

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
JUNE 8, 2009**

Mayor David W. Samuelson declared a Regular Meeting duly open for the transaction of business at 7:00 P.M. Councilmember Don Mueller 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., City Secretary Lisa Olmeda, Assistant to City Manager Jackie Jansky, EMS Director John Kowalik, Airport Manager David Allen, Fire Chief Bobby Barnett and Assistant City Attorney Amy Rod.

Visitors present were: Barry Halvorson - Wharton Journal Spectator, David Schroeder - Wharton Economic Development Corporation, Carlos Cotton, I.O. Coleman, Jr., Billie Jones, Brandon Cruz, Quinn Wrench, Rev. Polly Standing, Paul Shannon, George Silvas, Stephen Nelson, Jesus Gutierrez, Avery Hughes, David Tovey, Scott Stewart, Todd Johse, and Paul Maldonado.

The third item on the agenda was Public Comments. Mr. I. O. Coleman, Jr. addressed the City Council and publicly acknowledged Councilmembers Elect V. L. Wiley, Jr., Domingo Montalvo, Jr., and newly elected Councilmember Terry David Lynch to City Council for two-year terms. He also acknowledged Billie Jones for running for Councilmember District No. 3. and former Councilmember Ken Freese on his retirement as the Councilmember for District No. 3. He then stated that he appreciated the safety features that were installed at the Milam Street and Spanish Camp Road railroad crossings.

Ms. Billie Jones addressed the City Council and requested assistance in order to make the downtown area pedestrian friendly. She stated that vehicles were traveling at a higher posted speed limit and was requesting assistance from the Police Department to write speeding citations in order to correct this problem. No action was taken.

The fourth item on the agenda was to review and consider the Wharton Moment. City Manager Andres Garza, Jr. publicly congratulated the 2009 Seniors.

Councilmember V. L. Wiley, Jr. stated the Juneteenth celebration and the Wharton Training Alumni and Ex-Students Association would hold its reunion on June 19-21, 2009. 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 May 11, 2009 and May 26, 2009 and the special meetings held May 11, 2009 and May 18, 2009. After some discussion, Councilmember Don Mueller made a motion to approve the Wharton City Council minutes of the regular meetings held May 11, 2009 and May 26, 2009 and the special meetings held May 11, 2009 and May 18, 2009 as presented. 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. Quinn Wrench, First United Methodist Church Secretary requesting the following:

- A. That the applicable building and construction permit fees be waived.
- B. City of Wharton assistance with the solid waste debris.

City Manager Andres Garza, Jr. presented a copy of the letter dated May 21, 2009 from Ms. Quinn Wrench, Secretary for the first United Methodist Church regarding the U.M. Army group and their request that the City Council consider approving the building and construction permit fees be waived and that the City of Wharton assist with the solid waste debris. He said that the U.M. Army was a group of 80 youth and adult volunteers who serve the public by meeting the home repair needs of those who could not conduct the work themselves. He said that the work consisted of wheelchair ramps, handrails, painting and yard work. He said that the U.M. Army conducts this work at no charge to the residents; therefore, the group was requesting that the permit fees be waived and that the City assists with the solid waste debris removal resulting from the construction efforts. Rev. Polly Standing addressed the City Council and stated that Church Secretary Quinn Wrench submitted the request for the U.M. ARMY group to assist home owners with construction repairs and other assistance. She said that a 40 cubic yard dumpster would be needed. Mayor David W. Samuelson stated that the City had a franchise agreement with a solid waste company; therefore, the City would need to request assistance from Waste Corporation of America. He stated that applications were available at Share for home owners to request assistance. Rev. Standing stated the First United Methodist Church would be collecting the applications and would submit them to the U.M. ARMY Representative, who would determine the amount of assistance to be granted. After some discussion, Councilmember Don Mueller made a motion to approve that the request by First United Methodist Church requesting that the applicable building and construction permit fees be waive, and City of Wharton assistance with the solid waste debris. Councilmember Terry David Lynch seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider the request by Mr. Brandon Cruz on behalf of the Wharton Masonic Lodge #621 for the following:

- A. Use of Riverfront Park to hold a Barbeque Cook-off Friday, August 14 , 2009 through Saturday, August 15, 2009.
- B. Variance from the City of Wharton Code of Ordinances, Chapter 54 Parks and Recreation, Section 54-2 Park Property to allow vehicles in the park and 54-3 Hours of Operation to allow camping in the park.

