

MINUTES  
OF  
CITY OF WHARTON  
REGULAR CITY COUNCIL MEETING  
AUGUST 14, 2006

Mayor Bryce D. Kocian declared a Regular Meeting duly open for the transaction of business at 7:00 P.M. Councilmember Ray Linseisen 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., Police Chief Tim Guin, Building Official Ronnie Bollom, Public Works Director Phil Bush, EMS Director John Kowalik, and City Attorney Paul Webb.

Visitors present were: Benjamin Sharp with Wharton Journal Spectator, David Schroeder, Lewis Fortenberry, Carlos Cotton, John McLeod, Mark Jordon, Rick Villagomez, Gregory Baines, Mary Barnes, Billie Jones, Kent Hill, Larry Jackson, Wes Birdwell, Louis Edwards, Dr. Tom Sears, Dr. Gregg Dimmick, Debbi Dimmick, Kaydi Dimmick, Mary Ellen Martin, Coby Frankum, Kelly Frankum, Brandon Cruz, Krista Umschied, Felicia Compain, Gloria Garza, Glen Dyer, Arthur Felder, Jr., Pastor B.B. Willis, Heather Chappell, Barbara Morris, Lily Ann Hawes, and Caroline Hawes Dickerson.

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

The fourth item on the agenda was Wharton Moment. No comments were given. 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 10, 2006 and July 24, 2006 and the special meetings held July 3, 2006 and July 31, 2006. After some discussion, Councilmember Ray Linseisen made a motion to approve the Wharton City Council minutes of the regular meetings held July 10, 2006 as

corrected and July 24, 2006 and the special meetings held July 3, 2006 and July 31, 2006 as presented. Councilmember David Samuelson seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider the request by Mr. Jim Faetche for City Council consideration to cover Wharton Municipal Pool. City Manager Andres Garza, Jr. presented a copy of the letter dated July 24, 2006 from Mr. Jim Faetche for the City Council to consider covering the Wharton Municipal Pool during the August 14, 2006 Wharton City Council meeting. Mr. Jim Faetche was not present at the meeting. No action was taken.

The seventh item on the agenda was to review and consider the request by Dr. Gregg J. Dimmick, M.D., Chairman, Gala Committee, East Wharton County Habitat for Humanity for the following City assistance during the Habitat for Humanity Gala to be held October 28, 2006:

- A. Use of Wharton Civic Center tables and linens to seat 500 participants.
- B. Request restroom facilities from Waste Management.
- C. Closure of Milam, Fulton, Houston, and Burleson Streets from 5:30 p.m. to 9:30 p.m. October 28, 2006.
- D. Closure of Houston Street from 7:00 a.m. to 10:00 a.m. on October 28, 2006 and October 29, 2006.
- E. Provide the City stage and personnel to set up and dismantle the stage.
- F. Provide electricity for the event.
- G. Provide Security during the event.
- H. Request for a variance from the City of Wharton Code of Ordinances, Chapter 30 Fire and Prevention, Article V. Fireworks, Section 30-132 Prohibited Acts and allow a fireworks display at Riverfront Park.
- I. Waive fee for use of Wharton Civic Center Main Hall for October 28, 2006.
- J. Proclaim October 28, 2006 as Habitat for Humanity Day in Wharton, Texas.

City Manager Andres Garza, Jr. stated that the East Wharton County Habitat for Humanity had been successful in constructing its first new home for a Wharton family and was moving forward to begin construction on additional homes. He stated that the Wharton Habitat for Humanity had formed a Committee to hold a Gala Event on October 28, 2006 to raise the funds needed to take on this venture. He then presented a copy of the letter received from Dr. Gregg J. Dimmick through his email dated July 6, 2006, requesting the above-mentioned assistance from the City of Wharton. He stated that Dr. Dimmick's letter stated that Habitat for Humanity would like the aid to be provided at no charge. He stated that he had met with Dr. Dimmick on August 1, 2006 to discuss the proposed Gala Event and he indicated that the Committee was also proposing to hold a fireworks display in the same location as the Wharton Freedom Fest in Riverfront Park. He said that Dr. Dimmick was contacting the Boling Fire Department for assistance in the fireworks display. Dr. Dimmick addressed the City Council and requested the City Council authorize variances to the policies. He stated that Habitat for Humanity would like to raise \$200,000 from the Gala Event, which would be used to build 4 to 5 homes. He stated that the Civic Center was requested for a backup site, if the event had to be moved indoors. He stated that by building new houses through Habitat for Humanity, an increase to the tax base would occur for Wharton and requested the City Council to look at it from an investment point of view. City Manager Andres Garza, Jr. stated that the City had not previously allowed use of the tables and linens for an outdoor event, security at no cost and waived the fees for the Civic Center. Finance Director

