

**MINUTES  
OF  
CITY OF WHARTON  
REGULAR CITY COUNCIL MEETING  
JUNE 23, 2008**

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 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, Assistant to City Manager Jackie Jansky, Public Works Director Carter Miska and Assistant City Attorney Amy Rod.

Visitors present were: David Schroeder with Wharton Economic Development Corporation, Carlos Cotton with Jones & Carter, and Bruce Williams.

The third item on the agenda was Public Comments. Mr. Bruce Williams addressed the City Council and stated that he was the President of the Arc of Wharton, which owned Rags to Riches Resale Shop. He stated that clothes and furniture donations were received from citizens. He stated that some of the furniture received was in bad shape and could not be sold. He stated that currently Waste Management was charging \$230.00 for a trailer load of sofas and since they were a non-profit, the cost could not be borne by the Arc of Wharton. He requested assistance from the City of Wharton. He then commended City Manager Andres Garza, Jr. for providing dirt for a garden to be planted by the staff and clients of the Arc of Wharton. No action was taken.

The fourth item on the agenda was Wharton Moment. Councilmember Ken Freese stated that the Freedom Festival would be held June 27-28, 2008. He stated that the Bar-B-Que Cook-off was scheduled on Friday, June 27, 2008 and on Saturday, June 28, 2008 the Car Show was scheduled from 12:00 – 3:00 p.m., the Veteran's Salute at 6:00 p.m., Reception 6:00 – 7:00 p.m., and the Fireworks at 9:30 p.m.

Mayor David W. Samuelson stated that the Emergency Expo was scheduled on Tuesday, June 24, 2008 at the Civic Center from 2:00 – 7:00 p.m.

Councilmember Lewis Fortenberry, Jr. stated that U.M. Army participated in repairing properties in the City of Wharton. He commended them for a good job. He stated that the U.M. Army participants raised the money needed for the projects themselves and was spent on community projects. 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 May 2008. Finance Director Joyce Vasut presented the financial report for the month of May 2008 and stated that the fiscal year was at 65%. Mrs. Vasut stated that the general fund revenues were at 72.83% and the expenditures were at 64.50%. The total ad valorem taxes collected were \$1,840,840. The sales tax for the month of April 2008 was \$125,933 with \$83,956 to the City and \$41,978 to WEDC. The Franklin bank balance for May 2008 was \$1,660,244.64 with an average monthly yield of 2.0%. TexPool balance for May 2008 was \$495,387.23 with an average monthly yield of 2.2812%. After some discussion, Councilmember Don Mueller made a motion to approve the City of Wharton Financial Report for the month of May 2008. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The sixth item discussed on the agenda was the request by the City Staff to ratify waiving the building permit fees associated with the United Methodist Youth Action Reach-out Mission held by the U.M. Army June 13, 2008 – June 21, 2008. City Manager Andres Garza, Jr. presented a copy of the letter dated June 12, 2008, which was received on June 17, 2008, from Mr. Tiffin Wilsford, Director of youth ministries for the St. Paul United Methodist Church in Houston, Texas, providing information regarding the United Methodist Youth Action Reach-out Mission (U.M. Army) that was being held in the City of Wharton June 13, 2008 and June 21, 2008. He stated that each year, the U.M. Army provided assistance to local residents by conducting home repairs to those who could not do the work themselves. He said that the home repairs included wheelchair ramps, handrails, painting and yard work. He said that the UM Army did not charge residents for their services. He said that the City Staff had waived the building permit fees, which had been waived by the City Council in the past. He said that since the project began prior to City notification, the City Staff was seeking ratification by the City Council for the waiving of the fees. After some discussion, Ken Freese made a motion to ratify waiving the building permit fees associated with the United Methodist Youth Action Reach-out Mission held by the U.M. Army June 13, 2008 – June 21, 2008. Councilmember Don Mueller seconded the motion. All voted in favor.