C. Waive applicable fees for the following:

1. Use of Riverfront Park.

2. Temporary permit for Possession/Consumption of Alcoholic Beverages in City Parks.

City Manager Andres Garza, Jr. presented a copy of the letter dated May 26, 2009 from Mr. Brandon Cruz of the Masonic Lodge #621 regarding the Fourth Annual Barbeque Cookoff scheduled for August 14th – 15th, 2009. He said that Mr. Cruz indicated in his letter that the cookoff was held to raise money for a scholarship to Wharton County Junior College to one student in need of financial assistance that met the Lodge's academic requirements; therefore, the Lodge was requesting the afore-mentioned items. Mr. Brandon Cruz addressed the City Council and stated that this would be the 4th Annual event. He stated that all entry fees would be used for a scholarship to the Wharton County Junior College. He stated that he was anticipating a large turnout this year, since the cook-off was part of the International Cook-off. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the request by Mr. Brandon Cruz on behalf of the Wharton Masonic Lodge #621 for the use of Riverfront Park to hold a Barbeque Cook-off Friday, August 14, 2009 through Saturday, August 15, 2009; variance from the City of Wharton Code of Ordinances, Chapter 54 Parks and Recreation, Section 54-2 Park Property to allow vehicles in the park and 54-3 Hours of Operation to allow camping in the park; waiver of applicable fees the use of Riverfront Park, and temporary permit for Possession/Consumption of Alcoholic Beverages in City Parks. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The eighth item discussed on the agenda was to review and consider the improvements to the Wharton Regional Airport Industrial Hangar and request for funding from the Wharton Economic Development Corporation. City Manager Andres Garza, Jr. said that on May 5, 2009, the Wharton Regional Airport Board heard a presentation by Mr. Randy Baumann, President of Alpha Aviation Mission Outreach Center, Inc. regarding his company and possible operations at the Wharton Regional Airport (WRA). He said that the Airport Board voted to recommend that the City Staff pursue contract negotiations regarding the use of the Industrial Hangar (Schlumberger hangar). He then presented a copy of information regarding the company. He said that the company was proposing to use the existing hangar facility; however, there were certain modifications that would need to be made to the office area. He said that Airport Manager David Allen had received estimates on the projected costs to renovate the office space. He said that possible funding sources for the renovation could be through the Routine Airport Maintenance Program (RAMP) and the Wharton Economic Development Corporation (WEDC). He said that the City Council Finance Committee met on June 2, 2009 and voted to recommend the City Council consider authorizing the City Staff to pursue funding from the RAMP program and from WEDC. He said that the RAMP program was a 50/50 matching grant. He said that the estimated cost of the improvements was \$75,900, which \$37,950 could be submitted under the 2008 RAMP program, and the remaining \$37,950 could be funded by WEDC with the Corporation's approval. He said that the City Staff was requesting City Council authorization to request funding from WEDC for the project. He then presented a copy of the letter dated June 4, 2009, from Mr. Robert "Larry" Miner, Jr. of Alpha Aviation to Mr. David Schroeder, Executive Director of the Wharton Economic Development Corporation. Councilmember Domingo Montalvo, Jr. stated that the renovations should be recouped through the hangar rental. Airport Manager David Allen stated that the building had been through two floods; therefore, rehabilitation was requested. Mr.

