

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
FEBRUARY 23, 2009**

Mayor David W. Samuelson declared a Regular Meeting duly open for the transaction of business at 7:00 P.M. Councilmember V. L. Wiley, Jr. led the opening devotion and then Mayor David W. Samuelson led the pledge of allegiance.

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

Councilmember absent was: None.

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, Public Works Director Carter Miska, and Assistant City Attorney Amy Rod.

Visitors present were: Barry Halvorson with Wharton Journal Spectator, David Schroeder with Wharton Economic Development Corporation, Carlos Cotton with Jones & Carter, Pam Nash, Autumn Lopez, I.O. Coleman, Jr., Diane Matula, Bertha Edwards, and Les Krancher.

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 Domingo Montalvo, Jr. stated that he spoke with Animal Control Officer Scott Wallace and was advised that there were grants available for spaying and neutering animals through the Alamont Veterinary Clinic. Councilmember Montalvo requested that Mr. Wallace attend the next City Council meeting to discuss the public health issues regarding the animals in the City limits. He then publicly commended Mr. Wallace for the information received and for his commitment of trying to place animals. 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 January 2009. Finance Director Joyce Vasut presented the financial report for the month of January 2009 which was at 33% or four months into the fiscal year. Mrs. Vasut stated that the general fund revenues were at 41.72% and the expenditures were at 33.69%. The total ad valorem taxes collected were \$1,218,228. She said the sales tax for the month of December was \$212,480 with \$141,654 going to the City and \$70,827 to WEDC. The bank balance for October

was \$1,232,946.58 with an average monthly yield of 0.25%. She said that TexPool balance for December was \$48,688.48 with an average monthly yield of 0.9529%. After some discussion, Councilmember Don Mueller made a motion to approve the City of Wharton Financial Report for the month of January 2009. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The sixth on the agenda was a presentation by Emergency Management Coordinator Jim Cooper regarding the Pierce Radio Tower and the Homeland Security Grant for radios for the City of Wharton. Emergency Management Coordinator Jim Cooper addressed the City Council and provided an update regarding the Pierce Radio Tower and the Homeland Security Grant for radios for the City of Wharton. He stated that the \$1.5 million project construction phase was completed on Friday, February 20, 2009. He stated that final testing was being conducted. He stated that there were over 500 channels for the radio, consisting of 23 talk groups. Councilmember Domingo Montalvo, Jr. publicly thanked Mr. Cooper for his contribution and efforts towards the project. No action was taken.

The seventh item on the agenda was to review and consider the request by Ms. Diana Matula, President of Wharton County Farmers' Market for City Council to consider approving the following:

- A. To hold the Farmers' Market event each Saturday in May and June 2009 from 7:30 a.m. through Noon.
- B. To relocate the Farmer's Market to Guffey Park.

City Manager Andres Garza, Jr. presented a copy of the letter dated February 11, 2009 from Ms. Diana Matula, President of the Wharton County Farmers' Market. He said that the Farmers' Market had been held around the Courthouse Square; however, Ms. Matula was requesting that the event be moved to the City of Wharton Guffey Park each Saturday in May and June from 7:30 a.m. to Noon. Mrs. Diana Matula addressed the City Council and requested that the Farmers' Market be moved to Guffey Park and to allow the placement of a trailer that would store needed supplies and equipment. After some discussion, Councilmember Ken Freese made a motion to approve the request by Ms. Diana Matula, President of Wharton County Farmers' Market to hold the Farmers' Market event each Saturday in May and June 2009 from 7:30 a.m. through Noon, and to relocate the Farmer's Market to Guffey Park. Councilmember Don Mueller seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider CenterPoint Energy:

- A. Letter Dated January 8, 2009 regarding the CenterPoint update of Schedule of Rates.
- City Manager Andres Garza, Jr. presented a copy of the letter dated January 8, 2009 from Mr. Douglas Ward, CenterPoint Energy District Manager providing the City of Wharton with the update of CenterPoint's Schedule of Rates on file with the City of Wharton. He said that the rates provided in the letter were currently effective as of December 22, 2008 in the City and the rates must be observed by CenterPoint until changed as provided by the Gas Utility Regulatory Act. CenterPoint Energy Area Manager Les Krancher addressed the City Council and stated the residential base customer charge would be \$13.50, and the commodity charge would be \$0.03055 per Ccf. He stated that the small commercial volume would have a base customer charge would be \$12.50, and the commodity charge for the first 150 Ccf would be \$0.06655 per Ccf, and

\$0.03258 per Ccf over 150 Ccf. He stated that the large commercial volume would have a base customer charge would be \$12.50, and the commodity charge for the first 150 Ccf would be \$0.09036 per Ccf, 1,500 – 10,000 Ccf would be \$0.05880 per Ccf and \$0.04980 per Ccf over 10,000 Ccf. After some discussion, no action was taken.

