

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
APRIL 28, 2008**

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 Olmeda, Assistant to City Manager Jackie Jansky, Building Inspector Ronnie Bollom, Police Chief Tim Guin, Community Services Director Jo Knezek, Public Works Director Carter Miska and City Attorney Paul Webb.

Visitors present were: David Schroeder with Wharton Economic Development Corporation, Carlos Cotton with Jones & Carter, Lewis Fortenberry, Lottie Evans, Louis Edwards, Ron Sanders, David Copeland, and Tony Bone.

The third item on the agenda was Public Comments. Mr. David Copeland addressed the City Council and stated that he was requesting City Council look at the performance of Waste Management when considering the Proposals for Solid Waste Collections. He stated that unbagged leaves were placed at the curb along with sticks; however, the leaves were not picked up. He also said that the City Council needed to require skirting around houses built on blocks in order to keep up the integrity of the neighborhood. No action was taken.

The fourth item on the agenda was Wharton Moment. Councilmember David Samuelson stated that Habitat for Humanity Dedication on Sheppard Street was held on Sunday, April 27, 2008 with 60 persons attending. He stated that 114 volunteers worked on constructing the house.

Mayor Bryce D. Kocian presented a proclamation, which read as follows:

WHEREAS, Nursing Homes across the nation join in celebrating a week dedicated to their residents; and

WHEREAS, The care and well being of each resident is observed to be of the highest standards; and

WHEREAS, Each resident deserves this week as a reminder that their care is our commitment; and

WHEREAS, This time has been set aside as a reminder that the owners and administrators of Wharton Nursing and Rehabilitation Center recognize the need for community-wide support and assistance to help their residents enjoy a happy life.

NOW, THEREFORE, I, Bryce D. Kocian, Mayor of the City of Wharton do hereby proclaim the week of May 12 – 17, 2008, as

“National Nursing Home Week”

in our community, entreating all our residents to join in this effort to see that every nursing home resident be remembered with a visit, flowers, or a small gift, during the observance of National Nursing Home Week.

IN WITNESS THEREOF, I have set my hand and caused the seal of the City of Wharton to be affixed this the 12th day of May in the year of our Lord two thousand eight A.D.

Finance Director Joyce Vasut stated that City Secretary Lisa Olmeda was appointed as President of the Salt Grass Chapter, which is the regional organization of City Secretaries and Deputy/Assistant Secretaries. 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 March 2008. Finance Director Joyce Vasut presented the financial report for the month of March 2008 and stated that the fiscal year was at 50%. Mrs. Vasut stated that the general fund revenues were at 62.16% and the expenditures were at 44.03%. The total ad valorem taxes collected were \$1,812,660. The sales tax for the month of February 2008 was \$134,568 with \$89,712 to the City and \$44,856 to WEDC. The bank balance for March 2008 was \$2,697,045.98 with an average monthly yield of 3.0%. TexPool balance for March 2008 was \$523,325.04 with an average monthly yield of 2.9723%. After some discussion, Councilmember Ray Linseisen made a motion to approve the City of Wharton Financial Report for the month of March 2008. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider the request by Ms. Lottie Evans, 831 West Caney Street; Wharton Block 62, Lot 8, to appeal the decision of the Planning Commission to deny the request for a variance from the City of Wharton Code of Ordinances, Chapter 38, Manufactured Homes, Mobile Homes, Travel Trailers and Parks, Article II. Requirements concerning Mobile Homes, Manufactured Housing and Recreational Vehicles, Section 38-36, Authorized Locations, to replace an existing – vacant mobile home. City Manager Andres Garza, Jr. presented a copy of the Planning Commission Application for Variance submitted by Ms. Lottie Evans who wanted to purchase the property located at 831 West Caney Street, Wharton, Block 62, Lot 8 from Ms. Stacy Gartica. Assistant to City Manager Jackie Jansky stated that