Allen stated that the rental rates per square feet were published; therefore, the building would be leased for the current established rates. Mr. Garza stated that the office space could be at a different rate than the hangar space. Councilmember Montalvo requested the City Council Finance Committee recommend a possible adjustment to the rate for the office space. Mr. Allen stated that the RAMP was available through August 2009; therefore, was requesting approval in order to proceed. After some discussion, this item was deferred to the City Council Finance Committee and recommendation to City Council at the regular City Council meeting held June 22, 2009.

The ninth item discussed on the agenda was to review and consider a resolution of the Wharton City Council expressing intent to finance expenditures to be incurred for improvements to the City's wastewater systems and for the preliminary engineering and design work for the City's flood reduction project. City Manager Andres Garza, Jr. stated that the Finance Committee met June 2, 2009 and voted to recommend the City Council consider approving the resolution expressing intent to finance expenditures to be incurred for improvements to the City's wastewater systems and for the preliminary engineering and design work for the City's flood reduction project. He said that payments had been made on the projects; however, the City could reimburse itself for the costs from bond proceeds provided this resolution was approved by the City Council within the required time frame. He said that it was the City Staffs recommendation that the projects be funded from bond proceeds that the City Council will consider later in the summer. He then presented a copy of a draft resolution. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2009-47, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2009-47**

A RESOLUTION OF THE WHARTON CITY COUNCIL EXPRESSING INTENT TO FINANCE EXPENDITURES TO BE INCURRED FOR IMPROVEMENTS TO THE CITY'S WASTEWATER SYSTEMS AND FOR THE PRELIMINARY ENGINEERING AND DESIGN WORK FOR THE CITY'S FLOOD REDUCTION PROJECT.

WHEREAS, the City of Wharton, Texas (the "City"), is a home-rule city of the State of Texas, authorized to issue obligations to finance its activities pursuant to the Texas Government Code and other laws of the State of Texas, the interest on which is excludable from gross income for federal income tax purposes ("tax-exempt obligations") pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, the City will make, or has made not more than 60 days prior to the date hereof, payments with respect to the engineering, acquisition, construction, reconstruction or renovation of the projects listed on Exhibit A attached hereto; and

WHEREAS, the City desires to reimburse itself for the costs associated with the projects listed on Exhibit A attached hereto from the proceeds of tax-exempt obligations to be issued subsequent to the date hereof; and

WHEREAS, the City reasonably expects to issue tax-exempt obligations to reimburse itself for the costs associated with the projects listed on Exhibit A attached hereto;

NOW, THEREFORE, be it resolved that:

Section 1. The City reasonably expects to reimburse itself for all costs that have been or will be paid subsequent to the date that is 60 days prior to the date hereof and that are to be paid in connection with the engineering, acquisition, construction, reconstruction or renovation of the projects listed on Exhibit A attached hereto from the proceeds of tax-exempt obligations to be issued subsequent to the date hereof.

Section 2. The City reasonably expects that the maximum reimbursement from the principal amount of tax-exempt obligations issued by the City for costs associated with the projects listed on Exhibit A attached hereto will not exceed \$ 290,000.

Section 3. All resolutions and parts of resolutions in conflict herewith are hereby repealed to the extent of the conflict only.

Section 4. If any word, phrase, clause, sentence, paragraph, section or other part of this resolution or the application thereof to any person or circumstance shall ever be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of this resolution and the application of such word, phrase, clause, sentence, paragraph, section, or other part of this resolution to any other person or circumstance shall not be affected thereby.

Section 5. The City Council officially finds, determines and declares that a sufficient written notice of the date, hour, place and subject of each meeting at which this resolution was discussed, considered or acted upon was given in the manner required by the Texas Open Meetings Act, as amended, and that each such meeting has been open to the public as required by law at all times during such discussion, consideration and action. The City Council ratifies, approves and confirms such notices and the contents and posting thereof.

PASSED AND APPROVED this 8th day of June 2009.