The seventh item discussed on the agenda was to review and consider the City Council authorization to purchase items from Select Imports and Tec-Tronics for the Wharton Regional Airport Terminal Building Upgrade Project. City Manager Andres Garza, Jr. stated that Airport Manager David Allen was requesting City Council authorization to purchase items from Select Imports and Tec-Tronics for the Wharton Regional Airport Terminal Building Upgrade Project. He then presented a copy of the list of items provided by Mr. Allen. He said that Mr. Allen was seeking City Council authorization because the owners of the business were his relatives and he was a City of Wharton Department Head. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve authorization to purchase items from Select Imports and Tec-Tronics for the Wharton Regional Airport Terminal Building Upgrade Project. Councilmember V. L. Wiley, Jr. 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 ratifying the execution of the First Amendment to Electric Sales Agreement between the City of Wharton and Texas General Land Office (GLO) by City Manager Andres Garza, Jr. City Manager Andres Garza, Jr. stated that during the May 12, 2008 regular Wharton City Council,

the City Council authorized the execution of the electric sales agreement by City Manager Andres Garza, Jr. He then presented a copy of the Resolution No. 2008-30 authorizing the City Manager to execute the agreement. He said that the City of Wharton's contract with Reliant Energy General Land Office (GLO) would expire on June 30<sup>th</sup>. He said that the City Staff worked with the Governmental Aggregation Project, Inc. (GAP), the political subdivision that the City of Wharton helped form, and sought bids for electric service. He stated that the GAP consisted of approximately eight to ten member cities and formed the aggregate to buy electricity. He said that the City's current contract was through the Texas General Land Office (GLO) and the City was paying approximately \$0.08 to \$0.09 per kWh. He said that the City had been locked into the rate for three years and the three year period would expire June 30<sup>th</sup>. He said that the City, through the GAP, sought indicative bids and on June 11<sup>th</sup>, the amendment was executed to the existing contract the City had with GLO. He then presented a copy of the contract and the bids received. He said that the City of Wharton would experience at least a 50% increase in electric rates. He said that he was requesting the City Council to ratify the execution of the agreement. He then presented a draft resolution ratifying the agreement. After some discussion, Councilmember Jeff Gubbels made a motion to approve Resolution No. 2008-38, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2008-38**

**A RESOLUTION OF THE WHARTON CITY COUNCIL RATIFYING THE EXECUTION OF THE ELECTRIC SALES AGREEMENT BETWEEN THE CITY OF WHARTON AND THE TEXAS GENERAL LAND OFFICE (GLO) BY CITY MANAGER ANDRES GARZA, JR.**

**WHEREAS,** the City of Wharton as a member of the Governmental Aggregation Project (GACP) requested bids for electric services on Tuesday, June 10, 2008; and

**WHEREAS,** on June 11, 2008, the City of Wharton received the recommended contract provided by the Texas General Land Office to provide electric service to the GAP; and

**WHEREAS,** the Wharton City Council authorized the City Manager to execute the recommended contract for electric service to be provided to the City of Wharton; and

**WHEREAS,** the Wharton City Council wishes to ratify the execution of the first amendment to the electric sales agreement signed by City Manager Andres Garza, Jr. with the Texas General Land Office (GLO).

**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 ratifies ratify the execution of the electric sales agreement signed by City Manager Andres Garza, Jr. with the Texas General Land Office (GLO).

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

**Passed, Approved, and Adopted** this 23<sup>rd</sup> day of June 2008.

**CITY OF WHARTON, TEXAS**

**By:**

---

**DAVID W. SAMUELSON**

Mayor

**ATTEST:**

---

**LISA OLMEDA**

City Secretary

Councilmember Lewis Fortenberry, Jr. 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 professional engineering services agreement between the City of Wharton and Jones & Carter, Inc. for the Valhalla Water Well Emergency Rework Project and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. stated that during the April 14, 2008 regular Wharton City Council meeting, the City Council authorized the repairs required for the Valhalla Water Well be declared an emergency. He said that during the May 7, 2008, the City Council meeting, the City Council approved to award the contract to conduct the work to Alsay Incorporated. He said that the City Staff had been working closely with Mr. Carlos Cotton, P.E. of Jones & Carter, Inc. to provide professional engineering services for the determination concerning the water well and Jones & Carter, Inc. continued to offer their services on this project. He stated that he was requesting City Council approval of a formal professional engineering services agreement between the City of Wharton and Jones & Carter, Inc. He then presented a copy of the agreement and a draft resolution approving the agreement. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2008-39, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2008-39**

**A RESOLUTION APPROVING A PROFESSIONAL ENGINEERING SERVICES AGREEMENT BETWEEN JONES & CARTER, INC. AND THE CITY OF WHARTON FOR THE SANTA FE DRAINAGE OUTFALL PROJECT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID CONTRACT.**

**WHEREAS,** the Wharton City Council wishes to construct the Santa Fe Drainage Outfall to alleviate flooding in the City; and

**WHEREAS,** the Wharton City Council wishes to engage the professional engineering services of Jones & Carter, Inc. Consulting Engineers to develop the drawings and specifications to construct the outfall; and

**WHEREAS,** the City of Wharton and Jones & Carter, Inc. Consulting Engineers wish 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 to execute a professional engineering services agreement with Jones & Carter, Inc. for the construction of the Santa Fe Drainage Outfall.

