

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
APRIL 14, 2008**

Mayor Bryce D. Kocian declared a Regular Meeting duly open for the transaction of business at 7:01 P.M. Councilmember Ken Freese 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., City Secretary Lisa Olmeda, Assistant to City Manager Jackie Jansky, Building Official Ronnie Bollom, Public Works Director Carter Miska and Assistant City Attorney Amy Rod.

Visitors present were: Ben Sharp with Wharton Journal Spectator, David Schroeder with Wharton Economic Development Corporation, Carlos Cotton, and Lewis Fortenberry.

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. Councilmember Don Mueller publicly commended the Youth Advisory Committee and the Mayor's Committee on People with Disabilities Committee for painting the handicap logo around town and at local churches. Councilmember David Samuelson also commended the Youth Advisory Committee for collecting food for Share. Councilmember David Samuelson said that a Dedication would be held on Sunday, April 27, 2008 for the Habitat for Humanity house and encouraged the Mayor and Councilmembers to attend the event starting at 3:00 p.m. at 410 South Sheppard Street.

Mayor Bryce D. Kocian presented the following proclamation, which read 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, Bryce D. Kocian, by the authority vested in me as Mayor of the City of Wharton, Texas, do hereby proclaim

April 27, 2008 through May 3, 2008
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 14th day of April in the year of our Lord two thousand eight A.D.

City Manager Andres Garza Jr. stated that the City of Wharton would be hosting a Volunteer Appreciation Event on Thursday, May 1, 2008 at the Civic Center from 4:00 – 6:00 p.m.

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 March 10, 2008 and March 24, 2008. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the Wharton City Council minutes of the regular meetings held March 10, 2008 and March 24, 2008 as presented. Councilmember Ray Linseisen 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. Tom Billings for a two feet variance from the required five feet sideyard setback requirement to construct an addition to the home located at Mayfair, Block 11, Lot 2B; 215 Lazy Lane. Assistant to City Manager Jackie Jansky stated that the Planning Commission met Monday, April 7, 2008 and was recommending the City Council consider approving the request by Mr. Tom Billings for a two feet variance from the required five feet sideyard setback requirement to construct an addition to the home located at Mayfair, Block 11, Lot 2B; 215 Lazy Lane. She stated that Mr. Billings was requesting the two feet variance from the required five feet sideyard setback requirement to accommodate the overhand of the structure. She said that the structure exterior walls would be located five feet from the property line. She said that at least two feet on both sides of the corner of the structure would be constructed with a fire wall. City Manager Andres Garza Jr. presented a copy of the memorandum dated April 8, 2008 from Planning Commission Chairman A. J. Rath providing the

