

MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
JULY 24, 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, Domingo Montalvo, Jr., and Ray Linseisen.

Councilmember absent was: None.

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., Building Official Ronnie Bollom, and City Attorney Paul Webb.

Visitors present were: Ben Sharp with Wharton Journal Spectator, David Schroeder with Wharton Economic Development Corporation, Travis Acosta, Andrew Cordero, Waylon Malone, Chris Mendiola, Dustin Ortiz, Ryan Rolf, David Zaskoda, Brent Stidevent, Kim Stidevent, Wade Stidevent, Jim Cockrell, Willie Ephran, Justin Sherrill, Ryan Wuthrich, Linda Rolf, Jody Rolf, Donna Sherrill, Kyle Sherrill, Felicia Malone, Roy Mendiola, Tanya Valdez, Philip Wuthrich, Jalene Wuthrich, Carl Ephran, Sophie Ephran, Jana Harbaugh, Susan Harbaugh, Christi Mejaorado, Ann Hail, Erique Jackson, Lucas Munoz, Corey Hail, Kenny Garza, Dan Harbaugh, Jason Staff, Jo Beth Staff, Irma Garza, Michelle Ford, Wanda Stone, Timmy Hobbs, Adam Garza, Rick Hernandez, Katelyn Harbaugh, Donna Hollis, Erin Hollis, Karen Munoz, O.J. Esquivel, Jesmon Grant, Sean Hollis, Justin Hobbs, Jonathan Wells, Ricky Hernandez, Erich Jaquez, Patrick Acuna, Milton Hollis, Ray Ford, Bo Esquivel, Viola Garcia, Daniel Garcia, Teresa Jackson, Ally Hobbs, Emmy Hobbs, Gloria Garza, Daniel Garza, Christine Cordero, Andrew Cordero, Ethan Williams, Lori Jaquez, and Heidi Jaquez.

The third item on the agenda was Public Comments. No comments were given. No action was taken.

The fourth item on the agenda was the Wharton Moment. Mayor Bryce D. Kocian presented a proclamation to Nicholas A. Castro, which read as follows:

WHEREAS, only 2% of all registered Boy Scouts in the world obtain the Eagle Scout Rank, the highest ranking in Scouting; and

WHEREAS, Nicholas A. Castro is a life member of the Boy Scouts of America and has held the offices of Scribe, Assistant Patrol Leader and Senior Patrol Leader of his troop, Troop 303 in Wharton, Texas, and Troop 123 in Boling, Texas; and

WHEREAS, He has earned 31 merit badges as a Boy Scout and received his Eagle Scout ranking in October 2005 and has been inducted into the Order of the Arrow during a ceremony that was held at Rancho Cima in June 2004; and

WHEREAS, Nicholas A. Castro has demonstrated his leadership ability by achieving the Eagle Scout ranking and by his activities during his high school years, which included being a member of the Wharton High School basketball team, tennis team, powerlifting team, spanish club, Student Council, Junior Lions Club, and participating in UIL Number Sense; and

WHEREAS, He has also shown his leadership ability in the community by volunteering at the Boys and Girls Club, assisting the Knights of Columbus 3262 Annual Thanksgiving Dinner, serving as a teacher's assistance during Vacation Bible School, serving as an Altar Server for St. John's Catholic Church and by participating on the City of Wharton Youth Advisory Commission.

NOW, THEREFORE, I, Bryce D. Kocian, by virtue of the authority vested in me as Mayor of the City of Wharton, Texas, do hereby proclaim July 24, 2006 as "Nicholas A. Castro Day" in Wharton, Texas, and urge our citizens to join me to pay special tribute to this very special member of our community.

IN WITNESS THEREOF, I have hereunto set my hand and caused the seal of the City of Wharton to be affixed this 24th day of July in the year of our Lord two thousand six, A.D.

Mayor Bryce D. Kocian presented the following proclamation, which read as follows:

WHEREAS, we realize that participation in organized athletics helps to build character and teaches a wholesome sense of fair play and good sportsmanship among our youth; and

WHEREAS, to really excel in baseball, a young person must demonstrate, in addition to a great deal of natural ability, an outstanding spirit of dedication, enthusiasm, and hard work; and

WHEREAS, a striking example of this has been brought to my attention in the achievement of the **2006 Wharton Babe Ruth 13 Year Old All-Star Team** in their accomplishments and who claimed the **2006 Babe Ruth East Texas State Championship** and is advancing to the **Babe Ruth Southwest Regional Tournament** held in Amarillo, Texas, on August 3 – 8, 2006; and