CITY OF WHARTON

David W. Samuelson
Mayor

ATTEST:

Lisa Olmeda
City Secretary

EXHIBIT A

DESCRIPTION OF PROPERTY

<u>Item or Fund--Described by Character, Type or Purpose</u>	<u>Amount--Described by Cost, Quantity or Size</u>
Flood Reduction Project	\$ 220,000
Wastewater System Improvements	70,000

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

The tenth item discussed on the agenda was to review and consider the request by Wharton County Judge John W. Murrile for the City of Wharton payment for additional fees for jail services. City Manager Andres Garza, Jr. presented a copy of the letter dated May 12, 2009 from Wharton County Judge Murrile requesting the City of Wharton pay additional fees for jail services. He said that as the letter stated, Wharton County increased the rate for services in January 2006 to \$20.30 per day per inmate; however, the new rate was apparently not billed and the services were billed at the old rate of \$18.68 per day per inmate; therefore, the County was requesting reimbursement for the oversight. He said that the City Council Finance Committee met on June 2, 2009 and voted to recommend the City Council consider approving the request for payment in the amount of \$2,045.02. He said that the rate was negotiated at the low rate, since the City provided the land for the Sheriff's Department. He said that the going current rate was approximately \$50.00 per day per inmate. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the additional fees for jail services in the amount of \$2,045.52. Councilmember Terry David Lynch seconded the motion. All voted in favor.

The eleventh item discussed on the agenda was to review and consider the Wharton Fire Department:

A. **Resolution:** A resolution of the Wharton City Council approving the purchase of a heavy rescue truck for the Wharton Fire Department. City Manager Andres Garza, Jr. stated that during the May 1, 2009 City Council Public Safety Committee, the Committee Members heard a presentation by Fire Chief Bobby Barnett regarding the Wharton Fire Department need to replace the medium rescue truck with a heavy rescue truck. He then presented a copy of the documentation. He said that the heavy rescue truck would be used for motor vehicle accidents, haz-mat spills and releases, fires, specialized rescue, and support. He said that the heavy rescue truck would replace the 1993 International SuperVac medium rescue truck, which ran on 95% of the calls and was the most used truck in the fleet. He said that the Wharton Fire Department (WFD) was requesting the current rescue truck be replaced with a heavy rescue truck due to the amount of equipment that was carried on the vehicle. He said that the estimated cost of the vehicle would be approximately \$530,000, which the City could secure the funding for the vehicle and the Fire Department would reimburse the City from the Fire District funds at \$50,000 for 9 years. He said that the Public Safety Committee voted to recommend the City Council consider approving the Fire Department to move forward with the acquisition of the vehicle. Assistant City Attorney Amy Rod stated that H-GAC was a state cooperative purchasing program agent;

therefore, sealed bids were not required to be obtained. Fire Chief Bobby Barnett stated that the Rescue Truck would cost approximately \$530,000 to \$560,000, which the City should receive, approximately \$50,000 from the sale of the 1993 International SuperVac rescue truck. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2009-48, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2009-48**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A CONTRACT FOR THE PURCHASE OF ONE (1) HEAVY RESCUE TRUCK THROUGH THE HOUSTON-GALVESTON AREA COUNCIL FOR THE WHARTON FIRE DEPARTMENT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, the Wharton City Council wishes to purchase one (1) heavy rescue truck for use by the Wharton Fire Department; and

WHEREAS, the Wharton City Council wishes to purchase the heavy rescue truck from Metro Fire Apparatus Specialists, Inc. through the Houston-Galveston Area Council Cooperative Purchasing Program; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton to sign all documents related to said 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 purchase the heavy rescue truck from Metro Fire Apparatus Specialists, Inc. through the Houston-Galveston Area Council Cooperative Purchasing Program for the Wharton Fire Department.

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 8th day of June 2009.

CITY OF WHARTON, TEXAS

By: _____

David W. Samuelson, Mayor

ATTEST:

Lisa Olmeda, City Secretary