B. Letter Dated January 26, 2009 regarding the Rate for Transportation Service Rate Schedule No. T-72 and General Terms and Conditions for Transportation Service.

City Manager Andres Garza, Jr. presented a copy of the letter dated January 26, 2009 from Mr. Richard A. Zapalac, CenterPoint Energy Entex Regional Vice-President of Gas Operations providing the Rate for Transportation Service Rate Schedule No. T-72 and General Terms and Conditions for Transportation Service. He said that in accordance with Section 102.151 and 104.003(b) of the Texas Utilities Code, Title 3, CenterPoint Energy was required to file the schedules with the City of Wharton that reflected a contract rate and general terms and conditions for natural gas transportation service in the City. Mr. Les Krancher stated that the Transportation Service Rate provided a lower threshold. Councilmember Domingo Montalvo, Jr. stated that the City was experiencing problems with emergency service crews. He stated that information and timeframes was not has provided in order to take care of matters that arise during an emergency or disaster situation. He requested that CenterPoint meet with the City Manager and the Public Safety Committee to discuss emergency services. After some discussion, no action was taken.

The ninth item on the agenda was to review and consider the City of Wharton Valhalla Water Well Emergency Rework Project – Alsay Incorporated – Fifth and Final Pay Request. Mr. Carlos Cotton with Jones & Carter addressed the City Council and stated that the project was completed and recommended payment. He stated that the well was pumping. City Manager Andres Garza, Jr. presented a copy of the letter dated January 22, 2009 from Mr. Larry A. Weppler, P.E., R.P.L.S. of Jones & Carter, Inc. providing the fifth and final pay request for Alsay Incorporation for the Valhalla Water Well Emergency Rework Project. He said that Mr. Weppler stated that the estimate was in order and Jones & Carter was recommending payment in the amount of \$26,043.90 to Alsay Incorporated. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the City of Wharton Valhalla Water Well Emergency Rework Project – Alsay Incorporated – Fifth and Final Pay Request in the amount of \$26,043.90. Councilmember Don Mueller seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider a resolution of the Wharton City Council authorizing the injection of Polyphosphates to sequester iron contents into the Water Well located on Valhalla Road in the City of Wharton, Texas. City Manager Andres Garza, Jr. presented a copy of the letter dated February 5, 2009 from Mr. Carlos Cotton, P.E. regarding the Valhalla Well Iron Content. He said that as the letter indicated, the iron level was tested earlier this month and was 0.904 mg/l, which was above the recommended state limit of 0.3. He said that there was not any restriction on the use of water with the higher level of iron content; however, the City may receive water quality complaints due to discolored water and stained clothes if placed into the public water supply. He said that the water well had been flushed, which should have reduced the iron content; however, that did not occur. He said that Mr. Cotton indicated that the iron content could be reduced by treating the water at the wellhead using polyphosphates. He said that the polyphosphate would sequester the iron and hold it in solution so that the iron

could not settle out. He then said that there would be no taste or odors that attributed to the use of the polyphosphate. He said that NAPCO was the company that would provide the required polyphosphates. He said that NAPCO's general program was to furnish a tank for the polyphosphate and refill it as needed and the City would need to purchase the pump and install the piping to the wellhead. He further said that the cost of the pump was approximately \$600 and the City could conduct the pumping. He stated that the cost of the polyphosphate was approximately \$13.95 per gallon and that with the level of iron in the well, it was estimated that it would require seven gallons to treat one million gallons of water. He said based on the average use of 500,000 gallons per day, the cost of adding the polyphosphate was approximately \$18,000.00 per year. He said that Jones & Carter, Inc. was recommending that the City begin the treatment of the water with polyphosphates to place the well back online. He said that the Valhalla well was the only City water well that would require the treatment. He said that the Public Works Committee met February 6, 2009 and was recommending the City Council consider injecting the Valhalla Water Well with the polyphosphates. He then presented a copy of the draft resolution approving the injection of the polyphosphate into the water well. Mr. Carlos Cotton with Jones & Carter stated that he would recommend testing every six months. After some discussion, Councilmember Jeff Gubbels made a motion to re-test in six months after injecting the polyphosphates and approve Resolution No. 2009-12, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2009-12**

