

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
MARCH 9, 2009**

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 V. L. Wiley, Jr., Lewis Fortenberry, Jr., Ken Freese, Don Mueller, and Jeff Gubbels.

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, Public Works Director Carter Miska, Police Chief Tim Guin, Building Inspector/Code Enforcement Officer Ronnie Bollom, Animal Control Officer Scott Wallace, Fire Chief Bobby Barnett, Emergency Management Coordinator Jim Cooper, 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, Mickey Reynolds, Billie Jones, Bruce Williams, Raymond Harrison, Sr., I.O. Coleman, Jr., Wes Birdwell, Bob Nelson, and Julius Shanklin.

The second item on the agenda was Roll Call and Excuses Absences. Councilmember V. L. Wiley, Jr. made a motion to excuse the absence of Councilmember Domingo Montalvo, Jr. from the Regular City Council meeting held March 9, 2009. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The third item on the agenda was Public Comments. Mr. Bruce Williams addressed the City Council and publicly invited the City Council and public to the Chamber Mixer to be held at Texana Workshop on Thursday, March 19, 2009 at 5:00 p.m.

Mr. David Schroeder, Executive Director of Wharton Economic Development Corporation (WEDC) stated that WEDC supported the Emergency Services District and presented a Resolution to the same affect. No action was taken.

The fourth item on the agenda was to review and consider the Wharton Moment. City Manager Andres Garza, Jr. stated that the Wharton High School Tennis Team advanced to State. He stated that they would be playing in Waco this week. He also said the Wharton High School Baseball Team had a 2-1 record. No action was taken.

The fifth item on the agenda was to review and consider the reading of the minutes from the regular meetings held February 9, 2009 and February 23, 2009 and the special meetings held February 6, 2009 and February 19, 2009. After some discussion, Councilmember Don Mueller made a motion to approve the Wharton City Council minutes of the regular meetings held February 9, 2009 and February 23, 2009 and the special meetings held February 6, 2009 and February 19, 2009 as presented. Councilmember Ken Freese 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. Raymond C. Harrison, Jr., Harrison Realtors, on behalf of Mr. Kenneth H. Watson, owner of a 14.08 acre tract of land out of the Randal Jones ½ League, A-36 for a preliminary/final replat of said property. Assistant to City Manager Jackie Jansky presented a copy of the application for replat submitted by Mr. Raymond C. Harrison, Jr. of Harrison Realtors on behalf of Mr. Kenneth H. Watson, owner of 14.08 acre tract of land out of the Randal Jones ½ League, A-36. She stated that Mr. Harrison was representing Mr. Watson regarding the replat. She said that the 14.08 acres was being replatted to consist of three (3) blocks, Blocks A, B and C. She stated that Block A may be developed for additional home sites, which would require additional replatting at a later date. She then stated that Block B had an existing home located on the property and Block C may be developed for a home site with the entrance being from Lily Lane using a 60' private road. She said that between Blocks A and B, 30' from the interior property line of each block, was being dedicated for a 60' access road (extension of Lily Lane). She said that the replat also indicated a 50' drainage easement that was located behind Block B and a portion of Block C to drain water runoff to Caney Creek. She said that the Planning Commission met on Monday, March 2, 2009 and voted to recommend the City Council consider approving the preliminary/final replat of the 14.08 acre tract of land out of the Randal Jones ½ League, A-36. Mr. Harrison stated that there was a private road. Mrs. Jansky stated that the Planning Commission recommended the developer to construct the street in compliance with City codes. After some discussion, Councilmember Ken Freese made a motion to approve the recommendation by the Planning Commission for City Council consideration to approve the request by Mr. Raymond C. Harrison, Jr., Harrison Realtors, on behalf of Mr. Kenneth H. Watson, owner of a 14.08 acre tract of land out of the Randal Jones ½ League, A-36 for a preliminary/final replat of said property and advise the developers to construct the street in accordance with the City code with all costs borne by the developer. Councilmember Don Mueller seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider the request by Mr. Julius Shanklin and Mr. Bob Nelson for a floodplain variance to construct an 8' x 12' addition to the Rosewood Club located at 220 Wilkes; John Harris, Lot 64D-11, in order to enlarge the kitchen area at the same elevation as the existing structure. City Manager Andres Garza, Jr. presented a copy of the memorandum dated February 25, 2009 from Ronnie Bollom, CFM, Building Official providing

