

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
JULY 14, 2008**

Mayor Pro-Tem Don Mueller declared a Regular Meeting duly open for the transaction of business at 7:00 P.M. Councilmember Ken Freese led the opening devotion and then Mayor Pro-Tem Don Mueller led the pledge of allegiance.

Councilmembers present were: Mayor Pro-Tem Don Mueller, Councilmembers V. L. Wiley, Jr., Lewis Fortenberry, Jr., Ken Freese, Domingo Montalvo, Jr., and Jeff Gubbels.

Councilmember absent was: Mayor David W. Samuelson.

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, Community Services Director Jo Knezek and Emergency Management Coordinator Jim Cooper.

Visitors present were: David Schroeder with Wharton Economic Development Corporation, Carlos Cotton, Robert Garza, Bruce Williams, Ron Sanders, Sammy Wisnieski, Jim Cockrell, and Dr. Glen Dyer.

The second item on the agenda was Roll Call and Excuses Absences. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to excuse the absence of Mayor David W. Samuelson from the regular City Council meeting held July 14, 2008. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The third item on the agenda was Public Comments. Mr. Bruce Williams addressed the City Council and stated he was appointed Chairman of the Mayor's Committee on People with Disabilities. He stated that the Committee would be creating public awareness and seeking projects. No action was taken.

The fourth item on the agenda was Wharton Moment. Councilmember Domingo Montalvo, Jr. publicly commended Boy Scout Troop No. 499 for receiving all the merit badges. No action was taken.

City Manager Andres Garza, Jr. publicly commended the Wharton All Stars Baseball Teams. 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 June 9, 2008 and June 23, 2008 and the special meetings held June 14, 2008 and June 26, 2008. After some discussion, Councilmember Ken Freese made a motion to approve

the Wharton City Council minutes of the regular meetings held June 9, 2008 and June 23, 2008 and the special meetings held June 14, 2008 and June 26, 2008 as presented. Councilmember Jeff Gubbels 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 covering the Municipal Swimming Pool. City Manager Andres Garza, Jr. presented a copy of the letter from Mr. James B. Faetche, P.E. requesting to address the City Council regarding covering the Municipal Swimming Pool. Mr. Jim Faetche was not present at the meeting; therefore, no action was taken.

The seventh item on the agenda was to review and consider the recommendation by the Planning Commission for City Council consideration to approve the request by Mr. Robert R. Garza for an 8 feet variance from the required 25 feet setback from the front property line to place an 18 feet x 21 feet carport located at Hawes 3, Block 2, Lot 13; 120 West Wayside. Assistant to City Manager Jackie Jansky stated that the Planning Commission met July 8, 2008 and voted to recommend the City Council consider approving the request by Mr. Robert R. Garza for an 8 feet variance from the required 25 feet setback from the front property line to place an 18 feet x 21 feet carport located at Hawes 3, Block 2, Lot 13; 120 West Wayside. She also presented a copy of the memorandum dated July 8, 2008 from Vice-Chairman Mike Wootton providing the recommendation. She stated that adjoining neighbor Ruth Miller had contacted her regarding visibility issues; however, she met with her and she no longer had issues. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the request by Mr. Robert R. Garza for an 8 feet variance from the required 25 feet setback from the front property line to place an 18 feet x 21 feet carport located at Hawes 3, Block 2, Lot 13; 120 West Wayside. 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. Sam Wisnieski for an over 50% variance to place a storage unit 3 feet from both sides of the interior property lines located at Brod Acres, Block 16F; 1727 Stadium Road. Assistant to City Manager Jackie Jansky presented a copy of the application for an over 50% variance submitted by Mr. Sam Wisnieski requesting a 17 feet variance from the 20 feet requirement to place a storage unit 3 feet from the interior property line. She also presented a copy of the proposed storage unit, a diagram of the proposed placement of the unit, and photographs of the property. She said that the storage unit would be constructed utilizing the steel containers with roll up doors installed; however, since the containers would be abutting residential property, it was the recommendation of Building Inspector Ronnie Bollom that the units also be constructed with an interior fire wall. Mr. Sam Wisnieski addressed the City Council and stated that he desired to place metal shipping containers on the property. He stated that the containers would be 3 feet from both sides of the interior property lines. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the request by Mr. Sam Wisnieski for an over 50% variance to place a storage unit 3 feet from both sides of the interior property lines located at Brod Acres, Block 16F; 1727 Stadium Road with the approval by Building Inspector Ronnie Bollom for the fire wall restrictions. Councilmember Jeff Gubbels seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider the City of Wharton Surplus Real Properties:

