

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
FEBRUARY 26, 2007**

Mayor Bryce D. Kocian declared a Regular Meeting duly open for the transaction of business at 7:00 P.M. Councilmember David Samuelson 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, City Secretary Lisa Stavena, Assistant to City Manager Jackie Jansky, Planning Director Prudencio Arriaga, Sr., Police Chief Tim Guin, Community Services Director Jo Knezek, and City Attorney Paul Webb.

Visitors present were: Benjamin Sharp with Wharton Journal Spectator, David Schroeder with Wharton Economic Development Corporation, Carlos Cotton, Doris Brandes, Cecelia Jedlicka, Frank Jedlicka, Wayne Robinson, Sylvia Preisler, Evelyn Kramr, Sandra Chumchal, Angelia Jalas, Sherrel Speer, Frank Tamborello, Lillian Tamborello, Ethel Garrett, Nelly Wiley, Ernest Joe Macha, R. L. Viktorin, Othelie Viktorin, Joe Kramr, John Kramr, I.O. Coleman, Hank Allen, and L. W. McIntosh Fortenberry.

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

The fourth item on the agenda was Wharton Moment. Mayor Bryce D. Kocian presented a proclamation to Mrs. Ethel Garrett and Mr. Hank Allen in recognition of Black History Month. 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 2007. Finance Director Joyce Vasut presented the financial report for the month of January 2007 and stated that the fiscal year was at 33%. Mrs. Vasut stated that the general fund revenues were at 39.24% and the expenditures were at 35.34%. The total ad valorem taxes collected were \$1,332,645. The sales tax for the month of December 2006 was \$219,298 with \$146,199 to the City and \$73,099 to WEDCo. The TexPool balance for January 2007 was \$366,400.15 with an average monthly yield of 5.2780%. The Franklin Bank balance for January 2007 was \$4,050,044.50 with an average monthly yield of 5.250%. After some

discussion, Councilmember Don Mueller made a motion to approve the City of Wharton Financial Report for the month of January 2007. Councilmember David Samuelson seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider the request by Ms. Katherine Whorton Harrell to withdraw her petition for the City Council to consider annexing a certain 312.62 acre tract of land situated in the Alexander Jackson Timber and Prairie Leagues, Abstract No. 34. City Manager Andres Garza, Jr. presented a copy of the letter submitted by Ms. Katherine Whorton Harrell requesting to withdraw her petition. After some discussion, Councilmember Don Mueller made a motion to accept the request by Ms. Katherine Whorton Harrell to withdraw her petition for the City Council to consider annexing a certain 312.62 acre tract of land situated in the Alexander Jackson Timber and Prairie Leagues, Abstract No. 34. Councilmember Ken Freese seconded the motion. All voted in favor.

The seventh item on the agenda was Public Hearing: Proposed annexation of a certain 312.62 acre tract of land situated in the Alexander Jackson Timber and Prairie Leagues, Abstract No. 34, owned by Ms. Katherine Whorton Harrell, by the City of Wharton, Texas.

Mayor Bryce D. Kocian stated that a Public Hearing would not be conducted since the City Council accepted the withdrawal of annexation of the property; however, he stated that if the persons would like to address the City Council, they could do so.

Mr. Wayne Robinson addressed the City Council and stated that there was a bigger issue at hand if the project would be approved in the future. He stated that the water asset belonged to the entire county. He requested that if the project would be presented to City Council in the future, that a hydrology study be conducted at the federal level.

Ms. Sandra Chumchal addressed the City Council and stated that her husband was a farmer, which it has taken a long time for the aquifer to get at the level it was today. She stated that the aquifer level will affect our children. She stated that the project would cost people their livelihoods.

Ms. Doris Brandis addressed the City Council and stated the proposed water bottling company would use twice as much as Ozarka uses. She stated that Pure Tex stated in the Wharton Journal Spectator on September 13, 2006, that if the company was not accepted county wide, then they would go elsewhere. She stated that Pure Tex Company is not welcomed in Wharton County.

Mr. Joe Macha addressed the City Council and stated that the City Council finally did the right thing. He stated that annexing the property was none of the City of Wharton's business. He stated that the City Council needed to have a more open door policy, such as Wharton County.

Mr. Sherrell Speers addressed the City Council and requested that his time be deferred until the next time this item would be presented to City Council.

No action was taken.

Councilmember Domingo Montalvo, Jr. arrived at 7:20 p.m.

