

MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
MAY 22, 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, Planning Director Prudencio Arriaga, Sr., Police Chief Tim Guin, EMS Director John Kowalik, and City Attorney Paul Webb.

Visitors present were: Carlos Cotton, Lewis Fortenberry, Louis Edwards, Gilbert Ward, Ricky Villagomez, Elston Eckhardt, Rob Newman, and John McLeod.

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 Don Mueller publicly thanked the City employees for their hard work and dedication in making the Depot a success. Councilmember Ken Freese stated that the Depot was a very impressive project that the City accomplished.

Councilmember V. L. Wiley, Jr. congratulated the Seniors graduating. He then congratulated Lakisha Washington for being Wharton High School Valedictorian.

Councilmember Domingo Montalvo, Jr. publicly commended the Wharton Independent School District Dawson Choir and Choir Instructor Mrs. Kay Bollom. He stated that the Choir won numerous divisions in the Choir Contest held in San Antonio. He stated that the students made Wharton proud. No action was taken.

The fifth item on the agenda was to review and consider an ordinance canvassing the election returns and declaring the results of the City Officers' Election held May 13, 2006. City Manager Andres Garza, Jr. presented a draft ordinance canvassing the election returns and declaring the results of the City Officer's Election held May 13, 2006. After some discussion, Councilmember Ken Freese made a motion to approve Ordinance No. 2006-9, which read as follows:

**CITY OF WHARTON, TEXAS
ORDINANCE NO. 2006-9**

**AN ORDINANCE CANVASSING THE ELECTION RETURNS AND
DECLARING THE RESULTS OF THE CITY OFFICERS' ELECTION
HELD ON MAY 13, 2006**

BE IT RESOLVED by the City Council of the City of Wharton, Texas:

The City Council of the City of Wharton, Texas has canvassed the returns of the city officers' election held on the **13th of May 2006**, and the City Council finds and declares that the election returns were duly and legally made, that all of the votes counted at the election were valid and legal, and that each of the candidates in the election received the following numbers of votes:

	<u>Early Votes</u>	<u>Election Day</u>	<u>Total</u>
Councilmember District No. 2			
David Samuelson	<u>33</u>	<u>43</u>	<u>76</u>
Councilmember District No. 4			
Don Mueller	<u>98</u>	<u>100</u>	<u>198</u>
Councilmember At Large Place No. 6			
Darryl Darnell	<u>100</u>	<u>124</u>	<u>224</u>
Ray Linseisen	<u>202</u>	<u>230</u>	<u>432</u>
Mayor			
Bryce D. Kocian	<u>225</u>	<u>241</u>	<u>466</u>
Anopawuia Spinks	<u>80</u>	<u>119</u>	<u>199</u>
Jim Faetche	<u>6</u>	<u>6</u>	<u>12</u>
Provisional Ballots	<u>0</u>	<u>3</u>	<u>3</u>
Election Returns	<u>313</u>	<u>366</u>	<u>679</u>

The City Council further finds and declares that the election was duly called, that notice of the election was given in accordance with law, that the election was held in accordance with law, that **David Samuelson** was elected Councilmember District No. 2, **Don E. Mueller** was elected Councilmember District No. 4, **Ray Linseisen** was elected Councilmember At Large - Place No. 6, and that **Bryce D. Kocian** was elected Mayor.

The City Council declares the above-named persons to be duly elected to the above-named offices, subject to the taking of their oaths of office as provided by the laws of the State of Texas and the charter of the City of Wharton, Texas.

Separability

If any court of competent jurisdiction rules that any section, subsection, sentence, clause, phrase, or portion of this resolution is 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.

Passage and Approval

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, on the 22ND day of **May 2006**.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

LISA STAVENA
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney
Councilmember David Samuelson seconded the motion. All voted in favor.

The sixth item on the agenda was administering the Oath of Office to Elected Officials Mayor Bryce D. Kocian and Councilmembers David Samuelson, Don Mueller and Ray Linseisen. City Attorney Paul Webb administered the Oath of Office.