A RESOLUTION OF THE WHARTON CITY COUNCIL THE INJECTION OF POLYPHOSPHATES TO SEQUESTER IRON CONTENTS INTO THE WATER WELL LOCATED ON VALHALLA ROAD IN THE CITY OF WHARTON, TEXAS.

WHEREAS, the Wharton City Council declared that the water well located on Valhalla Road was in need of emergency repairs in order to supply quality water to the citizens of Wharton; and

WHEREAS, in June 2008, the City of Wharton engaged the services of Jones & Carter, Inc. for professional engineering services and Alsay Incorporated to conduct emergency repairs to the water well; and

WHEREAS, after attempts to flush said water well to remove the iron content from the well it was recommended by Jones & Carter, Inc. for the City of Wharton to consider injecting the Polyphosphates into said well in an effort to sequester the iron content; and

WHEREAS, the Wharton City Council wishes to authorize the injection polyphosphates chemical into the water well in an effort to place the well back into service and to provide the citizens of Wharton quality drinking water.

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

Section I. The Wharton City Council hereby approves the injection of the polyphosphates chemical into the water well located on Valhalla Road in an effort to place the water well back into service and to provide the citizens of Wharton quality drinking water

Section II. 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 23rd day of February 2009.

CITY OF WHARTON

David W. Samuelson, Mayor

ATTEST:

Lisa Olmeda, City Secretary

Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The eleventh item on the agenda was to review and consider a resolution of the Wharton City Council approving an interlocal agreement between the City of Wharton and the City of Bay City to provide scraper services for the Santa Fe Drainage Outfall Channel Project and to authorize the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. presented a copy of the letter dated February 16, 2009 from Mr. Clark Young, City of Bay City Public Works Director providing a quote to furnish labor and equipment to complete the excavation (scraping) of the Santa Fe Drainage Outfall Channel Project. He said that the quote was for the use of two 9320 tractors with 17 cy scrapers at a price of \$114.33 per hour. He said that the total cost to cut the channel to grade from FM 1299 to Hwy. 60, based on a total length of 7,250 feet was estimated at approximately \$54,878.40 at \$1.11 per cubic yard. He said that the cost was also based on an average of 20 days to complete the project. He said that the Public Works Committee met February 17, 2009 and was recommending the City Council consider accepting the proposal with a limit. He said that they were also recommending that the City Council consider allocating \$25,000.00 from the City Capital Improvement Program fund to advance the project. He then presented a draft copy of a resolution approving an interlocal agreement between the City of Wharton and the City of Bay City for the services. Public Works Director Carter Miska stated that approximately 100 loads could be hauled per day. Councilmember Domingo Montalvo, Jr. requested that the completion of the ditch be accomplished prior to hurricane season. After some discussion, Councilmember Don Mueller made a motion to allocate \$25,000 from the City Capital Improvement Program budget and approve Resolution No. 2009-13, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2009-13**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF WHARTON AND THE CITY OF BAY CITY TO PROVIDE SCRAPER SERVICES FOR THE SANTA FE DRAINAGE

OUTFALL CHANNEL PROJECT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE SAID AGREEMENT.

WHEREAS, The Wharton City Council wishes to approve an interlocal agreement between the City of Wharton and the City of Bay City to provide scraper services for the Santa Fe Drainage Outfall Channel Project; and

WHEREAS, The City of Wharton and the City of Bay City wishes to be bound by the conditions of the agreement; and

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

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 an interlocal agreement between the City of Wharton and the City of Bay City to provide scraper services for the Santa Fe Drainage Outfall Channel Project .

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

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

Passed, Approved, and Adopted this the 23rd day of February 2009.

