

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
JUNE 9, 2008**

Mayor David W. Samuelson 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 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, Assistant to City Manager Jackie Jansky, Police Chief Tim Guin, Municipal Court Judge Mary Garcia, Public Works Director Carter Miska, and City Attorney Paul Webb.

Visitors present were: Ben Sharp with Wharton Journal Spectator, David Schroeder with Wharton Economic Development Corporation, Carlos Cotton, Ray Linseisen, Billie Jones, George Gray, Jim Faetche, Tylene Gamble, Richard Arnold, Joe Mask, Ronnie Smith, Chandra Longoria, Philip Longoria, Malvin Donny, Ben Haltom, and Bruce Williams.

The third item on the agenda was Public Comments. Mr. Joe Mask addressed the City Council regarding the sale of surplus property located at Pecan Valley. He stated that the sale of the surplus property would cause safety issues with people parking on the street. He stated that as a resident of the community, he requested the property to remain public property.

Mr. Ronnie Smith addressed the City Council and stated that the parking lot was used by citizens and community organizations. He stated that tourism would be affected. He stated that each weekend, there could be up to ten vehicles parking in the parking lot.

Mr. Jim Faetche addressed the City Council and stated that the public swimming pool needed a cover on the pool and also solar heating in order to have the pool utilized year round.

Ms. Billie Jones address the City Council and stated that she and others were proud of the Wharton Economic Development Corporation (WEDC) and was pleased of what has been accomplished. She stated that the Wharton Industrial Foundation was created twenty-five years prior to the creation of WEDC. She stated that funds were received from citizens. She stated that WEDC was founded after being formally approved through the election process. She stated that WEDC had a seven member board with two members from the City Council. She stated that the terms were for a two year period with a maximum of six years. She stated that she serves on the Advisory Committee. She stated that three members were taken off the WEDC board. She stated

that she felt that these members were not treated right. She stated that one of the members, Scott Chambers was a business owner and that was the type of person that was needed on the board. She stated that WEDC funds did not belong to the City, that the funds were the taxpayers in order to boost the economy. She stated that the City Council took advantage since the editor of the Wharton Journal Spectator was not present. She stated that she felt that this action was planned and questioned the ethics of the Councilmembers. No action was taken.

The fourth item on the agenda was Wharton Moment. Councilmember Ken Freese stated that the Texas A&M Girls Softball won second place in the NCAA Women's World Series. He stated that Ms. Jaime Lobpries, a Whartonian, performed well. He also congratulated all 2008 graduates, as well as Andres Garza, Jr.'s son, Andres Garza, III and Ronnie Bollom's daughter, Kayla Bollom. Councilmember Don Mueller stated that the nine year old Baseball Team was in the finals and public congratulated them for their hard work and dedication. 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 12, 2008 and May 27, 2008 and the special meeting held May 19, 2008. After some discussion, Councilmember Don Mueller made a motion to approve the Wharton City Council minutes of the regular meetings held May 12, 2008 and May 27, 2008 and the special meeting held May 19, 2008 as presented. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider the request by Mr. Jim Faetche to address the City Council regarding City of Wharton a proposed zero tax for senior citizens and handicapped citizens. City Manager Andres Garza, Jr. presented a copy of the letter dated May 23, 2008 from Mr. Jim Faetche regarding tax values assessed to citizens who were senior and/or handicapped citizens. Mr. Jim Faetche addressed the City Council and stated that in the past, there was a 10% tax relief; however, he was requesting a zero tax. Mayor David W. Samuelson stated that the reason why W.I.S.D. was a 0% was that the property value was worth less than the exemption. After some discussion, no action was taken.

