

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
AUGUST 11, 2008**

Mayor David W. Samuelson declared a Regular Meeting duly open for the transaction of business at 7:00 P.M. Mayor David W. Samuelson 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, and Jeff Gubbels.

Councilmember absent was: Domingo Montalvo, Jr.

Staff members present were: City Manager Andres Garza, Jr., Finance Director Joyce Vasut, City Secretary Lisa Olmeda, Assistant to City Manager Jackie Jansky, and City Attorney Paul Webb.

Visitors present were: Jeremy Heath with Wharton Journal Spectator, David Schroeder with Wharton Economic Development Corporation, Carlos Cotton, I.O. Coleman, Jr., Chester Houston, Johnnie Lee Roberts, Pascual Castro, Linda Castro, Felicia Compain, Yvonne Compain, Henry Thiele, James Bartosh, Chris Howers.

The second item on the agenda was Roll Call and Excuses Absences. Councilmember V. L. Wiley, Jr. made a motion to excuse the absence of Councilmember Domingo Montalvo, Jr. from the regular City Council meeting held August 11, 2008. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The third item on the agenda was Public Comments. Mr. I.O. Coleman, Jr. addressed the City Council and stated that he was supporting reopening Milam Street; however, an incident occurred yesterday and he would withdraw his support at this time. He then stated that the City Council would be increasing the water and sewer rates and requested the City Council to reconsider. He then requested an update for the floodproofing project.

Mr. Chester Houston addressed the City Council and stated that before the City Council increased water, sewer, and garbage rates, the City Council look at the Hotel/Motel Tax and tax abatements prior to increasing rates.

Mr. Johnnie L. Roberts addressed the City Council and stated that the Wharton Police Department was harassing tax paying citizens and they should be focusing on the six crack houses in the west side of the City.

No action was taken.

The fourth item on the agenda was Wharton Moment. Councilmember Lewis Fortenberry, Jr. publicly thanked the Wharton Police Department, Wharton County Sheriff's Department and Fire Department for participating in the Boys & Girls Club Hero's Day. 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 July 14, 2008 and July 28, 2008 and the special meetings held July 10, 2008 and July 21, 2008. After some discussion, Councilmember Jeff Gubbels made a motion to approve the Wharton City Council minutes of the regular meetings held July 14, 2008 and July 28, 2008 and the special meetings held July 10, 2008 and July 21, 2008 as presented. Councilmember Don Mueller seconded the motion. All voted in favor.

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

- A. Wharton Regional Airport Board.
- B. Beautification Commission:
- C. Holiday Light Decorating Chairperson.
- D. Youth Advisory Commission.
- E. Wharton Economic Development Corporation (WEDC):
 1. City Council acceptance of the resignation of Mayor David W. Samuelson as a Board Member.

City Manager Andres Garza, Jr. stated that vacancies existed on the Boards, Commissions and Committees. He said that recommendations to fill the vacant positions may be made by the City Council. He then presented a copy of the letter dated July 29, 2008 from Mayor David W. Samuelson submitting his resignation as a Board Member on the Wharton Economic Development Corporation (WEDC). He said that in Mayor Samuelson's letter, he was suggesting that Councilmember Don Mueller be his replacement. He said that Dr. Samuelson was recommended by Former Mayor Bryce Kocian to the WEDC Board. He then presented a copy of the list of WEDC Board Members since WEDC was established. He said that City Council action was required to accept his resignation and to appoint his replacement. After some discussion, Councilmember Don Mueller made a motion to accept the resignation of Mayor David W. Samuelson from the WEDC Board of Director. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor. Mayor David W. Samuelson nominated Don Mueller to the WEDC Board. No other nominations were made. Councilmember Jeff Gubbels made a motion to appoint Don Mueller to the WEDC Board. Councilmember Ken Freese seconded the motion. All voted in favor.