The eighth item on the agenda was to review and consider an ordinance amending the City of Wharton Code of Ordinances, Article VI. Civic Center; 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; revoking all ordinances or parts upon conviction of a fine; revoking all ordinances or parts of ordinances in conflict herewith other provided herein; providing for separability and setting an

effective date. City Manager Andres Garza, Jr. presented a draft of the proposed amendment to the City of Wharton Code of Ordinances, Chapter 2, Administration Article VI – Civic Center. He stated that since the last amendments, the City Staff had reviewed the policy and was recommending proposed changes. He stated that the City Council Finance Committee met February 22, 2007 and was requesting the City Council consider approving the amendments to the ordinances. Finance Director Joyce Vasut stated that the changes included \$50.00 for clean up, security officers be obtained from the beginning of the event, Main Hall rental on Sunday only. Mayor Bryce D. Kocian asked why other rooms were not rented on Sunday. Community Services Director Jo Knezek stated that it was not feasible for the rental of the other rooms with the cost of overtime pay. Mayor Bryce D. Kocian requested that the required number of officers based on the number of attendees at the event be added to the ordinance. Councilmember Domingo Montalvo, Jr. requested that the ordinance define security officers. After some discussion, no action was taken.

The ninth item on the agenda was to review and consider a resolution of the Wharton City Council approving a mutual aid agreement for Emergency Medical Services between the City of El Campo and the City of Wharton and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. presented a copy of a draft resolution approving a mutual aid agreement for Emergency Medical Services between the City of El Campo and the City of Wharton. He also presented a copy of the agreement that had been executed by the City of El Campo. After some discussion, Councilmember Ray Linseisen made a motion to approve Resolution No. 2007-15, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2007 – 15**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A MUTUAL AID AGREEMENT FOR EMERGENCY MEDICAL SERVICES BETWEEN THE CITY OF EL CAMPO AND THE CITY OF WHARTON; AUTHORIZING THE MAYOR OF THE CITY OF TO EXECUTE THE AGREEMENT.

WHEREAS, the City of Wharton City Council wishes to approve a mutual aide agreement between the City of El Campo and the City of Wharton to provide Emergency Medical Services (EMS) Mutual Aid; and

WHEREAS, the City of El Campo and the City of Wharton wishes to be bound by the conditions as set forth in the agreement

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute all documents relating to said agreement.

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

- Section I.** That the City Council of the City of Wharton hereby approves a mutual aid agreement between the City of El Campo and the City of Wharton to provide Emergency Medical Services (EMS) Mutual Aid.
- Section II.** That the City Council of the City of Wharton hereby authorizes the Mayor of the City of Wharton to execute all documents relating to said agreement.
- Section III.** That this resolution shall become effective immediately upon its passage.

Passed, Approved, and Adopted this 26th day of February 2007.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

LISA STAVENA

City Secretary

Councilmember V. L. Wiley, Jr. 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 purchase of a MCC5500 Dispatch Console System from Motorola, Inc. for use by the Wharton Police Department and authorizing the Mayor of the City of Wharton to sign any and all documents related to the System Purchase Agreement. City Manager Andres Garza, Jr. presented a copy of the letter dated May 10, 2006 from Motorola, Inc. providing Police Chief Tim Guin with a proposal for a MCC5500 Dispatch Console System for the Wharton Police Department along with a copy of the System Purchase Agreement. He also presented a copy of the memorandum dated February 20, 2007 to the City Council Finance Committee from Finance Director Joyce Vasut and himself providing the City Staff's recommendation. He stated that the City received a letter of proposal from Motorola on May 10, 2006 regarding communications equipment and services for dispatch. He stated that the terms and conditions of the proposal were valid for sixty days; however, Motorola informed the City that if the proposal was authorized before February 28, 2007, the rates would still be valid. He stated that the entire upgrade of the dispatch console was estimated to cost over \$200,000. He said that the City had received \$133,635.09 of equipment for the upgrade from grant funding. He stated that additional funding was still needed to complete the purchase of the necessary equipment and pay for the installation, training, and additional years of maintenance. He said that the City Staff had postponed the purchase of the remaining equipment in anticipation of the renovations and/or relocation of the Wharton Police Department; however, if the City Council would not authorize the agreement at this time, the rates for installation and training would increase according to Motorola. He further stated that the Finance Committee met February 22, 2007 and was recommending the City Council consider authorizing the purchase agreement. Finance Director Joyce Vasut stated that it would be a lease-purchase through Houston-Galveston Area Council Cooperative Purchasing

Program with Motorola, with the first payment due next fiscal year. After some discussion, Councilmember Don Mueller made a motion to approve Resolution No. 2007-16, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2007 – 16**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE PURCHASE OF A MCC5500 DISPATCH CONSOLE SYSTEM FROM MOTOROLA, INC. FOR USE BY THE WHARTON POLICE DEPARTMENT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO THE SYSTEM PURCHASE AGREEMENT.

