

MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
AUGUST 28, 2006

Mayor Bryce D. Kocian declared a Regular Meeting duly open for the transaction of business at 7:02 P.M. Councilmember Domingo Montalvo, Jr. led the opening devotion and then Mayor Bryce D. Kocian led the pledge of allegiance.

Councilmembers present were: Mayor Bryce D. Kocian, Councilmembers David Samuelson, Ken Freese, Don Mueller, Domingo Montalvo, Jr., and Ray Linseisen.

Councilmember absent was: V. L. Wiley, Jr.

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, Police Chief Tim Guin, Public Works Director Phil Bush, Community Services Director Jo Knezek, EMS Director John Kowalik, Paramedic Larry Hollingsworth, Paramedic Jimi Sue Copeland, Paramedic Jeremy Copeland, and City Attorney Paul Webb.

Visitors present were: Ben Sharp with Wharton Journal Spectator, David Schroeder with Wharton Economic Development Corporation, Carlos Cotton, Louis Edwards, Gloria Garza, Lewis Fortenberry, Pascual Castro, Linda Castro, Felicia Compian, John Morin, Gregg Dimmick, Teresa Mata, Daniel Garza, A. Quintanilla, Sr., Lena Quintanilla, Lupe Mata, Bruno Ybarbo, Tomas Aguilar, and Ester Aguilar.

The second item on the agenda was Roll Call and Excused Absences. Councilmember David Samuelson made a motion to approve the absence of Councilmember V. L. Wiley, Jr. from the Regular City Council Meeting held August 28, 2006. Councilmember Ken Freese seconded the motion. All voted in favor.

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. Councilmember Ken Freese publicly commended the City Staff Harold Matula, Steve Salazar, Jr. Cesar Chapa, Anthony Milder and

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Bob Baker for their assistance in preparing the Little League field for the Tournament held in Wharton.

Mayor Bryce D. Kocian presented a Metal of Honor, for the heroism on September 7, 2005 during the fire at University Place Apartments, to EMS Director John Kowalik, Paramedic Jimi Sue Copeland and Paramedic Larry Hollingsworth.

Mayor Bryce D. Kocian then presented a Proclamation to the Fiesta Hispano Americana organization. Mrs. Gloria Garza invited the public to attend and participate in the festival to be held September 9, 2006.

Mayor Bryce D. Kocian then read the proclamation for the National Assisted Living Week. No action was taken.

The fifth item on the agenda was to review and consider City of Wharton financial report for the month of July 2006. Finance Director Joyce Vasut presented the financial report for the month of July 2006 and stated that the fiscal year was at 83%. Mrs. Vasut stated that the general fund revenues were at 82.25% and the expenditures were at 83.36%. The total ad valorem taxes collected were \$1,777,922. The sales tax for the month of June 2006 was \$182,469 with \$121,646 to the City and \$60,823 to WEDCo. The TexPool balance for June 2006 was \$1,256,557.90 with an average monthly yield of 5.2258%. After some discussion, Councilmember Ray Linseisen made a motion to approve the City of Wharton Financial Report for the month of July 2006. Councilmember David Samuelson seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider the City Manager's submission of the City of Wharton, Texas, Proposed Budget for the Fiscal Year October 1, 2006 to September 30, 2007. City Manager Andres Garza, Jr. stated that the proposed budget for the City of Wharton fiscal year October 1, 2006 to September 30, 2007 was submitted under separate cover. Finance Director Joyce Vasut stated that the budget included the Chamber of Commerce increase of \$2,600.00, Communications Department salaries increase, and a 3% cost of living increase as discussed in the budget workshop meeting. No action was taken.

The seventh item on the agenda was to review and consider setting a Public Hearing Date for the City of Wharton, Texas, Proposed Budget for the Fiscal Year October 1, 2006 to September 30, 2007. City Manager Andres Garza, Jr. stated that under Article VI, Section 53 of the City of Wharton Charter the City Council shall set a time and place for a public hearing. He then presented a copy of the City's Charter Section pertaining to the Budget. He stated that the City Staff would publish the Notice of Public Hearing on Wednesday, August 30, 2006 in the Wharton Journal Spectator. He was recommending the public hearing be set for the September 11, 2006 Regular City Council Meeting, which would comply with Section 53 of the Charter. After some discussion, Councilmember Ken Freese made a motion to approve the Public Hearing date to be held on September 11, 2006 for the City of Wharton, Texas, Proposed Budget for the Fiscal Year October 1, 2006 to September 30, 2007. Councilmember Don Mueller seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider the request by 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, Main Hall at no cost.
- B. Security for the event at no cost.