2. Appointments to the WEDC Board of Directors.

Mayor David W. Samuelson provided a letter to City Attorney Paul Webb dated July 30, 2008 regarding the issues raised on the appointment to the WEDC Board on May 27, 2008. City Attorney Paul Webb stated that he had responded to Mayor Samuelson's letter with his opinion letter dated August 11, 2008 that had been distributed to the Councilmembers. He then stated that in accordance with the Articles of Incorporation Article VII there were no restrictions on the number of nominations made by a single Councilmember, only that each member would be allowed to nominate at least one. He said that it would give each Councilmember the right to

suggest a name, and prevent any Councilmember from being able to nominate a potential director. He stated that each Councilmember was entitled to nominate one candidate, not that each Councilmember was limited to nominating only one candidate. He said that the purpose of taking nominations was so that the Council as a whole could consider as many names as were suggested, which could be more nominations than vacancies. He said that the appointments were made properly, with no corrective action to be taken; however, in order to clear up any misunderstanding regarding the most recent appointments, four Councilmembers could re-nominate each of the appointees and then vote to re-affirm the appointments. He said that if the Council should wish to amend the Articles of Incorporation, he would gladly prepare the amendments. He then said that Article VII stated that no more than two members of the seven member WEDC board may be "members of the City Council." He said that was no language which restricted former members of the City Council and a person was either on the City Council or not. He further stated that in accordance with Article 2, Section 12, of the Charter of the City of Wharton, the governing body of the City shall be an "elected Mayor and six City Councilmembers, and shall be known as the City Council; therefore, the Mayor would be considered a "member of the City Council." He then said that neither the Articles of Incorporation for WEDC nor the City of Wharton Charter required that a Councilmember abstain from voting on WEDC matters, being they would be City projects or otherwise.

After some discussion, Councilmember Jeff Gubbels then nominated Kenneth Johse.

Councilmember Lewis Fortenberry, Jr. nominated Bryce D. Kocian.

Councilmember Don Mueller nominated Jeff Gubbels.

Councilmember Ken Freese nominated Ray Linseisen.

No other nominations were made.

Councilmember Jeff Gubbels made a motion to re-affirm the appointments of Kenneth Johse, Bryce D. Kocian, Jeff Gubbels, Ray Linseisen as the WEDC Board of Directors. Councilmember Ken Freese seconded the motion. All voted in favor.

The seventh item discussed on the agenda was to review and consider a resolution of the Wharton City Council approving a contract with the Wharton Independent School District (WISD) for a School Resource Officer (SRO) and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. presented a copy of the letter and proposal submitted by WISD Superintendent Dr. James Bartosh to Police Chief Tim Guin concerning the SRO Program. He said that after reviewing the proposal, the City Staff met with City Attorney Paul Webb to develop the interlocal agreement that would be acceptable to the City. He said that the City Staff also developed a budget for two officers and all capital equipment needed for each officer to perform the functions required. He said that the City Staff felt that the contract should be for at least three years. He then presented the agreement to the City Council. He stated that the City Staff looked at agreements from Ft. Bend and El Campo. He stated that the agreement would be submitted to WISD with City Council approval. After some discussion, Councilmember Jeff Gubbels made a motion to authorize the City Manager and Mayor to negotiate with WISD and approve Resolution No. 2008-51, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2008 - 51**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A CONTRACT

WITH THE WHARTON INDEPENDENT SCHOOL DISTRICT (WISD) FOR A SCHOOL RESOURCE OFFICER (SRO) AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, the Wharton Independent School District (WISD) wishes to implement a School Resource Officer (SRO) Program in the public schools; and

WHEREAS, City of Wharton wishes to enter into an agreement with WISD to provide SRO services; and

WHEREAS, the City of Wharton and WISD wishes to be bound by the conditions as set forth in the agreement; 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 CITY COUNCIL OF THE CITY OF WHARTON, TEXAS as follows:

Section I. That the Wharton City Council hereby approves a contract between the City of Wharton and the WISD to provide SRO services for the public schools.

Section II. That the Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute the agreement.

Section III. That the City of Wharton and the WISD are hereby bound by the conditions as set forth in the agreement.

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

Passed, Approved, and Adopted this the 11th day of August 2008.

CITY OF WHARTON

By: _____
DAVID W. SAMUELSON
Mayor

ATTEST:

LISA OLMEDA

City Secretary

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

The eighth item discussed on the agenda was to review and consider the request by Mr. Pascual Castro, Chairman of the Fiesta Hispano Americana for City of Wharton assistance for the 27th Annual Fiesta Hispano Americana Event to be held Saturday, September 6, 2008:

- A. Request for Waste Management to provide restroom facilities and solid waste receptacles during the event.
- B. Portable light plant for use during evening hours to be located near restroom facilities.
- C. Closure of Houston and Fulton Streets between Milam and Burleson Streets and use of barricades from 7:00 a.m., Saturday, September 6, 2008 until 2:00 a.m., Sunday, September 7, 2008.
- D. Provide landing and staging area for Apache helicopter at the vacant area north of Caney Street.
- E. Erecting and dismantling City of Wharton stage.
- F. Maintenance Personnel to assist with grounds maintenance during the event from 3:00 p.m. until 12:00 Midnight, Saturday, September 6, 2008.
- G. Security.
- H. Authorization of parade route beginning at the corner of Walnut and Milam Street, proceeding west on Milam Street, passing through downtown area to north on Polk Street and ending at Guffey Park.

