freese made a motion to confirm the election of Mr. Robert Barnett, Jr. as Fire Chief. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor. Mr. Robert “Bobby” Barnett, Jr. publicly thanked the City Staff for their support and stated that he looked forward to working with everyone.

B. **Resolution:** A resolution of the City of Wharton amending and replacing the City of Wharton Resolution No. 2005-12 approving allowances for cost reimbursements to active volunteer members and benefits to retired volunteers and their spouses of the Wharton Volunteer Fire Department.

City Manager Andres Garza, Jr. presented a draft resolution amending and replacing the City of Wharton Resolution No. 2007-103 approving allowances for cost reimbursements to active volunteer members and benefits to retired volunteers and their spouses of the Wharton Volunteer Fire Department. He said that last year, the City Council amended the retired firemen’s benefits due to the increase in utility (water & sewer) rates. He said that this fiscal year beginning October 1, 2008, the City implemented utility and garbage rate changes that would have an impact on the firemen’s benefit, since the City’s policy set a specific dollar amount on the benefit (\$806.00). He said that the benefit would need to be adjusted from \$806.00 to \$927.00 per year. After some discussion, Councilmember Don Mueller made a motion to amend the proposed draft resolution and add increases automatically and approve Resolution No. 2008-78, which read as follows:

City of Wharton
Resolution No. 2008-78

A RESOLUTION OF THE WHARTON CITY COUNCIL AMENDING AND REPLACING

THE CITY OF WHARTON RESOLUTION NO. 2007-103 AUTHORIZING AND APPROVING ALLOWANCES FOR COST REIMBURSEMENTS TO ACTIVE VOLUNTEER MEMBERS AND BENEFITS TO RETIRED VOLUNTEERS AND THEIR SPOUSES OF THE WHARTON VOLUNTEER FIRE DEPARTMENT.

WHEREAS, the Wharton City Council wishes to authorize and approve allowances for cost reimbursements to active volunteer members of the Wharton Volunteer Fire Department; and

WHEREAS, the Wharton City Council wishes to authorize and approve benefits for retired volunteers and their spouses of the Wharton Volunteer Fire Department; and

WHEREAS, the Wharton City Council wishes to establish the following policy for the Wharton Volunteer Fire Department Members:

**Reimbursement Allowance and Retirement Benefits
for
Wharton Volunteer Fire Department**

The reimbursement allowance and retirement benefits for the Wharton Volunteer Fire Department will include four categories:

Active Volunteer Firefighter with City Utilities (water, sewer and garbage)

- Active members must be listed on the active volunteer rolls and meet the requirements of an active member having completed the probation period and authorized by the Fire Chief.
- Active members may elect to receive a \$1,200 (less appropriate taxes) credit on their utility account or may elect to pay their utility bill and receive the same benefit as an active volunteer fire fighter without City utilities (see below).
- The monthly utility charges for water, sewer and garbage will be deducted from the credit on their account.
- If their active status terminates at any time, the remaining credit balance is removed from their account.
- If the credit balance is used up during the year, the member is responsible for paying their utility bill.
- If there is a remaining balance at year-end, the member may elect to rollover the balance to the next year or to receive a refund for the balance at the end of the calendar year. No refunds or cash will be paid out during the calendar year.
- The active firefighter must be living in the home receiving the utility service and the account must be in the firefighter's name.

Active Volunteer Firefighter without City Utilities (water, sewer and garbage)

- Active members must be listed on the active volunteer rolls and meet the requirements of an active member having completed the probation period and authorized by the Fire Chief.
- Active members will receive a \$1,200 (less appropriate taxes) payment at the end of the calendar year.
- If their active status terminates at any time, the year-end payment will be prorated based on the number of months served

Retired Volunteer Firefighter

- Retired volunteer firefighters must have completed a total of 15 years of volunteer service to the City as determined by the State Firefighters Service Requirements to be eligible for retirement benefits and authorized by the Fire Chief.
- Retired members will receive a \$927.00 credit on their utility account. The credit will automatically be adjusted by the same percentage that the City of Wharton increases the utility rates.
- The monthly utility charges for water, sewer and garbage will be deducted from the credit on their account.
- If the credit balance is used up during the year, the member is responsible for paying their utility bill.
- If there is a remaining balance at year end, the balance will be returned to the City.
- The retired firefighter must be living in the home receiving the utility service and the account must be in the firefighter's name.

Spouse of Retired Volunteer Firefighter

- The spouse of a retired member will receive an \$927.00 credit on their utility account. The credit will automatically be adjusted by the same percentage that the City of Wharton increases the utility rates.
- The monthly utility charges for water, sewer and garbage will be deducted from the credit on their account.
- If the credit balance is used up during the year, the spouse of the retired member is responsible for paying their utility bill.
- If there is a remaining balance at year end, the balance will be returned to the City.

- If a spouse remarries, the retirement benefit will be discontinued immediately.
- The spouse of the retired firefighter must be living in the home receiving the utility service and the account must be in the spouse's name.

Additional Incentives for Current Members

- The current members may earn additional incentives up to \$500 per year to help promote the members to advance in certifications. The members will receive the following incentives based on their status as of January 1 of each year:

- Level I \$100 for basic status which includes 167 hours of training as specified by the State Firemen's and Fire Marshall's Association of Texas (State).
- Level II \$200 for intermediate status, which includes 191 hours of training as, specified by the State.
- Level III \$300 for advance status, which includes 187 hours of training as, specified by the State.
- Level IV \$400 for being State certified firefighter.
- Level V \$20 for each additional certification held including, EMT, HAZ-MAT, and others up to a maximum of \$100 for additional certifications.

- This additional incentive will be added to the members \$1,200 benefit and processed as noted above.

WHEREAS, the Wharton City Council wishes to establish the effective date of the aforementioned policy as the calendar year beginning January 1, 2009.

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 afore-mentioned policy for the Wharton Volunteer Fire Department Members.
- Section II. That the policy is hereby effective beginning with the calendar year beginning January 1, 2009.
- Section III. That this resolution shall become effective immediately upon its passage.

Passed, Approved, and Adopted this 8th day of December 2008.

