

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

Mayor Bryce D. Kocian declared a Regular Meeting duly open for the transaction of business at 7:00 P.M. Councilmember Don Mueller 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 Domingo Montalvo, Jr..

Councilmember absent was: Ray Linseisen.

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., Fire Chief Anthony Abbott, and Assistant City Attorney Amy Rod.

Visitors present were: Benjamin Sharp with Wharton Journal Spectator, David Schroeder with Wharton Economic Development Corporation, Lewis Fortenberry, Carlos Cotton, Lee Allen, Thelma Hayes, Jack Moses, Louis Edwards, Steve Van Manen, Nancy Matlock, Elizabeth Ann White, and Yesenia Sanchez.

The second item on the agenda was Roll Call and Excused Absences. Councilmember David Samuelson made a motion to approve the absence of Councilmember Ray Linseisen from the Regular City Council Meeting held March 26, 2007. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The third item on the agenda was Public Comments. Ms. Thelma Hayes addressed the City Council and stated that Waste Management had not picked up heavy trash on the west side of town for three weeks. She stated that she had contacted Waste Management and was advised that the heavy trash would be picked up on Friday; however, the heavy debris had not been removed. She stated that the heavy debris was in the ditches and with the anticipation of rain, drainage problems would occur. Mayor Bryce D. Kocian requested Ms. Thelma Hayes contact City Manager Andres Garza, Jr. No action was taken.

The fourth item on the agenda was Wharton Moment. Mayor Bryce D. Kocian presented a Certificate of Recognition to Lee Allen. He stated that Mr. Allen had worked for the City of Wharton since June 1991 and retired on February 28, 2007.

Mayor Bryce D. Kocian presented the proclamation to Nancy Matlock, which read as follows:
WHEREAS, Jemima Menefee Heard came to Texas in 1830 with her family and received a land grant from Stephen F. Austin; and

WHEREAS, Jemima Menefee Heard served the Republic of Texas as a loyal citizen by establishing a residence, raising her family to be good citizens and supporting her family and fellow Texans that fought to free Texas and establish a new Republic; and

WHEREAS, Jemima Menefee Heard is recognized by the Daughters of the Republic of Texas for her contributions to the Republic with the dedication of a medallion honoring her as a Citizen of the Republic of Texas.

NOW, THEREFORE, I, Bryce D. Kocian, by the authority vested in me as Mayor of the City of Wharton, Texas, do hereby proclaim Saturday, March 31, 2007 as "*Jemima Menefee Heard Day*" and urge all citizens to be properly cognizant of this occasion, and the importance of the preservation of Texas history.

IN WITNESS THEREOF, I have set my hand and caused the seal of the City of Wharton to be affixed this 26th day of March, in the year of our Lord two thousand seven A.D.

Mayor Bryce D. Kocian then presented a proclamation to Jack Moses, which read as follows:
WHEREAS, February has been designated as Black History Month, and will be observed in our community with a series of special presentations; and,

WHEREAS, this observance affords the special opportunity to become more knowledgeable about the black heritage, and to honor the many black leaders who have contributed to the progress of our nation; and,

WHEREAS, such knowledge can strengthen the insight of all our citizens regarding the issues of human rights, the great strides that have been made in the crusade to eliminate the barriers of equality for minority groups, and the continuing struggle against racial discrimination and poverty; and,

WHEREAS, Special Recognition should be extended to Mr. Jack Moses of the Wharton County Junior College, who has dedicated his time and effort to promote Black History Month.

NOW, THEREFORE, I, Bryce D. Kocian, by the authority vested in me as Mayor of the City of Wharton, Texas, do hereby proclaim February 2006 as Black History Month and extend special recognition to Mr. Jack Moses and urge all residents to join together in making this a period of rededication to the principles of justice and equality for all people.

IN WITNESS THEREOF, I have set my hand and caused the seal of the City of Wharton to be affixed this 26th day of March, in the year of our Lord two thousand seven A.D.

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 February 2007. Finance Director Joyce Vasut presented the financial report for the month of February 2007 and stated that the fiscal year was at 42%. Mrs. Vasut stated that the general fund revenues were at 53.80% and the expenditures were at 43.09%. The total ad valorem taxes collected were \$1,737,595. The sales tax for the month of January 2007 was \$146,690 with \$99,793 to the City and \$49,897 to WEDCo. The TexPool balance for February 2007 was \$3,280,414.88 with an average monthly yield of 5.2802%. The Franklin Bank balance for February 2007 was \$1,185,244.60 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 February 2007. Councilmember David Samuelson seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider the Planning Commission recommendation for City Council consideration of the following:

- A. Request by Mr. Lupe Mata for a 5'-0" exterior side yard setback variance from the required 15'-0" setback to construct a 9'-0" x 16'-0" covered porch to be located at 202 East Wayside; Hawes 3rd, Block 37, Lot 42.