City Manager Andres Garza, Jr. stated that during the August 14, 2006 regular Wharton City Council meeting, Dr. Gregg J. Dimmick requested certain assistance from the City of Wharton for the East Wharton County Habitat for Humanity Gala Event to raise funding for the construction of additional homes in the City. He stated that since that time, the Gala Committee had determined that the event would be held at the Wharton Civic Center. He then presented a copy of Dr. Dimmick's letter the City received August 24, 2006 that indicated the previous requests made by the Gala Committee would not require City Council consideration. He said that the Gala Committee was requesting the above-mentioned items be approved by the City Council. Dr. Dimmick addressed the City Council and stated that the courthouse would not be completed by October 28, 2006; therefore the event would be moved to the Civic Center Main Hall. He stated that he was asking the City Council to look at the request for assistance as an investment, since the building of homes would add to the tax base. Councilmember Domingo Montalvo, Jr. asked how the City would pay for the security. City Manager Andres Garza, Jr. stated that if the City would pay for the security, then it would be at an over-time rate for the officers, which was more than the rate for private security through the Wharton Police Association. He stated that through the existing policy, the officers are paid a rate of \$25.00 per hour. Police Chief Tim Guin stated that six officers would be required for Gala. After some discussion, Councilmember Ken Freese made a motion to deny the request by 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: 1) Use of Wharton Civic Center, Main Hall at no cost, and 2) Security for the event at no cost. Councilmember Ray Linseisen seconded the motion. Councilmember David Samuelson abstained. The motion carried.

The ninth item on the agenda was to review and consider the request by the Fiesta Hispano Americana Committee for City of Wharton assistance to provide the following for the Twenty-Fifth Annual Fiesta Hispano Americana to be held Saturday, September 9, 2006:

- A. City to request Waste Management to provide restroom facilities and solid waste containers/dumpsters.
- B. Closure of Houston Street between Milam Street and Burleson Street and Fulton Street between Milam Street and Burleson Street on Saturday, September 9, 2006 from 8:00 a.m. to 2:00 a.m.
- C. Use of the City of Wharton stage.
- D. Approval to conduct a parade beginning at the corner of Walnut Street and Milam Street to Guffey Park.

City Manager Andres Garza, Jr. stated that the Fiesta Hispano Americana Committee would hold the Twenty-fifth Annual Fiesta Hispano Americana Event on Saturday, September 9, 2006. He then presented a copy of the letter dated August 23, 2006 from Mrs. Gloria Garza, President of the Fiesta Hispano Americana requesting City assistance with the above-mentioned items. He also presented a copy of the letter dated August 23, 2006 from Chairman Pascual Castro requesting the City declare September 3 – 9, 2006 as Fiesta Hispano Americana week. He stated that the

organization would be responsible for contacting the downtown businesses for closure of Houston and Milam Streets. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the request by the Fiesta Hispano Americana Committee for City of Wharton assistance to provide the following for the Twenty-Fifth Annual Fiesta Hispano Americana to be held Saturday, September 9, 2006: 1) City to request Waste Management to provide restroom facilities and solid waste containers/dumpsters. 2) Closure of Houston Street between Milam Street and Burleson Street and Fulton Street between Milam Street and Burleson Street on Saturday, September 9, 2006 from 8:00 a.m. to 2:00 a.m. 3) Use of the City of Wharton stage. 4) Approval to conduct a parade beginning at the corner of Walnut Street and Milam Street to Guffey Park. Councilmember David Samuelson seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider the City Council acceptance of a \$40,000 grant award from the Gulf Coast Medical Foundation for the Emergency Medical Service (EMS) Department. City Manager Andres Garza, Jr. presented a copy of the letter dated August 24, 2006 from Ms. Melissa Burnham, EVP of the Gulf Coast Medical Foundation awarding the City of Wharton Emergency Medical Service (EMS) Department a grant award in the amount of \$40,000. He stated that the grant award was provided to assist the EMS Department with the purchase of a new ambulance. He then presented a copy of the memorandum dated August 24, 2006 from EMS Director John Kowalik requesting this item be placed on the agenda for City Council consideration. He stated that City Council acceptance of the grant award was required. EMS Director John Kowalik stated that the grant was a matching grant. After some discussion, Councilmember David Samuelson made a motion to approve the acceptance of a \$40,000 grant award from the Gulf Coast Medical Foundation for the Emergency Medical Service (EMS) Department. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The eleventh item on the agenda was to review and consider an ordinance amending the City of Wharton Code of Ordinances, Chapter 86 Utilities and Services, Article III Solid Waste Disposal; Providing for separability; Providing that a violation of the ordinance or any part of the Code as adopted hereby shall constitute a penalty upon conviction of a fine and setting an effective date. City Manager Andres Garza, Jr. stated that during the August 23, 2006 City Council Finance Committee, the Committee voted to recommend the City Council consider approving the amendments to the City of Wharton Code of Ordinances, Chapter 86 Utilities and Services, Article III Solid Waste Disposal. He then presented a copy of the draft ordinance. Finance Director Joyce Vasut presented the proposed amendments. He then presented a copy of the memorandum dated August 25, 2006 from the Finance Committee recommending City Council approval. Finance Director Joyce Vasut discussed the mobile collection containers. Councilmember Don Mueller asked about the placement for collection in the city right-of-ways. Finance Director stated that the section would be deleted. After some discussion, Councilmember Ray Linseisen made a motion to approve Ordinance No. 2006-14, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2006 - 14**