recommendation. Building Inspector Ronnie Bollom stated that there would be a double permit charge since the work was begun prior to obtaining a permit; however, he ceased the work. After some discussion, Councilmember David Samuelson made a motion to approve the request by Mr. Tom Billings for a two foot variance from the required five feet sideyard setback requirement to construct an addition to the home located at Mayfair, Block 11, Lot 2B; 215 Lazy Lane. Councilmember Ken Freese seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider the request by Mr. Daniel Webster to construct a home over his property line located at Wharton, Block 60-Ext., Lots 6A & 6A-2; 312 Boatwright Lane. City Manager Andres Garza Jr. presented a copy of the application for an over 50% variance request submitted by Mr. Daniel Webster. Assistant to City Manager Jackie Jansky said that Mr. Webster was requesting authorization to construct (or extend) a home over the property line located at Wharton Block 60-Ext. Lots 6A & 6A-1; 312 Boatwright Lane. She said that both lots were owned by Mr. Webster and he wished to improve his existing home by constructing a larger home off the existing structure. She then presented photographs of the property. She stated that there were no setback issues. After some discussion, Councilmember Ken Freese made a motion to approve the request by Mr. Daniel Webster to construct a home over his property line located at Wharton, Block 60-Ext., Lots 6A & 6A-2; 312 Boatwright Lane. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider the request by Mr. Jeff Adamski, Scoutmaster, Boy Scouts of America Troop 211, for a variance from the City of Wharton Code of Ordinances, Chapter 54 Parks and Recreation. City Manager Andres Garza, Jr. presented a copy of the memorandum dated April 1, 2008 from Accounts Receivable Clerk Ms. Dominique Felder providing the application for a Wharton Park Facilities Reservation Agreement for a Special Use Permit submitted by Mr. Jeff Adamski, Scoutmaster, Troop 211 (Houston, Texas). Assistant to City Manager Jackie Jansky presented a copy of the email dated April 9, 2008 from Mr. Adamski providing additional information regarding his request. She said that Mr. Adamski indicated in his email that the Boy Scout 211 was requesting to use Riverfront Park as their overnight stopping point for a canoe trip down the Colorado River beginning at Glen Flora and ending at the David S. Hall boat ramp. She stated that there would be approximately 20 Boy Scouts and 10 adults on the trip and that they would like to camp on the lower grassy terrace area halfway down toward the river and away from the parking lot, which was out of "street view." She said that they would not need an open campfire; however, they were requesting City Council approval to use propane camp stoves to cook their evening meal. She said that approximately 6 to 7 vehicles and a pickup pulling the troop trailer would be stationed in the parking lot, or where designated, overnight. She said that the request submitted by Mr. Adamski on behalf of the Boy Scouts Troop 211 would be a variance to the City of Wharton Code of Ordinances, Chapter 54 Parks and Recreation and would therefore require City Council action. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the request by Mr. Jeff Adamski, Scoutmaster, Boy Scouts of America Troop 211, for a variance from the City of Wharton Code of Ordinances, Chapter 54 Parks and Recreation pending obtaining the Certificate of Insurance for use of the Riverfront Park on Saturday, May 10th and Sunday, May 11th. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider the acceptance of a 0.2553 acre Utility Easement from the Wharton Independent School District located in the Martin Allen League, Abstract No. 1 Wharton County, Texas. City Manager Andres Garza Jr. stated that the construction of the new school on FM 1301 was moving forward and the City of Wharton must take the necessary steps to provide adequate sewer service for the school. He said that currently, the City of Wharton services the Lake Net area utilizing an 8-inch sewer line that flowed to a lift station located on North Alabama Road at Horton Foote Drive. He said that once the Utility Easement agreement was accepted by the City Council, City forces would install a force main sanitary sewer line from the lift station to the 12-inch sewer line located on FM 1301, which would then carry sewer to a larger line located on Alabama Road. He said that the City's consulting engineer, Mr. Carlos Cotton, P.E. of Jones & Carter, Inc. had recommended that this would allow the City to better serve the new school. He said that the City Staff was requesting that the City Council consider accepting the 0.2553 acre utility easement from the Wharton Independent School District. He then provided a copy of a drawing indicating the location of the easement and the existing sewer lines. Mr. Carlos Cotton stated that the lift station services Lake Net from the gravity line down Barfield to the lift station on Alabama. He stated that the school infiltration would be routed with the 12" from Boling Highway to Alabama. After some discussion, Councilmember David Samuelson made a motion to approve the acceptance of a 0.2553 acre Utility Easement from the Wharton Independent School District located in the Martin Allen League, Abstract No. 1 Wharton County, Texas. Councilmember Ken Freese seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider approving solicitation of proposals for the City of Wharton's Solid Waste Collection and Disposal Services and operation of the Transfer Station. City Manager Andres Garza Jr. stated that during the January 28, 2008 Finance Committee meeting and the March 5, 2008 Public Works Committee meeting, the Committee Members authorized the City Staff to prepare a Request for Proposals (RFP) for the City of Wharton Solid Waste Collection and Transfer Station Services. He said that the City Staff had prepared a draft request for proposals (RFP) encompassing the current services, which was presented to the Finance Committee on April 7, 2008 and to the Public Works Committee on April 10, 2008. He said that the Staff also presented alternate proposals since the operation of the transfer station was subject to the successful transfer of the operating permit to the City. He said that in his discussions with various company representatives, there were services they would not provide, such as, limb pick-up that were not tied and bundled, roll-over of service day for holidays, etc. He said that both Committees had recommended that the City Council consider authorizing the submission of the request for proposals to companies for the service. He stated that the proposal would include services with the transfer station and also deductive alternatives, which would be submitted at a cost per item. He said that currently the roll off services was exclusively with the current franchise holder, Waste Management; however, the Public Works Committee was recommending the services could be more exclusive or open competition. Mayor Bryce D. Kocian stated that Waste Management's contract would expire September 30, 2008. After some discussion, Councilmember Don Mueller made a motion to approve the solicitation of proposals for the City of Wharton's Solid Waste Collection and Disposal Services and operation of the Transfer Station with the deductive alternative bid for roll-off service. Councilmember Domingo Montalvo, Jr. 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 rescinding Resolution No. 2008-23 and awarding the bid to Val Gutierrez Construction Design for the Wharton Fire Department Exterior Renovation Project and authorizing the City Manager to execute the agreement. City Manager Andres Garza, Jr. stated that during the March 24, 2008 Wharton City Council meeting, the City Council approved Resolution No. 2008-23 awarding the bid for the Wharton Fire Department Exterior Renovation Project to Affordable Concrete Finishing in the amount of \$10,331.00. He then presented a copy of the letter dated April 10, 2008 from Mr. Rey Acosta of Affordable Concrete Finishing informing the City of Wharton that he was withdrawing his bid. He stated that he had contacted the second lowest and best qualified bidder, Mr. Val Gutierrez of Gutierrez Construction Design and inquired if he would honor the bid that he submitted during the March 20th bid opening. He then presented a copy of his letter dated April 10th indicating that he would honor his bid, which was in the amount of \$14,800.00. He then presented a copy of the bid tabulation. He said that at this time, the City Council may consider approving the attached draft resolution rescinding Resolution No. 2008-23 and awarding the bid to Val Gutierrez. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve Resolution No. 2008-26, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2008 – 26**

