

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
APRIL 13, 2009**

Mayor David W. Samuelson declared a Regular Meeting duly open for the transaction of business at 7:00 P.M. Councilmember Domingo Montalvo, 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, Public Works Director Carter Miska, Police Chief Tim Guin, Fire Chief Bobby Barnett, Community Services Director Jo Knezek, Building Official Assistant Lori Jaquez, and Assistant City Attorney Amy Rod.

Visitors present were: Barry Halvorson - Wharton Journal Spectator, David Schroeder - Wharton Economic Development Corporation, Terry Lynch, Billie Jones, I. O. Coleman, Jr. Caroline Guzman, Marshall Francis, Mike Mills, Paul Shannon, and Bradley Loehr.

The third item on the agenda was Public Comments. Mr. I. O. Coleman, Jr. addressed the City Council and stated that the railroad grade crossings on Milam Street and Spanish Camp Road were not the same as FM 102 and if a double standard was being used. He stated that the crossings were worse than before and were in terrible condition. No action was taken.

The fourth item on the agenda was to review and consider the Wharton Moment. Councilmember Ken Freese publicly recommended Erich Jaquez, son of Lori and Benjamin Jaquez, for winning the State Championship for the second year. He stated that that the City was proud of his accomplishments. Councilmember Domingo Montalvo, Jr. stated that discussion at the I-69 meeting consisted of making the ports in Texas more friendly. He stated that WEDC should be kin on economic development and jobs for the community in the future. No action was taken.

The fifth item on the agenda was a proclamation proclaiming April 19-25, 2009 as National Volunteer Week. Mayor David W. Samuelson presented a copy of the proclamation proclaiming April 19-25, 2009 as National Volunteer Week, as follows:

- WHEREAS,** the talents, generosity and energy of volunteers continue to be one of the City of Wharton's greatest natural resources;
- WHEREAS,** to build a society that is fair and just for all, we must each work together in the spirit of respect and cooperation; and
- WHEREAS,** volunteers and voluntary groups are increasingly seen as an important partner with government and business in building strong communities; and
- WHEREAS,** volunteers show every day through their actions that they truly care about their communities and the people who live in them; and
- WHEREAS,** it is fitting for all residents to celebrate our rich heritage of volunteering and to give special recognition to all the dedicated volunteers who contribute to the health of the City of Wharton, Texas.

NOW, THEREFORE, I, David W. Samuelson, by the authority vested in me as Mayor of the City of Wharton, Texas, do hereby proclaim

April 19, 2009 through April 25, 2009

as

"National Volunteer Week"

AND FURTHER, I urge all citizens to help renew and maintain the volunteer spirit of our community by committing to address the needs of our community through volunteer action.

IN WITNESS THEREOF, I have set my hand and caused the seal of the City of Wharton to be affixed this 13th day of April in the year of our Lord two thousand nine A.D.

No action was taken.

The sixth item on the agenda was to review and consider the reading of the minutes from the regular meetings held March 9, 2009 and March 23, 2009. After some discussion, Councilmember Jeff Gubbels made a motion to approve the Wharton City Council minutes of the regular meetings held March 9, 2009 and March 23, 2009 as presented. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider the request by County Judge John Murrile, on behalf of the Wharton County Library, for the following:

A. An over 50% variance to place a free standing sign at 1920 N. Fulton Street, WM. Kincheloe, Block 58A-1A-1 at zero setback.

B. Waiver of the fees.

City Manager Andres Garza, Jr. presented a copy of the memorandum from Ronnie Bollom, Building Official regarding the request for a variance at a zero setback from the required ten feet (10') front property line setback. He said that Wharton County was also requesting a waiver of the fees for the variance. Mr. Paul Shannon, Facilities Maintenance Director for Wharton County addressed the City Council and stated that the County was requesting a sign for the library. Mayor David W. Samuelson requested the sign be aligned with the existing Rotary sign on the property.

