

**MINUTES  
OF  
CITY OF WHARTON  
REGULAR CITY COUNCIL MEETING  
SEPTEMBER 22, 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.

Councilmember's present were: Mayor David W. Samuelson, Councilmember's 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, Police Chief Tim Guin, EMS Director John Kowalik, Public Works Director Carter Miska, Emergency Management Coordinator Jim Cooper, Fire Chief Bobby Barnett, and City Attorney Paul Webb.

Visitors present were: Barry Halvorson with Wharton Journal Spectator, David Schroeder with Wharton Economic Development Corporation, Carlos Cotton with Jones & Carter, Glenn Erdelt, Ron Sanders, Arthur Araguz, Juan Cano, Louis Edwards, Paul Shannon, Joyce Patton, and Frederick Scheffel.

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 September 22, 2008. Councilmember Lewis Fortenberry, Jr. 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 Wharton Moment. Mayor David W. Samuelson presented the following proclamation, which read as follows:

**Whereas,** National Employ Older Workers Week is being observed nationally September 21 through 27, 2008 to highlight the accomplishments of our older citizens, to express our gratitude for the contributions they have made to our communities; and to raise awareness to the contributions they can continue to make as employees of businesses in your community; and

- Whereas,** the City of Wharton, Texas, is home to approximately 1,800 adults that are 55 years of age or older; and
- Whereas,** Seniors in the City of Wharton, Texas, and around the State can live full and satisfying lives and contribute to making the State a better place through care giving, volunteerism, employment and family and community Leadership; and
- Whereas,** Just as older Texans are the foundations of their families, they can also be the cornerstones of their communities, serving as leaders, mentors and role models; and
- Whereas,** Older Texans support their communities through volunteering, care giving and other activities; and
- Whereas,** Older Texans are integral to a strong economy and can be valuable assets to employers through re-careering, re-entering the market, obtaining job training and more.

**Now, Therefore,** I, David W. Samuelson, by the authority vested in me as Mayor of the City of Wharton, Texas, do hereby proclaim the week of

*September 21 through 27, 2008 as  
"Employ Older Workers Week"*

and, join the City of Wharton and Experience Works, Inc. in thanking our senior citizens for being positive role models for all generations.

**In Witness Whereof,** I hereunto have set my hand and caused the seal of the City of Wharton to be affixed this 22<sup>nd</sup> day of September, in the year of our Lord two thousand eight A.D.

No action was taken.

The fifth item on the agenda was to review and consider the City of Wharton Financial Report for the month of August 2008. Finance Director Joyce Vasut presented the financial report for the month of August 2008 and stated that the fiscal year was at 92%. Mrs. Vasut stated that the general fund revenues were at 90.65% and the expenditures were at 86.04%. The total ad valorem taxes collected were \$1,878,968. The sales tax for the month of July 2008 was \$163,686 with \$109,124 to the City and \$54,562 to WEDC. The Franklin Bank balance for August 2008 was \$832,337.63 with an average monthly yield of 2.0%. TexPool balance for August 2008 was \$888,414.84 with an average monthly yield of 2.2878%. After some discussion, Councilmember Ken Freese made a motion to approve the City of Wharton Financial Report for the month of August 2008. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider the City Council action in accordance with House Bill 3195:

A. Adoption of a budget that will require raising more revenue from property taxes than in the previous year.

B. Ratification of the property tax increase reflected in the budget.

City Manager Andres Garza, Jr. presented a copy of HB 3195 adopted by the 80<sup>th</sup> Texas Legislature. He said that in accordance with Section 4 (Page 2), Section 102.007, Local Government Code, was amended by adding Subsection 9(C) to state that adoption of a budget that would, A.) require raising more revenue from property taxes than in the previous year, and B.) require the governing body to ratify the property tax increase reflected in the budget. He said that a vote under this subsection was in addition to and separate from the vote to adopt the budget or a vote to set the tax rate required by Chapter 26, Tax Code, or other law. Finance Director Joyce Vasut stated that the new properties in the City of Wharton would generate more property taxes than last year; therefore, the City of Wharton would be raising more revenue from property taxes than in the previous year. After some discussion, Councilmember Jeff Gubbels made a motion for adoption of a budget that would require raising more revenue from property taxes than in the previous year, and ratification of the property tax increase reflected in the budget. Councilmember Ken Freese seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider an ordinance adopting the Fiscal Year 2008-2009 Annual Budget for the City of Wharton, Texas; Appropriating the several sums established therein; and directing the City Secretary to file copies as required by law. City Manager Andres Garza, Jr. stated that during the regular August 25, 2008 City Council meeting, a copy of the proposed budget for the City of Wharton, Texas, Fiscal Year October 1, 2008 to September 30, 2009 was presented. He stated that during the regular City Council meeting held September 8, 2008 the City Council held the public hearing to receive public input regarding City of Wharton Annual Budget for Fiscal year 2008 – 2009. He then presented a draft ordinance adopting the Fiscal Year 2008-2009 Annual Budget for the City of Wharton, Texas. Finance Director Joyce Vasut stated that the proposed budget was posted on the City of Wharton website and also in the City Secretary's office for review. Councilmember Ken Freese asked if the current tax rate could be changed from .51286 to .51280, which would be a \$202 difference. After some discussion, Councilmember Ken Freese made a motion to approve Ordinance No. 2008-12, which read as follows:

**CITY OF WHARTON, TEXAS  
ORDINANCE NO. 2008-12**

**AN ORDINANCE ADOPTING THE FISCAL YEAR 2008-2009 ANNUAL BUDGET FOR  
THE CITY OF WHARTON, TEXAS; APPROPRIATING THE  
SUMS ESTABLISHED THEREIN; AND DIRECTING THE  
CITY SECRETARY TO FILE COPIES AS REQUIRED BY LAW.**

**WHEREAS**, the City's budget for the fiscal year ending September 30, 2009, which is attached hereto, was duly submitted to the City Council more than thirty (30) days prior to September 30, 2008.

**WHEREAS**, a public hearing was duly called and held on said budget not less than seven days nor more than fourteen days after date of publication giving notice of such meeting and prior to the time the City Council of the City of Wharton levied taxes for such current fiscal year; and

**WHEREAS**, all parties desiring to participate and be heard at said public hearing having been heard until no more evidence was offered, and such hearing having been concluded, and the City Council of said City having made such changes in such budget as in its judgment the law warrants and the best interest of the taxpayers of the City of Wharton, Texas, demand, said budget with such changes being attached hereto, as aforesaid.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS:**

- Section 1.**     **THAT** the findings set out in the preamble of this ordinance are true and correct.
- Section 2.**     **THAT** the budget of the City of Wharton, Texas for the fiscal year ending September 30, 2009, be and the same is hereby, in all respects, finally approved and adopted including any changes approved by the City Council; and the same shall be and is hereby filed with the City Secretary of the City.
- Section 3.**     **THAT** the General Fund is hereby established to account for resources associated with traditional government activities, which are not required legally or by sound financial management to be accounted for in another fund. The General Fund is hereby approved with \$4,454,406 estimated revenues and \$4,915,613 in appropriations and with transfers-in approved at \$461,207. The amounts are specified for departmental purposes named in said budget and they are hereby appropriated to and for such purposes at the departmental level.
- Section 4.**     **THAT** the Hotel Motel Fund is created to account for the occupancy tax levied on hotel rooms within the City as adopted by city ordinance and consistently with Chapter 351 of the Texas Tax Code. The Hotel Motel Fund is hereby approved with \$187,500 in estimated revenues and \$37,500 in appropriations and transfers-out approved at \$150,000 with beginning fund balance of approximately \$97,000.
- Section 5.**     **THAT** the Narcotics Seizure Fund is created to account for the resources and uses of assets seized in illegal narcotics activities. The uses are limited to law enforcement activities. The Narcotics Seizure Fund is hereby approved with \$16,000 in estimated revenues, \$7,800 in appropriations, \$40,000 in transfers-out with beginning fund balance of over \$59,000.
- Section 6.**     **THAT** the Debt Service Fund is hereby created to account for the accumulation of resources collected for Interest and Sinking requirements and for the disbursement of those resources for debt requirements. The Debt Service Fund is hereby approved with \$623,580 in estimated revenues and \$599,080 in appropriations. The estimated beginning fund balance is \$337,000.