The seventh item on the agenda was to review and consider the request by Mr. Donald Allen, Executive Director of the Boys and Girls for the City of Wharton to consider waiving the water tap fee and permit fee for the new Boys and Girls Club baseball field. City Manager Andres Garza, Jr. presented a copy of the letter dated May 21, 2008 from Mr. Donald Allen, Executive Director of the Boys and Girls Club requesting the City Council to consider waiving the fee for the water tap and permit required for the irrigation system for the newly constructed baseball field at the Boys and Girls Club. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the waiving the water tap fee and permit fee for the new Boys and Girls Club baseball field. Councilmember Don Mueller seconded the motion. Councilmember Lewis Fortenberry, Jr. abstained. Councilmembers V. L. Wiley, Jr., Ken Freese, Don Mueller, Domingo Montalvo, Jr., and Jeff Gubbels voted for the motion. The motion carried.

The eighth item on the agenda was to review and consider the Wharton County Central Appraisal District (CAD):

A. Computer/furnishings funding from Taxing Entities.

City Manager Andres Garza, Jr. presented a copy of information received from Ms. Tylene Gamble, CAD Chief Appraiser on May 16, 2008 regarding the funding for computer and related furnishings for the new CAD building. He said that the total cost of the equipment was \$136,000.00 with the City's portion being \$5,109.00. He said that the City Council Finance Committee met June 5, 2008 and was recommending that the City Council consider funding its portion in the amount of \$5,109.00 in one payment. Ms. Tylene Gamble addressed the City Council and stated that in May 2007, approval for a 20 year note with a 5 year note on computer/furnishings for the proposed amount of \$152,000 was adopted. Finance Director Joyce Vasut stated that the lump sum could be allocated from the budget. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the disbursement of \$5,109.00 to Wharton County Central Appraisal District for the purchase of computer/furnishings. Councilmember Don Mueller seconded the motion. All voted in favor.

B. 2009 Proposed Budget.

City Manager Andres Garza, Jr. presented a copy of the letter dated May 30, 2008 from Ms. Tylene Gamble, CAD Chief Appraiser providing the City of Wharton the proposed 2009 CAD Budget. He said that although Ms. Gamble indicated there was no action required by the tax units, he was requesting City Council approval of the proposed budget. Finance Director Joyce Vasut stated that no vote was required; however, if no action was taken then the budget was considered approved. She stated that last year's allocation was \$31,571 and this year was \$33,655 with the building note payment. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the 2009 Wharton County Central Appraisal District Proposed Budget. Councilmember Ken Freese seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider the Wharton Regional Airport Terminal Building Project:

- A. **Resolution:** A resolution of the Wharton City Council authorizing the cancellation of the Wharton Regional Airport Terminal Building Project and authorizing the City Manager to request the return of local funding from the Texas Department of Transportation Aviation Division.

City Manager Andres Garza, Jr. stated that on Monday, March 24, 2008, the Wharton City Council approved Resolution No. 2008-25 rejecting the February 20, 2008 bids received for the Wharton Regional Airport Terminal Building Project since the bids received were substantially higher than the original estimate. He said that the City Council had also instructed the City Staff to determine other alternatives for the project. He said that the Wharton Regional Airport Board met May 13, 2008 to review the alternatives and voted to recommend the City Council consider cancelling the project. He said that the City Council Finance Committee met June 5, 2008 and was recommending the City Council consider authorizing the cancellation of the project and to formally notify the Texas Department of Transportation Aviation Division. City Manager Andres Garza, Jr. stated that the lowest bid was in the amount of \$930,000, which was an additional \$300,000 more than the projected project estimate. He stated that the City would need an additional \$100,000 for the project. Ms. Vasut stated that TX DOT had delayed the project for a year. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2008-35, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2008-35**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE CANCELLATION OF THE WHARTON REGIONAL AIRPORT TERMINAL BUILDING PROJECT AND AUTHORIZING THE CITY MANAGER TO REQUEST THE RETURN OF LOCAL FUNDING FROM THE TEXAS DEPARTMENT OF TRANSPORTATION AVIATION DIVISION.

