

MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
APRIL 9, 2007

Mayor Bryce D. Kocian declared a Regular Meeting duly open for the transaction of business at 4:30 P.M. Councilmember led the opening devotion and then Mayor Bryce D. Kocian led the pledge of allegiance.

Councilmembers present were: Mayor Bryce D. Kocian and Councilmembers David Samuelson, Ken Freese, Don Mueller, Domingo Montalvo, Jr., and Ray Linseisen.

Councilmember absent was: V. L. Wiley, Jr.,

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., Public Works Director Phil Bush, Building Official Ronnie Bollom, EMS Director John Kowalik, Police Chief Tim Guin, Community Services Director Jo Knezek, and City Attorney Paul Webb.

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

The second item on the agenda was Roll Call and Excused Absences. Councilmember Domingo Montalvo, Jr. made a motion to excuse the absence of Councilmember V. L. Wiley, Jr. from the Regular City Council meeting held April 9, 2007. Councilmember Ken Freese seconded the motion. All voted in favor.

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. Mayor Bryce D. Kocian stated that April 12, 2007 was proclaimed as Wharton County Junior College Day and invited everyone to participate in the event. The proclamation read as follows:

Whereas, Wharton County Junior College was established in 1946 and opened the doors to its Wharton campus to make higher education affordable and accessible to the communities it serves; and

Whereas, Wharton County Junior College saw the need to expand its services in Fort Bend County and opened a campus in Richmond in 1983 followed by the opening of a Sugar Land campus in 1990; and

Whereas, Wharton County Junior College has helped thousands of people to reach their educational goals, reduce unemployment, and stimulate the economy.

Now, Therefore, I, Bryce D. Kocian, by the authority vested in me as Mayor of the City of Wharton, Texas, do hereby proclaim the day of April 12th as “**WHARTON COUNTY JUNIOR COLLEGE DAY**” and ask that our citizens recognize on this day the many contributions that Wharton County Junior College makes to the community and to remember the college’s founders for their vision to make higher education available in our community for generations to come.

In Witness Whereof, I hereunto have set my hand and caused the seal of the City of Wharton to be affixed this 12th day of April, 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 reading of the minutes from the regular meetings held March 12, 2007 and March 26, 2007. After some discussion, Councilmember Don Mueller made a motion to approve the Wharton City Council minutes of the regular meetings held March 12, 2007 and March 26, 2007 as presented. Councilmember David Samuelson 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 following items:

A. Request by Mr. Larry Kalina for approval of the preliminary/final re-plat of A20034 Abst 34, Tract 5.

City Manager Andres Garza, Jr. stated that the Planning Commission met Monday, April 2, 2007 and discussed the afore-mentioned item. He then presented a copy of the memorandum dated April 3, 2007 from Planning Commission Chairman A. J. Rath providing the recommendation from the Commission. He stated that the Planning Commission was recommending that the City Council consider approving the item. Planning Director Prudencio V. Arriaga, Sr. stated that Mr. Kalina desired to sell part of the tract; therefore the tract needed to be subdivided. He stated that there would be a 25’ building line from Wilke Road and County Road 231 along with a 10’ utility easement. He stated there would be a 5’ building line from the adjacent lots. City Manager Garza stated that the property was located within the City of Wharton extra territorial jurisdiction; therefore, the City had the authority to regulate the re-plat. After some discussion, Councilmember Ray Linseisen made a motion to approve the request by Mr. Larry Kalina for approval of the preliminary/final re-plat of A20034 Abst 34, Tract 5. Councilmember Don Mueller seconded the motion. All voted in favor.

B. Request by Mr. Mike Richard, South Texas Medical Clinics for approval of the preliminary /final re-plat of A20034 Abst 34, Tract 64C-2 & A. Jackson Blk 60A, Lot 3A.

