

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
FEBRUARY 25, 2008**

Mayor Bryce D. Kocian declared a Regular Meeting duly open for the transaction of business at 7:00 P.M. Councilmember Ray Linseisen 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, and Ray Linseisen.

Councilmember absent was: 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, Planning Director Prudencio Arriaga, Sr., and City Attorney Paul Webb.

Visitors present were: David Schroeder with Wharton Economic Development Corporation, Carlos Cotton with Jones & Carter, Alan Prigge, Sharon Smith, and Shawn Kappes.

The second item on the agenda was Roll Call and Excused Absences. Councilmember V. L. Wiley, Jr. made a motion to approve the absence of Councilmember Domingo Montalvo, Jr. from the Regular City Council Meeting held February 25, 2008. Councilmember Don Mueller 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 Bryce D. Kocian stated that Councilmember Domingo Montalvo, Jr. father Domingo Montalvo, Sr. passed away and expressed his condolences. He stated that the service would be held Friday, February 29, 2008 at Our Lady of Mount Carmel Church.

Councilmember Ken Freese publicly commended Wharton Plaza Theater for the performance of Grease. He stated that the performances have been sold out.

City Manager Andres Garza, Jr. congratulated City Secretary Lisa Olmeda (formerly Stavena) on her marriage. 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 2008. Finance Director Joyce Vasut presented the financial report for the

month of January 2008 and stated that the fiscal year was at 33%. Mrs. Vasut stated that the general fund revenues were at 45.61% and the expenditures were at 31.25%. The total ad valorem taxes collected were \$1,420,887. The sales tax for the month of December 2007 was \$183,293 with \$122,195 to the City and \$61,098 to WEDC. The bank balance for January 2008 was \$2,176,773.51 with an average monthly yield of 4.5%. TexPool balance for January 2008 was \$952,946.44 with an average monthly yield of 4.2460%. After some discussion, Councilmember Don Mueller made a motion to approve the City of Wharton Financial Report for the month of January 2008. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider the request by Ms. Sharon Smith, Pecan Village Apartments for City Council reconsideration of a 19 feet setback variance from the required 25 feet front building line setback for the construction of covered parking areas to be located at 310 University Avenue; Wm. Kincheloe, Block 58A-3, 58A-4, 58A-5. City Manager Andres Garza, Jr. presented a copy of the memorandum dated February 14, 2008 from Planning Director Prudencio V. Arriaga, Sr. regarding the request by Ms. Sharon Stone for Pecan Village Apartments for a 19 feet setback variance from the required 25 feet front building line setback for the construction of covered parking areas to be located at 310 University Avenue; Wm. Kincheloe, Block 58A-3, 58A-4, 58A-5. He said that during the February 11, 2008 special City Council meeting, the City Council denied the first request by Ms. Smith and she was requesting the City Council to reconsider her original request and she would provide additional information concerning the proposed parking structures during the meeting. He stated that Planning Director Prudencio Arriaga, Sr. spoke to Fire Inspector Scott Stewart about the possibility of moving the parking space, which he was advised that moving the parking space would violate the fire code; therefore, Ms. Smith was requesting the City Council reconsider the request. Ms. Smith stated that the variance would allow compliance with Texas Department of Housing and Community Affairs. She stated that the covered parking spaces would match the exterior of the building. She stated that there were 63 parking spaces with 82 units. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the request by Ms. Sharon Smith, Pecan Village Apartments for City Council reconsideration of a 19 feet setback variance from the required 25 feet front building line setback for the construction of covered parking areas to be located at 310 University Avenue; Wm. Kincheloe, Block 58A-3, 58A-4, 58A-5. Councilmember Don Mueller seconded the motion.

The seventh item on the agenda was to review and consider the request by Mr. John McCain for a variance from the required 5 feet interior side yard setback to construct a residence over a property line at 511 East Alabama Street, Wharton, Block 53, Lot 4, 5, 6. City Manager Andres Garza, Jr. presented a copy of the memorandum dated February 18, 2008 from Planning Director Prudencio V. Arriaga, Sr. regarding the request by Mr. John McCain for a variance from the required 5 feet interior side yard setback to construct a residence over a property line at 511 East Alabama Street, Wharton, Block 53, Lot 4, 5, 6. Mr. Damon Parker with Parker Construction stated that the resident would be constructed over Lots 4, 5, and 6. After some discussion, Councilmember Ray Linseisen made a motion to approve the request by Mr. John McCain for a variance from the required 5 feet interior side yard setback to construct a residence over a