- A. **Resolution:** A resolution of the Wharton City Council approving the transfer of the City of Wharton Surplus Real Property located at JAD Acres, Lot 3A, Acres .23; 0000 Pecan Valley Drive to Wharton County and authorizing the Mayor of the City of Wharton to execute all documents related to the property transfer.

City Manager Andres Garza, Jr. presented a copy of the letter dated June 9, 2008 from Mr. Mickey Reynolds, Wharton County Commissioner Pct. 1, indicating that Wharton County wished to assume ownership of the City of Wharton Surplus Real Property located at JAD Acres, Lot 3A, Acres .23; 0000 Pecan Valley Drive. He stated that the City of Wharton solicited bids for the property and the City received three bids for the parcel. He said that during the June 9, 2008 regular Wharton City Council meeting, the City Council rejected the bids. He said that the City Council Finance Committee discussed the parcel of property during its June 26, 2008 meeting, and voted to recommend that the City Council consider transferring the property to Wharton County contingent upon Wharton County paying all costs associated with the transfer. He then presented a copy of the memorandum dated June 27, 2008, providing their recommendation and a copy of a draft resolution approving the transfer of the parcel to Wharton County. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2008-41, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2008-41**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE TRANSFER OF THE CITY OF WHARTON SURPLUS REAL PROPERTY LOCATED AT JAD ACRES, LOT 3A, ACRES .23; 0000 PECAN VALLEY DRIVE TO WHARTON COUNTY AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO THE PROPERTY TRANSFER.

WHEREAS, the Wharton City Council has determined that a public purpose exists and desires to transfer the City of Wharton Surplus Real Property located at JAD Acres, Lot 3A, Acres .23; 0000 Pecan Valley Drive to Wharton County; and

WHEREAS, Wharton County wishes to accept the City of Wharton property located at JAD Acres, Lot 3A, Acres .23; 0000 Pecan Valley Drive; and

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

NOW, THEREFORE, BE IT RESOLVED by the Wharton City Council that:

Section I. The Wharton City Council hereby approves the transfer of the property located at JAD Acres, Lot 3A, Acres .23; 0000 Pecan Valley Drive to Wharton County in the City of Wharton, Wharton County, Texas.

Section II. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute all documents related to said property transfer.

Section III. This resolution shall become effective immediately after its passage.

PASSED, APPROVED AND ADOPTED by the City of Wharton at a regular meeting held on the 14th day of July 2008.

CITY OF WHARTON, TEXAS

By: _____
DON MUELLER
Mayor Pro-Tem

ATTEST

LISA OLMEDA

City Secretary

Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

B. **Resolution:** A resolution of the Wharton City Council approving the transfer of the City of Wharton Surplus Real Property located at Wharton, Block 57, Lot 14, 0000 S East Avenue to East Wharton County Habitat for Humanity and authorizing the Mayor of the City of Wharton to execute all documents related to the property transfer.

City Manager Andres Garza, Jr. presented a copy of the letter dated May 19, 2008 from Dr. Glen Dyer, President of East Wharton County Habitat for Humanity requesting City of Wharton assistance by providing City property for the construction of a warehouse facility for the organization's use. He said that Dr. Dyer indicated in his letter that once the facility was no longer needed, then the property would be returned to the City. He then presented a copy of the drawing indicating the location of the property. He said that during the June 26, 2008 City Council Finance Committee meeting, the Finance Committee voted to recommend the City Council consider transferring the property to Habitat for Humanity with the requirement that the City of Wharton retain the 50 foot road right of way and that, in accordance with their request, should Habitat for Humanity cease to use the property that it would revert back to the City of Wharton. He then presented a copy of the memorandum dated June 27, 2008 providing the recommendation and a draft resolution authorizing the property transfer. Dr. Dyer addressed the City Council and requested the transfer of the property. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2008-42, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2008-42**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE TRANSFER OF THE CITY OF WHARTON SURPLUS REAL PROPERTY LOCATED AT WHARTON, BLOCK 57, LOT 14; 0000 S EAST AVENUE TO EAST WHARTON COUNTY HABITAT FOR HUMANITY AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO THE PROPERTY TRANSFER.