**Section II.** That the City of Wharton and Jones & Carter, Inc. Consulting Engineers 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 25<sup>th</sup> day of July 2005.

**CITY OF WHARTON, TEXAS**

**By:** \_\_\_\_\_

**DAVID W. SAMUELSON**

Mayor

**ATTEST:**

\_\_\_\_\_  
**LISA OLMEDA**

City Secretary

Councilmember Lewis Fortenberry, Jr. 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 authorizing the Mayor of the City of Wharton to execute the deed selling the City of Wharton property located at Wharton, Block 3, Lots 3A and 3B (101 West Burluson) to Shmendrick Investments, L.L.C. City Manager Andres Garza, Jr. stated that during the regular November 12, 2007 Wharton City Council meeting, the City Council approved the Resolution No. 2007-98 authorizing the execution of the Commercial Improved Property Earnest Money Contract with Shmendrick Investments, L.L.C. for the sale of the City of Wharton property located at Wharton, Block 3, Lots 3A and 3B (101 West Burluson), which had been the home of the Wharton Police Department and Municipal Court Facilities. He said that since the new Police Department/Municipal Court Facility was nearing completion and the Departments were in the moving stage, the City of Wharton was ready to move forward with the closing of the property's purchase. He then presented a draft resolution authorizing the Mayor of the City of Wharton to execute the deed selling the City of Wharton property located at Wharton, Block 3, Lots 3A and 3B (101 West Burluson) to Shmendrick Investments, L.L.C. He stated that the closing was

scheduled for June 26, 2008. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2008-40, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2008 - 40**

**A RESOLUTION OF THE WHARTON CITY COUNCIL THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE DEED SELLING THE CITY OF WHARTON LOCATED AT WHARTON, BLOCK 3, LOTS 3A AND 3B (101 WEST BURLESON STREET) TO SHMENDRICK INVESTMENTS, L.L.C.**

**WHEREAS,** On June 25, 2007, the Wharton City Council determined that there was a need to declare the City of Wharton property located at 101 West Burleson Street, Wharton Block 3, Lot 3A and 3B as surplus property; and

**WHEREAS,** On August 20, 2007, the Wharton City Council authorized the City Manager to sell the City surplus property located at 101 West Burleson Street; Wharton, Block 3, Lots 3A and 3B through public auction; and

**WHEREAS,** On November 6, 2007, the City of Wharton Public Auction held to sell the City surplus property located at 101 West Burleson Street; Wharton, Block 3, Lots 3A and 3B through public auction; and

**WHEREAS,** Shmendrick Investments, LLC was the highest bidder in the amount of \$130,000.00 for the purchase of said property during the November 6, 2007 public auction and the City Council entered into a Commercial Improved Property Earnest Money Contract with Shmendrick Investments, LLC for the sale of the property; and

**WHEREAS,** The Wharton City Council hereby wishes to authorize the Mayor of the City of Wharton to execute the deed selling the property to Shmendrick Investments, LLC; and

**WHEREAS,** this resolution is passed in accordance with this bid.

**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 wishes to authorizes the Mayor of the City of Wharton to execute all documents related to the sale of the property located at 101 West Burleson Street; Wharton, Block 3, Lots 3A and 3B, and deeding said property to Shmendrick Investments, L.L.C.