City Manager Andres Garza, Jr. stated that the Planning Commission met Monday, April 2, 2007 and discussed the afore-mentioned item. He then presented a copy of the memorandum dated April 3, 2007 from Planning Commission Chairman A. J. Rath providing the recommendation from the Commission. He stated that the Planning Commission was recommending that the City Council consider approving the item. Planning Director Prudencio V. Arriaga, Sr. stated that South Texas Medical Clinics desired to sell the property to Taste Wood Bar-B-Que. He stated that there would be a 35' building line along with a 15' utility easement from FM 102. He stated that there would be a 25' building line along with a 10' utility easement from Regional Medical Drive. He stated that there would be a 10' utility easement from the adjacent lots. After some discussion, Councilmember Ken Freese made a motion to approve the request by Mr. Mike Richard, South Texas Medical Clinics for approval of the preliminary /final re-plat of A20034 Abst 34, Tract 64C-2 & A. Jackson Blk 60A, Lot 3A. Councilmember David Samuelson seconded the motion. All voted in favor.

C. Request by Mr. Don Hillis, Superintendent W.I.S.D. for approval of the preliminary/final re-plat of A20001 Abst 1, Tract 39-1, 39-1A RR.

City Manager Andres Garza, Jr. stated that the Planning Commission met Monday, April 2, 2007 and discussed the afore-mentioned item. He then presented a copy of the memorandum dated April 3, 2007 from Planning Commission Chairman A. J. Rath providing the recommendation from the Commission. He stated that the Planning Commission was recommending that the City Council consider approving the item. Planning Director Prudencio V. Arriaga, Sr. stated that there would be 35' building line along with a 15' utility easement from FM 1301 (Boling Highway). He stated that there would be a 25' building line along with a 10' utility easement, and a 40' dedicated right-of-way along the from Grace Community Fellowship church property. He stated that there would be a 15' building line along with a 10' utility easement from the adjacent lot. After some discussion, Councilmember David Samuelson made a motion to approve the request by Mr. Don Hillis, Superintendent W.I.S.D. for approval of the preliminary/final re-plat of A20001 Abst 1, Tract 39-1, 39-1A RR. Councilmember Ken Freese seconded the motion. All voted in favor.

D. Request by Mr. Carlos Cotton, P.E., Jones & Carter, Inc. representing Buc-ee's, Ltd. for approval of the preliminary/final re-plat of A20034 Abst 34, Tract 69 Pt South.

City Manager Andres Garza, Jr. stated that the Planning Commission met Monday, April 2, 2007 and discussed the afore-mentioned item. He then presented a copy of the memorandum dated April 3, 2007 from Planning Commission Chairman A. J. Rath providing the recommendation from the Commission. He stated that the Planning Commission was recommending that the City Council consider approving the item. Planning Director Prudencio V. Arriaga, Sr. stated that there would be 35' building line along with a 15' utility easement from US Highway 59 and FM 102. He stated that there would be a 10' utility easement from the adjacent lots. After some discussion, Councilmember Ray Linseisen made a motion to approve the request by Mr. Carlos Cotton, P.E., Jones & Carter, Inc. representing Buc-ee's, Ltd. for approval of the preliminary/final re-plat of A20034 Abst 34, Tract 69 Pt South. Councilmember Ken Freese seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider a resolution of the Wharton City Council approving a Utility Service Agreement for the Buc-ee's Travel Center Project and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. presented a copy of the Utility Service Agreement between the City of Wharton and Buc-ee's, Ltd. for the infrastructure improvements that was required for the Buc-ee's Travel Center Project. He stated that the City had agreed to install an eight (8) inch water service line and an eight (8) inch sewer line as per the drawing. He stated that the cost to install the service lines was estimated at \$50,700.00, which included labor and materials and would be paid by Buc-ee's. However, if the cost exceeded the estimate Buc-ee's would pay the difference. He stated that if the total cost exceeded \$60,000, then Buc-ee's would be able to rescind the agreement. He also presented a copy of a draft resolution approving the agreement. He stated service lines would be installed by a contractor. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2007-28, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2007-28**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING UTILITY SERVICE AGREEMENT FOR THE BUC-EE'S TRAVEL CENTER PROJECT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, Buc-ee's, Ltd. wishes the City of Wharton to provide utility service to the proposed Buc-ee's Travel Center to be located off of US Highway 59 and FM 102; and

WHEREAS, the utility service would consist of an eight (8) inch water service line and an eight (8) inch sewer line estimated to cost approximately \$50,700.00; and

WHEREAS, the City of Wharton wishes to install the afore-mentioned utility service; and

WHEREAS, if the cost of the said utility service should exceed \$60,000.00, Buc-ee's, Ltd. shall have ten (10) days to rescind said 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 approves the Utility Service Agreement between the City of Wharton and Buc-ee's, Ltd. for utility service to be provided at the proposed Buc-ee's Travel Center to be located at US Highway 59 and FM 102.