WHEREAS, the **Wharton Babe Ruth 13 Year Old All-Star Team** for the 2006 season includes **Travis Acosta, Andrew Cordero, Aaron Davila, Willie Ephran, Adam Garza, Erique Jackson, Carlos Looper, Waylon Malone, Chris Mendiola, Dustin Ortiz, Ryan Rolf, Justin Sherrill, Brent Stidevent, Ryan Wuthrich,** and **David Zaskoda;** and their **Manager Phillip Wuthrich** and **Coaches Roy Mendiola** and **Brent Wuthrich;** and

WHEREAS, special recognition is given to **Travis Acosta** for being selected the **2006 13 Year Old Babe Ruth East Texas State Tournament – Most Outstanding Player.**

NOW, THEREFORE I, Bryce D. Kocian, by virtue of the authority vested in me as Mayor of the City of Wharton, Texas, do hereby proclaim the **July 26, 2006** as “**Wharton Babe Ruth 13 Year Old All-Stars Day**” in Wharton, Texas, and encourage all our citizens to join me in honoring these persons for a job well done in representing our community.

IN WITNESS THEREOF, I have hereunto set my hand and caused the seal of the City of Wharton to be affixed this 24th day of July in the year of our Lord two thousand six, A.D.

Mayor Bryce D. Kocian the following proclamation, which read as follows:

WHEREAS, we realize that participation in organized athletics helps to build character and teaches a wholesome sense of fair play and good sportsmanship among our youth; and

WHEREAS, to really excel in baseball, a young person must demonstrate, in addition to a great deal of natural ability, an outstanding spirit of dedication, enthusiasm, hard work and team work; and

WHEREAS, a striking example of this has been brought to my attention in the achievement of the **2006 Wharton Babe Ruth 15 Year Old All-Star Team** in their accomplishments and who claimed their **3rd Babe Ruth East Texas State Championship** and is advancing to the **Babe Ruth Southwest Regional Tournament** held in Levelland, Texas, on August 3 – 8, 2006; and

WHEREAS, the **Wharton Babe Ruth 15 Year Old All-Star Team** for the 2006 season includes **Patrick Acuna, Herman Bentancur, OJ Esquivel, Matthew Ford, Kenny Garza, Jesmon Grant, Corey Hail, Daniel Harbaugh, Ricky**

Hernandez, Justin Hobbs, Sean Hollis, Erich Jaquez, Lucas Munoz, Jason Staff, and Jonathan Wells, and their Manager Ray Ford, and Coaches Bo Esquivel and Milton Hollis; and

WHEREAS, special recognition is given to **Lucas Munoz** for being selected the **2006 15 Year Old Babe Ruth East Texas State Tournament – Most Valuable Player.**

NOW, THEREFORE I, Bryce D. Kocian, by virtue of the authority vested in me as Mayor of the City of Wharton, Texas, do hereby proclaim the **July 25, 2006** as **“Wharton Babe Ruth 15 Year Old All-Stars Day”** in Wharton, Texas, and encourage all our citizens to join me in honoring these persons for a job well done in representing our community.

IN WITNESS THEREOF, I have hereunto set my hand and caused the seal of the City of Wharton to be affixed this 24th day of July in the year of our Lord two thousand six, A.D.

Councilmember Ken Freese stated that the 13th and 15th Year Old Babe Ruth players would continue to represent the City of Wharton while staying with host families. He then publicly congratulated the players and their families for supporting the players. No action was taken.

The fifth item on the agenda was to review and consider City of Wharton financial report for the month of June 2006. Finance Director Joyce Vasut presented the financial report for the month of June 2006 and stated that the fiscal year was at 75%. Mrs. Vasut stated that the general fund revenues were at 78.75% and the expenditures were at 75.76%. The total ad valorem taxes collected were \$1,771,240. The sales tax for the month of May 2006 was \$161,449 with \$107,633 to the City and \$53,816 to WEDCo. The TexPool balance for June 2006 was \$1,324,441.66 with an average monthly yield of 5.0021%. After some discussion, Councilmember David Samuelson made a motion to approve the City of Wharton Financial Report for the month of June 2006. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider a resolution of the Wharton City Council approving the Section 8 Housing Assistance Payments Program, Local Operator Contract between the Texas Department of Housing and Community Affairs and the City of Wharton and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. presented a copy of the memorandum dated July 13, 2006 from Community Services Director Jo Beth Knezek and a copy of the letter dated July 3, 2006 from Ms. Willie Faye Hurd, Texas Department of Housing and Community Affairs (TDHCA) Section 8 Regional Coordinator regarding the Local HAP Operator Contract between TDHCA and the City. He stated that the current contract expired May 31, 2006 and the new contract would extend the agreement for a period beginning June 1, 2006 to May 31, 2011. He then presented a copy of the agreement and a draft resolution approving the contract. He stated that Ms. Knezek was responsible for 50 homes to be in compliance with the Section 8 standards. City Attorney Paul Webb stated that he reviewed the agreement and would recommend a change on page 10 to amend the Contractor as the City of Wharton. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2006-53, which read as follows:

CITY OF WHARTON

RESOLUTION 2006-53

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM, LOCAL OPERATOR CONTRACT BETWEEN THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS AND THE CITY OF WHARTON AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, the Section 8 Housing Assistance Payments Program, Local Operator contract between the City of Wharton and the Texas Department of Housing and Community Affairs expired May 31, 2006; and

WHEREAS, the Wharton City Council wishes to enter into a new local operator contract with the Texas Department of Housing and Community Affairs for the Section 8 Housing Assistance Payments Program; and

WHEREAS, the Texas Department of Housing and Community Affairs and the City of Wharton wishes to be bound by the conditions of the contract; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute the agreement.

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

Section I. The Wharton City Council hereby approves the local operator contract for Section 8 Housing Assistance Payments Program between the City of Wharton and the Texas Department of Housing and Community Affairs.

Section II. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute all documents related to the afore-mentioned agreement.

Section III. That this resolution become effective upon the date of its passage.

Passed, Approved, and Adopted this the 24th day of July 2006.

CITY OF WHARTON

Bryce D. Kocian
Mayor

ATTEST:

Lisa Stavena
City Secretary

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

The seventh item on the agenda was Executive Session: City Council may adjourn into an Executive Session in accordance with Section 551.074 and Section 551.087 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: Economic Development Incentives for Buc-ee's, LTD.
- B. Discussion: City Manager Performance Evaluation.

Mayor Bryce D. Kocian adjourned into Executive Session at 7:26 p.m.
Mayor Bryce D. Kocian returned to Open Session at 9:50 p.m.

The eighth item on the agenda was Return to Open Session: Action on items discussed in Executive Session:

- A. **Review & Consider:** Economic Development Incentives for Buc-ee's, Ltd.
- B. **Review & Consider:** City Manager Performance Evaluation.

Mayor Bryce D. Kocian stated that no action would be taken.

The ninth item on the agenda was to review and consider the request by Rosemary Rust for the creation of a Reinvestment Zone and/or Neighborhood Empowerment Zone.

- A. **Public Hearing:** A public hearing regarding the designation of a reinvestment zone.
- B. **Ordinance:** An ordinance designating certain property as herein legally described, including certain lots and blocks as therein contained, a reinvestment zone and providing that said reinvestment zone shall hereinafter be referred to as City of Wharton reinvestment zone No. 06-02 said property being generally known as that property on 205 North Alabmam Road, Wharton, Texas, and making other findings and conclusions as required by law.
- C. **Public Hearing:** A public hearing regarding the designation of a Neighborhood Empowerment Zone.
- D. **Ordinance:** An ordinance designating certain property as herein legally described, including certain lots and blocks as therein contained, a neighborhood empowerment zone and providing that said zone shall hereinafter be referred to as City of Wharton neighborhood empowerment zone No. 06-01 said property being generally known as that property on 205 North Alabmam Road, Wharton, Texas, and making other findings and conclusions as required by law.

City Manager Andres Garza, Jr. presented a copy of the letter dated July 10, 2006 from Ms. Rosemary Rust requesting the City of Wharton consider establishing a reinvestment zone and/or an empowerment zone for the Rust property located in the City limits south of FM 102 and adjacent to U.S. Highway 59. He stated that City Council Finance Committee met July 20, 2006 to discuss Ms. Rust's request and would discuss her request with the full City Council during the meeting. He then presented draft copies of the ordinances that would create a reinvestment zone and/or a neighborhood empowerment zone within the City limits for the afore-mentioned property. He stated that the addressed listed on the agenda item was wrong and this item would be presented at a later date. No action was taken.

The tenth item on the agenda was to review and consider Buc-ee's, Ltd. request for the following:

- A. **Ordinance:** An ordinance approving and authorizing the Mayor of the City of Wharton to sign and execute for and on behalf of the City of Wharton a Sales Tax Rebate Agreement with Buc-ee's, Ltd. in a form as attached hereto and marked Exhibit "A" and making certain findings of fact in accordance with the requirements of law.
- B. Infrastructure Improvements
 - 1. Utilities Improvements (water, sewer and gas).
 - 2. Elevation of the property above the flood plain with material supplied by the Rust Estate.
- C. Construction of southbound U.S. Highway 59 access road at the intersection of FM 102.
- D. Seek State/Federal funding for the proposed project.