WHEREAS, the City of Wharton (“City”) desires to support the availability of housing opportunities for low income residents, construct appropriate drainage for the citizens, and promote economic development within the community as public purposes; and

WHEREAS, East Wharton County Habitat for Humanity has expanded and requires a warehouse facility for the organization’s use; and

WHEREAS, the Wharton City Council wishes to transfer the property located at Wharton, Block 57, Lot 14; 0000 S East Avenue in the City of Wharton, Wharton County, Texas, to East Wharton County Habitat for Humanity for the location of said warehouse facility; and

WHEREAS, Wharton City Council wishes to retain the 50 feet road right of way located on said property; and

WHEREAS, East Wharton County Habitat for Humanity wishes to return the use of said property should said warehouse facility is no longer required; and

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

NOW, THEREFORE, BE IT RESOLVED by the Wharton City Council that:

Section I. The Wharton City Council hereby approves the transfer of the property located at Wharton, Block 57, Lot 14; 0000 S East Avenue in the City of Wharton, Wharton County, Texas, to East Wharton County Habitat for Humanity for the location of said warehouse facility in its efforts to provide affordable housing to low income residents, construct appropriate drainage for the citizens, and promote economic development within the community as public purposes; and

Section II. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute all documents related to said property transfer.

Section III. This resolution shall become effective immediately after its passage.

PASSED, APPROVED AND ADOPTED by the City of Wharton at a regular meeting held on the 14th day of July 2008.

CITY OF WHARTON, TEXAS

By: _____
DON MUELLER
Mayor Pro-Tem

ATTEST

LISA OLMEDA

City Secretary

Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

C. Establishing a minimum bid and authorization for use of realtor services on sale of the following surplus real properties:

1. Wharton, Block 11, Lot 2B, 3B; 0000 N. Richmond Road.
2. Smith Garden Spot, Block 1, Lot 15, 16, 17, 18; 1704 Azalea Drive.
3. Outlar, Lot 5A-1; 0000 Harris Street.
4. Eliz. Branch, Lot 19; 0000 Goode Street.
5. Wharton Block, 29, Lot 7a, 7B, 7F, 8A; 0500 N. Richmond Road.

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 the City Staff conducted the bidding process; however, no bids were received for the five properties. He then said that the City Council Finance Committee met June 26, 2008 and voted to recommend that the City Council consider lowering the minimum bid amount to the market values listed by the Wharton County Appraisal District and to authorize the use of realtor services on the sale of said properties. He presented a listing of the properties and a comparison of the appraised values versus the market values. He also presented a drawing indicating the location of the properties. He stated that the realtors would be contacted in regards to the bidding process. He stated that the minimum base bid would be the Central Appraisal District valuation. After some discussion, Councilmember Jeff Gubbels made a motion to set the minimum bids in accordance with the Wharton County Appraisal District values and to authorize the use of realtor services on sale of the following surplus real properties:

1. Wharton, Block 11, Lot 2B, 3B; 0000 N. Richmond Road.
2. Smith Garden Spot, Block 1, Lot 15, 16, 17, 18; 1704 Azalea Drive.
3. Outlar, Lot 5A-1; 0000 Harris Street.
4. Eliz. Branch, Lot 19; 0000 Goode Street.
5. Wharton Block, 29, Lot 7a, 7B, 7F, 8A; 0500 N. Richmond Road.

Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider the Wharton Regional Airport emergency repairs to damaged T-Hangars resulting from the July 1, 2008 storm event. City Manager Andres Garza, Jr. presented a copy of the memorandum dated July 8, 2008 regarding the Wharton Regional Airport storm damage that occurred to the T-Hangars. He also presented a copy of information provided by Airport Manager David Allen regarding the damage and the status of the proposed repairs. He said that since the damage would be covered by the City's property coverage provider, Texas Municipal League Intergovernmental Risk Pool (TML-IRBP), the City Staff was requesting that the repairs be considered an emergency in order to have the repairs made as soon as possible to protect the aircraft housed in the hangars.