Section II. That the Mayor of the City of Wharton is hereby authorized to sign any documents relating to the aforementioned contracts.

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

Passed, Approved, and Adopted this 9th day of April 2007.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

Lisa Stavena

City Secretary

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

The eighth item on the agenda was to review and consider a resolution of the Wharton City Council approving an Administrative Management Services Contract for the Texas Capital Fund Contract No. 726322, US Highway 59/FM 102 Access Road Improvement Project and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. stated that on March 23, 2007, the City Staff received proposals for Administrative Management Services for the US Highway 59/FM 102 Access Road Improvement Project, Texas Capital Fund (TCF) Contract No. 726322. He stated that the City Staff received two proposals, one from Mid-Town Interests and one from The Ruiz Companies. He stated that on March 26, 2007, the Consultant Selection Committee met and voted to score the two firms in accordance with the proposals and elected to not conduct the interview process. He stated that after the scoring was tallied, Mid-Town Interests was the highest ranking firm. He stated that on November 21, 2006, he received an email from Ms. Kathy Goff, TCF, which suggested that the City of Wharton submit the proposals to the City's Attorney to determine if a conflict of interest would exist between Mid-Town Interests and Buc-ee's, Ltd. He stated that the State approved the agreement and had no objection of allowing Mid-Town Interests to be awarded the Administrative Management Services. He then presented a copy of the letter dated March 28, 2007 to City Attorney Paul Webb requesting that he review the Mid-Town Interests proposal to determine if a Conflict of Interest existed. He then presented a copy of the draft agreement and resolution approving the agreement. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2007-29, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2007-29**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN ADMINISTRATIVE MANAGEMENT SERVICES CONTRACT FOR THE TEXAS CAPITAL FUND CONTRACT NO. 726322, US HIGHWAY 59/FM102 ACCESS ROAD IMPROVEMENT PROJECT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, On March 23, 2007, the City of Wharton received proposals for Administrative Management Services for the US Highway 59/FM 102 Access Road Improvement Project; and

WHEREAS, The Consultant Selection Committee met March 26, 2007 and scored the proposals in accordance with the guidelines established by the Texas Capital Fund requirements; and

WHEREAS, Mid-Town Interest was the highest ranking firm per the Texas Capital Fund criteria and guidelines; and

WHEREAS, the Wharton City Council wishes to award Administrative Management Services for the US Highway 59/FM 102 Access Road Improvement Project to Mid-Town Interests.

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 awards the Administrative Management Services Contract to Mid-Town Interests for the US Highway 59/FM 102 Access Road Improvement Project.

Section II. That the Mayor of the City of Wharton is hereby authorized to sign all documents related to the contract.

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

Passed, Approved, and Adopted this 9th day of April 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 ninth item on the agenda was to review and consider a resolution of the Wharton City Council approving a Developer Customer Utility Service Agreement between the Wharton Independent School District and the City of Wharton and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. presented a copy of the City of Wharton Developer Customer Utility Service Agreement between the City of Wharton and

Wharton Independent School District (WISD) that had been executed by WISD. He also presented a copy of a draft resolution approving the agreement. He stated that WISD would hire the contractor to install the 8" water service line and the 8" sewer service line. After some discussion, Councilmember Don Mueller made a motion to approve Resolution No. 2007-30, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2007-30**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A DEVELOPER CUSTOMER UTILITY SERVICE AGREEMENT BETWEEN THE WHARTON INDEPENDENT SCHOOL DISTRICT AND THE CITY OF WHARTON AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, the City of Wharton and the Wharton Independent School District wishes to enter in an agreement for the installation of utility services for the proposed new elementary school to be located on FM 1301; and

WHEREAS, the Wharton City Council wishes to approve the City of Wharton Developer Customer Utility Service 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 approves the City of Wharton Developer Customer Utility Service Agreement between the City of Wharton and the Wharton Independent School District.

