

MINUTES  
OF  
CITY OF WHARTON  
REGULAR CITY COUNCIL MEETING  
JUNE 12, 2006

Mayor Bryce D. Kocian declared a Regular Meeting duly open for the transaction of business at 7:00 P.M. Councilmember Domingo Montalvo, Jr. 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., Ken Freese, Don Mueller, and Domingo Montalvo, Jr.

Councilmember absent was: David Samuelson and Ray Linseisen.

Staff members present were: Finance Director Joyce Vasut, City Secretary Lisa Stavena, Assistant to City Manager Jackie Jansky, Planning Director Prudencio Arriaga, Sr., Police Chief Tim Guin, Community Services Director Jo Knezek, Building Official Ronnie Bollom, Public Works Director Phil Bush, Municipal Court Judge Mary Garcia, and City Attorney Paul Webb.

Visitors present were: Benjamin Sharp with Wharton Journal Spectator, David Schroeder, Lewis Fortenberry, Larry Wadler, David Allen, Andy Kirkland, James Cooper, Harry Priesmeyer, Jaron Hall, Theresa Hall, Jim Cockrell, Stephen Wasicek and Michelle Wasicek.

The seconded item on the agenda was Roll Call and Excused Absences. Councilmember V. L. Wiley, Jr. made a motion to excuse the absence of David Samuelson and Ray Linseisen from the Regular City Council Meeting held June 12, 2006. 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. Councilmember Ken Freese publicly commended the City Staff for their hard work with the Santa Fe Trail. 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 8, 2006 and May 22, 2006. After some discussion, Councilmember Don Mueller made a motion to approve the Wharton City Council minutes of the regular meetings held May 8, 2006 and May 22, 2006 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. Linda Roberts, 4031 Walters Road for City of Wharton Water Service outside the City Limits. Finance Director Joyce Vasut presented a copy of the City of Wharton application for utility service that was submitted by Ms. Linda Roberts, 4031 Walters Road, which was outside the City's limits. She stated that City Council approval was required for water service to be made available to potential customers if they lived outside the City limits. She then presented a map indicating the location of the proposed service. She stated that Ms. Roberts had paid the deposit and would need to pay the \$400 tap fee for the service. She stated that the City would bore under the road for the connection of water service. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the request by Ms. Linda Roberts, 4031 Walters Road for City of Wharton water service outside the City limits. Councilmember Don Mueller seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider the Planning Commission recommendation for the City Council to consider approving the request by Wasicek Living Trust for approval of the preliminary re-plat of Mayfair, Block 11, Lots 4 & 5. Finance Director Joyce Vasut presented a copy of the memorandum dated June 6, 2006 from Mr. A. J. Rath, Planning Commission Chairman recommending the City Council consider approving the request by Wasicek Living Trust for approval of the preliminary re-plat of Mayfair, Block 11, Lots 4 & 5. Mr. Prudencio V. Arriaga, Sr. stated that the re-platting would allow Lot 4 to be increased and Lot 5 to be decreased; however, the lots would be within the size requirements. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the request by Wasicek Living Trust for approval of the preliminary re-plat of Mayfair, Block 11, Lots 4 & 5. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider the request by Mr. David Allen for the following:

- A. City Council consideration to abandon the 10 feet easement at Chambers Business Park, Lot 2A.
- B. City Council consideration to accept a 10 feet easement partly on Chambers Business Park, Lot 2A and partly on Chambers Business Park, Lot 3.

Finance Director Joyce Vasut presented a copy of the memorandum dated June 6, 2006 from Prudencio V. Arriaga, Sr., Planning Director, regarding the request by Mr. David Allen, Chambers Business Park, Lot 2A and Lot 3. She stated that Mr. Allen was requesting that the City Council consider approving the abandonment of the existing 10 feet utility easement located on Chambers Business Park, Lot 2A. She stated that Mr. Allen was also requesting the City Council consider accepting a new 10 feet utility easement that would be partly on Chambers Business Park Lot 2A and partly on Lot 3. She then presented a copy of a map indicating the location of the existing utility easement and the proposed easement, a copy of the letter dated June 2, 2006 from Attorney Larry Wadler to City Attorney Paul Webb regarding Mr. Allen's request, a draft copy of the release of easement and a proposed easement agreement. She said that Mr. Allen was expanding his business, Radio Shack, and the relocation of the easement was necessary for the expansion. She stated that the City Staff had reviewed the request and was recommending approval. After some discussion, Councilmember Don Mueller made a motion to approve the request by Mr. David Allen for the abandonment of the 10 feet easement at Chambers Business