Mr. Shannon stated that the sign would be on a pole at approximately the same height as a stop sign. After some discussion, Councilmember Jeff Gubbels made a motion to approve the request by County Judge John Murrile, on behalf of the Wharton County Library, for an over 50% variance to place a free standing sign at 1920 N. Fulton Street, WM. Kincheloe, Block 58A-1A-1 at zero setback aligned with the existing sign on the property and waiver of the fees. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider the request by Mr. Marshall Francis for an over 50% variance to place a 8' x 16' portable building at the zero feet (0') interior side property line located at Cloud, Block 51, Lots 1, 2, & 8D, 808 N. Richmond Road. City Manager Andres Garza, Jr. presented a copy of the memorandum from Ronnie Bollom, Building Official regarding the request for a variance at a zero setback from the required ten feet (10') front property line setback. He also provided a map and photographs for the requested portable building. Mr. Marshall Francis addressed the City Council and requested the portable building be installed by the road between the Car Wash and Bagley Pecan House. After some discussion, Councilmember Ken Freese made a motion to approve the request by Mr. Marshall Francis for an over 50% variance to place a 8' x 16' portable building at the zero feet (0') interior side property line located at Cloud, Block 51, Lots 1, 2, & 8D, 808 N. Richmond Road with the stipulation that the variance was for a self service pet washing facility only; therefore, the variance would terminate and the building would need to be removed if it ceased to be a pet washing facility. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The ninth item discussed on the agenda was to review and consider the request by Mrs. Caroline Guzman for an over 50% variance to place a 11' x 19' carport at five feet (5') from the front the property located at Pecan Acres, Block 1, Lot 9, 208 Mahan Avenue. City Manager Andres Garza, Jr. presented a copy of the memorandum from Ronnie Bollom, Building Official regarding the request for a twenty feet (20') variance from the front property setback line to construct a 11' x 19' carport. Building Official Assistant Lori Jaquez stated that the carport would be placed five feet (5') from the front property line. Mr. Garza then provided a map and photographs for the requested carport. Mrs. Guzman addressed the City Council and stated that she was requesting the carport. She stated her son was in a wheelchair and the carport would provide protection from the weather. Building Official Assistant Lori Jaquez stated that the adjacent neighbor requested a front and side variance for placement of a carport and it was granted. Councilmember Ken Freese stated that the properties could be affect by the granting of the variances. Councilmember Domingo Montalvo, Jr. stated that the carport was not a permanent fixture; therefore, could be easily removed. Ms. Jaquez stated that the drainage would not impede on the adjacent property. After some discussion, Domingo Montalvo, Jr. made a motion to approve the request by Mrs. Caroline Guzman for an over 50% variance to place a 11' x 19' carport at five feet (5') from the front the property located at Pecan Acres, Block 1, Lot 9, 208 Mahan Avenue. Councilmember Don Mueller seconded the motion. Councilmembers V. L. Wiley, Jr., Lewis Fortenberry, Jr., Don Mueller, Domingo Montalvo, Jr., and Jeff Gubbels voted for the motion. Councilmember Ken Freese voted against the motion. The motion carried.

The tenth item discussed on the agenda was to review and consider the request by Fire Chief Bobby Barnett for approval to fund a feasibility study for the expansion and renovation of the

Wharton Fire Station. City Manager Andres Garza, Jr. presented a copy of the memorandum from Fire Chief Bobby Barnett regarding funding for a fire station feasibility study. He also presented an analysis of the expenditures made to date from the 2006 Bond Fund for the Fire Station Improvement Project that was ongoing. Fire Chief Barnett addressed the City Council and stated the Fire Department would be purchasing trucks; however, the current facility could not accommodate the size of the trucks. He stated that the current facility was constructed in 1969. Councilmember Domingo Montalvo, Jr. asked if the City would be constructing a new facility in 5 years. City Manager Garza responded that only if the City Council approved the construction. Mayor David W. Samuelson requested that the City Council Finance Committee and the City Council Public Safety Committee review the request. Councilmember Ken Freese asked if the study would be all inclusive for all the future needs of the department including equipment. Chief Barnett stated that it would be an architectural study including structural and feasibility of building, not construction. Councilmember Jeff Gubbels asked if a limited study could be conducted. Mayor Samuelson publicly commended the volunteer fire department members for their contribution to the community. After some discussion, Mayor David W. Samuelson referred the item to the City Council Finance Committee and the City Council Public Safety Committee. No action was taken.

The eleventh item discussed on the agenda was to review and consider the 2009 Wharton Municipal Swimming Pool.

A. Applications, Fees and Pool Schedule.

City Manager Andres Garza, Jr. presented a copy of the 2009 Wharton Municipal Swimming Pool applications, fees and pool schedule.