WHEREAS, On September 26, 2005, the Wharton City Council approved Resolution No. 2005-59 approving the Texas Department of Transportation Aviation Division Airport Project Participation Contract No. 6XXAV044 for the Wharton Regional Airport Terminal Building Project; and

WHEREAS, On March 24, 2008, the Wharton City Council approved Resolution No. 2008-25 that rejected the February 20, 2008 bids received for the aforementioned terminal building project; and

WHEREAS, the Wharton City Council has determined it would be in the best interest of the citizens of the City of Wharton, Texas, that the project be hereby cancelled; and

WHEREAS, the Wharton City Council wishes to authorize the City Manager to notify the Texas Department of Transportation Aviation Division that the project be cancelled and the grant returned to the State of Texas; and

WHEREAS, the Wharton City Council wishes to authorize the City Manager to request the Texas Department of Transportation Aviation Division hereby return the local funding submitted as the City of Wharton's share toward the project; 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 Wharton City Council hereby authorizes the cancellation of the Texas Department of Transportation Aviation Division Airport Project Participation Contract No. 6XXAV044 for the Wharton Regional Airport Terminal Building Project.

Section II. That the Wharton City Council hereby authorizes the City Manager to notify the Texas Department of Transportation Aviation Division that the project be cancelled and the grant returned to the State of Texas.

Section III: That the Wharton City Council hereby authorizes City Manager to request the Texas Department of Transportation Aviation Division hereby return the local funding submitted as the City of Wharton's share toward the project.

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

Passed, Approved, and Adopted this 9th day of June 2008.

CITY OF WHARTON, TEXAS

By: _____
DAVID W. SAMUELSON
Mayor

ATTEST:

LISA OLMEDA
City Secretary
Councilmember Jeff Gubbels seconded the motion. All voted in favor.

B. Reallocation of designated local funding for Terminal Building Project to other eligible City projects.

City Manager Andres Garza, Jr. said that during the June 5, 2008 City Council Finance Committee meeting, the Committee voted to recommend the City Council to consider authorizing the City Staff to return the grant funding to the State and to request the City's share be returned by the State. He said that with the cancellation of the Terminal Building Project, there would be local funds available that could be allocated to other eligible City projects. He said that the City Council Finance Committee was recommending that once the City receives the portion of the cancelled terminal building project funds from the State that the monies be placed back into the bond fund and allocated to other eligible City projects. He said that those projects would include the sidewalk project, sewer line projects and the Police Station/Municipal Court Facility located at 1407 North Richmond Road. Finance Director Joyce Vasut stated that the City could utilize the funds for several projects from the Bond Fund. She stated that some of the projects were over budget. After some discussion, Councilmember Jeff Gubbels made a motion to reallocate designated local funds for Terminal Building Project to other eligible City projects. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider the request by Ms. Heather Chappell, Mid-Town Interests, LLC, on behalf of Buc-ee's, Ltd. for the following variances to the City of Wharton Code of Ordinances, Chapter 66 Signs and Advertising:

A. Variance to Section 66-29. Prohibited Signs to construct a traveling light sign (message board) at the Buc-ee's Travel Center located at FM 102 and US Highway 59.

B. Variance to Section 66-20 Freestanding commercial signs, Table I, Sign Height.

City Manager Andres Garza, Jr. stated that during the regular January 22, 2007 Wharton City Council meeting, the City Council approved the request by Ms. Heather Chappell, Mid-Town

Interests, LLC, on behalf of Buc-ee's, Ltd. for a variance to the City of Wharton Code of Ordinances, Chapter 66 Signs and Advertising to place a freestanding commercial sign with a height of 80 feet. He then presented a copy of the minutes from the meeting. He also presented a copy of Ms. Chappel's email dated May 29, 2008 requesting the City Council to reconsider the original variance and to approve the variance for the sign to be a height of 100 feet and to allow a traveling light sign (message board) to be installed on the sign. He then presented a copy of the proposed sign and a copy of the area the sign would be located on the property. He said that the sign would be placed within the setback requirements in accordance with the City of Wharton Code of Ordinances. Mrs. Jackie Jansky stated that Buc-ee's was requesting a variance of the sign to be placed at the height of 100 feet with a traveling light message board. She stated that the sign would be within the City requirements as well as the State's set back requirements. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the request by Ms. Heather Chappell, Mid-Town Interests, LLC, on behalf of Buc-ee's, Ltd. for a variance to Section 66-29. Prohibited Signs to construct a traveling light sign (message board) at the Buc-ee's Travel Center located at FM 102 and US Highway 59, and a variance to Section 66-20 Freestanding commercial signs, Table I, Sign Height. Councilmember Don Mueller seconded the motion. All voted in favor.