currently, a mobile home was located on the property; however, the mobile home had not been occupied as a homestead since approximately August 2003. She stated that Ms. Evans request was for a variance to the City of Wharton Code of Ordinances, Chapter 38, Manufactured Homes, Mobile Homes, Travel Trailers and Parks, Article II. Requirements concerning Mobile Homes, Manufactured Housing and Recreational Vehicles, Section 38-36, Authorized Locations, for approval to replace the current mobile home with another mobile home. She said that the Planning Commission considered Ms. Evans' request and voted to deny the request; however, the Planning Commission indicated to Ms. Evans that she could appeal their decision to the City Council. She then presented a copy of Ms. Evans' letter dated April 21, 2008 requesting an appeal, photographs of the property and a drawing indicating the location of the property. She also presented a copy of the City of Wharton Code of Ordinances, Chapter 38 Manufactured Homes, Mobile Homes and Travel Trailers and Parks, Article II. Requirements concerning Mobile Homes, Manufactured Housing and Recreational Vehicles, Section 38-36 Authorized Locations. Section 38-36(b)(5) requires the mobile home to be continuously occupied prior to being replaced. Ms. Evans addressed the City Council and stated that she was a single parent. She stated that mold was found in the existing mobile home; therefore, she was staying with other people. She stated that she desired to replace the existing mobile home with a re-built manufactured mobile home. She provided photocopies of the property and of the new mobile home. Councilmember David Samuelson stated that if City Council approved the request, then the ordinance should be eliminated. He stated that by allowing the variance, other people would be allowed to place mobile homes within the City. Councilmember V. L. Wiley, Jr. stated that the replacement mobile home would be an improvement to the neighborhood and City Council should consider the variance request. Councilmember Domingo Montalvo, Jr. stated that integrity should be kept within the neighborhoods. He stated that the current mobile home was an eye sore and the City Council should consider requests on a case by case basis. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the request by Ms. Lottie Evans, 831 West Caney Street; Wharton Block 62, Lot 8 for a variance from the City of Wharton Code of Ordinances, Chapter 38, Manufactured Homes, Mobile Homes, Travel Trailers and Parks, Article II. Requirements concerning Mobile Homes, Manufactured Housing and Recreational Vehicles, Section 38-36, Authorized Locations, to replace an existing – vacant mobile home.. Councilmember Domingo Montalvo, Jr. seconded the motion. Councilmembers V. L. Wiley, Jr., Domingo Montalvo, Jr., and Don Mueller voted for the motion. Councilmembers David Samuelson, Ken Freese, and Ray Linseisen and Mayor Bryce D. Kocian voted against the motion. The motion failed.

The seventh item on the agenda was to review and consider the request by Councilmember Domingo Montalvo, Jr. for City Council approval for travel reimbursement during his term as Vice-Chair of the Texas Municipal League Legislative Policy Committee on Utilities and Transportation. City Manager Andres Garza, Jr. stated that Councilmember Domingo Montalvo, Jr. had been appointed as the Vice-Chair of the Texas Municipal League (TML) Legislative Committee on Utilities and Transportation. He said that the Committee would meet in Austin on Friday, May 23rd and Monday, August 25th. He said that Councilmember Montalvo was requesting City Council approval for reimbursement of the travel costs associated with attending the meetings. He then presented a copy of the letter dated January 30, 2008 to Councilmember Montalvo from TML Executive Director Frank Struzl informing him of his appointment and

meeting dates. Councilmember Domingo Montalvo, Jr. stated that he served on the committee last year and was asked to serve as Vice-President. He stated that he was only requesting mileage reimbursement in the amount of \$282.80. Councilmember Ken Freese stated that the City Council should not exceed the budget allocated. He said that each of the City Councilmembers be allocated \$500.00 per fiscal year. After some discussion, Councilmember Ken Freese made a motion to approve the expenses up to \$500.00 for Councilmember Domingo Montalvo, Jr. for fiscal year 2007-2008. Councilmember V. L. Wiley, Jr. seconded the motion. Councilmembers V. L. Wiley, Jr., Ken Freese, Don Mueller, Ray Linseisen voted for the motion. Councilmember David Samuelson voted against the motion. Councilmember Domingo Montalvo, Jr. abstained. The motion carried.