City Secretary Lisa Olmeda stated that the requested date for opening the pool was June 9, 2009. She stated that the fees would remain the same as last years, being \$2.00 per individual, \$35.00 for individual season pass, and \$55.00 for family season pass. She stated that the City would offer swimming lessons, aerobics, and private rental for swim parties.

B. Wharton Swim Team Agreement.

City Manager Andres Garza, Jr. presented a copy of the Wharton Swim Team Agreement with the requested dates and times. City Secretary Lisa Olmeda stated that Marcy Harper had contacted her regarding the use of the pool by the Wharton Swim Team for the requested dates and times. After some discussion, Councilmember Ken Freese made a motion to approve the 2009 Wharton Municipal Swimming Pool Applications, Fees and Schedule; and the Wharton Swim Team Agreement. Councilmember Don Mueller seconded the motion. All voted in favor.

The twelfth item discussed on the agenda was to review and consider the Ahldag Addition Sanitary Sewer System Improvement Project TxCDBG/OCRA Contract No. 728459:

A. Bid Tabulation

B. **Resolution:** A resolution of the Wharton City Council awarding the bid for the Ahldag Addition Sanitary Sewer System Improvement Project TxCDBG/OCRA Contract No. 728459 and authorizing the Mayor to execute the agreement.

City Manager Andres Garza, Jr. presented the bid tabulation and a letter from BEFCO Engineering, Inc. recommending the bid be awarded to Supak Construction in the amount of \$248,019 that would include the base bid items 1-23 and the alternate bids items A4, A5, and A9. He also presented the draft resolution awarding the bid for the Ahldag Addition Sanitary Sewer

System Improvement Project TxCDBG/OCRA Contract No. 728459 and authorizing the Mayor to execute the agreement. He said that the City of Wharton was awarded funding in the amount of \$350,000.00. Mr. Bradley Loehr with BEFCO Engineering, Inc. addressed the City Council and stated that eight bids were received ranging from \$171,000 to \$410,000. Councilmember Domingo Montalvo, Jr. asked if additional work could be added to the contract. Mr. Garza stated that the City Staff was contacting the State and would be preparing the additional locations, if approved. Mr. Loehr stated that the City could increase the contract by a 25% threshold. After some discussion, Councilmember Jeff Gubbels made a motion to approve Resolution No. 2009-30, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2009 - 30**

A RESOLUTION OF THE WHARTON CITY COUNCIL AWARDING THE BID FOR THE AHLDAG ADDITION SANITARY SEWER SYSTEM IMPROVEMENT PROJECT TXCDBG/OCRA CONTRACT NO. 728459 AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT.

WHEREAS, the Office of Rural Community Affairs awarded the City of Wharton the Texas Community Development Block Grant Contract No. 728459 for the City of Wharton Ahldag Addition Sanitary Sewer Improvement Project; and

WHEREAS, on April 2, 2009, the City of Wharton received bids for the Texas Community Development Office of Rural Community Affairs Block Grant Contract No. 728459 for the City of Wharton Ahldag Addition Sanitary Sewer Improvement Project; and

WHEREAS, the Wharton City Council wishes to award the bid to Supak Construction; and

WHEREAS, the City of Wharton and Supak Construction wishes to be bound by the conditions as set forth in the contract; and

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

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 a contract between the City of Wharton and Supak Construction for the Ahldag Addition Sanitary Sewer Improvement Project, Texas Community Development Block Grant Contract No. 728459.

Section II. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute all documents related to the contract.

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

Passed, Approved, and Adopted this 13th of April 2009.

CITY OF WHARTON, TEXAS

By: _____
DAVID W. SAMUELSON
Mayor

ATTEST:

LISA OLMEDA

City Secretary

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

The thirteenth item discussed on the agenda was to review and consider the Wharton Police Department:

A. Resolution: A resolution of the Wharton City Council approving the submission of an application to the U.S. Department of Justice for the Byrne Justice Assistance Grant Program and authorizing the Mayor of the City of Wharton to execute all documents relative to said application. City Manager Andres Garza, Jr. stated that the Byrne Justice Assistance Grant Program had allocated \$29,609.00 to the City of Wharton. He said that the funds were available to the City on a direct solicitation to the Justice Department. He said that Chief Guin had determined that the funds could be used to enhance the number of mobile data terminals and other equipment, and there was no local match. He then presented the draft resolution necessary for the submission of the grant application along with the budget detail worksheet. He stated that the deadline for submission of the grant was May 18, 2009. Police Chief Tim Guin stated that the Byrne Justice Assistance Grant Program was part of the stimulus package offered by the Government. He stated that the grant was for supplemental law enforcement non-budgetary items. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2009-31, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2009 - 31**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE SUBMISSION OF AN APPLICATION TO THE U.S. DEPARTMENT OF JUSTICE FOR THE BYRNE JUSTICE ASSISTANCE GRANT – AMERICAN RECOVERY ACT AND AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS RELATING TO SAID APPLICATION.

