

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
MAY 11, 2009**

Mayor David W. Samuelson declared a Regular Meeting duly open for the transaction of business at 7:00 P.M. Councilmember Ken Freese 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, Police Chief Tim Guin, Community Services Director Jo Knezek, and City Attorney Paul Webb.

Visitors present were: Barry Halvorson - Wharton Journal Spectator, David Schroeder - Wharton Economic Development Corporation, Terry Lynch, Fredrick Scheffel, Pat Kubala, Joel Williams, I.O. Coleman, Jr., Allen Peikert, Susan Freese, Ann Montalvo, and Arthur Schulze.

The third item on the agenda was Public Comments. Mr. Joel Williams addressed the City Council and publicly commended Councilmember Ken Freese for the past twelve years of service to the City of Wharton as Councilmember District No. 3. He also thanked his wife, Susan Freese for supporting him throughout his tenure. He stated that Councilmember Ken Freese was a neighbor and a friend that he enjoyed working with. He then publicly congratulated Terry David Lynch on his being elected as the new Councilmember District No. 3. He also publicly commended Ms. Billie Jones for running a good race and providing the district with good choices. No action was taken.

The fourth item on the agenda was to review and consider the Wharton Moment. Councilmember Domingo Montalvo, Jr. stated that he was appointed Chairman to the Colorado River Floodplain Coalition and they would be holding their first officer's meeting on Friday.

Mayor David W. Samuelson publicly thanked Councilmember Ken Freese for serving as Councilmember District No. 3. He stated that Ken Freese spoke to him regarding serving on City Council. He stated that the May 9, 2009 election would be canvassed on Monday, May 18, 2009 at 5:30 p.m.

Councilmember Domingo Montalvo, Jr. publicly thanked Councilmember Ken Freese. He stated that he had stirred his interest to serve on City Council. 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 April 13, 2009 and April 27, 2009 and the special meetings held April 7, 2009 and April 27, 2009. After some discussion, Councilmember Lewis Fortenberry, Jr. made a motion to approve the Wharton City Council minutes of the regular meetings held April 13, 2009 and April 27, 2009 and the special meetings held April 7, 2009 and April 27, 2009 as presented. Councilmember Ken Freese seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider the request by Councilmember Domingo Montalvo, Jr. on behalf of Mt. Carmel Church for City Council to consider approving a variance to the City of Wharton Code of Ordinances, Chapter 54, Parks and Recreation Section 54-8 Operating a motor vehicle in the park to allow parking on Riverfront Park grounds. City Manager Andres Garza, Jr. presented a copy of the letter dated May 6, 2009 from Domingo Montalvo, Jr. requesting the City Council to consider approving a variance to the City of Wharton Code of Ordinances, Chapter 54, Parks and Recreation Section 54-8 Operating a motor vehicle in the park to allow parking on Riverfront Park grounds. He stated that Mr. Montalvo serves as the Chairman of the Mount Carmel Church Bazaar and Soccer Tournament to be held May 17, 2009. He said that there was a soccer tournament planned and additional parking area was needed to accommodate the bazaar and soccer tournament participants. He then presented a copy of a map that indicated the location of the desired parking area located within Riverfront Park. He also presented a copy of the Park Facilities Reservation Agreement for the Riverfront Park Central Pavilion, which was completed by Mr. Montalvo and a copy of the ordinance. Councilmember Domingo Montalvo, Jr. recused himself from discussion as Councilmember. Domingo Montalvo, Jr. stated that he was the Co-Chairman of the Bazaar. He stated that Mt. Carmel Church was requesting a variance to allow parking on Riverfront Park grounds for May 17, 2009. He stated that a permit was obtained for the rental of the pavilion; however, there would be approximately 200 people attending the soccer tournament and the Church was requesting a safe parking environment. After some discussion, Councilmember Ken Freese made a motion to approve the request by Councilmember Domingo Montalvo, Jr. on behalf of Mt. Carmel Church for City Council for a variance to the City of Wharton Code of Ordinances, Chapter 54, Parks and Recreation Section 54-8 Operating a motor vehicle in the park to allow parking on Riverfront Park grounds. Councilmember Lewis Fortenberry, Jr. seconded the motion. Councilmember Domingo Montalvo, Jr. abstained. Councilmembers V. L. Wiley, Jr., Lewis Fortenberry, Jr., Ken Freese, Don Mueller, and Jeff Gubbels voted for the motion. The motion carried.