AN ORDINANCE REPEALING AND REPLACING THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 86 UTILITIES AND SERVICE, ARTICLE III SOLID WASTE DISPOSAL; PROVIDING FOR SEPARABILITY; PROVIDING THAT A

**VIOLATION OF THE ORDINANCE OR ANY PART OF THE CODE AS ADOPTED
HEREBY SHALL CONSTITUTE A PENALTY UPON CONVICTION OF A FINE AND
SETTING AN EFFECTIVE DATE.**

BE IT ORDAINED by the Wharton City Council that the City of Wharton Code of Ordinances, Chapter 86, Utilities and Service, Article III Solid Waste Disposal be replaced as follows:

ARTICLE III. SOLID WASTE DISPOSAL

Sec. 86-91. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bulky waste: Furniture and appliances including stoves, water tanks, washing machines, certified and properly discharged refrigerators, freezers and air conditioners and other large waste material. Bulky waste does not include construction debris, hazardous waste, and tires.

Commercial tree trimmers: Any person or persons contracted by a resident to trim or remove trees, plants, weeds, branches, etc.

Commercial customer: Any customer that is not a residential customer.

Commercial hauler: Any person or persons contracted by a resident or business to remove brush, bulky waste, construction debris, etc.

Construction contractors: Any person, persons, company or corporation that is contracted and or is in the business of construction, remodeling, repairs, demolition and building that results in construction debris.

Construction debris: Any waste building materials including but not limited to lumber, sheetrock, plaster, shingles, bricks, concrete, framing materials, steel, doors and windows resulting from construction, remodeling, repairs, demolitions or other construction-type activities.

Dry kitchen refuse: The solids after the liquid has been drained off.

Dumpster Enclosure: Any enclosed structure constructed in accordance with the structural requirements of the City of Wharton Building Code, as adopted by the City, irrespective of the actual enclosed square footage of the structure.

Kitchen garbage: Dry kitchen refuse; meat, vegetable and fruit refuse from any premises within the city.

Premises Businesses, theaters, hotels, restaurants, cafes, apartments, schools, private residents, vacant lots and all other places within the city where garbage, trash or rubbish accumulates in ordinary quantities.

Residential development: Any development that has four or more residential units.

Residential customers: Any customer that is a single family dwelling.

Rubbish: Tin cans, bottles, glass, and scraps of iron, tin, wire or any other metals from any premises within the city.

Trash: Paper of all kinds, rags, old clothing, paper containers, old rubber, boxes, barrels, crates, feathers, from any premises within the city.

Yard debris: Tree limbs, sticks, shrubs, leaves, grass and other trimmings from any premises within the city.

Sec. 86-92. Garbage Receptacles.

It shall be the duty of every person owning, managing, operating, leasing or renting any premises to place garbage in a disposable container made of plastic, paper or other disposable material of sufficient strength so as to hold the contents without tearing or breaking and so as not to otherwise break or come apart upon exposure to rain, windstorm, freezing temperatures or other adverse weather conditions. No garbage container shall exceed a gross weight of 50 pounds when filled. Trash, rubbish, leaves and grass clippings shall also be placed in such disposable containers. There shall be no permanent receptacles placed at the curb.

Trash, garbage and rubbish may be set in a mobile receptacle for pick-up the day of pick-up. However, the garbage must still be enclosed in a disposable container to be picked up. The mobile receptacle shall only be at the curb the day of pick-up and must be removed after the garbage is picked up.