**Section 7.** THAT the Capital Improvement Fund is created to account for infrastructure improvements authorized by the City Council. The Capital Improvement Fund is approved with \$1,500 in estimated revenues and transfers-in of \$125,000 and \$126,500 in appropriations and no estimated beginning fund balance.

**Section 8.** THAT the Water and Sewer Fund is created to account for the resources and uses associated with the delivery of utility services to citizens of Wharton as an enterprise fund. The Water & Sewer Fund is hereby approved with \$2,759,000 in estimated revenues. Water and sewer is approved with \$2,759,000 in appropriations, which includes a franchise fee of 8% of water and sewer sales or approximately \$213,200, and transfers-out approved at \$452,151.

**Section 9.** THAT the Solid Waste Fund is created to account for the financial activities of the City's solid waste collection contract and delivery to citizens of Wharton as an enterprise fund. The Solid Waste Fund is approved with \$1,200,200 in estimated revenues and \$1,200,200 in appropriations which includes a franchise fee of 6% of solid waste revenues or approximately \$65,000, and transfers-out approved at \$50,000.

**Section 10.** THAT the Emergency Medical Services Fund is created to account for the financial activities of the emergency medical services provided to the city and surrounding areas as an enterprise fund. The Emergency Medical Services Fund is approved with \$937,500 in estimated revenues and \$1,073,928 in appropriations and transfers-out at \$44,056 with a projected \$180,474 decrease in fund balance.

**Section 11.** THAT the Civic Center Fund is created to account for the financial activities of the Civic Center as an enterprise fund. The Civic Center is approved with \$91,851 in estimated revenues and \$241,851 in appropriations and transfers-in approved at \$150,000.

**Section 12.** THAT the Airport Fund is created to account for the financial activities of the Wharton Regional Airport as an enterprise fund. The Airport Fund is approved with \$202,018 in estimated revenues and \$202,018 in appropriations.

**Section 13.** THAT the City Secretary shall file copies of this Ordinance and of such budget with the County Clerk of Wharton County, Texas.

**PASSED AND APPROVED** by a favorable majority of the members of the City Council of the City of Wharton, Texas, in council meeting, this 22<sup>nd</sup> day of September 2008 duly assembled in accordance with Article VI of the Charter of the City of Wharton, Texas, by the following vote:

David W. Samuelson, Mayor	Voted	Yes
V. L. Wiley, Jr., Councilmember District 1	Voted	Yes

Lewis Fortenberry, Jr., Councilmember District 2	Voted	Yes
Ken Freese, Councilmember District 3	Voted	Yes
Donald Mueller, Councilmember District 4	Voted	Yes
Domingo Montalvo, Jr., Councilmember at Large Place 5	Voted	Absent
Jeff Gubbels, Councilmember at Large Place 6	Voted	Yes

**Severability**

If any court of competent jurisdiction rules that any section, subsection, sentence, clause, phrase, or portion of this ordinance invalid or unconstitutional any such portion shall be deemed to be a separate, distinct, and independent provision, and any such ruling shall not affect the validity of the remaining portions hereof.