Joyce Vasut stated that the ordinance required a deposit to hold the room and 60 days prior to the event, the fee would need to be paid. Police Chief Tim Guin stated that closure of the entire square would require state highway approval and the closure would only be approved for 4 hours with redirecting the traffic. He stated that Texas Department of Transportation would also need to be notified 30 days in advance. He stated that a reroute plan and signage to be used would also have to be submitted with the notification. He stated if approved by Texas Department of Transportation, then it would take 22 police officer and signs to redirect the traffic for the 4 hour period. He stated that closure of Fulton and Houston would not be a problem. He stated that the security of the officers would need to begin when the time of the serving of alcoholic beverages starts until the end of the event. He stated that 6 police officers would be needed for security. Councilmember Domingo Montalvo, Jr. stated that the fireworks display would need a safety plan to be approved by the Wharton Volunteer Fire Department Fire Chief and the Inspector. After some discussion, Councilmember Don Mueller made a motion to approve the request by Dr. Gregg J. Dimmick, M.D., Chairman, Gala Committee, East Wharton County Habitat for Humanity for the following City assistance during the Habitat for Humanity Gala to be held October 28, 2006, to include:

- A. Request restroom facilities from Waste Management.
- B. Closure of Houston Street from 7:00 a.m. to 10:00 a.m. on October 28, 2006 and October 29, 2006.
- C. Provide the City stage and personnel to set up and dismantle the stage.
- D. Request for a variance from the City of Wharton Code of Ordinances, Chapter 30 Fire and Prevention, Article V. Fireworks, Section 30-132 Prohibited Acts and allow a fireworks display at Riverfront Park.
- E. Proclaim October 28, 2006 as Habitat for Humanity Day in Wharton, Texas.

Councilmember Domingo Montalvo, Jr. seconded the motion. Councilmember David Samuelson abstained. The motion carried.

City Manager Andres Garza, Jr. stated that the City Staff would determine the costs of providing the other items and present the costs to the City Council at the next City Council meeting.

The eighth item on the agenda was to review and consider the recommendation by the Planning Commission for City Council consideration of the request by Geo Solutions, Ltd., on behalf of Wharton Retail, Ltd. for approval of the preliminary/final re-plat of a 2.0000-acre tract of land situated in the A. Jackson Timber League, Abstract 34, Block 1, Reserves "A" and "B". City Manager Andres Garza, Jr. stated that the Planning Commission met August 7, 2006 and discussed the request by Geo Solutions, Ltd., on behalf of Wharton Retail, Ltd. for approval of the preliminary/final re-plat of a 2.0000-acre tract of land situated in the A. Jackson Timber League, Abstract 34, Block 1, Reserves "A" and "B". He then presented a copy of the memorandum dated August 8, 2006 from A. J. Rath, Chairman of the Planning Commission recommending the City Council consider approving the preliminary/final replat. He also presented a copy of the Planning Commission Communications from the meeting and a copy of the preliminary/final replat. Planning Director Prudencio V. Arraiga, Sr. stated that the Planning Commission approved the preliminary/final replat with minor corrections to include replacing Reserves "A" and "B" with Lots 1 and 2. After some discussion, Councilmember Ken Freese made a motion to approve the recommendation by the Planning Commission for City Council consideration of the request by Geo Solutions, Ltd., on behalf of Wharton Retail, Ltd., for

approval of the preliminary/final re-plat of a 2.0000-acre tract of land situated in the A. Jackson Timber League, Abstract 34, Block 1, Lots 1 and 2. Councilmember Don Mueller seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider the City of Wharton Floodproofing Project:

- A. Presentation by the Lower Colorado River Authority and the U.S. Army Corp of Engineers regarding the Recommended Plan for the City of Wharton Floodproofing Project.