Section II. That the Mayor of the City of Wharton is hereby authorized to sign any documents relating to the aforementioned contracts.

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

Passed, Approved, and Adopted this 9th day of April 2007.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

Lisa Stavena

City Secretary

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

The tenth item on the agenda was to review and consider a resolution of the Wharton City Council approving an extension of the agreement between the City of Wharton and Harrison, Waldrop & Uhrerek, L.L.P. for auditing services and authorizing the Mayor of the City of Wharton to execute all documents required to extend the agreement. City Manager Andres Garza, Jr. stated that on Monday, March 26, 2007, the City Council Finance Committee met and discussed extending the auditing service agreement between the City of Wharton and Harrison, Waldrop & Uhrerek, L.L.P. He stated that the Finance Committee was recommending that the contract be extended for an additional one (1) year period. He then presented a copy of the letter of understanding, which established the contract requirements. He also presented a copy of the draft resolution approving the contract extension. Finance Director Joyce Vasut stated that the audit year would be 2006-2007 fiscal year. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2007-31, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2007 - 31**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN EXTENSION OF THE AGREEMENT BETWEEN THE CITY OF WHARTON AND HARRISON, WALDROP & UHEREK, L.L.P. FOR FINANCIAL AUDITING SERVICES AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO THE AGREEMENT ON BEHALF OF THE CITY OF WHARTON.

WHEREAS, On July 12, 2004, the Wharton City Council awarded the contract for Annual Financial Auditing Services to Harrison, Waldrop & Uherek, L.L.P.; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute a contract extension with Harrison, Waldrop & Uherek, L.L.P. for the 2006 - 2007 Annual Financial Audit; and

WHEREAS, the City of Wharton and Harrison, Waldrop & Uherek, L.L.P wishes to be bound by the conditions as set forth in 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, Texas to execute an extension to the agreement between Harrison, Waldrop & Uherek, L.L.P and the City of Wharton for the 2006-2007 Annual Financial Audit in an amount not to exceed \$19,650.00.

Section II. That the contract would be for one (1) year.

Section III. That Harrison, Waldrop & Uherek, L.L.P. and the City of Wharton are hereby bound by the conditions as set forth in the agreement.

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

Passed, Approved, and Adopted this the 9th day of April 2007.

CITY OF WHARTON

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

LISA STAVENA

City Secretary

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

The eleventh item on the agenda was to review and consider the Wharton Industrial Park Infrastructure Improvement Project:

A. Pump Station/Lift Station Re-Bid:

1. Bid Tabulation.

2. **Resolution:** A resolution of the Wharton City Council awarding a contract to R & B group, Inc. for the construction of the Wharton Industrial Park Pump Station/Lift Station and authorizing the Mayor of the City of Wharton to execute the agreement.

City Manager Andres Garza, Jr. stated that on September 26, 2006, the City of Wharton received bids for the Wharton Industrial Park Pump Station/Lift Station and that the bids were rejected by the City Council. He stated that the project was re-bid on March 20, 2007 and the City received three bids. He then presented a copy of the detailed bid tabulation provided by Mr. Carlos Cotton, P.E. of Jones & Carter, Inc. He stated that the apparent lowest bidder was R & B Group, Inc. from Houston, Texas, in the base bid amount of \$390,000.00. He stated that the City Council Public Works Committee met March 29, 2007 and discussed the project and was recommending the City Council consider awarding the bid to R & B Group, Inc. the contract for the base bid amount of \$390,000.00. He then presented a copy of a draft resolution awarding the bid and a copy of the memorandum dated March 29, 2007 providing the recommendation. Mr. Carlos Cotton stated the City had rebid the project with the anticipation of receiving lower bids from the previous bids; however, the bids were not lower. He stated that a longer completion date was also included in the bids. After some discussion, Councilmember David Samuelson made a motion to approve Resolution No. 2007-32, which read as follows:

CITY OF WHARTON
RESOLUTION NO. 2007-32

A RESOLUTION OF THE WHARTON CITY COUNCIL AWARDING A CONTRACT TO R & B GROUP, INC. FOR THE CONSTRUCTION OF THE WHARTON INDUSTRIAL