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

**Passed, Approved, and Adopted** this 23<sup>rd</sup> of June 2008.

**CITY OF WHARTON, TEXAS**

**By:**

---

**DAVID W. SAMUELSON**

Mayor

**ATTEST:**

---

**LISA OLMEDA**

City Secretary

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

The eleventh item on the agenda was to review and consider the City of Wharton City Council Boards, Commissions, and Committees:

- A. Wharton Regional Airport Board.
  - 1. Appointment of Mr. Mark Hanson.
  - 2. Recommendation to fill vacant position.
- B. Beautification Commission.
- C. Holiday Light Decorating Chairman.
- D. Mayor's Committee on People with Disabilities.
  - 1. City Council acceptance of the resignation of Dr. Clark G. Spears.
  - 2. Recommendation to fill vacant position.
- E. Youth Advisory Commission.

City Manager Andres Garza, Jr. presented a copy of the updated list of the City of Wharton Boards, Commission's and Committees. He said that groups currently had vacant positions that needed to be filled. He then presented a copy of the letter the City of Wharton received June 16, 2008 from Dr. Clark G. Spears resigning his position on the Mayor's Committee on People with Disabilities for an unexpired term ending June 30, 2010. He said that City Council acceptance of his resignation was required. He stated that Mr. Mark Hanson had indicated that he would be willing to serve on the Wharton Regional Airport Board, which City Council approval was requested. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the appointment of Mr. Mark Hanson to the Wharton Regional Airport Board. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

After some discussion, Councilmember Lewis Fortenberry, Jr. made a motion to appoint Mrs. Mary Nell Wiley to the Beautification Commission. Councilmember Ken Freese seconded the motion. All voted in favor.

After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to accept the resignation of Dr. Clark G. Spears and approve the appointment of Mr. Bruce Williams to the Mayor's Committee on People with Disabilities. Councilmember Don Mueller seconded the motion. All voted in favor.

The twelfth item on the agenda was to review and consider an update on the City of Wharton on-going projects. City Manager Andres Garza, Jr. presented the memorandum dated June 23, 2008, which read as follows:

**FLOOD REDUCTION (LEVEE) PROJECT**

The U.S. Army Corp of Engineers Lower Colorado River Phase I Report - City of Wharton Flood Prevention Project and Recommended report was located at the Wharton County Library and the office of the City of Wharton City Secretary for viewing or the report may be viewed on line at <http://www.swf.usace.army.mil/pubdata/notices/LowerColorado/>.

The project was continuing to move forward. In regards to the pre-construction, engineering and design (PED) aspect of the project, the LCRA Board had approved their continuing as sponsor of the PED. The Corp had approved the necessary agreements to continue the work. The agreement with LCRA for the PED had been executed by both entities. The \$200,000.00 available in the USCOE budget for FY 2007 had been allocated to the Wharton Project. The City had been informed that the PED had received an additional \$158,000.00 in the 2008 appropriation bill that would increase the City of Wharton's allocation.

The project was moving forward with the allocated funds being used to develop a final design on the sump areas. Also, the aerial survey of the levee alignment was being undertaken to determine the exact location of the levee. LCRA, Travis County and the City of Austin had continued their efforts in Washington D.C. to seek the funding needed for construction.

**DRAINAGE:**

1. Santa Fe Outfall Channel.

The Public Works Department and Wharton County Precinct No. 1 had dug approximately 7,400 feet of ditch and slopes. The work would continue weather permitting.

**WATER/SEWER IMPROVEMENTS:**

1. Wharton Industrial Park Sanitary Pump Station.

The Public Works Department was conducting final clean up efforts in and around the project area. The Public Works Department was also in the process of conducting drainage improvements around the lift station. The lift station would be tested in the next few weeks.

2. Sanitary Sewer Lines.

Matula and Matula had cleaned up the site along Circle Drive. The replacement of the concrete alleyway was scheduled for next week.

3. Ahldag Addition Sanitary Sewer Project.

The City had been awarded the grant from the Office of Rural Community Affairs in the amount of \$350,000 to conduct this project. The contract should be submitted to the City in July for execution. The City would match the ORCA funding with \$70,000 for a \$420,000 total project.

4. Vahalla Water Well.

The well pump had been pulled and inspected by Alsay. Alsay had provided an inspection report, which would be reviewed by the City Council Finance Committee and Public Works Committee next week.

**STREET IMPROVEMENTS**

1. Road Extension Project between FM 1301 and County Road 235.

Jones & Carter, Inc. was reviewing the plans to replace the existing bridges. Mr. Allen Pepper of KCS indicated a meeting with City Staff would be scheduled to discuss the various crossing issues and the possibility of assistance in constructing an overpass for FM 1301.

