

MINUTES  
OF  
CITY OF WHARTON  
REGULAR CITY COUNCIL MEETING  
JUNE 26, 2006

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

Councilmember absent was: Ray Linseisen.

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., Municipal Court Associate Judge Mary Garcia, and Assistant City Attorney Amy Rod.

Visitors present were: Ben Sharp with Wharton Journal Spectator, David Schroeder with Wharton Economic Development Corporation, Lewis Fortenberry, Merrell "Doc" Barfield, Jr., Stephen Wasicek, Michelle Wasicek, Keith Broyles, Glenn Pourteau.

The second item on the agenda was Roll Call and Excused Absences. After some discussion, Councilmember David Samuelson made a motion to excuse the absence of Councilmember Ray Linseisen from the Regular City Council meeting held June 26, 2006. Councilmember Ken Freese seconded the motion. All voted in favor.

The third item on the agenda was Public Comments. Merrell "Doc" Barfield, Jr. addressed the City Council regarding the Bagley Pecan Warehouse. He stated that he was on the Beautification Commission when the recommendation was made for improvements to the Bagley Pecan Warehouse. He stated that with the placement of the fountain, the Santa Fe Trail would be utilized more. He stated that part of the building should be removed in order to see oncoming traffic.

Lewis Fortenberry addressed the City Council regarding the Freedom Fest. He publicly commended the Police Department and the Facilities Maintenance Department for their contributions toward the festival. No action was taken.

The fourth item on the agenda was the Wharton Moment. Councilmember Ken Freese publicly commended Lewis Fortenberry and all the volunteers for their contributions towards the Freedom

Festival. He stated that everything was wonderful and that he looked forward to next year's event.

Councilmember David Samuelson publicly commended the Farmer's Market for being a great success. He then stated that the Habitat for Humanity would be holding a dedication for the first home on Sheppard Street on July 9, 2006 at 3:00 p.m. and invited all to attend. He stated that refreshments would be served, then a program and a tour of the home. He stated that the closing would occur the following week and then the homeowners would be moving in. He stated that 200 - 300 people were involved in this project and publicly thanked them for their time and dedication to the project. He stated that this project was a cooperative effort with the City.

Mayor Bryce D. Kocian declared UM Army week beginning June 25 and ending July 1, 2006. Keith Broyles addressed the City Council and stated that the youth and adults were staying at the United Methodist Church, which they were repairing porches, building wheelchair ramps, steps, railings, repair roofs and provide painting for people in need of assistance in the Wharton area. He then stated that Glenn Pourteau was overseeing the projects and if anyone needed assistance to contact the United Methodist Church. Mayor Bryce D. Kocian stated that UM Army was accepting donations, which would be used for additional projects in the City of Wharton. No action was taken.

The fifth item on the agenda was to review and consider City of Wharton financial report for the month of April 2006. Finance Director Joyce Vasut presented the financial report for the month of May 2006 and stated that the fiscal year was at 66%. Mrs. Vasut stated that the general fund revenues were at 74.30% and the expenditures were at 67.95%. The total ad valorem taxes collected were \$1,755,403. The sales tax for the month of April 2006 was \$147,933 with \$98,622 to the City and \$49,311 to WEDCo. The TexPool balance for May 2006 was \$1,492,685.14 with an average monthly yield of 4.9024%. After some discussion, Councilmember David Samuelson made a motion to approve the City of Wharton Financial Report for the month of May 2006. Councilmember V. L. Wiley, Jr. 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 approval of the request by Wasicek Living Trust for the final re-plat of Mayfair, Block 11, Lots 4 & 5. City Manager Andres Garza, Jr. presented a copy of the memorandum dated June 20, 2006 from Vice-Chairman Mike Wootton recommending the City Council approve the request by Wasicek Living Trust of the final re-plat of Mayfair, Block 11, Lots 4 & 5. Planning Director Prudencio V. Arriaga, Sr. stated that the final was the same as the preliminary plat. After some discussion, Councilmember Ken Freese made a motion to approve the request by Wasicek Living Trust for the final re-plat of Mayfair, Block 11, Lots 4 & 5. Councilmember David Samuelson seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider the requests for City Council approval of the Temporary Permit for the Consumption/Possession of Alcoholic Beverages in City Parks by the following:

- A. Ms. Gay Lynn Williams for a Family Reunion to be held at the Central Pavilion, Riverfront Park, August 5, 2006 from 3:00 p.m. until 9:30 p.m.