City Manager Andres Garza, Jr. stated that the Planning Commission met March 19, 2007 and discussed the request. He then presented a copy of the memorandum dated March 20, 2007 from Planning Commission Chairman A. J. Rath providing the Planning Commission recommendation for City Council to approve the item. Planning Director Prudencio V. Arriaga, Sr. stated that Mr. Mata was present. He stated that Mr. Mata was requesting a 5' variance for the construction of a porch. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the request by Mr. Lupe Mata for a 5'-0" exterior side yard setback variance from the required 15'-0" setback to construct a 9'-0" x 16'-0" covered porch to be located at 202 East Wayside; Hawes 3rd, Block 37, Lot 42. Councilmember David Samuelson seconded the motion. All voted in favor.

- B. Request by Mr. Jesus Sanchez for a 5'-0" front yard setback variance from the required 25'-0" setback to construct a 20'-0" x 21'-0" metal carport to be located at 606 Lincoln; River Road, Block 7, Lot 11.

City Manager Andres Garza, Jr. stated that the Planning Commission met March 19, 2007 and discussed the request. He then presented a copy of the memorandum dated March 20, 2007 from Planning Commission Chairman A. J. Rath providing the Planning Commission recommendation for City Council to approve the item. Planning Director Prudencio V. Arriaga, Sr. stated Mrs. Sanchez was present. He stated the Mr. and Mrs. Sanchez was requesting a 5' variance from the front property line to construct a metal carport over the already poured concrete pad. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the request by Mr. Jesus Sanchez for a 5'-0" front yard setback variance from the required 25'-0" setback to construct a 20'-0" x 21'-0" metal carport to be located at 606 Lincoln; River Road, Block 7, Lot 11. Councilmember Don Mueller seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider the over 50% variance request by Mr. Louis Edwards for a 20' variance from the required 25' front property line setback variance and a zero (0) interior side yard setback variance from the required 5' interior side setback for the placement of a 20' x 23' carport to be located at 204 Mahan, Pecan Acres, Block 1, Lot 8. City Manager Andres Garza, Jr. presented a copy of the letter dated March 21, 2007 from Planning Director Prudencio V. Arriaga, Sr. providing a copy of the request by Mr. Louis Edwards for a 20' variance from the required 25' front property line setback variance and a zero (0) interior side yard setback variance from the required 5' interior side setback for the placement of a 20' x 23' carport to be located at 204 Mahan, Pecan Acres, Block 1, Lot 8. He stated that the request was an over 50% variance request, which would require City Council consideration. Mr. Arriaga addressed the City Council and stated that Mr. Edwards was present. He stated that Mr. Edwards request was presented to City Council in May 2005, which was approved; however, Mr. Edwards had not constructed the carport. He stated that Mr. Edwards was requesting approval of the variance to construct the carport. Mr. Louis Edwards addressed the City Council and stated that he would install gutters to drain to the front of the carport. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the over 50% variance request by Mr. Louis Edwards for a 20' variance from the required 25' front property line setback variance and a zero (0) interior side yard setback variance from the required 5' interior side setback for the placement of a 20' x 23' carport to be located at 204 Mahan, Pecan Acres, Block 1, Lot 8. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider the City of Wharton Annual Financial Report for Fiscal Year October 1, 2005 to September 30, 2006 by Harrison, Waldrop & Uherek, L.L.P. City Manager Andres Garza, Jr. stated that under separate cover, a draft copy of the City of Wharton Annual Financial Report for fiscal year October 1, 2005 to September 30, 2006 by Harrison, Waldrop & Uherek, L.L.P. was submitted to City Council. He stated that on March 22, 2007, the report was presented to the City Council Finance Committee for their review. He stated that the Committee approved the 2005-2006 Annual Financial Report. He then presented a copy of the memorandum dated March 22, 2007 from the Finance Committee providing their recommendation. Mr. Steve Van Manen addressed the City Council and stated that the Comprehensive Annual Financial Report was divided into four categories: Introduction, Financial Section, Statistical Section, and the Single Audit Section. He stated that unreserved, undesignated fund balance for the General Fund was \$1,203,420, which was 26.5% of the General Fund budget. He stated that this exceeded the minimum of 25% in reserves that was adopted by City Council. He then publicly commended the Staff for working with Harrison, Waldrop & Uherek, L.L.P. Mayor Bryce D. Kocian publicly commended Finance Director Joyce Vasut, the staff, and the Department Heads for keeping costs down for fiscal year 2005-2006. After some discussion, Councilmember Ken Freese made a motion to accept the City of Wharton Annual Financial Report for Fiscal Year October 1, 2005 to September 30, 2006 by Harrison, Waldrop & Uherek, L.L.P. Councilmember David Samuelson seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider a resolution adopting the City of Wharton Investment Policy. City Manager Andres Garza, Jr. stated that the City Council Finance Committee met March 22, 2007 and was recommending the City Council adopt the City of

Wharton Investment Policy. He stated that State Law required the investment policy be reviewed and adopted by the governing body on an annual basis. He then presented a draft copy of a resolution adopting the policy. Finance Director Joyce Vasut stated that after the legislatures meet, the Investment Policy would be presented to City Council. Mayor Bryce D. Kocian requested that the Investment Policy coincide with the budget. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2007-22, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2007-22**

A RESOLUTION ADOPTING THE CITY OF WHARTON INVESTMENT POLICY.