**CITY OF WHARTON**

By: \_\_\_\_\_  
David W. Samuelson, Mayor

**ATTEST:**

**APPROVED FOR ADMINISTRATION:**

\_\_\_\_\_  
Lisa Olmeda, City Secretary

\_\_\_\_\_  
Andres Garza, Jr., City Manager

**APPROVED AS TO FORM:**

**APPROVED FOR FUNDING:**

\_\_\_\_\_  
Paul Webb, City Attorney  
Councilmember Jeff Gubbels seconded the motion. All voted in favor.

\_\_\_\_\_  
Joyce Vasut, Finance Director

The eighth item on the agenda was to review and consider an ordinance levying a Tax Rate for the City of Wharton, Texas, for the Tax Year 2008; directing the Tax Assessor-Collector to assess, account for and distribute the taxes as herein levied; and providing repealing and severability clauses. City Manager Andres Garza, Jr. presented a draft ordinance levying a tax rate for the City of Wharton, Texas, for the Tax Year 2008; directing the Tax Assessor-Collector to assess, account for and distribute the taxes as herein levied; and providing repealing and severability clauses. After some discussion, Councilmember Ken Freese made a motion to approve Ordinance No. 2008-13, which read as follows:

**CITY OF WHARTON, TEXAS  
ORDINANCE NO. 2008-13**

**AN ORDINANCE LEVYING A TAX RATE FOR THE CITY OF WHARTON, TEXAS, FOR THE TAX YEAR 2008; DIRECTING THE TAX ASSESSOR-COLLECTOR TO ASSESS, ACCOUNT FOR AND DISTRIBUTE THE TAXES AS HEREIN LEVIED; AND PROVIDING REPEALING AND SEVERABILITY CLAUSES.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS:**

**Section 1.** THAT there be and is hereby levied for the year 2008 on all real and personal property within and all real and personal property and mineral royalties owned within the city limits of the City of Wharton, Texas for the year 2008, except so much thereof as may be exempt by the constitution and of the State of Texas and of the United States, the following:

General Fund Operations	.35928/\$100 valuation
For Debt Service Requirements	.15352/\$100 valuation
Total Tax Rate	.51280/\$100 valuation

**Section 2.** THAT the Tax Assessor-Collector and/or Finance Director is hereby directed to assess, extend and enter upon the certified tax rolls of the City of Wharton, Texas, for the current taxable year, as provided by the Wharton County Appraisal District, the amounts and rates as herein levied, to keep correct amount of same, and when collected, to be distributed in accordance with this ordinance.

**Passage and Approval**

**PASSED AND APPROVED** by a favorable majority of the members of the City Council of the City of Wharton, Texas, in a council meeting, this 22<sup>nd</sup> day of September, 2008, duly assembled in accordance with Article VI of the Charter of the City of Wharton, Texas, by the following vote:

David W. Samuelson, Mayor	Voted	Yes
V. L. Wiley, Jr., Councilmember District 1	Voted	Yes
Lewis Fortenberry, Jr., Councilmember District 2	Voted	Yes
Ken Freese, Councilmember District 3	Voted	Yes
Donald Mueller, Councilmember District 4	Voted	Yes
Domingo Montalvo, Jr., Councilmember at Large Place 5	Voted	Absent
Jeff Gubbels, Councilmember at Large Place 6	Voted	Yes

**Severability**

If any court of competent jurisdiction rules that any section, subsection, sentence, clause, phrase, or portion of this ordinance invalid or unconstitutional any such portion shall be deemed to be a separate, distinct, and independent provision, and any such ruling shall not affect the validity of the remaining portions hereof.