City Manager Andres Garza, Jr. presented a copy of the application submitted by Ms. Gay Lynn Williams requesting approval of the City of Wharton temporary permit for the consumption/possession of alcoholic beverages in City Parks for a family reunion to be held August 5, 2006 from 3:00 p.m. until 9:30 p.m. He stated that the family reunion would be held at the Riverfront Park Central Pavilion. He then presented a copy of the memorandum dated June 1, 2006 from Police Chief Tim Guin, which indicated the application complied with the City of Wharton Ordinance No. 2002-22. Mr. Garza stated that the City Staff would be recommending amending the ordinance to reflect a fee for residents not residing in the city limits for use of city parks. Councilmember Domingo Montalvo, Jr. also requested that the City Staff also address security at the parks during events. After some discussion, Councilmember David Samuelson made a motion to approve the Temporary Permit for the Consumption/Possession of Alcoholic Beverages in City Parks by Ms. Gay Lynn Williams for a Family Reunion to be held at the Central Pavilion, Riverfront Park, August 5, 2006 from 3:00 p.m. until 9:30 p.m. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

B. Ms. Betty Harris for a Family Reunion to be held at the Central Pavilion, Riverfront Park, September 2, 2006 from 9:00 a.m. until 10:00 p.m.

City Manager Andres Garza, Jr. presented a copy of the application submitted by Ms. Betty Harris requesting approval of the City of Wharton temporary permit for the consumption/possession of alcoholic beverages in City Parks for a family reunion to be held September 2, 2006 from 9:00 a.m. until 10:00 p.m. He stated that the family reunion would be held at the Riverfront Park Central Pavilion. He then presented a copy of the memorandum dated June 1, 2006 from Police Chief Tim Guin, which indicated the application complied with the City of Wharton Ordinance No. 2002-22. After some discussion, Councilmember David Samuelson made a motion to approve the Temporary Permit for the Consumption/Possession of Alcoholic Beverages in City Parks by Ms. Betty Harris for a Family Reunion to be held at the Central Pavilion, Riverfront Park, September 2, 2006 from 9:00 a.m. until 10:00 p.m. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider the notification to Bagley Pecan Warehouse regarding beautification efforts. City Manager Andres Garza, Jr. stated that during the February 13, 2006 Wharton City Council meeting, the City Council authorized him to notify Mr. Roy Gene Bagley, owner of the Bagley Pecan Warehouse regarding the proposed improvements suggested by the Beautification Commission. He then presented a copy of the letter dated February 18, 2005 from the Beautification Commission regarding their proposed improvements for the Bagley Pecan building. He also presented a copy of the letter dated February 15, 2006 to Mr. Bagley informing him of the proposed improvements being requested from the Beautification Commission. He further presented a copy of the letter dated April 12, 2006 from Mr. Bagley regarding the improvements he would be willing to make to the building. He stated that Mr. Bagley further indicated in his letter that the surrendering of any space currently used in the building would prevent the business from operating at its current capacity and removal of any of the space would create a burden and expense to the business. Mr. Garza then presented a copy of the letter dated May 2, 2006 to Mr. Fortenberry, Chairman of the Beautification Commission requesting the Beautification Commission consider Mr. Bagley's proposal. He stated that the Beautification Commission was now requesting the City Council consider the proposal made by

Mr. Bagley. He stated that he had spoke to Mr. Pete Smith, Bagley's Representative, and they were awaiting a response from the City. He said that the improvements they were willing to make were much less than what had been requested by the City. He stated that he was recommending a year to year lease be considered instead of a five-(5) year lease. He then stated that regarding the use of City equipment, he had told Mr. Smith that it would be rather difficult for the City to authorize such use since this was private property (building) improvements. Mr. Smith addressed the City Council and stated that Bagley Pecan had been in business since 1938. He stated that Merrell "Doc" Barfield, Jr. contacted Bagley Pecan in prior years to paint a mural in the building, which Bagley Pecan painted the building in order for that to take place. He requested that the City Council approve the contract for six years, which would bring \$18,000 of revenue to the City, then the City could acquire the building. He stated that by removing part of the building as requested by the Beautification Commission, the business would lose 50,000 pounds of pecan storage space. He stated that Bagley Pecan Warehouse was willing to do the improvements as stated in their April 12, 2006 letter. After some discussion, Councilmember Don Mueller made a motion to accept the conditions presented by Bagley Pecan Warehouse on their Arpirl 12, 2006 letter. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider the Wharton Regional Airport Improvement Projects:

- A. **Resolution:** A resolution of the Wharton City Council approving an Airport Participation Agreement (APPA) Contract No. 6XXAV106 between the City of Wharton and the Texas Department of Transportation Aviation Division for the Wharton Regional Airport engineering, design and construction services to construct a hangar facility and authorizing the Mayor of the City of Wharton to execute all documents related to the agreements.

City Manager Andres Garza, Jr. presented a copy of the letter dated June 9, 2006 from Mr. David S. Fulton, Director of the Texas Department of Transportation (TxDOT) Aviation Division providing the City of Wharton with the Airport Project Participation Agreement (APPA) for the Wharton Regional Airport hangar construction project. He then presented a draft copy of the resolution approving the agreement and authorizing Mayor Bryce D. Kocian to execute the agreements. After some discussion, Councilmember David Samuelson made a motion to approve Resolution No. 2006-50, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2006 - 50**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN AIRPORT PARTICIPATION AGREEMENT (APPA) CONTRACT NO. 6XXAV106 BETWEEN THE CITY OF WHARTON AND THE TEXAS DEPARTMENT OF TRANSPORTATION AVIATION DIVISION FOR THE WHARTON REGIONAL AIRPORT ENGINEERING, DESIGN AND CONSTRUCTION SERVICES TO CONSTRUCT A HANGAR FACILITY AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO THE AGREEMENTS.**

**WHEREAS,** the City of Wharton was awarded Contract No. 6XXAV106 by the State of Texas, acting through the Texas Department of Transportation; and

**WHEREAS,** the Wharton City Council wishes to establish the Texas Department of Transportation Airport Project Participation Agreement Contract No. 6XXAV106 between the State of Texas, acting through the Texas Department of Transportation and the City of Wharton for the Wharton Regional Airport – Hangar Facility Project; and

**WHEREAS,** the Wharton City Council wishes to authorize the Mayor of the City of Wharton, Texas, to execute all documents relating to said contract; and

**WHEREAS,** this resolution is passed in accordance with said proposal.

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

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

Section II: That this resolution shall be come effective immediately upon its passage.

**Passed, Approved, and Adopted** this 26<sup>th</sup> of June 2006.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

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**LISA STAVENA**  
City Secretary

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

B. **Resolution:** A resolution of the Wharton City Council approving an Airport Participation Agreement (APPA) Contract No.6XXAV118 between the City of Wharton and the Texas Department of Transportation Aviation Division for the Wharton Regional Airport engineering, design and construction services for drainage improvements and installation of runway edge identifier lights and authorizing the Mayor of the City of Wharton to execute all documents related to the agreements.

City Manager Andres Garza, Jr. presented a copy of the letter dated June 9, 2006 from Mr. David S. Fulton, Director of the Texas Department of Transportation (TxDOT) Aviation Division providing the City of Wharton with the Airport Project Participation Agreement (APPA) for the Wharton Regional Airport drainage improvement and installation of runway edge identifier lights projects. He then presented a draft copy of the resolution approving the agreement and authorizing Mayor Bryce D. Kocian to execute the agreements. After some discussion,

Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2006-51, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2006 - 51**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN AIRPORT PARTICIPATION AGREEMENT (APPA) CONTRACT NO. 6XXAV118 BETWEEN THE CITY OF WHARTON AND THE TEXAS DEPARTMENT OF TRANSPORTATION AVIATION DIVISION FOR THE WHARTON REGIONAL AIRPORT ENGINEERING, DESIGN AND CONSTRUCTION SERVICES FOR DRAINAGE IMPROVEMENTS AND INSTALLATION OF RUNWAY EDGE IDENTIFIER LIGHTS AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO THE AGREEMENTS.**

**WHEREAS,** the City of Wharton was awarded Contract No. 6XXAV118 by the State of Texas, acting through the Texas Department of Transportation; and

**WHEREAS,** the Wharton City Council wishes to establish the Texas Department of Transportation Airport Project Participation Agreement Contract No. 6XXAV118 between the State of Texas, acting through the Texas Department of Transportation and the City of Wharton for the Wharton Regional Airport – drainage improvements and installation of runway edge identifier lights projects; and

**WHEREAS,** the Wharton City Council wishes to authorize the Mayor of the City of Wharton, Texas, to execute all documents relating to said contract; and

**WHEREAS,** this resolution is passed in accordance with said proposal.

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

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

Section II: That this resolution shall be come effective immediately upon its passage.