WHEREAS, The City of Wharton City Council wishes to upgrade the Wharton Police Department Dispatch System; and

WHEREAS, The City Council wishes to purchase a MCC5500 Dispatch Console System from Motorola, Inc. for use by the Wharton Police Department; and

WHEREAS, The City Council and Motorola, Inc. wishes to be bound by the terms and conditions as outlined in the System Purchase Agreement; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute all documents relating to said agreement.

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

Section I. That the City Council of the City of Wharton hereby approves the purchase of a MCC5500 Dispatch Console System from Motorola, Inc. for use by the Wharton Police Department.

Section II. That the City Council and Motorola, Inc. are hereby bound by the terms and conditions of the System Purchase Agreement.

Section III. That the City Council of the City of Wharton hereby authorizes the Mayor of the City of Wharton to execute all documents relating to said agreement.

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

Passed, Approved, and Adopted this 26th day of February 2007.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

LISA STAVENA

City Secretary

Councilmember Ray Linseisen 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 amendments to the City of Wharton Emergency Management Plan and authorizing the Mayor of the City of Wharton to sign any documents necessary to execute the plan. City Manager Andres Garza, Jr. stated that Emergency Management Coordinator Jim Cooper was unable to attend and therefore, requested the item be presented on the March 12, 2007 City Council Agenda. No action was taken.

The twelfth item on the agenda was to review and consider a resolution of the Wharton City Council authorizing the submission of an application to the United States Department of Agriculture under the Rural Development Community Facilities Grant Program for funding for the City of Wharton U.S. Highway 59 & FM 102 Access Road Improvement Project and authorizing the Mayor of the City of Wharton to execute all documents required by said application. City Manager Andres Garza, Jr. stated that on August 14, 2006, the City Council engaged the services of The Ruiz Companies to prepare applications for funding through the US Department of Commerce, Economic Development Administration and the United States Department of Agriculture (USDA) under the Rural Development Community Facilities Grant Program for funding for the City of Wharton U.S. Highway 59 & FM 102 Access Road Improvement Project. He stated that the Ruiz Companies had prepared the USDA pre-application and a resolution authorizing the submission of the application was required. He then presented a draft copy of the resolution. He stated that funding was also requested in the amount of \$750,000 from the Economic Development Administration (EDA). After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2007-17, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2007 – 17**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE UNITED STATES DEPARTMENT OF AGRICULTURE UNDER THE RURAL DEVELOPMENT COMMUNITY FACILITIES GRANT PROGRAM FOR FUNDING FOR THE CITY OF WHARTON U.S. HIGHWAY 59 & FM 102 ACCESS ROAD IMPROVEMENT PROJECT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS REQUIRED BY SAID APPLICATION.

WHEREAS, the wishes to construct an access road along U.S. Highway 59 and FM 102 to improve economic development; and

WHEREAS, on August 14, 2006, the City Council engaged the services of The Ruiz Companies to prepare an application for funding for the U.S. Highway 59 and FM 102 access road under the United States Department of Agriculture (USDA) Rural Development Community Facilities Grant Program; and

WHEREAS, the Wharton City Council wishes to authorize the submission of said grant application to the USDA; and

WHEREAS, wishes to authorize the Mayor of the City of Wharton to sign all documents relating to said application; and

WHEREAS, the Wharton City Council wishes this resolution to become effective immediately upon its approval.

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 authorizes the submission of a grant application to the U.S. Highway 59 and FM 102 access road under the United States Department of Agriculture (USDA) Rural Development Community Facilities Grant Program for funding for the U.S. Highway 59 and FM 102 Access Road Improvement Project.

Section II. That the City Council of the City of Wharton hereby authorizes the Mayor of the City of Wharton to sign all documents relating to said application.