the request by Mr. Julius Shanklin and Mr. Bob Nelson for a floodplain variance to construct an 8' x 12' addition to the Rosewood Club located at 220 Wilkes; John Harris, Lot 64D-11. Building Official Ronnie Bollom stated that the request was for an addition to Rosewood Club in order to enlarge the kitchen area at the same elevation as the existing structure. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the request by Mr. Julius Shanklin and Mr. Bob Nelson for a floodplain variance to construct an 8' x 12' addition to the Rosewood Club located at 220 Wilkes; John Harris, Lot 64D-11, in order to enlarge the kitchen area at the same elevation as the existing structure. Councilmember Jeff Gubbels seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider the recommendation by the City Council Public Works Committee to consider approving the Wharton Enterprises request to expand facilities located at 1017 ½ North Alabama. City Manager Andres Garza, Jr. presented a copy of the letter dated March 5, 2009 from Mr. Bruce Williams, President of the Wharton Enterprises (ARC) requesting the City Council to consider approving expansions to the current facility located at 1017 ½ Alabama Road. He said that the City Council Public Works Committee met on March 3, 2009 with Mr. Williams and voted to recommend the City Council approve the request for the facility expansion. He said additionally, the Committee was recommending the City Council to consider approving City forces to assist with part of the project in constructing a parking area. He then presented a drawing that indicated the different phases of the proposed expansion. Mr. Bruce Williams addressed the City Council and stated Wharton Enterprises was requesting expansion of the covered parking area next to the fence at the Wastewater Treatment Plant. Councilmember Don Mueller suggested that the parking be a minimum of 4' from the fence with a bumper type curb on the slope. After some discussion, Councilmember Don Mueller made a motion to approve the recommendation by the City Council Public Works Committee to consider approving the Wharton Enterprises request to expand facilities located at 1017 ½ North Alabama and authorize the City forces to assist with part of the project in constructing a parking area. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The ninth item on the agenda was a presentation regarding the City of Wharton Animal Control Efforts. Animal Control Officer Scott Wallace addressed the City Council and stated that the Animal Control Office received 1400 calls, handling 350 animals per year. He stated that the calls were also taken by Police Officers. He stated that the Animal Control Officer works with the Veterinarian Clinics for adoption purposes. He stated that Matagorda SPCA offers grant assistance for spay and neutering. He publicly thanked Wal-Mart for providing the torn bags of food for the animals housed at the Animal Shelter. He stated that he was seeking sponsors in order to advertise the animals available for adoption. Mayor David W. Samuelson asked if the Animal Control Department had adequate equipment. Mr. Wallace stated that there were 10 cat traps and 4 dog traps, which were enough. Councilmember V. L. Wiley, Jr. stated that residents let the animals run at large after hours. Mr. Wallace stated that if pictures could be taken, then citations would be issued to the owners for the animals running at large. After some discussion, no action was taken.

The tenth item on the agenda was to review and consider a resolution of the Wharton City Council affirming the City of Wharton's support of and partnership with the 2010 Census. City

Manager Andres Garza, Jr. presented a copy of the email dated March 2, 2009 from Mr. Chris Rivera of the US Census Bureau requesting the City Council to consider approving the draft resolution supporting the 2010 Census. He said that Mr. Rivera had indicated that he would attend the meeting to answer any questions. He said that the Census Bureau would be hiring people to assist in the Census Count. He said that the City would be providing space at the Wharton Civic Center on March 30, 2009 through April 9, 2009 for the testing and hiring of personnel. He publicly encouraged people to participate in the census. He stated that federal funds were distributed in accordance with the cities population. After some discussion, Councilmember Jeff Gubbels made a motion to approve Resolution No. 2009-15, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2009- 15**

A RESOLUTION OF THE WHARTON CITY COUNCIL AFFIRMING THE CITY OF WHARTON'S SUPPORT OF AND PARTNERSHIP WITH THE 2010 CENSUS.