property line at 511 East Alabama Street, Wharton, Block 53, Lot 4, 5, 6. Councilmember David Samuelson seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider the Planning Commission recommendation for City Council to consider approving the request by Mr. Shawn Kappes for approval of the final replat of Hawes 3, Block 3, Lots 1 and 2. City Manager Andres Garza, Jr. stated that during the regular January 28, 2008 Wharton City Council meeting, the City Council deferred action of the request by Mr. Shawn Kappes for approval of the final replat of Hawes 3, Block 3, Lots 1 and 2. He stated that the Planning Commission was recommending City Council approval of the replat that was presented during the January 28th meeting. He also presented copies of the plats that indicated the current platting of the property and the property after replat. Councilmember Don Mueller asked about the garage remaining on the property. Mr. Shawn Kappes stated that the garage would be removed eventually. After some discussion, Councilmember David Samuelson made a motion to approve the request by Mr. Shawn Kappes for approval of the final replat of Hawes 3, Block 3, Lots 1 and 2. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider the City Council approval of application submitted by Mr. Douglas Dahmann of Devon Energy Production Company, L.P. to obtain a permit to drill, complete and operate an oil and/or gas well within the City limits of Wharton, Texas, and setting the required public hearing date. City Manager Andres Garza, Jr. presented a copy of the letter dated February 1, 2008 from Mr. Douglas Dahmann of Devon Energy Production Company, L.P. informing the City of the company's intent to drill an oil well within the City limits. He also presented a copy of the site plan of the proposed location of the well site, and a copy of the City of Wharton Code of Ordinances, Chapter 50, Article II Permits. He said that Section 50-53 Application Review stated that all applications for permits shall be reviewed by the City Council within a 45 day time limit from filing the application. He also said that in accordance with Section 50-56 Notice of application and hearing, the City Council shall establish a public hearing to provide citizens an opportunity to review the application for permit; therefore, the City Council shall establish the public hearing date. He stated that Devon Energy Production Company, L.P. has moved the well outside the city limits; however, was requesting that the City Council approve the application and set the public hearing date in case they would not be successful at drilling the well at the current location and would have to move the well inside the city limits. Mr. Alan Prigge addressed the City Council and stated that the unit was located in the city limits; therefore, the City would receive royalties for the production. He stated that there were no residents within 200 feet of the well. After some discussion, Councilmember David Samuelson made a motion to approve the application submitted by Mr. Douglas Dahmann of Devon Energy Production Company, L.P. to obtain a permit to drill, complete and operate an oil and/or gas well within the City limits of Wharton, Texas, and set the required public hearing date on March 10, 2008. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider a resolution authorizing an oil, gas and mineral lease agreement covering approximately 12.7 acres of City-owned property located in the William Kincheloe League, A-38, Wharton County, Texas, with Blanco Oil and Gas and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres

Garza, Jr. presented a copy of the letter dated January 23, 2008 from Mr. Justin van Keppel, Landman and Agent for Blanco Oil and Gas, requesting the City of Wharton to authorize an oil, gas and mineral lease agreement covering approximately 12.7 acres of City-owned property located in the William Kincheloe League, A-38, Wharton County. He also presented a copy of the proposed lease, and a copy of the letter dated January 28, 2008 to City Attorney Paul Webb requesting that he review the information provided by Mr. van Keppel. Mr. Webb stated that paragraph 13 had been modified to read that no pipelines would be allowed on the property nor other equipment without prior written permission for the City of Wharton. He stated that no bids would be required, since the property would be leased. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2008-15, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2008 – 15**

A RESOLUTION AUTHORIZING AN OIL, GAS AND MINERAL LEASE AGREEMENT COVERING APPROXIMATLEY 12.7 ACRES OF CITY-OWNED PROPERTY LOCATED IN THE WILLIAM KINCHELOE LEAGUE, A-38, WHARTON COUNTY, TEXAS, WITH BLANCO OIL AND GAS AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, The City of Wharton owns approximately 12.7 acres of land located in the William Kincheloe League, A-38; and

WHEREAS, Blanco Oil and Gas wishes to enter into an oil, gas and mineral lease agreement for the aforementioned property; and

WHEREAS, the Wharton City Council wishes enter into the oil, gas and mineral lease with Blanco Oil and Gas;

WHEREAS, the City of Wharton and Blanco Oil and Gas wishes to be bound by the conditions outlined in the agreement; and

WHEREAS, this resolution is passed in accordance with the quote provided.

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 oil, gas and mineral lease agreement between the City of Wharton and Blanco Oil and Gas for the lease of approximately 12.7 acres of land located in the William Kincheloe League, A-38, Wharton County, Texas.

Section II. That the City of Wharton and Blanco Oil and Gas are hereby bound by the conditions set forth in the agreement.

Section III. That the Mayor of the City of Wharton is hereby authorized to execute all documents relating to the agreement.