**CITY OF WHARTON**

By: \_\_\_\_\_  
David W. Samuelson, Mayor

**ATTEST:**

**APPROVED FOR ADMINISTRATION:**

\_\_\_\_\_  
Lisa Olmeda, City Secretary

\_\_\_\_\_  
Andres Garza, Jr., City Manager

**APPROVED AS TO FORM:**

**APPROVED FOR FUNDING:**

\_\_\_\_\_  
Paul Webb, City Attorney  
Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

\_\_\_\_\_  
Joyce Vasut, Finance Director

The ninth item on the agenda review and consider the City Staff Report regarding the Hurricane Ike post-disaster recovery for the City of Wharton. Emergency Management Coordinator Jim Cooper stated that Hurricane Ike made landfall at 2:10 a.m. in Galveston, Texas, on September 13, 2008 with 110 mph winds. He stated that Wharton received 40 mph winds and 1.21” of rain. He stated that conferences and briefings were conducted prior to and throughout the duration of the event. City Manager Andres Garza, Jr. publicly thanked the Department Heads Emergency Management Coordinator Jim Cooper, Police Chief Tim Guin, EMS Director John Kowalik, Community Services Director Jo Knezek, Facilities Maintenance Director Bob Baker, Building Official Ronnie Bollom, Public Works Director Carter Miska, Finance Director Joyce Vasut, Fire Chief Bobby Barnett, and Public Information Officer Lisa Olmeda for the service provided by themselves and their staff. Mayor David W. Samuelson publicly commended City Manager Andres Garza, Jr. Mr. Garza stated that the Public Works employees were picking up limbs. After some discussion, no action was taken.

The tenth item on the agenda was to review and consider the City of Wharton Construction of Valhalla Water Well Emergency Rework Project – Alsay Incorporated – Pay Request No. 3. City Manager Andres Garza, Jr. presented a copy of the letter dated September 17, 2008 from Mr. Larry A. Wepler, P.E. of Jones & Carter, Inc. providing the Pay Request No. 3 for Alsay Incorporated in the amount of \$102,060.00 for the City of Wharton Construction of Valhalla Water Well Emergency Rework Project. Mr. Carlos Cotton, P.E. of Jones & Carter, Inc. stated that the project was 69% completed. After some discussion, Councilmember Lewis Fortenberry, Jr. made a motion to approve the City of Wharton Construction of Valhalla Water Well

Emergency Rework Project – Alsay Incorporated – Pay Request No. 3 in the amount of \$102,060.00. Councilmember Jeff Gubbels seconded the motion. All voted in favor.

The eleventh item on the agenda was to review and consider a resolution designating a City of Wharton Representative and Alternate to the Houston-Galveston Area Council 2009 General Assembly. City Manager Andres Garza, Jr. presented a copy of the letter dated August 28, 2008 from Mr. Jack Steele of the Houston-Galveston Area Council (H-GAC) regarding the City of Wharton’s appointment of a Representative and Alternate to the H-GAC 2009 General Assembly. He then presented a copy of the City of Wharton Resolution No. 2008-47 appointing Councilmember V. L. Wiley, Jr. as the City of Wharton designated Representative and Councilmember Jeff Gubbels as the Alternate. He said that City Council action was required to appoint the 2009 General Assembly Representative and Alternate for the City of Wharton. He then presented a draft copy of a resolution appointing the representatives. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2008-60, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2009 - 60**

**A RESOLUTION DESIGNATING A CITY OF WHARTON REPRESENTATIVE AND ALTERNATE TO THE HOUSTON-GALVESTON AREA COUNCIL 2009 GENERAL ASSEMBLY.**

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS** that Councilmember V. L. Wiley, Jr. be, and is hereby designated as its Representative to the General Assembly of the Houston-Galveston Area Council for the year 2009.

**FURTHER,** that the Official Alternate authorized to serve as the voting representative should the hereinabove named representative become ineligible, or should he/she resign, is Councilmember Jeff Gubbels.

**THAT,** the Executive Director of the Houston-Galveston Area Council be notified of the designation of the hereinabove named representative and alternate.

**Passed, Approved, and Adopted** this 22<sup>nd</sup> day of September 22, 2008.

**CITY OF WHARTON, TEXAS**

**By:**

\_\_\_\_\_  
**DAVID W. SAMUELSON**  
Mayor

**ATTEST:**

\_\_\_\_\_