Mr. John McLeod of the Lower Colorado River Authority (LCRA) gave a presentation regarding the Recommended Plan for the City of Wharton Floodproofing Project. City Manager Andres Garza, Jr. stated that the Recommended Plan addressed the flooding problems in the City of Wharton, which consisted of structural features in the form of earthen levees and accompanying sumps, floodwalls, a channel enlargement, storm drain type drainage structures and an open cut ditch. He then presented a draft copy of the recommended plan. Mr. John McLeod stated the floodproofing project addressed four general areas: (1) Colorado River with levees, sumps, and flood walls; (2) Caney Creek with better drainage to the Colorado River; (3) Baughman Slough with levees, sumps, and flood walls; and (4) natural rain water with drainage to the Colorado River. He stated that the preliminary project financial data consisted of project cost of \$27.7 million. He stated that the benefit/cost ratio was 2.2. He stated that the City Total Share (35%) was \$9.7 million; however, the city would receive credit for the Santa Fe Drainage Outfall Channel under the Section 104 regulations of the 1986 Water Resources Development Act in the amount of \$2.9 million, estimated relocations credit of \$0.8 million and lands and easements credit of \$4.2 million. He stated that the project required a cash contribution and it was estimated at \$1.8 million. Mr. Rick Villagomez stated the credit would not be reduced for the Santa Fe Drainage Outfall Channel even if the costs would be less since the City of Wharton was conducting the project in-house. He stated that if the project would be greater, then additional credit would be received. Mr. McLeod stated that the draft report to headquarters and the public would be available on August 17, 2006 with input from the public to be received. He stated that the final feasibility report would be completed in October 2006. He said the Chief's Report to Congress would be completed in December 2006. He stated that the Preconstruction Engineering Design (PED) would begin in January 2007, contingent on congressional action on appropriations and a new agreement with the Corps. He further stated that the required congressional actions needed were: to authorize Preconstruction, Engineering and Design (PED) in FY 2007 and approve the legislative bill; and add the Wharton project to the language in the Water Resources Development Act (WRDA) of 2006 to authorize construction and approve the legislative bill. Councilmember David Samuelson stated that the citizens should contact the congressional representative to request their support and approval of the project. Mr. John McLeod stated that the design phase would take approximately 2 years (2007-2008), if congress would approve the funding for the project. No action was taken.

- B. Resolution: A resolution of the Wharton City Council approving the Recommended Plan for the City of Wharton Floodproofing Project.

City Manager Andres Garza, Jr. presented a draft copy of the City of Wharton resolution approving the Recommended Plan for the City of Wharton Floodproofing Project. After some

discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2006-54, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2006-54**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE  
RECOMMENDED PLAN FOR THE CITY OF WHARTON  
FLOODPROOFING PROJECT.**

**WHEREAS,** the Wharton City Council wishes to take necessary measures to protect the citizens of Wharton from possible future flood events; and

**WHEREAS,** the City of Wharton has been working in conjunction with the Lower Colorado River Authority, U.S. Army Corp of Engineers and the Texas Colorado River Floodplain Coalition to conduct the Wharton Interim Floodproofing Study and develop the Recommended Plan; and

**WHEREAS,** the Wharton City Council wishes to approve Recommended Plan for the City of Wharton Floodproofing Project.

**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 Recommended Plan for the City of Wharton Floodproofing Project.

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

**Passed, Approved, and Adopted** this 14<sup>th</sup> day of August 2006.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

\_\_\_\_\_  
**LISA STAVENA**

City Secretary

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

The tenth item on the agenda was to review and consider a resolution of the Wharton City Council approving an interlocal agreement between Wharton County and the Cities of Wharton and East Bernard, and the Counties of Austin, Colorado, Fort Bend, and Brazoria to provide in-

kind services for the Watershed Study of the San Bernard River and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. stated that on June 7, 2006, Wharton County Judge John Murrile requested the City to appoint a point of contact to work with Wharton County in developing the Wharton County Flood Mitigation Plan. He stated that during the June 26, 2006, the Wharton City Council approved to appoint him as the City's contact and representative to work with Wharton County in developing the plan. He then presented a copy of the email dated July 31, 2006 from Mr. Wes Birdwell, Halff Associates regarding Wharton County's desire to study the San Bernard River to determine its flood damage potential and what might be done to reduce flood damages. He said that Wharton County had approved the project and would submit a request for funding through the Texas Water Development Board. He further said that Mr. Birdwell had indicated that an interlocal agreement would be required by the City of Wharton to provide in-kind services and any available data, studies or information deemed valuable to this study by the Management Committee. He then presented a draft copy of the agreement and a resolution approving its execution by Mayor Bryce D. Kocian. Mr. Wes Birdwell addressed the City Council and requested approval. He stated that East Bernard and Wharton County had previously approved the interlocal agreement. After some discussion, Councilmember Don Mueller made a motion to approve Resolution No. 2006-55, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2006-55**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN INTERLOCAL AGREEMENT BETWEEN WHARTON COUNTY AND THE CITIES OF WHARTON AND EAST BERNARD, AND THE COUNTIES OF AUSTIN, COLORADO, FORT BEND, AND BRAZORIA TO PROVIDE IN-KIND SERVICES FOR THE WATERSHED STUDY OF THE SAN BERNARD RIVER AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.**