The seventh item on the agenda was to review and consider the request by Mrs. Ann Montalvo, 214 Linn Street, for City Council consideration to approve the closure of Linn Street from Business 59 (Richmond Road) to North Houston Street, on Saturday, June 6, 2009 from 12:00 Noon to 12:00 Midnight for a graduation celebration. City Manager Andres Garza, Jr. presented a copy of the letter the City Staff received May 6, 2009 from Mrs. Ann Montalvo requesting the City Council to consider approving the closure of Linn Street from Business 59 (Richmond Road) to North Houston Street, on Saturday, June 6, 2009 from 12:00 Noon to 12:00 Midnight for a graduation celebration. He also presented a copy of a map indicating where the proposed

barricades could be placed. He said that Linn Street would not be blocked from Houston Street; therefore, vehicles would be able to travel from Houston Street to Fulton Street off of Linn Street. He said that Mrs. Montalvo was requesting the portion of Linn Street be closed for a graduation celebration to be held June 6, 2009. Councilmember Domingo Montalvo, Jr. recused himself from discussion. Mrs. Ann Montalvo requested the City Council to approve the request in order to provide a safer environment for the neighbors, friends, and family. She stated that she spoke to everyone on the street and they were in agreement to close the street for the graduation celebration on June 6, 2009. Councilmember Ken Freese asked if there would be security. Mrs. Montalvo stated that no security was scheduled. She stated that there would be less than 50 people attending. She stated that when First Baptist Church holds the Fall Festival, the street was been closed for the hay ride. Councilmember Jeff Gubbels stated that the City closed streets for organizations. City Attorney Paul Webb stated that the City Council should consider the circumstances and the traffic route. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the request by Mrs. Ann Montalvo, 214 Linn Street, for City Council consideration to approve the closure of Linn Street from Business 59 (Richmond Road) to North Houston Street, on Saturday, June 6, 2009 from 12:00 Noon to 12:00 Midnight for a graduation celebration. Councilmember Lewis Fortenberry, Jr. seconded the motion. Councilmember Domingo Montalvo, Jr. abstained. Councilmembers V. L. Wiley, Jr., Lewis Fortenberry, Jr., Don Mueller and Jeff Gubbels voted for the motion. Councilmember Ken Freese voted against the motion. The motion carried.

The eighth item on the agenda was to review and consider the recommendation by the Wharton Regional Airport Board for City Council approval to authorize Hughes Aero Corp (Predator Powered Parachutes, LLC Skytrails, LCC) to hold the Powered Parachuting World Championships at Wharton Regional Airport on October 14 – 17, 2009. City Manager Andres Garza, Jr. presented a copy of the letter dated April 24, 2009 from Mr. Fredrick Scheffel, CEO, Hughes Aero Corp (Predator Powered Parachutes, LLC Skytrails, LCC), requesting approval to hold the Powered Parachutes World Championships at the Wharton Regional Airport on October 14 – 17, 2009. He said that the Wharton Regional Airport Board met on May 5, 2009 and voted to recommend the City Council consider approving the request. Mr. Fredrick Scheffel stated that the event was held in Utah in prior years; however, since he was a resident in Texas he was requesting the event be held in Wharton, Texas. He stated that the event had 1,000 spectators and pilots attending. He stated that the local retailers would benefit from the family four-day event occurring sunrise to sundown consisting of a variety of activities. He stated that he requested the support from the Chamber of Commerce, if approved, to include the event on the local calendar. He also stated that generators, bleachers, tents, EMS personnel, Fire truck and personnel, security, and advertising in Houston, San Antonio, and Austin would be needed. He stated that at the prior events, alcohol was not served. Councilmember Jeff Gubbels asked if the organization was a private company or a 501 (c) 3. Mr. Scheffel stated that it was not a non-profit organization. Councilmember asked if a non-profit organization would be formed. Mr. Scheffel stated that he would start the process. After some discussion, Councilmember Jeff Gubbels made a motion to approve the recommendation by the Wharton Regional Airport Board for City Council approval to authorize Hughes Aero Corp (Predator Powered Parachutes, LLC Skytrails, LCC) to hold the Powered Parachuting World Championships at Wharton Regional Airport on