After some discussion, Councilmember Jeff Gubbels made a motion to approve the Wharton Regional Airport emergency repairs to damaged T-Hangars resulting from the July 1, 2008 storm event. Councilmember Ken Freese seconded the motion. All voted in favor.

The eleventh item on the agenda was to review and consider the proposed new United States Post Office Facility in the City of Wharton:

- A. Project update provided by Mr. John Logan, United States Postal Service in his letter dated July 2, 2008.
- B. **Resolution:** A resolution of the Wharton City Council expressing their support of the new Wharton United States Postal Facility project and their desire for the new post office to have the facilities required to adequately maintain customer service delivery.

City Manager Andres Garza, Jr. presented a copy of the letter dated July 2, 2008 from Mr. John Logan, Real Estate Contractor for the United States Postal Service addressed to Mayor David Samuelson providing an update regarding the location of the proposed new Wharton postal service facility. He said that Mr. Logan indicated in his letter that the chosen location would be on the west side of Fulton Road approximately 160 feet south of Boling Highway. He also presented a copy of the letter dated July 1, 2008 from Mayor Samuelson to Ms. Rosana L. Balusek, of the Postal Service regarding the proposed construction drawings that indicated that the new postal facility would provide only one service window. He said that Mayor Samuelson had requested Ms. Balusek to reconsider the proposed plans and to include at least a minimum of two customer service windows in order to provide adequate customer service. He said that Mayor Samuelson had requested that the City Council consider sending a formal resolution providing the City Council's support of the proposed facility and to request the facilities to adequately maintain customer service delivery. He then presented a copy of the draft resolution. After some discussion, Councilmember Lewis Fortenberry, Jr. made a motion to approve Resolution No. 2008-43, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2008-43**

A RESOLUTION OF THE WHARTON CITY COUNCIL EXPRESSING THEIR SUPPORT OF THE NEW WHARTON UNITED STATES POSTAL FACILITY PROJECT AND THEIR DESIRE FOR THE NEW POST OFFICE TO HAVE THE FACILITIES REQUIRED TO ADEQUATELY MAINTAIN CUSTOMER SERVICE DELIVERY.

WHEREAS, the Wharton City Council wishes to lend its support of the proposed new United States Postal Service Facility to be constructed in the City of Wharton, Texas; and

WHEREAS, the City of Wharton strives to provide quality customer service on a continual basis; and

WHEREAS, the proposed postal service facility construction plans provides for only one customer service window, which will not adequately serve the needs of the public; and

WHEREAS, the Wharton City Council wishes to request the United States Postal Service to construct a facility that would adequately maintain quality customer service delivery in the City of Wharton, Texas.

NOW, THEREFORE, BE IT RESOLVED by the Wharton City Council that:

Section I. The Wharton City Council supports the construction of a new United States Postal Service Facility in the City of Wharton, Texas.

Section II. The Wharton City Council hereby requests that the new facility be constructed in a manner that would adequately maintain quality customer service delivery in the City of Wharton, Texas.

Section III. This resolution shall become effective immediately after its passage.

PASSED, APPROVED AND ADOPTED by the City of Wharton at a regular meeting held on the 14th day of July 2008.

CITY OF WHARTON, TEXAS

By: _____
DAVID W. SAMUELSON
Mayor

ATTEST:

LISA OLMEDA
City Secretary

CITY COUNCILMEMBERS:

V. L. WILY, JR.
District 1

LEWIS FORTENBERRY, JR.
District 2

KEN FREESE
District 3

DON MUELLER
District 4

DOMINGO MONTALVO, JR.
District 5-AT LARGE

JEFF GUBBELS
District 6-AT LARGE

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 authorizing the submission of a Department of Homeland Security Emergency Operations Center Grant Application and authorizing the Mayor of the City of Wharton to execute all documents related to said application. City Manager Andres Garza, Jr. presented a copy of the