CITY OF WHARTON

By: _____
DAVID W. SAMUELSON
Mayor

ATTEST:

LISA OLMEDA

City Secretary

Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The twelfth item on the agenda was to review and consider the City Council approval of the application for a City of Wharton Ambulance Provider Permit submitted by AHZ EMS. City Manager Andres Garza, Jr. presented a copy of the Ambulance Provider Permit Application submitted by AHZ EMS. He said that EMS Director John Kowalik had reviewed the information submitted by AHZ EMS and was recommending that the City Council consider approving the permit. He then presented a copy of Mr. Kowalik's memorandum dated February 18, 2009 providing the recommendation. Mr. Kowalik stated that AHZ EMS was in compliance with the Texas Department of State Health Services. He said that in accordance with the City of Wharton

Code of Ordinances, Chapter 27 Emergency Medical Services, Section 27-13, the application for permit must be approved by the City Council. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the application for a City of Wharton Ambulance Provider Permit submitted by AHZ EMS for the period through December 31, 2009. Councilmember Don Mueller seconded the motion. All voted in favor.

The thirteenth item on the agenda was to review and consider the authorization to sale City of Wharton Surplus Property – Ambulance. City Manager Andres Garza, Jr. stated that the City of Wharton received one bid for the sale of the surplus property – ambulance on February 19, 2009. EMS Director John Kowalik stated that the City Staff issued bid packages to over 300 emergency service providers and received one bid submission from Advanced Micro Solutions in the amount of \$21,800.00. He stated that he was recommending City Council consider awarding the bid to Advanced Micro Solutions. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the sale of the City of Wharton Surplus Property – Ambulance to bidder Jeremy Hyde for the amount of \$21,800.00. Councilmember Don Mueller seconded the motion. All voted in favor.

The fourteenth item on the agenda was to review and consider a resolution of the Wharton City Council approving the transfer of the Banking Depository Services Agreement from Franklin Bank to Prosperity Bank, extending the contract one additional year and to authorize the Mayor of the City of Wharton to execute the agreement. Finance Director Joyce Vasut presented a copy of the letter from Prosperity Bank informing the City of the banks intentions regarding the Depository Banking Services agreement the City has with Franklin Bank. She said that Prosperity Bank acquired Franklin Bank deposits and had agreed to honor the contract to September 30, 2009, and was requesting a one (1) year extension under the same terms. She said the City Council Finance Committee met February 19, 2009 and voted to recommend the City Council consider approving the transfer of the agreement to Prosperity Bank and to extend the contract one additional year. She then presented a draft resolution approving the transfer and contract extension. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2009-14, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2009-14**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE TRANSFER OF THE BANKING DEPOSITORY SERVICES AGREEMENT FROM FRANKLIN BANK TO PROSPERITY BANK, EXTENDING THE CONTRACT ONE ADDITIONAL YEAR AND TO AUTHORIZE THE MAYOR OF THE CITY OF WHARTON TO EXECUTE SAID AGREEMENT.

WHEREAS, Prosperity Bank acquired the Franklin Bank deposits and has agreed to honor the contract between the City of Wharton and Franklin Bank; and

WHEREAS, The Wharton City Council hereby approves the transfer of the City of Wharton's deposits from Franklin Bank to Prosperity Bank; and

WHEREAS, The Wharton City Council wishes to extend the contract with Prosperity Bank for one (1) additional year; and

WHEREAS, The City of Wharton and Prosperity Bank wishes to be bound by the conditions set forth in the agreement; and

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

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 transfer of the Banking Depository Services Agreement from Franklin Bank to Prosperity Bank.

Section II. That the Wharton City Council hereby approves the extension of said agreement for one (1) additional year.

Section III. That the City of Wharton and Prosperity Bank are hereby bound by the conditions set forth in the agreement.

Section IV. That the Wharton City Council hereby authorizes the Mayor of the Wharton to execute the agreement.

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

Passed, Approved, and Adopted this the 23rd day of February 2009.

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 fifteenth item on the agenda was to review and consider an update regarding the City of Wharton Code of Ordinances, Chapter 42 Occupational Licenses, Article VI Peddlers, Itinerant Merchants and Solicitors. City Manager Andres Garza, Jr. presented a copy of the email dated February 18, 2009 from Councilmember Ken Freese requesting that the City Staff provide an update regarding a door-to-door solicitor and how residents should handle them. He also presented a copy of the City of Wharton Code of Ordinances, Chapter 42 Occupational Licenses,