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

Passed, Approved, and Adopted this 26th day of February 2007.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

LISA STAVENA

City Secretary

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

The thirteenth item on the agenda was to review and consider the Mayor's Committee on People with Disabilities:

A. City Council acceptance of the letter of resignation submitted by Mr. Leslie Newton as a Board Member.

City Manager Andres Garza, Jr. presented a copy of the letter dated February 13, 2007 from Mr. Leslie Newton submitting his resignation from the Mayor's Committee on People with Disabilities. He stated that City Council acceptance of his resignation was required. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to accept the letter of resignation submitted by Mr. Leslie Newton as a Mayor's Committee on People with Disabilities Board Member. Councilmember Don Mueller seconded the motion. All voted in favor.

B. Appointment to vacant position.

City Manager Andres Garza, Jr. stated that the City Council may make recommendations to fill the vacant position. Mayor Bryce D. Kocian stated that he was awaiting a confirmation on the vacant position. No action was taken.

The fourteenth item on the agenda was to review and consider an update on the City of Wharton on-going projects. City Manager Andres Garza, Jr. presented a copy of the memorandum dated February 26, 2007 providing an update on the City of Wharton on-going projects, which read as follows:

FLOOD PLAIN MANAGEMENT

The U.S. Army Corp of Engineers Lower Colorado River Phase I Report - City of Wharton Flood Prevention Project and Recommended report was located at the Wharton County Library and the office of the City of Wharton City Secretary for viewing or the report may be viewed on line at <http://www.swf.usace.army.mil/pubdata/notices/LowerColorado/>.

The US Corp of Engineers Chief Engineer had signed the Lower Colorado River Basin Phase I, Texas Report, which was dated 31 December 2006. The City was working inconjunction with the Corp and our federal elected officials towards funding and congressional authorization of the project. The next phase was the Preconstruction Engineering and Design (PED) and then authorization of the project through the Water Resources Development Act (WRDA).

DRAINAGE:

1. Santa Fe Outfall Ditch.

The City Staff was working with Mr. Ron Marr and Josef's Farms to complete the acquisition of the required property. The Public Works Department and Wharton County Precinct No. 1 had dug approximately 1,500 feet of ditch and slopes up to the Hundl property. The weather had delayed any work on the channel; however, as soon as the weather permits, the crews would be back at work.

WATER/SEWER IMPROVEMENTS:

1. Wharton Industrial Park Sanitary Pump Station.

The 14-inch force main bore project and lift station was being re-bid with bids due March 20, 2007. The Public Works Department had installed approximately 7,460 feet of the total 11,800 feet of force main required. This project was on-going.

2. Sanitary Sewer Lines.

The City Council approved a professional engineering services agreement with Jones & Carter, Inc. during the regular November 27, 2006 City Council meeting to conduct the improvements to Circle Drive and between Milam and Burluson Streets. The design of the project was approximately 75% complete. Project should bid in March 2007.

STREET IMPROVEMENTS

1. U.S. 59/FM 102 Intersection Upgrade.

Jones & Carter, Inc. submitted the plans to the Texas Department of Transportation for review. After the last modifications requested by TxDOT, the plans were approved.

2. Road Extension Project between FM 1301 and County Road 235.

Jones & Carter, Inc. had developed several road alignments between Business 59 and US Highway 59. The City Council Public Works Committee had reviewed the alignments and would submit a recommendation on the best alternative to the City Council. Once approved by the City Council, the City Staff would proceed to meet with property owners.

3. Columbus Street.

The City's Public Works Department had completed the installation of the water and sewer line. The Public Works Department had begun on the streets to be paved. The base material had been placed and the surface treatment (single course) would be applied as soon as the weather permits.

4. Jr. College Blvd. – FM 1301 to Ahldag Street.

The City Council Public Works Committee was reviewing the layout plans for construction of a three lane road with a continuous left turn. Once the recommendation was completed, it would be presented to the City Council for approval. The target date for construction was the summer of 2007.

WHARTON REGIONAL AIRPORT

1. 2007 RAMP Program.

2. Non-Primary Entitlement (NPE) Funds.

- a. Hangar Project – The City Staff had reviewed the plans and O'Malley had submitted the design and construction documents to TxDOT Aviation Division for bid.
- b. Drainage Improvements – O'Malley Engineers had submitted the preliminary design cost estimates and the City Staff was reviewing the estimates.

3. Airport Terminal Building Project.

The final design of the terminal building was under review by the Texas Department of Transportation. The City Staff had been notified by the Texas Department of Transportation Aviation Division that the terminal building project had been slated for funding in the TxDOT fiscal year 2008; therefore, the project would be bid after September 1, 2007.

HOME PROJECTS

1. **2004 HOME Program (Special Needs)**