October 14 – 17, 2009 with the stipulation of the creation of a 501 3 (c) organization.
Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider the request by Mr. Arthur Schulze, Chairman of the 20th Century Technology Museum for City Council to consider amending the 2007-2008 Hotel Motel Occupancy Fund Contract. City Manager Andres Garza, Jr. presented a copy of the letter dated May 4, 2009 to Finance Director Joyce Vasut from Mr. Arthur E. Schulze, Chairman of the 20th Century Technology Museum requesting the City of Wharton consider amending the City of Wharton 2007-2008 Hotel Motel Occupancy Fund Agreement between the City and the museum. He also presented a copy of the letter dated April 14, 2009 to Mr. Schulze from Mrs. Vasut informing him that the receipts submitted for reimbursement under the contract was for advertising and that he should consider requesting the contract be amended. He then presented a copy of the contract and the invoices. Mr. Arthur Schulze addressed the City Council and requested amendment to the contract to include advertising expenses. He stated that brochures, postcards and banners were made to advertise the museum. City Attorney Paul Webb stated that was legitimate expenses for use of the funds. After some discussion, Councilmember Jeff Gubbels made a motion to approve the amendment to include advertising expenses. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider the Wharton Police Department Click It or Ticket Campaign:

- A. **Proclamation:** Click It or Ticket Mobilization in Wharton, Texas.
- B. **Proclamation:** Teen Seat Belt Campaign in Wharton, Texas.

City Manager Andres Garza, Jr. presented a copy of the email dated May 4, 2009 from Police Chief Tim Guin providing information regarding the Click It or Ticket campaign that would be effective nationally from May 18 – 31 of this year. He also presented copies of the proclamations that would be presented by Mayor David W. Samuelson. Chief Guin stated that the campaign was utilized to raise awareness concerning all motorists to wear their seat belts. He stated that the Teen Campaign for compliance started May 11, 2009. No action was taken.

The eleventh item on the agenda was to review and consider a resolution of the Wharton City Council approving the submission of an application to the Houston–Galveston Area Council for the Byrne Justice Assistance Grant Program and authorizing the Mayor of the City of Wharton to execute all documents relative to said application. Councilmember Andres Garza, Jr. presented a copy of information regarding the American Recovery and Reinvestment Act of 2009 regarding the Edward Byrne Memorial Justice Assistance (JAG) Formula Grant Program and a copy of a draft resolution approving the submission of a grant application to the Houston-Galveston Area Council for funding under the program. He stated that the application would be for approximately \$40,000 for the purchase of a 2009 Tahoe that included ancillary equipment that would be used as a canine unit for the Wharton Police Department. Police Chief Tim Guin stated that it was a competitive grant that included 13 counties, and were scored by a Committee. He stated, if approved, the purchase of the Canine Unit would be utilized for various areas including criminal, detection of odor, run-a-way and child recovery. After some discussion, Councilmember Lewis Fortenberry, Jr. made a motion to approve Resolution No. 2009-39, which read as follows:

CITY OF WHARTON

RESOLUTION NO. 2009 - 39

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

WHEREAS, the Wharton City Council finds it in the best interest of the citizens of the City of Wharton to purchase a vehicle Canine Unit to be operated beginning in 2009; and

WHEREAS, the Wharton City Council desires to seek funding through the Houston-Galveston Area Council for the Byrne Justice Assistance Grant Program; and

WHEREAS, the Wharton City Council agrees to provide applicable matching funds for the purchase of the vehicle as required Byrne Justice Assistance Grant Program No. 222-8601; and

WHEREAS, the Wharton City Council agrees that in the event of loss or misuse of the Criminal Justice Division funds, the City of Wharton assures that the funds will be returned to the Criminal Justice Division in full; and

WHEREAS, the Wharton City Council designates the Mayor of the City of Wharton as the grantee's authorized official to execute all documents related to said grant.

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

Section I. That an application to the Houston-Galveston Area Council 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 \$42,119.00 for the purchase of a vehicle to be used as a Canine Unit.

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 11th of May 2009.