WHEREAS, the U.S. Census Bureau is required by the Constitution of the United States of America to conduct a count of the population and provides a historic opportunity for the City of Wharton, Texas, to help shape the foundation of our society and play an active role in American democracy; and

WHEREAS, the City of Wharton, Texas, is committed to ensuring every resident is counted; and

WHEREAS, more than \$300 billion per year in federal and state funding is allocated to communities, and decisions are made on matters of national and local importance based on census data, including healthcare, community development, housing, education, transportation, social services, employment, and much more; and

WHEREAS, census data determine how many seats each state will have in the U.S. House of Representatives as well as the redistricting of state legislatures, county and city councils, and voting districts; and

WHEREAS, the 2010 Census creates hundreds of thousands of jobs across the nation; and

WHEREAS, every Census Bureau worker takes a lifetime oath to protect confidentiality and ensure that data identifying respondents or their household not be released or shared for 72 years; and

WHEREAS, a united voice from businesses, government, community-based and faith-based organizations, educators, media and others will allow the 2010 Census message to reach a broader audience, providing trusted advocates who can spark positive conversations about the 2010 Census;

Now, therefore, **BE IT RESOLVED** that the City of Wharton, Texas:

1. Supports the goals and ideals for the 2010 Census and will disseminate 2010 Census information to encourage participation.
2. Asks its affiliates and membership to partner together to achieve an accurate and complete count.
3. Encourage people in the City of Wharton, Texas, to participate in events and initiatives that will raise overall awareness of the 2010 Census and increase participation among all populations.

Passed, Approved, and Adopted this 9th of March 2009.

CITY OF WHARTON, TEXAS

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 2008 Annual Report regarding the City of Wharton Resolution No. 2001-67, Racial Profiling Policy. City Manager Andres Garza, Jr. presented a copy of the Wharton Police Department Annual Contact Report for year 2008 that had been submitted in accordance with the City of Wharton Resolution No. 2001-67, Racial Profiling Policy. Police Chief Tim Guin stated that Racial Profiling was required in accordance with Senate Bill 1074. He stated that the citations by race or ethnicity included:

Caucasian/White	48.4%
Hispanic	21.1%
Black	30.0 %
Asian/Pacific Islander	0.4%
Unknown	0.1%

He stated that no complaints were received. After some discussion, Councilmember Jeff Gubbels made a motion to approve the 2008 Annual Report regarding the City of Wharton Resolution No. 2001-67, Racial Profiling Policy. Councilmember Don Mueller seconded the motion. All voted in favor.

The twelfth item on the agenda was to review and consider a resolution of the Wharton City Council supporting the Texas Department of Transportation and the Alliance for I-69 on the development of a "Green" Freight Transportation System. City Manager Andres Garza, Jr. presented a copy of the letter dated February 12, 2009 from Mr. John P. Thompson, Chairman of the Alliance for I-69 Board. He said that Mr. Thompson was requesting that a resolution of support be considered by member organizations for further support of the development of the concept for I-69 and to indicate that a community would want to be connected to the system and to what destinations. He said that the City Council Public Works Committee met March 3, 2009 and voted to recommend the City Council consider approving the resolution. He then presented a draft copy of the resolution. Ms. Billie Jones addressed the City Council and was asking cities to support the resolution. After some discussion, Councilmember Don Mueller made a motion to approve Resolution No. 2009-16, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2009 - 16**

A RESOLUTION OF THE WHARTON CITY COUNCIL SUPPORTING THE TEXAS DEPARTMENT OF TRANSPORTATION AND THE ALLIANCE FOR I-69 ON THE DEVELOPMENT OF A "GREEN" FREIGHT TRANSPORTATION SYSTEM.