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

Passed, Approved, and Adopted this 25th of February 2008.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

LISA OLMEDA

City Secretary

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

The eleventh item on the agenda was to review and consider the Wharton Police Department/Municipal Court Renovation Project located at 1407 North Richmond Road:

A. **Resolution:** A resolution of the Wharton City Council awarding the bid for the installation of carpet, vinyl composition tile and rubber base for the construction of the Wharton Police Station/Municipal Court Facility located at 1407 North Richmond Road and authorizing the City Manager to execute the agreement.

City Manager Andres Garza, Jr. stated that on February 22, 2008, the City of Wharton received bids for the installation of carpet, vinyl composition tile and rubber base for the construction of the Wharton Police Station/Municipal Court Facility located at 1407 North Richmond Road and authorizing the City Manager to execute the agreement. He then presented a copy of the bid tabulation, and a draft resolution awarding the bid. He stated that one bid was received today from Tripulas Carpet; however, the deadline for receiving the bids was Friday, February 22, 2008 at 10:00 a.m.; therefore, the bid would be returned unopened. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2008-16, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2008 – 16**

A RESOLUTION OF THE WHARTON CITY COUNCIL AWARDING THE BID FOR THE INSTALLATION OF CARPET, VINYL COMPOSITION TILE AND RUBBER BASE FOR THE CONSTRUCTION OF THE WHARTON POLICE STATION/MUNICIPAL COURT FACILITY LOCATED AT 1407 NORTH RICHMOND ROAD AND AUTHORIZING THE CITY MANAGER OF THE CITY OF WHARTON TO EXECUTE THE RESPECTIVE AGREEMENTS.

WHEREAS, The City of Wharton is the general contractor for the renovation of the Police Station/Municipal Court Facility located at 1407 North Richmond Road; and

WHEREAS, On February 22, 2008, the City Staff received bids the installation of carpet, vinyl composition tile and rubber base for the construction of the Wharton Police Station /Municipal Court Facility; and

WHEREAS, the Wharton City Council wishes to award the bid for the installation of carpet, vinyl composition tile and rubber base to El Campo Carpet One in the amount of \$15,250.00 as per bid specifications; and

WHEREAS, this resolution is passed in accordance with the quote provided.

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 contract with El Campo Carpet One in the amount of \$15,250.00 for the installation of carpet, vinyl composition tile and rubber base for the Wharton Police Station/Municipal Court Renovation Project located at 1407 North Richmond Road.
- Section II.** That the City Manager of the City of Wharton is hereby authorized to sign all documents relating to the contract.
- Section III.** That this resolution shall become effective immediately upon its passage.

Passed, Approved, and Adopted this 25th of February 2008.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

LISA OLMEDA

City Secretary

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

B. Resolution: A resolution of the Wharton City Council awarding the bid for the Uninterrupted Power Supply for the Wharton Police Station/Municipal Court Facility located at 1407 North Richmond Road and authorizing the City Manager to execute the agreement.

City Manager Andres Garza, Jr. presented a copy of the memorandum dated February 14, 2008 from Police Chief Tim Guin providing the quotes for the Uninterrupted Power Supply (UPS) for the Wharton Police Station/ Municipal Court Facility located at 1407 North Richmond Road. He stated that Chief Guin was recommending that the UPS be purchased from Wholesale Electric of Houston as per their quote in the amount of \$17,299.24. He then presented a draft resolution authorizing the agreement. Police Chief Guin stated that the City would receive reimbursement from H-GAC in the amount of \$12,500.00. He stated that the equipment would be utilized between the power outage and the getting the generator online. After some discussion, Councilmember David Samuelson made a motion to approve Resolution No. 2008-17, which read as follows:

CITY OF WHARTON
RESOLUTION NO. 2008 – 17

A RESOLUTION OF THE WHARTON CITY COUNCIL AWARDING THE BID FOR THE UNINTERRUPTED POWER SUPPLY (UPS) FOR THE WHARTON POLICE STATION/MUNICIPAL COURT FACILITY LOCATED AT 1407 NORTH RICHMOND

ROAD AND AUTHORIZING THE CITY MANAGER OF THE CITY OF WHARTON TO EXECUTE THE RESPECTIVE AGREEMENTS.

- WHEREAS,** The City of Wharton is the general contractor for the renovation of the Police Station/Municipal Court Facility located at 1407 North Richmond Road; and
- WHEREAS,** On February 14, 2008, the City Staff received quotes the Uninterrupted Power Supply (UPS) for the Wharton Police Station /Municipal Court Facility; and
- WHEREAS,** the Wharton City Council wishes to award the contract to Wholesale Electric of Houston in the amount of \$17,299.24 for the installation of Uninterrupted Power Supply (UPS) as per bid specifications; and
- WHEREAS,** this resolution is passed in accordance with the quote provided.