The eleventh item on the agenda was to review and consider the Sale of Surplus Real Property, 0000 Pecan Valley Drive, JAD Acres, Lot 3A, Acres .23, R18293:

A. Request by Wharton County Commissioner Mickey Reynolds to address the City Council regarding the property.

City Manager Andres Garza, Jr. presented a copy of the email dated June 4, 2008 from Wharton County Commissioner Mickey Reynolds indicating that the property located at 0000 Pecan Valley Drive JAD Acres, Lot 3A, Acres .23, R18293 would be an item on the Wharton County Commissioner's Court Agenda for discussion on June 9, 2008. He said that Wharton County and the City Staff had received several calls regarding the sale of the property. He stated that several months ago, the City Staff presented a list of surplus property to the City Council. He stated that the City maintained the boat ramp facilities through a contract with Texas Department of Parks and Wildlife. He stated that the contract had expired and the City did not desire to renew. He stated that the City purchased the lot across from the boat ramp to be used as a parking lot years ago but since the City no longer maintained the boat ramp, the lot was not needed by the City. He stated that three bids were received. City Attorney Paul Webb stated that the City Council approved to sale the property, which the property was posted for sale and published in the Wharton Journal Spectator. He stated that the City Council could reject and could re-bid at a later date. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to reject the bids and for the City Manager to speak with Wharton County Commissioners Court in order to keep the property open to the public for safety issues. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

B. Bid Tabulation.

C. **Resolution:** A resolution of the Wharton City Council awarding the sale of property located at 0000 Pecan Valley Drive, JAD Acres, Lot 3A, Acres .23; Authorizing the Mayor of the City of Wharton to execute all documents relating to said contract.

City Manager Andres Garza, Jr. stated that on June 25, 2007, the Wharton City Council approved Resolution No. 2007-59 declaring certain City owned properties as surplus properties and to place said properties up for sale through the bidding process. He then presented a copy of the resolution. He said that on June 2, 2008, the City of Wharton received three bids for the property. He then presented a copy of the bid tabulation, and a draft resolution awarding the bid. No action was taken.

The twelfth item on the agenda was to review and consider Grant Applications:

- A. **Resolution:** A resolution of the Wharton City Council authorizing the submission of a Texas Department of Agriculture GO TEXAN Rural Community Designation Application and authorizing the Mayor of the City of Wharton to execute all documents related to said application.

City Manager Andres Garza, Jr. stated that there were funding opportunities for the City of Wharton through the Texas Department of Agriculture GO TEXAN Rural Community Beautification Grant Program. He said that before the City could submit an application for the GO TEXAN Rural Community Beautification Grant Program, the City must be designated as a GO TEXAN Rural Community. He then presented copies of the information regarding the designation application and grant programs. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2008-36, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2008-36**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE SUBMISSION OF A TEXAS DEPARTMENT OF AGRICULTURE GO TEXAN RURAL COMMUNITY DESIGNATION APPLICATION AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID APPLICATION.

WHEREAS, the GO TEXAN Rural Community Program is a comprehensive initiative from the Texas Department of Agriculture (TDA) designed to promote the growth and prosperity of every rural Texas town, city and county; and

WHEREAS, the program was designed to promote education to the public about rural Texas and what it has to offer and encouraging rural communities to share and promote successful ideas; and

WHEREAS, the Wharton City Council wishes to submit an application to the Texas Department of Agriculture to be designated as a GO TEXAN Rural Community; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute all documents related to said application.

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