City Manager Andres Garza, Jr. presented a copy of the letter dated August 3, 2008 from Mr. Pascual Castro, Chairman of the Fiesta Hispano Americana requesting the items. He said that Mr. Castro would be available during the meeting to answer any questions. He then presented a copy of the letter that was forwarded to Police Chief Tim Guin. Mr. Castro stated that there would be an aircraft landing zone. He stated that the aircraft would not be utilized for rides, rather just observation purposes only. After some discussion, Councilmember Ken Freese made a motion to approve the following items as outlined in Mr. Castro's request, with the exception to Item D:

- A. Request for Waste Management to provide restroom facilities and solid waste receptacles during the event.
- B. Portable light plant for use during evening hours to be located near restroom facilities.
- C. Closure of Houston and Fulton Streets between Milam and Burleson Streets and use of barricades from 7:00 a.m., Saturday, September 6, 2008 until 2:00 a.m., Sunday, September 7, 2008.
- D. Provide landing and staging area for Apache helicopter at the vacant area north of Caney Street with the exception of approval of the property owner. The Fiesta Committee could need to obtain approval for use of the property from the land owner.
- E. Erecting and dismantling City of Wharton stage.
- F. Maintenance Personnel to assist with grounds maintenance during the event from 3:00 p.m. until 12:00 Midnight, Saturday, September 6, 2008.
- G. Security.
- H. Authorization of parade route beginning at the corner of Walnut and Milam Street, proceeding west on Milam Street, passing through downtown area to north on Polk Street and ending at Guffey Park.

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

The ninth item discussed on the agenda was to review and consider the City Council authorization to reopen the Milam Street Pedestrian Entrance at Harris Park as a Vehicular Entrance. City

Manager Andres Garza, Jr. stated that during the June 10, 2002 regular Wharton City Council meeting, the City Council approved the closure of the Milam Street Entrance to Harris Park. He then presented a copy of the minutes from the meeting. He said that Councilmember V. L. Wiley, Jr. was requesting City Council consideration to reopen the Milam Street (park side) entrance to vehicles. He then presented a copy of a map that indicated the location of the entrance and a copy of the letter dated August 8, 2008 from Councilmember Wiley requesting City Council consideration of reopening vehicular traffic into Harris Park from Milam Street. Councilmember V. L. Wiley, Jr. informed the City Council that was withdrawing the request from the agenda. No action was taken.

The tenth item discussed on the agenda was to review and consider a resolution of the Wharton City Council approving the Texas Department of Agriculture GO TEXAN Rural Community Designation agreement and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. stated that during the June 9, 2008 regular Wharton City Council meeting, the City Council approved Resolution No. 2008-36 authorizing the submission of an application to the Texas Department of Agriculture (TDA) for the City of Wharton to be designated as a GO TEXAN! Rural Community. He then presented a copy of the resolution and application that was submitted and a copy of the email dated June 24, 2008 from Ms. Natalie Houghton, TDA Marketing Coordinator for the Rural Texas Communities informing the City of Wharton that the City was approved as a Certified Member of the program. He then presented a copy of the agreement and related information regarding the program and a draft copy of the resolution approving the contract. He further presented a copy of the letter dated August 1, 2008 from City Attorney Paul Webb providing his recommendation. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2008-52 which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2008 - 52**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE TEXAS DEPARTMENT OF AGRICULTURE GO TEXAN! RURAL COMMUNITY DESIGNATION AGREEMENT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO THE AGREEMENT ON BEHALF OF THE CITY OF WHARTON.