**Passed, Approved, and Adopted** this 26<sup>th</sup> of June 2006.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

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**LISA STAVENA**

City Secretary

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

C. City Council approval of the preliminary architectural/engineering design of the proposed Wharton Regional Airport Terminal Building.

City Manager Andres Garza, Jr. stated that the Wharton Regional Airport Board met June 20, 2006 and was recommending the City Council approve the preliminary design plans and specifications for the construction of the new terminal building. He stated that TxDOT Aviation Division Project Manager Mr. James Greer had indicated that formal action by the City of Wharton was necessary in regards to submitting the plans and specification for the proposed building to the State. He then presented a copy of the design plans that were submitted to Mr. Greer by Stern & Bucek Architect Mr. David Bucek. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the preliminary architectural/engineering design of the proposed Wharton Regional Airport Terminal Building. Councilmember David Samuelson seconded the motion. All voted in favor.

**D. Resolution:** A resolution of the Wharton City Council approving a contract between the Texas Department of Transportation Aviation Division and the City of Wharton for the 2006 Routine Airport Maintenance Program and authorizing the Mayor of the City of Wharton to execute all documents related to the said contract.

City Manager Andres Garza, Jr. stated that during the June 20, 2006 special Wharton Regional Airport Board meeting, the Airport Board recommended the City Council approve a contract with the Texas Department of Transportation Aviation Division for the 2006 Routine Airport Maintenance Program (RAMP). He stated that the projects to be included in the program would consist of utility improvements, fees for the Spills Prevention Control and Countermeasures Plan, parking lot and road improvements. He said that these projects should be conducted prior to the larger improvements that would be taking place at the airport, which included the construction of the terminal building and the new hangar facility. He then presented a copy draft resolution approving the contract and projects. He stated that the state budget was from September 1<sup>st</sup> to August 31<sup>st</sup>, and that \$28,000 was remaining from the grant. After some discussion, Councilmember Don Mueller made a motion to approve Resolution No. 2006-52, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2006 - 52**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A CONTRACT BETWEEN THE TEXAS DEPARTMENT OF TRANSPORTATION AVIATION DIVISION AND THE CITY OF WHARTON FOR THE 2006 ROUTINE AIRPORT MAINTENANCE PROGRAM AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID CONTRACT.**

**WHEREAS,** the Wharton City Council wishes to participate in the 2006 Texas Department of Transportation Aviation Division Routine Airport Maintenance Program; and

**WHEREAS,** the Wharton City Council wishes to include utility improvements, fees for the development of the Spill Prevention Control and Countermeasures Plan, parking lot and road improvements for the Wharton Regional Airport in the 2006 Routine Airport Maintenance Grant Program; and

**WHEREAS,** the Wharton City Council wishes to enter into a contract between the Texas Department of Transportation – Aviation Division for the 2006 Routine Airport Maintenance Program; and

**WHEREAS,** the Wharton City Council and the Texas Department of Transportation – Aviation Division wishes to be bound by the terms of the agreement; and

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

**WHEREAS,** this resolution shall become effective immediately after its passage; and

**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 contract between the Texas Department of Transportation Aviation Division for the 2006 Routine Airport Maintenance Program.

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

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

**Passed, Approved, and Adopted** this 26<sup>th</sup> of June 2006.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

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**LISA STAVENA**  
City Secretary

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

The tenth item on the agenda was Executive Session: City Council may adjourn into an Executive Session in accordance with Section 551.072 and Section 551.074 of the Government Code, Revised Civil Statutes of Texas. Final action, decision or vote, if any with regard to any matter considered in Executive Session shall be made in Open Meeting:

A. Discussion: Acquisition of real estate from Josef’s Farm, Inc. for the Santa Fe Drainage Outfall Channel Project.