A RESOLUTION OF THE WHARTON CITY COUNCIL RESCINDING RESOLUTION NO. 2008-23 AND AWARDING THE BID FOR THE EXTERIOR RENOVATION OF THE WHARTON FIRE DEPARTMENT LOCATED AT 319 NORTH FULTON STREET, WHARTON, TEXAS, AND AUTHROIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, The City of Wharton is the general contractor for the renovation of the Wharton Fire Department located at 319 North Fulton Street; and

WHEREAS, On March 20, 2008, the City Staff received bids for the exterior renovation of the Wharton Fire Department for the installation of new concrete paving for the reconstruction of accessible parking, sidewalks, curb ramps, ramp, steps elevated entrance landing and the painting of handrails; and

WHEREAS, The Wharton City Council awarded the bid for the Wharton Fire Department Exterior Renovation Project to Affordable Concrete Finishing in the amount of \$10,331.00 as per bid specifications; and

WHEREAS, On April 10, 2008, Affordable Concrete Finishing withdrew its bid for the project; and

WHEREAS, the Wharton City Council wishes to rescind Resolution No. 2008-23 and award the bid for the exterior renovation project to Val Gutierrez in the amount of \$14,800.00 as per bid specifications; and

WHEREAS, the City of Wharton and Val Gutierrez wishes to be bound by the conditions of the contract; 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 rescinds Resolution No. 2008-23 and hereby approves the contract with Val Gutierrez in the amount of \$14,800.00 for the exterior renovation of the Wharton Fire Department which includes providing new concrete paving for the reconstruction of accessible parking, sidewalks, curb ramps, ramp, steps, elevated entrance landing and paint handrails as per bid specifications.

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 14th of April 2008.

CITY OF WHARTON, TEXAS

By: _____

BRYCE D. KOCIAN

Mayor

ATTEST:

LISA OLMEDA

City Secretary

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

The twelfth item on the agenda was to review and consider the City of Wharton Air Conditioning System Improvement Project for the Police Department/Municipal Court Facility, 1407 North Richmond Road – Eldridge Air Conditioning & Heating, Inc. – Pay Request No. 2. City Manager presented the Pay Request No. 2 in the amount of \$5,400.00 submitted by Eldridge Air Conditioning & Heating, Inc. for the City of Wharton Air Conditioning System Improvement Project for the Police Department/Municipal Court Facility, 1407 North Richmond Road. After some discussion, Councilmember David Samuelson made a motion to approve the City of Wharton Air Conditioning System Improvement Project for the Police Department/Municipal Court Facility, 1407 North Richmond Road – Eldridge Air Conditioning & Heating, Inc. – Pay Request No. 2 in the amount of \$5,400.00. Councilmember Ray Linseisen 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. 5. City Manager Andres Garza Jr. presented the Pay Request No. 5 in the amount of \$86,242.45 submitted by Lonnie Lischka Company, LP for the City of Wharton Santa Fe Drainage Channel Roadway Crossings – Lonnie Lischka Company, LP. Mr. Carlos Cotton, P.E. stated that the contractor needed to conduct clean up and the project would be complete. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the City of Wharton Santa Fe Drainage Channel Roadway Crossings – Lonnie Lischka Company, LP – Pay Request No. 5 in the amount of \$86,242.45. Councilmember Ray Linseisen 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. - Pay Request No. 4. City Manager Andres Garza, Jr. presented the Pay Request No. 4 in the amount of \$50,427.63 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. stated that the contractor needed to complete a punch list and the project would be complete. After some discussion, Councilmember Ray Linseisen 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. - Pay Request No. 4 in the amount of \$50,427.63. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The fifteenth item on the agenda was to review and consider the City of Wharton Handicapped Accessibility Project – Economic Construction, Inc. - Pay Request No. 2. City Manager Andres Garza, Jr. presented the Pay Request No. 2 in the amount of \$48,823.02 submitted by Economic Construction, Inc. for the City of Wharton Handicapped Accessibility Project – Economic Construction, Inc. Project. Mr. Carlos Cotton, P.E. stated that the contractor needed to conduct clean up and the project would be complete. Councilmember Don Mueller asked if the street would be stripped half way with reflectors on the back of the handicap ramp. Mr. Garza stated that the City Staff would provide stripping and reflectors. After some discussion, Councilmember David Samuelson made a motion to approve consider the City of Wharton Handicapped Accessibility Project – Economic Construction, Inc. - Pay Request No. 2 in the amount of \$48,823.02. Councilmember Don Mueller seconded the motion. All voted in favor.

The sixteenth item on the agenda was to review and consider the 2008 Wharton Municipal Swimming Pool Schedule. City Manager Andres Garza, Jr. presented a copy of the 2008 Wharton Municipal Swimming Pool Schedule. City Secretary Lisa Olmeda stated the admission would be \$2.00 per individual, the individual season pass would be \$35.00, family season pass would be \$55.00, swimming lessons would be \$60.00 for the individual or first child, \$50.00 for the second child and \$45.00 for the third child, water aerobics would be \$40.00. She stated that there would