Park, Lot 2A and acceptance of a 10 feet easement partly on Chambers Business Park, Lot 2A and partly on Chambers Business Park, Lot 3. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider the request by the Wharton County Freedom Fest Committee for a variance from the City of Wharton Code of Ordinances, Chapter 30 Fire Prevention and Protection; Article V. Fireworks, Section 30-132 Prohibited Acts, Item 3 to allow a fireworks display to be held in Riverfront Park. Finance Director Joyce Vasut presented a copy of the letter dated June 8, 2006 from Wharton County Freedom Fest Co-Chairman David Copeland requesting the City Council consider approving the Wharton County Freedom Fest fireworks display be set up and held in Riverfront Park. She then presented a copy of a map indicating the proposed location the fireworks display would be setup, and a copy of City of Wharton Code of Ordinances, Chapter 30 Fire Prevention and Protection. She stated that Section 30-132 of the ordinance prohibited fireworks to be possessed, used, manufactured or exploded within the City limits or outside the City limits for a distance of 5,000 feet. She stated that City Council approval was required to grant a variance from the ordinance to allow the Wharton County Freedom Fest to conduct the fireworks display in Riverfront Park. She then stated that the Boling Fire Department would conduct the fireworks display on the lower level of Riverfront Park. She stated that Boling Fire Department also handled the fireworks displays in Boling. She stated that the department had experience in fireworks displays. She stated that the City of Wharton had coverage for fireworks and the City Staff would insure the coverage was in place prior to the event. Councilmember Domingo Montalvo, Jr. stated that the fireworks were classified as a 1.4 fireworks, which were not regulated by the Texas Commission on Fire Protection. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the request by the Wharton County Freedom Fest Committee for a variance from the City of Wharton Code of Ordinances, Chapter 30 Fire Prevention and Protection; Article V. Fireworks, Section 30-132 Prohibited Acts, Item 3 to allow a fireworks display to be held in Riverfront Park. Councilmember Ken Freese seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider the request by Mr. Johnnie Roberts of the Wharton Training High School Class of "58" Reunion for the following:

- A. Variance from the City of Wharton Code of Ordinances, Chapter 54 Parks and Recreation, Section 54-7, Hours for use of City Parks, Penalty for Violation to extend the parks hours in Riverfront Park from 10:00 p.m. to 12:00 Midnight.
- B. Temporary Permit for the Possession/Consumption of Alcoholic Beverages in Certain Parks. Finance Director Joyce Vasut presented a copy of the letter dated June 6, 2006 from Mr. Johnnie L. Roberts requesting City Council approval. She then presented a copy of the City of Wharton Application for Temporary Permit for possession/consumption of alcoholic beverages in certain parks. She stated that Police Chief Tim Guin had reviewed the application and his memorandum providing his recommendation was also attached, which indicated that Mr. Roberts application complied with Ordinance No. 2002-22. She then presented a copy of the City of Wharton Code of Ordinance Chapter 54 Parks and Recreation, Section 54-7 Hours for use of City parks. She stated that City Council approval was required to extend the park hours from 10:00 p.m. to 12:00 midnight. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the request by Mr. Johnnie Roberts of the Wharton Training High School Class of "58"

Reunion for a variance from the City of Wharton Code of Ordinances, Chapter 54 Parks and Recreation, Section 54-7, Hours for use of City Parks, Penalty for Violation to extend the parks hours in Riverfront Park from 10:00 p.m. to 12:00 midnight, and a temporary permit for the Possession/Consumption of Alcoholic Beverages in certain parks. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The eleventh item on the agenda was to review and consider the second reading of the City of Wharton Resolution: No. 2006-41 approving the Wharton Economic Development Corporation Resolution No. 2006-01 Expressing intent to finance road construction for new and expanding business development and to amend the 2005-2006 budget. Finance Director Joyce Vasut stated that during the special June 5, 2006 Wharton City Council meeting, the City Council approved the City of Wharton Resolution No. 2006-41. She stated that in accordance with HB 2928, the resolution must be read by the City Council during two official meetings. After some discussion, Councilmember Ken Freese made a motion to approve the second reading of the City of Wharton Resolution: No. 2006-41 approving the Wharton Economic Development Corporation Resolution No. 2006-01 Expressing intent to finance road construction for new and expanding business development and to amend the 2005-2006 budget. Councilmember V. L. Wiley, 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 amending the Wharton Regional Airport T-Hangar Lease Agreement. Finance Director Joyce Vasut stated that after further review of the T-Hangar lease agreement adopted by the City Council on February 13, 2006 under Resolution No. 2006-12, the Wharton Regional Airport Board, on May 2, 2006, voted to recommend the City Council to consider amending the Wharton Regional Airport T-Hangar Lease Agreement as presented. She stated that the Board reviewed the proposed changes with City Attorney Paul Webb who concurred with the changes. She then presented a copy of the email dated May 30, 2006 from Texas Department of Transportation (TxDOT) Aviation Division Representative Megan Caffel indicating that the proposed changes would not affect the recent changes required by the TxDOT Aviation Division. She stated that Ms. Caffel stated that the City may make the proposed changes without formal approval of TxDOT Aviation Division. City Attorney Paul Webb recommended approval of changes. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2006-43, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2006 - 43**