WHEREAS, the Wharton City Council determined that there was a need to promote rural communities located in the State of Texas; and

WHEREAS, the Wharton City Council wishes to promote the City of Wharton as a GO TEXAN! Rural Community; and

WHEREAS, On June 9, 2008, the Wharton City Council approved Resolution No. 2008-36 authorizing the submission of an application to the Texas Department of Agriculture GO TEXAN! Community Rural Designation Program; and

WHEREAS, the Texas Department of Agriculture approved the City of Wharton application;
and

WHEREAS, the City of Wharton and the Texas Department of Agriculture wishes to enter into an agreement designating the City of Wharton as a certified member of the GO TEXAS! Rural Community Program; and

WHEREAS, the City of Wharton and the Texas Department of Agriculture wishes 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 approves a contract between the City of Wharton and the Texas Department of Agriculture designating the City of Wharton as a certified member of the GO TEXAN! Rural Community Program.

Section II. That the Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute the agreement.

Section III. That the City of Wharton and the Texas Department of Agriculture are hereby bound by the conditions as set forth in the agreement.

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

Passed, Approved, and Adopted this the 11th day of August 2008.

CITY OF WHARTON

By: _____
DAVID W. SAMUELSON
Mayor

ATTEST:

LISA OLMEDA

City Secretary

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

The eleventh item on the agenda was to review and consider a resolution of the Wharton City Council approving a Notice of Hotel/Motel Fund Availability (NOFA) for the City of Wharton Hotel/Motel Fund. City Manager Andres Garza, Jr. stated that during the budget workshop held on August 7, 2008, the City Council was informed that the City of Wharton would have a Hotel/Motel fund balance of approximately \$70,000.00 at the end of September 2008. He said that the City Staff was requesting the City Council to consider approving a resolution that approved a Notice of Hotel/Motel Notice of Fund Availability (NOFA) for \$17,500.00 whereby entities within the City of Wharton may apply. He then presented a draft resolution approving the

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NOFA. He stated that the funds would need to meet the requirements of the law for use of the funds. Councilmember Jeff Gubbels stated that the applications would need to be centered on generating over night stays in Wharton hotels and/or motels. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve Resolution No. 2008-53, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2008 - 53**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A NOTICE OF HOTEL/MOTEL FUND AVAILABILITY (NOFA) FOR THE CITY OF WHARTON HOTEL/MOTEL FUND.

WHEREAS, the City of Wharton has approximately \$17,500.00 of funds available in its Hotel/Motel Fund; and

WHEREAS, the Wharton City Council wishes to make the funds available to eligible entities in the City of Wharton;

WHEREAS, the Wharton City Council wishes to approve a Notice of Hotel/Motel Fund Availability (NOFA).

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 a Notice of Hotel/Motel Fund Availability (NOFA) in order to make available approximately \$17,500.00 in City of Wharton Hotel/Motel Funds to eligible entities.

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

Passed, Approved, and Adopted this the 11th day of August 2008.

CITY OF WHARTON

By: _____
DAVID W. SAMUELSON
Mayor

ATTEST:

LISA OLMEDA

City Secretary

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

The twelfth item on the agenda was to review and consider the City Council Committees, Boards and Commission's Reports:

A. City Council Public Works Committee meeting held July 31, 2008.

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- B. Wharton Regional Airport Board meeting held August 4, 2008.
 - C. Wharton Economic Development Corporation meetings held July 21, 2008 and August 7, 2008.
- City Manager Andres Garza, Jr. presented the reports to the City Council. No action was taken.

The thirteenth item on the agenda was to review and consider the City of Wharton Valhalla Water Well Emergency Rework Project – Alsay Incorporated – Pay Request No. 2. City Manager Andres Garza, Jr. presented a copy of the 2nd Pay Request submitted by Alsay Incorporated for the City of Wharton Valhalla Water Well Emergency Rework Project in the amount of \$6,345.00. Mr. Carlos Cotton, P.E. of Jones & Carter, Inc. stated that the project was 40% completed. After some discussion, Councilmember Don Mueller made a motion to approve the City of Wharton Valhalla Water Well Emergency Rework Project – Alsay Incorporated – Pay Request No. 2 for the amount of \$6,345.00. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The fourteenth item on the agenda was adjournment. After some discussion, Councilmember Don Mueller made a motion to adjourn. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The meeting adjourned at 7:42 p.m.

CITY OF WHARTON, TEXAS

By: _____
DAVID W. SAMUELSON
Mayor

ATTEST:

LISA OLMEDA
City Secretary