WHEREAS, the City Council of the City of Wharton desires to seek funding under the U.S. Department of Justice for the Byrne Justice Assistance Grant Program; and

WHEREAS, the City Council desires to combat crime in the City of Wharton; and

WHEREAS, the City Council feels that it is in the best interest of the City of Wharton to apply for said funding.

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

- Section I.** That an application to the U.S. Department of Justice for the Byrne Justice Assistance Grant Program is hereby authorized to be submitted on behalf of the City of Wharton.
- Section II.** That the application in the amount of \$29,609.00 to carry the activities as outline in the application is hereby approved.
- Section III.** That the City Council hereby authorizes the Mayor to execute all documents relating to said application.
- Section IV.** That this resolution shall become effective immediately upon its passage.

Passed, Approved, and Adopted this 13th of April 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.

B. Resolution: A resolution of the Wharton City Council approving the submission of an application to the U.S. Department of Justice for the Community Oriented Policing Services (COPS) Hiring Recovery Program FY 2009 and authorizing the Mayor of the City of Wharton to execute all documents relative to said application. City Manager Andres Garza, Jr. presented a copy of Police Chief Guin's memorandum regarding the Community Oriented Policing Services (COPS) Hiring Recovery Program Grant 2009. He said that the COPS Program allowed the City to hire police officers for additional patrols. He then presented the COPS Hiring Recovery Program (CHRP) Fact Sheet. He said that the deadline submission of the grant was April 14, 2009. He then presented the budget prepared by Police Chief Tim Guin. He said that if the grant was approved and awarded, the City of Wharton at the conclusion of the federal funding, would be required to retain all sworn officer positions awarded under the CHRP grant for a minimum of 12 months following the 36-month grant period. Police Chief Tim Guin stated that the grant was part of the American Recovery Act. He stated that the grant was 100% paid for base salaries and benefits. He stated that he was requesting two officers to supplement the 3 p.m. to midnight shift. He stated that by adding the additional officers, crime could possibly be decreased. After some discussion, Councilmember Jeff Gubbels made a motion to approve Resolution No. 2009-32, which read as follows:

CITY OF WHARTON

RESOLUTION NO. 2009 - 32

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE SUBMISSION OF AN APPLICATION TO THE U.S. DEPARTMENT OF JUSTICE FOR THE COMMUNITY ORIENTED POLICING SERVICES (COPS) – HIRING RECOVERY PROGRAM FY 2009 AND AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS RELATING TO SAID APPLICATION.

WHEREAS, the City Council of the City of Wharton desires to seek funding under the U.S. Department of Justice for the Community Oriented Policing Services (COPS) Hiring Recovery Program; and

WHEREAS, the City Council desires to combat crime in the City of Wharton; and

WHEREAS, the City Council feels that it is in the best interest of the City of Wharton to apply for said funding.

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

Section I. That an application to the U.S. Department of Justice for the Community Oriented Policing Services (COPS) Hiring Recovery Program is hereby authorized to be submitted on behalf of the City of Wharton.

Section II. That the application in the amount of \$350,640.00 to carry the activities as outline in the application is hereby approved.

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

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

Passed, Approved, and Adopted this 13th of April 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.

City of Wharton
Regular City Council Meeting
April 13, 2009

The fourteenth item on the agenda was to review and consider the City Council Committees, Boards and Commission's Reports:

A. Building Standards Commission meeting held March 19, 2009.

B. Beautification Commission meeting held April 8, 2009.

City Manager Andres Garza, Jr. presented the reports. No action was taken.

The fifteenth item on the agenda was adjournment. After some discussion, Councilmember Don Mueller made a motion to adjourn. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The meeting adjourned at 8:59 p.m.

CITY OF WHARTON, TEXAS

By: _____
DAVID W. SAMUELSON
Mayor

ATTEST:

LISA OLMEDA
City Secretary