**A RESOLUTION OF THE WHARTON CITY COUNCIL ESTABLISHING T-HANGAR LEASE AGREEMENT FOR THE WHARTON REGIONAL AIRPORT.**

**WHEREAS,** On February 12, 2006, the Wharton City Council adopted the T-Hangar lease agreement under Resolution 2006-12, which was approved by the Texas Department of Transportation Aviation Division; and

**WHEREAS,** on May 2, 2006, the Wharton Regional Airport Board reviewed proposed changes to the Wharton Regional Airport T-Hangar lease agreement; and

**WHEREAS,** the Wharton Regional Airport Board is recommending the Wharton City Council approve the proposed changes to the T-Hangar lease agreement; and

**WHEREAS,** The Texas Department of Transportation Aviation Division had reviewed the proposed changes and has recommended the City move forward to amend the lease agreement; and

**WHEREAS,** the Wharton City Council has reviewed the proposed changes to the T-Hangar lease agreement and wishes to amend the lease agreement for the Wharton Regional Airport.

**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 establishes the Wharton Regional Airport T-Hangar lease agreement.

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

**Passed, Approved, and Adopted** this the 12<sup>th</sup> day of June 2006.

**CITY OF WHARTON**

**By:** \_\_\_\_\_  
**BRYCE D. KOCIAN**  
Mayor

**ATTEST:**

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**LISA STAVENA**

City Secretary

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

The thirteenth item on the agenda was review and consider City of Wharton HOME Investment Partnership Program Disaster Relief Grant Contract No. 1000553 and Special Needs Grant Contract No. 1000350 Administrative Management Services Proposals:

A. Proposal submitted by Love Building Systems:

B. **Resolution:** A resolution of the Wharton City Council awarding a contract for administrative management services for the Texas Department of Housing and Community Affairs, HOME Investment Partnership Program, Disaster Relief Grant Contract No. 1000553 and authorizing the Mayor of the City of Wharton to execute all documents related to the agreement.

Finance Director Joyce Vasut stated that the City of Wharton received proposals June 5<sup>th</sup> for administrative management services for the City of Wharton HOME Investment Partnership Program Disaster Relief Grant Contract No. 1000553. She then presented a copy of the memorandum dated June 7, 2006 from Community Services Director Jo Beth Knezek indicating

that the City had issued requests for proposals to five different firms; however, only one was received from Love Building Systems. She then presented a copy of the proposal submitted, a copy of the proposed agreements for each grant, and a copy of the draft resolution approving the agreement. Community Services Director Jo Knezek stated that the proposal was \$19,800 from Love Building System. After some discussion, Councilmember Don Mueller made a motion to approve Resolution No. 2006-44, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2006-44**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE ADMINISTRATIVE MANAGEMENT SERVICES CONTRACT BETWEEN THE CITY OF WHARTON AND LOVE BUILDING SYSTEMS, INC. FOR THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS HOME INVESTMENT PARTNERSHIP PROGRAM, DISASTER RELIEF GRANT CONTRACT NO. 1000553 AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO THE ADMINISTRATIVE MANAGEMENT SERVICES CONTRACT.**

**WHEREAS,** the Wharton City Council wishes to approve the administrative management services agreement between the City of Wharton and Love Building Systems, Inc. for the Texas Department of Housing and Community Affairs HOME Investment Partnership Investment Program Contract No. 1000553; and

**WHEREAS,** the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute all documents related to said lease; and

**WHEREAS,** the City of Wharton and the Love Building Systems, Inc. wishes to be bound by the conditions as set forth in the lease agreement.