Sec. 86-93. Placement for collection.

- (a) The owner or person controlling the premises shall place or cause to be placed garbage, trash, rubbish, yard debris, bulky waste inside the line of the street adjoining the owner's property as near as practical to the street, but not in the street, on the day of collection only.
- (b) The placement of garbage, trash, or rubbish, yard debris and bulky waste on vacant lots or on streets adjoining vacant lots is prohibited.
- (c) The placement of garbage, trash or rubbish, yard debris, and construction debris on city property, or in the city drainage system is prohibited.

Sec. 86-94. Same--Meddling with or pilfering from.

The meddling with garbage, trash or rubbish containers or in any way pilfering therefrom or scattering contents or junkings in any alley or street within the city is prohibited.
(Code 1978, § 20-54)

Sec. 86-95. Hand Collection of garbage, trash and rubbish.

The collection of garbage, trash and rubbish within the city is prohibited except as specifically provided in this article.

- (a) The hand collection of garbage, trash and rubbish for residential customers will be two times per week. The days of such collection is based on the customer's location within the City. All residential hand collection will be collected in bags only. Bags may be placed in mobile receptacles.
- (b) The hand collection of ordinary garbage, trash and rubbish for commercial customers will be made two times per week. The days of such collection is based on the customer's location within the City. All commercial hand collection will be collected in bags only.
- (c) Residential or commercial customers with excessive amounts of garbage, trash and rubbish, or places where the daily accumulation of dry kitchen garbage is more than the ordinary quantities shall make special arrangements with the city for container/dumpster service with more frequent pickup (see Section 86-100).

Sec. 86-96. Bulky Waste

Bulky waste collection for residential customers will be made one time per week. The day of such collection is based on the customer's location within the City.

Bulky waste collection for commercial customers will be provided for a fee as noted in section 86-102. Commercial customers may place bulky waste at the curb, and as determined by the city, will automatically be charged for the collection of such bulky waste.

Items set out for bulky waste pick-up including yard debris shall be set-out away from power lines and trees. The grabber is not able to pick-up items that are not clear from overhead obstructions. If bulky waste and yard debris is set-out with overhead obstructions, the customer will be required to move the pile before it will be picked up.

Sec. 86-97. Yard debris:

- (a) Tree limbs, sticks, shrubs, and large trimmings, which are to be collected, shall be cut into lengths not exceeding four feet. Leaves, grass and other small trimmings must be contained in disposable trash bags.

- (b) Tree limbs, sticks, shrubs, brush trimmings and bush trimmings shall be kept separated from garbage, trash, rubbish, and other accumulations. The customer will be required to separate such items before they will be picked up.

For disposal or removal of yard debris, the resident has two options:

- (1) The resident can dispose of the yard debris at the Wharton Transfer Station free of charge providing the resident in person presents his or her drivers license and current city water bill.
- (2) The resident or commercial tree trimmer hired by the resident can place the yard debris at the curbside for weekly bulky waste pickup.

For disposal or removal of yard debris, the commercial customer can dispose of the yard debris at the Wharton Transfer Station for a fee as noted in section 86-106. Commercial customer should not leave yard debris at the curb for pick-up. However, if yard debris is left at the curb it will be picked-up and as determined by the city will be automatically charged to the customer as noted in section 86-102.

Sec. 86-98. Construction Materials

Construction materials may not be placed at the curb for hand collection or bulky waste collection. Construction materials may be taken to the Transfer Station for a disposal fee. If construction debris is placed at curbside, both residential and commercial customers, as determined by the city, will be automatically charged for the cost of disposal.

Sec. 86-99. Container/Dumpster Service

Residential or commercial customers with excessive amounts of garbage, trash and rubbish, or places where the daily accumulation of kitchen garbage is more than the ordinary quantities shall make special arrangements with the city for container/dumpster service with more frequent pickup. Dumpsters are available in two, three, four, six and eight cubic yards and may be emptied up to five times per week.

Dumpsters shall be placed on an improved pad away from the street.

Sec. 86-100. Garbage Containment Areas

All residential developments with four (4) or more units shall have a designated garbage containment area. All garbage containment devices, including but not limited to dumpsters, garbage or trash containers, recycling bins, compactors, oil receptacles, and grease traps, shall be located within such garbage containment area behind the front building line and enclosed. If the typography or other conditions will not allow the containment area to be located behind the front building line, the Building Official or his designee shall designate the location for the containment area.