WHEREAS, the Texas Department of Transportation has publishes a request for information for concepts for new low carbon emitting freight transportation facilities; and

WHEREAS, the City of Wharton supports development of transportation infrastructure that will increase employment opportunities in Southwest Texas; and

WHEREAS, A region's ability to efficiently and cleanly move freight improves that regions desirability for the location of manufacturing and distribution facilities; and

WHEREAS, these "green" technologies would reduce the volume of truck traffic and provide a faster, cleaner method of moving freight in East Texas; and

WHEREAS, these "green" technologies could be built in the existing rights of way of US-59, US-77, SH-44 and US-281 supporting the I-69 project; and

The City of Wharton hereby **RESOLVES** that it supports the further development of these "green" technologies; and.

The City of Wharton **FURTHER RESOLVES** that it would welcome the location of such a system in Southwest Texas linking other Texas intermodal transportation destinations with the City of Wharton to include, but not be limited to, the proposed inland port at Texarkana, the Port of Houston using the existing rights of way along US-59/I-69, to the proposed container port at the Port of Corpus Christi along the existing rights of way of US-59/US-77/I-69, to the international border crossing in the Lower Rio Grande and Laredo using the rights of way of US-59/US-77/US-281/SH-44/I-69.

This resolution shall become effective immediately upon its passage.

Passed, Approved, and Adopted this 9th of March 2009.

CITY OF WHARTON, TEXAS

By: _____

DAVID W. SAMUELSON

Mayor

ATTEST:

LISA OLMEDA

City Secretary

Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The thirteenth item on the agenda was to review and consider a resolution of the Wharton City Council approving the Wharton Economic Development Corporation Sales Tax Rebate Agreement with King Ranch Turfgrass. City Manager Andres Garza, Jr. presented a copy of the letter dated February 23, 2009 from Mr. David L. Schroeder, Executive Director of the Wharton Economic Development Corporation (WEDC) requesting City Council approval for WEDC to enter into a Sales Tax Rebate Agreement with King Ranch Turfgrass, L.P. He said that City Council approval of WEDC entering into the agreement was required for this project in accordance with WEDC by-laws. He then presented a draft copy of the proposed sales tax rebate

agreement and a draft resolution approving the WEDC project. Councilmember Ken Freese abstained from discussion. City Attorney Paul Webb stated that he reviewed the sales tax abatement. He stated that for up to 4 million in sales, 50% of the WEDC portion of the sales tax would be rebated. For sales from 4 million to 8 million, 80% of the WEDC portion of the sales tax would be rebated. For sales 8 million and over, 100% of the WEDC portion of the sales tax would be rebated. After some discussion, Councilmember Don Mueller made a motion to approve Resolution No. 2009-17, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2009 - 17**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE WHARTON ECONOMIC DEVELOPMENT CORPORATION SALES TAX REBATE AGREEMENT WITH KING RANCH TURFGRASS, L.P.

WHEREAS, The Wharton Economic Development Corporation and King Ranch Turfgrass, L.P. wishes to enter into a Sales Tax Rebate Agreement; and

WHEREAS, In accordance with the Wharton Economic Development Corporation By-Laws, Wharton City Council approval of Wharton Economic Development Corporation projects is required; and

WHEREAS, The Wharton City Council wishes to approve the Wharton Economic Development Corporation enter into a Sales Tax Rebate Agreement with King Ranch Turfgrass, L.P. for the project.

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 Wharton Economic Development Corporation Sales Tax Rebate Agreement with King Ranch Turfgrass, L.P.

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

Passed, Approved, and Adopted this 9th of March 2009.

CITY OF WHARTON, TEXAS

By: _____

DAVID W. SAMUELSON

Mayor

ATTEST:

LISA OLMEDA

City Secretary

Councilmember Jeff Gubbels seconded the motion. Councilmember Ken Freese abstained. The motion carried.