City Manager Andres Garza, Jr. presented a copy of the letter dated July 14, 2006 from Mr. David Schroeder, Executive Director of the Wharton Economic Development Corporation submitting the sales tax rebate application filed by Buc-ee's, Ltd. and Buc-ee's requests. He then presented a draft ordinance approving and authorizing the Mayor of the City of Wharton to sign and execute a sales tax rebate agreement with Buc-ee's, Ltd. He then presented a draft copy of the agreement. He stated that the City Council Finance Committee discussed the afore-mentioned requests by Buc-ee's and would continue their discussion with the full City Council during the meeting. Mr. Arch Aplin with Buc-ee's addressed the City Council and stated that Buc-ee's had contracted with the Rust family to purchase approximately 10.1 acres of land situated at the southwest corner of the intersection of US-59 and FM-102. He stated that Buc-ee's was requesting a \$0.015 sales tax rebate for a period of ten (10) years to begin 6 months after the improvements to the exit ramp on US-59 and FM-102 by the Texas Department of Transportation. He stated that the construction phase would take approximately 9 - 12 months, which would allow the sales tax rebate to begin when the store would open. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to agree to the following terms: (1) a 1.5 cent sales tax rebate, (2) authorize the City Staff to prepare the grant application to the Texas Capital Fund, (3) contract with Texas Department of Transportation on the construction of southbound U.S. Highway 59 access road at the intersection of FM 102, and (4) provide financial assistance through WEDC to elevate the property above the flood plain with material supplied by the Rust Estate and Buc-ee's provide the utilities improvements. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The eleventh item on the agenda was to review and consider the Wharton Economic Development Corporation Fiscal Year 2006 – 2007 Budget. City Manager Andres Garza, Jr. presented a copy of the letter dated June 28, 2006 from Wharton Economic Development Corporation (WEDC) Executive Director David Schroeder regarding the WEDC 2006 – 2007 fiscal year budget. He stated that Mr. Schroeder stated in his letter, the WEDC Board of Directors met during its regular Board Meeting June 27, 2006 and voted to adopt the budget pending City Council approval. After some discussion, Councilmember Ken Freese made a motion to approve the Wharton Economic Development Corporation Fiscal Year 2006 – 2007 Budget. Councilmember Ray Linseisen seconded the motion. All voted in favor.

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

- A. Beautification Commission.
- B. Planning Commission.

City Manager Andres Garza, Jr. stated that the Beautification Commission and Planning Commission had a vacancy on each Commission respectively and the terms for each vacant position expired June 30, 2007. He stated that Councilmember Ken Freese had indicated that Ms. Jennifer Walker was interested in serving on the Beautification Commission. He stated that City Council approval was required to appoint Ms. Walker to the Beautification Commission. He stated that recommendations may be made to fill the vacant position on the Planning Commission. After some discussion, Councilmember Ken Freese made a motion to approve the appointment of Ms. Jennifer Walker to the Beautification Commission with the term expiring on June 30, 2007. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The thirteenth item on the agenda was to review and consider the City Manager Request for Travel Reimbursements. City Manager Andres Garza, Jr. presented a copy of the travel reimbursement request for the period March 28, 2006 through July 7, 2006 in the amount of \$1,041.49. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the travel reimbursements for City Manager Andres Garza, Jr. in the amount of \$1,041.49. Councilmember Don Mueller seconded the motion. All voted in favor.

The fourteenth 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 July 24, 2006 providing an update on the City of Wharton projects, as follows:

FLOOD PLAIN MANAGEMENT

Wharton Interim Feasibility Study. This project was on going. The Corps of Engineers feasibility report should be completed for the first phase of this project by December 2006. However, preparations had begun on the second phase, which was the pre-construction engineering and design (PED). On March 3, 2006, letters were sent to Senators Kay Bailey Hutchison and John Cornyn, requesting their support for a fiscal year 2007 appropriation for the US Army Corps of Engineers general investigation for the Lower Colorado River Basin Study, Texas, and the Lower Colorado River Basin, Texas, Pre-construction, Engineering and Design (PED) Wharton/Onion Creek projects. On March 8, 2006, the City also submitted a letter to Senators Hutchison and Cornyn requesting their support for the inclusion of the projects in Senate Bill 728 regarding the Water Resources Development Act (WRDA). Further, on March 13, 1006, the City sent a letter requesting the support of Congressman Ron Paul of the request for appropriation of funding and WRDA.

DRAINAGE:

1. Santa Fe Outfall Ditch.

Jones & Carter, Inc. had completed 98% of the project. They need to finalize the pipeline crossing to complete the plans. Jones & Carter had designed the box culverts underneath the pipeline,