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

**Section I.** That the City Council of the City of Wharton hereby approves the administrative management services agreement between the City of Wharton and Love Building Systems, Inc. for the Texas Department of Housing and Community Affairs HOME Investment Partnership Investment Program Contract No. 1000553.

**Section II.** That the City Council hereby authorizes the Mayor of the City of Wharton to execute all documents related to said agreement.

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

**Passed, Approved, and Adopted** this 12<sup>th</sup> day of June 2006.

**CITY OF WHARTON, TEXAS**

By: \_\_\_\_\_  
**BRYCE D. KOCIAN**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**LISA STAVENA**

**City Secretary**

Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

- C. **Resolution:** A resolution of the Wharton City Council awarding a contract for administrative management services for the Texas Department of Housing and Community Affairs, HOME Investment Partnership Program, Special Needs Grant Contract No. 1000350 and authorizing the Mayor of the City of Wharton to execute all documents related to the agreement.

Finance Director Joyce Vasut stated that the City of Wharton received proposals June 5<sup>th</sup> for administrative management services for the City of Wharton HOME Investment Partnership Program Disaster Relief Special Needs Grant Contract No. 1000350. She then presented a copy of the memorandum dated June 7, 2006 from Community Services Director Jo Beth Knezek indicating that the City had issued requests for proposals to five different firms; however, only one was received from Love Building Systems. She then presented a copy of the proposal submitted, a copy of the proposed agreements for each grant, and a copy of the draft resolution approving the agreement. Community Services Director Jo Knezek stated that the proposal was \$13,906 from Love Building System. After some discussion, Councilmember Don Mueller made a motion to approve Resolution No. 2006-45, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2006-45**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE ADMINISTRATIVE MANAGEMENT SERVICES CONTRACT BETWEEN THE CITY OF WHARTON AND LOVE BUILDING SYSTEMS, INC. FOR THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS HOME INVESTMENT PARTNERSHIP PROGRAM, SPECIAL NEEDS GRANT CONTRACT NO. 1000350 AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO THE ADMINISTRATIVE MANAGEMENT SERVICES CONTRACT.**

**WHEREAS,** the Wharton City Council wishes to approve the administrative management services agreement between the City of Wharton and Love Building Systems, Inc. for the Texas Department of Housing and Community Affairs HOME Investment Partnership Investment Program Contract No. 1000350; and

**WHEREAS,** the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute all documents related to said lease; and

**WHEREAS,** the City of Wharton and the Love Building Systems, Inc. wishes to be bound by the conditions as set forth in the lease agreement.

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

**Section I.** That the City Council of the City of Wharton hereby approves the administrative management services agreement between the City of Wharton and Love Building Systems, Inc. for the Texas Department of Housing and Community Affairs HOME Investment Partnership Investment Program Contract No. 1000350.

**Section II.** That the City Council hereby authorizes the Mayor of the City of Wharton to execute all documents related to said agreement.

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

**Passed, Approved, and Adopted** this 12<sup>th</sup> day of June 2006.

**CITY OF WHARTON, TEXAS**

**By:** \_\_\_\_\_  
**BRYCE D. KOCIAN**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**LISA STAVENA**

City Secretary

Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The fourteenth item on the agenda was review and consider the emergency repairs to the Wastewater Treatment Plant No. 1 skimmer on the clarifier. Finance Director Joyce Vasut stated that on Thursday, June 8, 2006, Public Works Director Phil Bush advised City Manager Andres Garza, Jr. that the skimmer on the clarifier of Wastewater Treatment Plant No. 1 experienced a breakdown. She stated that Mr. Garza had instructed Phillip Bush to contact the necessary company to begin repairs of the skimmer. She stated that the plant must be repaired immediately to insure compliance with the State discharge permit. She stated that as of this date, the City does not have an estimated cost of the repairs. She stated that the City Staff was seeking City Council authorization for emergency repairs and that said repairs be declared an emergency purchase. Public Works Director Phil Bush stated that the clarifier was built in the 1970's and rebuilt in 1988. He stated that to repair the system, the parts would arrive in two to three weeks; however a new skimmer on the clarifier could be shipped and in operation in approximately one week. He stated that the estimated cost was \$50,000 - \$60,000. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the emergency repairs to the Wastewater