The eighth item on the agenda was to review and consider the request by Mr. Tony Bone, on behalf of the Downtown Coalition, for the City Council to consider reinstating two hour parking in the downtown area around the Courthouse Square. City Manager Andres Garza, Jr. presented a copy of the request submitted by Mr. Tony Bone, on behalf of the Downtown Coalition, for the City Council to consider reinstating two hour parking in the downtown area. He said that Mr. Bone indicated that he would try to attend the meeting. He said that if the City Council desired to adopt the two hour parking limitation in the downtown area, the City Staff would present a draft ordinance for consideration during the next City Council meeting. Mr. Tony Bone addressed the City Council and stated that the parking restrictions were introduced and removed, introduced and removed and the Downtown Coalition was requesting the parking restrictions to be reinstated and enforced. He stated that District Judge Randy Clapp was requesting his own parking space around the courthouse. Councilmember Andres Garza, Jr. stated that the City Council could not regulate the parking located on the inside the courthouse square. Mr. Bone stated that when there were trials, there would be a lack of parking for the customers. City Attorney Paul Webb stated that Public Works Committee could address this item. He stated that Judge Murille could be requested to consider directing jurors to park in the public parking lots. City Manager Andres Garza, Jr. stated that he and Police Chief Tim Guin would research costs associated with enforcing the parking restrictions and the request would be submitted to the City Council Public Works Committee. 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 implementing an Amnesty Order for the City of Wharton Municipal Court. City Manager Andres Garza, Jr. presented a copy of the memorandum dated April 22, 2008 from Municipal Court Judge Mary Garcia requesting the City Council approve the draft resolution for the adoption of an annual Amnesty Program not to exceed five (5) years from the date of adoption. He also presented a copy of the Amnesty Order. Judge Garcia stated that the program had been successful in prior years. She stated that she had sent the notices for the Amnesty Program. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2008-26, which read as follows:

**CITYOF WHARTON
RESOLUTION NO. 2008-26**

A RESOLUTION OF THE WHARTON CITY COUNCIL IMPLEMENTING AN AMNESTY ORDER FOR THE CITY OF WHARTON MUNICIPAL COURT.

WHEREAS, On January 13, 2003, the City Council adopted an Amnesty Order effective February 3, 2003 for a period of five (5) years, which was successful; and

WHEREAS, The City of Wharton Municipal Court Judge has indicated a desire to implement an Annual Amnesty Program not to exceed five (5) years from the date of adoption; and

WHEREAS, The City Council recognizes the need for an Amnesty Order for the City of Wharton Municipal Court; and

WHEREAS, The City Council wishes to authorize an Amnesty Order for the City of Wharton Municipal Court on an annual basis for five years.

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

Section I. That the City Council hereby authorizes the Municipal Court Judge to implement an Amnesty Order on an annual basis.

Section II. The Annual Amnesty Order shall be implemented at the discretion of the Municipal Court Judge.

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

Passed, Approved, and Adopted this 28th of April 2008.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

LISA OLMEDA
City Secretary

Councilmember David Samuelson seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider the request by the Wharton County Freedom Fest, Inc. (WCFF) Committee for the following:

- A. Approval of the use of Riverfront Park to hold the 9th Annual Wharton County Freedom Fest June 27 and 28, 2008.
- B. City of Wharton assistance with the following:
 - 1. Obtaining restroom facilities and solid waste receptacles from Waste Management.
 - 2. Public Works and Facilities Maintenance Personnel assistance.

- C. Variance to the City of Wharton Code of Ordinances Chapter 54 Parks and Recreation Section 54-2 Operating or parking motor vehicles in parks and Section 54-7 Hours of use of City parks.
- D. Funding for security through the City of Wharton Hotel/Motel Fund.
- E. Waiver of Fees.

City Manager Andres Garza, Jr. presented a copy of the letter dated June 5, 2007 from Mr. David Copeland, Co-Chairman of the Wharton County Freedom Fest, Inc. requesting City Council approval of the above-mentioned items. Mr. Copeland stated that the BBQ Cook-off was scheduled for Friday and judging on Saturday. He stated that the Car Show was scheduled for Saturday, along with booths around the Courthouse Square. He stated that alcohol permits would be obtained for the Courthouse Square and the Riverfront Park. He stated that last year the Committee raised \$2,000; however, they were requesting funding for security through the City of Wharton Hotel/Motel Fund since the event would be a cultural event. He stated that there would be three bands, a Beer Tasting Contest and Cinderella performing at the Plaza Theater. City Attorney Paul Webb stated that he would verify if the hotel/motel funds could be utilized for the event to pay for security. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the request by the Wharton County Freedom Fest, Inc. (WCFF) Committee to hold the 9th Annual Wharton County Freedom Fest on June 27 and 28, 2008 in Riverfront Park; City of Wharton assistance to obtain restroom facilities and solid waste receptacles from Waste Management; Public Works and Facilities Maintenance Personnel assistance; a variance to the City of Wharton Code of Ordinances Chapter 54 Parks and Recreation Section 54-2 Operating or parking motor vehicles in parks and Section 54-7 Hours of use of City parks; City of Wharton to fund security through the City's Hotel/Motel Fund contingent upon review and approval by City Attorney Paul Webb; and waiver of fees. Councilmember Don Mueller seconded the motion. Councilmembers V. L. Wiley, Jr, David Samuelson, Don Mueller, Domingo Montalvo, Jr., and Ray Linseisen voted for the motion. Councilmember Ken Freese voted against the motion. The motion carried.