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 contract with Wholesale Electric of Houston in the amount of \$17,299.24 for the installation of Uninterrupted Power Supply (UPS) for the Wharton Police Station/Municipal Court Renovation Project located at 1407 North Richmond Road.
- Section II.** That the City Manager of the City of Wharton is hereby authorized to sign all documents relating to the contract.
- Section III.** That this resolution shall become effective immediately upon its passage.

Passed, Approved, and Adopted this 25th of February 2008.

CITY OF WHARTON, TEXAS
By:

BRYCE D. KOCIAN
Mayor

ATTEST:

LISA OLMEDA

City Secretary

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

The twelfth item on the agenda was to review and consider the City of Wharton US 59 Southbound Frontage Road and Entrance Ramp Project – Angel Brother’s Enterprises, Ltd. – Pay Request No. 4. City Manager Andres Garza, Jr. presented a copy of the Pay Request No. 4 submitted by Angel Brothers Enterprises, Ltd. in the amount of \$363,689.62 for the US 59 Southbound Frontage Road and Entrance Ramp project. Mr. Carlos Cotton, P.E. of Jones & Carter, Inc. stated that the 2% retainage fee remained on the contract for the punch list. After some discussion, Councilmember Ken Freese made a motion to approve the City of Wharton US

59 Southbound Frontage Road and Entrance Ramp Project – Angel Brother’s Enterprises, Ltd. – Pay Request No. 4 in the amount of \$363,689.62. Councilmember Don Mueller seconded the motion. All voted in favor.

The thirteenth item on the agenda was to review and consider the City of Wharton Santa Fe Drainage Channel Roadway Crossings – Lonnie Lischka Company, LP – Pay Request No. 4. City Manager Andres Garza, Jr. presented a copy of the Pay Request No. 4 submitted by Lonnie Lischka Company, LP in the amount of \$5,985.00 for the Santa Fe Drainage Channel Roadway Crossings project. Mr. Carlos Cotton, P.E. of Jones & Carter, Inc. stated that the project was 85% completed as of February 8, 2008. After some discussion, Councilmember Ray Linseisen made a motion to approve the City of Wharton Santa Fe Drainage Channel Roadway Crossings – Lonnie Lischka Company, LP – Pay Request No. 4 in the amount of \$5,985.00. Councilmember Don Mueller seconded the motion. All voted in favor.

The fourteenth item on the agenda was to review and consider the City of Wharton Circle Drive Sewer Replacement, Alley Way Water & Sanitary Sewer, Olive Street Sanitary Sewer Replacement, Richmond Road/Armstrong Waterline Improvements & KFC/Taco Bell Waterline Extension Projects – Matula & Matula Construction, Inc.:

A. Change Order No. 2.

City Manager Andres Garza, Jr. presented a copy of the Change Order No. 2, which indicated that the original contract price should increase \$9,810.00. He stated that the Change Order was due to the City’s request to move the water service meters out from under the pavement and the determination that two new water services and two new sanitary sewer services were required. Mr. Carlos Cotton, P.E. of Jones & Carter, Inc. stated that the City Council could not accept items 52 and 53 moving the water service to the edge of the pavement, which would have the meters remain in the pavement. He stated that the meters would be located in the alleyway behind Pat-a-Cake. He stated that he was requesting item 54 and 55 for future services. After some discussion, Councilmember Don Mueller made a motion to approve the City of Wharton Circle Drive Sewer Replacement, Alley Way Water & Sanitary Sewer, Olive Street Sanitary Sewer Replacement, Richmond Road/Armstrong Waterline Improvements & KFC/Taco Bell Waterline Extension Projects – Matula & Matula Construction, Inc. Change Order No. 2, Items 54 and 55 for future water and sanitary sewer services for the amount of \$3,510.00. Councilmember Ken Freese seconded the motion. All voted in favor.

B. Pay Request No. 3.

City Manager Andres Garza, Jr. presented a copy of the Pay Request No. 3 in the amount of \$122,226.98 submitted by Matula & Matula Construction, Inc. for the City of Wharton Circle Drive Sewer Replacement, Alley Way Water & Sanitary Sewer, Olive Street Sanitary Sewer Replacement, Richmond Road/Armstrong Waterline Improvements & KFC/Taco Bell Waterline Extension Projects. Mr. Carlos Cotton, P.E. of Jones & Carter, Inc. stated that the project was 84% complete as of February 8, 2008. After some discussion, Councilmember David Samuelson made a motion to approve the City of Wharton Circle Drive Sewer Replacement, Alley Way Water & Sanitary Sewer, Olive Street Sanitary Sewer Replacement, Richmond Road/Armstrong Waterline Improvements & KFC/Taco Bell Waterline Extension Projects – Matula & Matula