**WHEREAS,** the Wharton City Council wishes assist Wharton County in its desire to study the San Bernard river to determine its flood damage potential and develop measures to reduce flood damage; and

**WHEREAS,** the Wharton City Council wishes to enter into and interlocal agreement between Wharton County, the City of East Bernard, and the Counties of Austin, Colorado, Fort Bend, and Brazoria to provide in-kind services for the Watershed Study of the San Bernard River; and

**WHEREAS,** the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute all documents related to said 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 an interlocal agreement between Wharton County, the City of East Bernard, and the Counties of Austin, Colorado, Fort

Bend, and Brazoria to provide in-kind services for the Watershed Study of the San Bernard River and authorizes the Mayor of the City of Wharton to execute all documents related to said agreement.

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

**Passed, Approved, and Adopted** this 14<sup>th</sup> day of August 2006.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

\_\_\_\_\_  
**LISA STAVENA**

City Secretary

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

The eleventh item discussed on the agenda was to review and consider the City of Wharton Emergency Medical Services (EMS):

A. City Council acceptance of the \$41,900.00 grant award from the M.G. and Lillie A. Johnson Foundation, Inc.

City Manager Andres Garza, Jr. presented a copy of the letter dated July 20, 2006 from Mr. Robert Halepeska, Executive Vice President of the M.G. and Lillie A. Johnson Foundation, Inc. awarding the EMS Department a grant in the amount of \$41,9000 to be used toward the purchase of a new ambulance. He then presented a copy of the check. He stated that City Council acceptance of the grant award was required. EMS Director John Kowalik stated that two grants were received from the M.G. and Lillie A. Johnson Foundation in the amount of \$41,9000 and Gulf Coast Medical Foundation in the amount of \$40,000 for the purchase of an ambulance. After some discussion, Councilmember David Samuelson made a motion to approve the acceptance of the \$41,900.00 grant award from the M.G. and Lillie A. Johnson Foundation, Inc. Councilmember Ken Freese seconded the motion. Councilmember Domingo Montalvo, Jr. abstained. The motion carried.

B. City of Wharton Ambulance Chassis:

1. Bid Tabulation.
2. Resolution: A resolution of the Wharton City Council awarding Von-Wil Ford, Wharton, Texas, for the City of Wharton One 2007 One Ton Ambulance Chassis and authorizing the Mayor of the City of Wharton to execute all documents relating to said contracts.

City Manager Andres Garza, Jr. stated that bids were opened August 10, 2006 for the City of Wharton Ambulance Chassis. He then presented a copy of the bid tabulation, and a copy of the memorandum dated August 10, 2006 from EMS Director John Kowalik providing his

recommendation that the City Council should consider awarding the bid to Von-Wil Ford, Wharton, Texas, for the 2007 Ford F-350 in the amount of \$21,939.38. He then presented a draft resolution awarding the bid. EMS Director John Kowalik stated that Von-Wil Ford met the bid specifications and was the lowest qualified bidder. After some discussion, Councilmember Ray Linseisen made a motion to approve Resolution No. 2006-56, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2006-56**

**A RESOLUTION AWARDING A BID TO VON-WIL FORD FOR THE CITY OF WHARTON WITH THE OPTION TO PURCHASE ONE 2007 ONE TON AMBULANCE CHASSIS AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID CONTRACTS.**

**WHEREAS,** competitive, sealed bids were received on August 10, 2006 for the City of Wharton One 2006 One Ton Ambulance Chassis with an option on a 2007 One Tone Ambulance Chassis; and

**WHEREAS,** Von-Wil Ford was deemed to be the best and lowest qualified bidder as per bid specifications in the amount of \$21,939.38; and

**WHEREAS,** the Wharton City Council wishes to award the bid to Von-Wil Ford for the option of the One 2007 One Ton Ambulance Chassis.

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

- Section I. That Von-Wil Ford is hereby awarded the bid for the City of Wharton option of the One 2007 One Ton Ambulance Chassis in the amount of \$21,939.38 in accordance with the bid specifications.
- Section II. That Bryce D. Kocian, Mayor of the City of Wharton is hereby authorized to sign any documents relating to the aforementioned contracts.
- Section III. That this resolution shall become effective immediately upon its passage.

**Passed, Approved, and Adopted** this 14<sup>th</sup> day of August 2006.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

\_\_\_\_\_