The eleventh item on the agenda was to review and consider a resolution of the Wharton City Council adopting the City of Wharton Investment Policy. Finance Director Joyce Vasut stated that the City Council Finance Committee met April 8, 2008 and voted to recommend the City Council consider approving the City of Wharton Investment Policy. She then presented a copy of the proposed policy that, as suggested by Mr. Jim Guilley of Coastal Securities, the only change was that any reference to the NASD be changed to the FINRA, which was the "new" NASD. She then presented a draft resolution approving the policy. She said that additionally, in accordance with the Investment Policy Guidelines, City Manager Andres Garza, Jr. and herself had taken the required financial training, which was required on a yearly basis. After some discussion, Councilmember David Samuelson made a motion to approve Resolution No. 2008-27, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2008-27**

A RESOLUTION OF THE WHARTON CITY COUNCIL 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 April 14, 2008.

Section II: That this resolution shall be come effective immediately upon its passage.

Passed, Approved, and Adopted this 28th day of April 2008.

CITY OF WHARTON, TEXAS

By: _____

BRYCE D. KOCIAN

Mayor

ATTEST:

LISA OLMEDA

City Secretary

Councilmember Ray Linseisen seconded the motion. All voted in favor.

The twelfth item on the agenda was to review and consider the City of Wharton 2008 – 2009 Fiscal Year Budget Calendar. Finance Director Joyce Vasut stated that the City Council Finance Committee was presented with a copy of the City of Wharton 2008-2009 Fiscal Year Budget Calendar. After some discussion, Councilmember Ken Freese made a motion to approve the City of Wharton 2008 – 2009 Fiscal Year Budget Calendar as presented. Councilmember Ray Linseisen 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 appointing members of the Executive Committee and Technical Committees of the Texas Colorado River Floodplain Coalition. City Manager Andres Garza, Jr. presented a copy of the Resolution No. 2006-07 that appointed members to the Texas Colorado River Floodplain Coalition. He said Mr. Prudentio Arriaga, who was the Primary Member of the Technical Commission, resigned from the City of Wharton; therefore, he was requesting the City Council consider appointing Building Official Ronnie Bollom as the Technical Committee Primary Member and Public Works Director Carter Miska as the Alternate Member. He then presented a draft resolution appointing the members of the Executive and Technical Committees for the TCRFC. After some discussion, Councilmember Ray Linseisen made a motion to approve Resolution No. 2008-28, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2008-28**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPOINTING MEMBERS OF THE EXECUTIVE AND TECHNICAL COMMITTEES OF THE TEXAS COLORADO RIVER FLOODPLAIN COALITION.

WHEREAS, the City of Wharton has agreed to participate in the Texas Colorado River Floodplain Coalition; and

WHEREAS, the Interlocal Agreement creating the Texas Colorado River Floodplain Coalition provided for each participating community to appoint representatives to the Executive and Technical Committees of the Coalition.

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

Section I. Appoints the following City of Wharton representatives to serve on two committees, one executive and one technical, to carry out the duties and responsibilities of these committee members as provided when the Interlocal Agreement creates the Texas Colorado River Floodplain Coalition; and

Executive Committee
Elected Officials

Domingo Montalvo, Jr.
Official
(Primary Member)

V. L. Wiley, Jr.
(Alternate Member)

Technical Committee
EMC/FPA

Ronnie Bollom, CFM, Building
(Primary Member)

Carter Miska, Public Works Director
(Alternate Member)