CITY OF WHARTON, TEXAS

By: _____

DAVID W. SAMUELSON
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 a resolution of the Wharton City Council approving an agreement for Assessment and Collection Services between Wharton County 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 letter dated May 5, 2009 from Mr. Patrick L. Kubala, Wharton County Tax Assessor-Collector providing a proposed new agreement for Assessment and Collection Services between the City of Wharton and Wharton County. He also presented a copy of a draft resolution approving the agreement. He said that the agreement had been submitted to City Attorney Paul Webb for his review and comment. Mr. Kubala stated that Linebarger, Goggan, Blair & Sampson, LLP, Attorneys-at-Law reviewed the agreement and was recommending additional requirements to concur with laws passed by the legislatures. He stated that it was a verbal agreement; however, this would allow for no questions concerning compliance. He stated that there would be additional enhancements with direct deposits being reported on the website, which would provide funds being expedited into entities accounts. Mr. Webb stated that he reviewed the agreement and recommended approval. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2009-40, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2009 - 40**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN AGREEMENT ASSESSMENT AND COLLECTION SERVICES BETWEEN WHARTON COUNTY AND THE CITY OF WHARTON 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, the Wharton City Council wishes to enter into a new agreement with Wharton County for the Assessment and Collection Services; and

WHEREAS, the City of Wharton and Wharton County wishes to be bound by the conditions as outlined in the agreement; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute an agreement for the Assessment and Collection Services.

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 agreement between the City of Wharton and Wharton County for Assessment and Collection Services.

Section II. That the City of Wharton and Wharton County are hereby bound by the conditions as set forth in the agreement.

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

Passed, Approved, and Adopted this the 11th day of May 2009.

CITY OF WHARTON

By: _____
DAVID W. SAMULSON
Mayor

ATTEST:

LISA OLMEDA
City Secretary

Councilmember Don Mueller 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 authorizing the submission of a contract amendment request for the Community Development Fund Contract between the City of Wharton and the Office of Rural Community Affairs Block Grant Program, Contract No. 728459 and authorizing the Mayor of the City of Wharton to execute all documents associated with the contract amendment. City Manager Andres Garza, Jr. stated that since the bids for the construction phase of the Alhdag Addition Sanitary Sewer Improvement Project came in below the grant amount, the City Staff requested from the State the procedure to add additional sewer lines to the contract. He said that the process required the holding of a public meeting to receive input from the public. He said that the public meeting was held Monday, May 11th at 5:30 p.m. He then presented a copy of the memo from Public Works Director Carter Miska regarding his recommendation, which he concurred with. After some discussion, Councilmember Don Mueller made a motion to approve Resolution No. 2009-41, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2009 - 41**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS,
AUTHORIZING THE SUBMISSION OF A CONTRACT AMENDMENT REQUEST FOR
THE COMMUNITY DEVELOPMENT FUND CONTRACT BETWEEN THE CITY OF
WHATON AND THE OFFICE OF RURAL COMMUNITY AFFAIRS BLOCK GRANT**

PROGRAM, CONTRACT NUMBER 728459.

WHEREAS, the City of Wharton entered into a contract with the State of Texas to make improvements to the sanitary sewer system; and

WHEREAS, additional contract funds are available; and

WHEREAS, the City of Wharton desires to improve sanitary sewer service to additional homes;

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

Section I. The City Council authorizes a contract amendment request to be submitted to the Texas Community Development Program for the following proposed activities:
To install approximately 1,700 linear feet of 8 inch (8") PVC (SDR-26) sewer lines, five (5) manholes, approximately 33 service connections and 1,700 linear feet of trench protection along East Belle Avenue, North Walnut Street and East Ahldag Avenue.

Section II. The City Council directs and authorizes the Mayor to execute all necessary documents as may be required to initiate and process this contract amendment request.

PASSED AND APPROVED at a meeting of the City Council of the City of Wharton, Texas, on the 11th day of May 2009.

CITY OF WHARTON, TEXAS

By: _____
DAVID W. SAMULSON
Mayor

ATTEST:

LISA OLMEDA

City Secretary

Councilmember Ken Freese seconded the motion. All voted in favor.

The fourteenth item on the agenda was to review and consider a resolution of the Wharton City Council approving the Texas Department of Transportation Airport Participation Agreement, Project CSJ No. 0913WHARTN, for the Wharton Regional Airport Drainage Project – Construction Phase and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. presented a copy of the letter dated April 27, 2009 from the Texas Department of Transportation providing the Airport Participation Agreement, Project CSJ No. 0913WHARTN, for the Wharton Regional Airport Drainage Project – Construction Phase. He said that the deadline to submit the contract was scheduled for May 7th; however, the City Staff contacted Ms. Becky Vick, who extended the deadline to submit the contract to May 15th. He also presented a draft copy of the resolution approving the contract. He said that with the