- WHEREAS,** the Public Funds Investment Act, requires the City Council to review and adopt, by resolution, the investment policies and strategies for the City of Wharton on an annual basis; and
- WHEREAS,** the City of Wharton designates the City Manager and the Finance Director as investment officers; and
- WHEREAS,** the City of Wharton approves the training courses sponsored or endorsed by the Texas Municipal League, the Government Finance Officers Association of Texas, the Government Treasurers Organization of Texas, or the North Central Texas Council of Governments as adequate to meet the investment training requirements; and
- WHEREAS,** the attached investment policy, including no revisions since last years approval, complies with the Public Funds Investment Act and authorizes the investment of City funds in safe and prudent investments.

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

- Section I. The City of Wharton has complied with the requirements of the Public Funds Investment Act and the Investment Policy attached hereto as "Exhibit A" is hereby adopted as the Investment Policy of the City of Wharton effective March 26, 2007.
- Section II: That this resolution shall be come effective immediately upon its passage.

Passed, Approved, and Adopted this 26th day of March 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 authorizing the Mayor of the City of Wharton to execute a contract between the City of Wharton and Gulf Coast Medical Center for Ambulance Transfers to be conducted by the City of Wharton Emergency Medical Service (EMS) Department. City Manager Andres Garza, Jr. stated that the current contract between the City of Wharton and Gulf Coast Medical Center (GCMC) for Ambulance Transfers was due to expire April 30, 2007. He presented a copy of the current contract, and a copy of the letter dated March 1, 2007 to Mr. Gary Williams, GCMC providing a new contract for another two year term for execution by GCMC, which had been executed. He also presented a copy of the draft resolution approving the agreement. EMS Director John Kowalik stated that the contract included the Open MRI facility. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2007-23, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2007-23**

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE A CONTRACT BETWEEN THE CITY OF WHARTON AND GULF COAST MEDICAL CENTER FOR AMBULANCE TRANSFERS TO BE CONDUCTED BY THE CITY OF WHARTON EMERGENCY MEDICAL SERVICE (EMS) DEPARTMENT.

WHEREAS, the Wharton City Council wishes to enter into a contract between the City of Wharton and Gulf Coast Medical Center for Ambulance Transfers to be conducted by the City of Wharton Emergency Medical Service (EMS) Department; and,

WHEREAS, the City of Wharton and Gulf Coast Medical Center hereby agrees 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 authorizes the Mayor of the City of Wharton to a contract between the City of Wharton and Gulf Coast Medical Center for Ambulance Transfers to be conducted by the City of Wharton Emergency Medical Service (EMS) Department.

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

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

CITY OF WHARTON, TEXAS

By: _____

BRYCE D. KOCIAN

Mayor

ATTEST:

LISA STAVENA

City Secretary

Councilmember Don Mueller 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 a Mutual Aid Agreement for Emergency Medical Services between Colorado County and the City of Wharton; 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 Colorado County and the City of Wharton. He also presented a copy of the agreement that had been executed by Colorado County. EMS Director John Kowalik stated that the agreement was a standard agreement with an automatic renewal. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2007-24, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2007 – 24**

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

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

WHEREAS, Colorado County 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 Colorado County 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 March 2007.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

LISA STAVENA

City Secretary

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 approving an agreement with County for a Joint Election; and Authorizing the Mayor of the City of Wharton to execute all documents related to said agreements. City Manager Andres Garza, Jr. presented a copy of the Joint Agreement between the City of Wharton and Wharton County for the May 2007 Election. He also presented a copy of a draft resolution approving the agreement. City Secretary Lisa Stavena stated that on February 12, 2007, the City Council approved a limited contract with Wharton County; however Wharton County desired to conduct a joint election with the City of Wharton. She stated that Wharton County would be holding an election regarding the tax freeze. She stated that Wharton County would provide the voting equipment at no charge in lieu of utilizing the City of Wharton Election workers. She stated that the estimated charges would be \$327.15 instead of the previously approved amount of \$1,068.65, since the City would not have to lease the equipment. She stated that the City would be required to hire any additional staff to conduct the joint election with Wharton County. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve Resolution No. 2007-25, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2007 - 25**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN AGREEMENT WITH COUNTY FOR A JOINT ELECTION; AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID AGREEMENTS.