The seventh item on the agenda was to review and consider the appointment of Mayor Pro-Tem. Councilmember Andres Garza, Jr. presented Section 15 of the City Charter that stated that following a regular annual election and upon the induction of the newly elected members of the governing body into office, the members of the City Council shall elect one of the Councilmembers to be Mayor Pro-Tem. Councilmember Domingo Montalvo, Jr. nominated Councilmember Don Mueller as Mayor Pro-Tem. Councilmember David Samuelson seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider the City of Wharton financial report for the month of April 2006. Finance Director Joyce Vasut presented the financial report for the month of April 2006 and stated that the fiscal year was at 58%. Mrs. Vasut stated that the general fund revenues were at 67.38% and the expenditures were at 56.93%. The total ad valorem taxes collected were \$1,745,224. The sales tax for the month of March 2006 was \$173,938 with \$115,959 to the City and \$57,979 to WEDCo. The TexPool balance for April 2006 was \$1,654,871.47 with an average monthly yield of 4.7397%. After some discussion, Councilmember Ray Linseisen made a motion to approve the City of Wharton Financial Report for the month of April 2006. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider the request by Ms. Margaret Taylor Sparks on behalf of the MFST Trail Riders for the following:

- A. Approval to conduct a parade on June 17, 2006 in the City of Wharton beginning on Milam Street at the Wharton County Courthouse Annex and ending at Harris Park.
- B. Approval for a variance to the City of Wharton Code of Ordinances; Chapter 54 Parks and Recreation; Section 54-5 Horses and Livestock.
- C. City of Wharton assistance to barricade the necessary streets.

City Manager Andres Garza, Jr. presented a copy of the letter the City received May 17, 2006 from Ms. Margaret Taylor Sparks requesting the items. He then presented a copy of a map indicating the proposed parade route. Police Chief Tim Guin addressed the City Council and requested City Council authorize the Police Department to conduct the route accordingly. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the request by Ms. Margaret Taylor Sparks on behalf of the MFST Trail Riders to conduct a parade on June 17, 2006 in the City of Wharton beginning on Milam Street at the Wharton County Courthouse Annex and ending at Harris Park, approve a variance to the City of Wharton Code of Ordinances; Chapter 54 Parks and Recreation; Section 54-5 Horses and Livestock, and authorize the City of Wharton to barricade the necessary streets with the Police Department conducting the route accordingly. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider the Wharton County Freedom Festival (WCFF) to be held June 23-24, 2006:

- A. Request by the Wharton Freedom Festival Committee for City of Wharton Assistance.
- B. Request to camp and park in Riverfront Park for the Bar-B-Que Cook-off.
- C. Temporary permit for Possession/Consumption of Alcoholic Beverages at City Parks – Riverfront Park.
- D. Authorization to use City streets for a 5-K Run.
- E. Waiver of Fees.

City Manager Andres Garza, Jr. presented a copy of the letter dated May 7, 2006 from Mr. David Copeland, Co-Chairman of the Wharton County Freedom Fest, Inc. requesting City Council approval of the items. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the Wharton County Freedom Festival (WCFF) to be held June 23-24, 2006, approve the request by the Wharton Freedom Festival Committee for City of Wharton Assistance, approve the request to camp and park in Riverfront Park for the Bar-B-Que Cook-off, approve the temporary permit for Possession/Consumption of Alcoholic Beverages at City Parks – Riverfront Park,

authorize use of City streets for a 5-K Run, and waiver of fees. Councilmember Don Mueller seconded the motion. All voted in favor.

The eleventh item on the agenda was to review and consider the request by Mr. Curtis Evans of Wharton Wave and Track Club for the following:

- A. Use of Pleasure Park for a Softball Tournament to be held June 23-25, 2006.
- B. Temporary permit for Possession/Consumption of Alcoholic Beverages at City Parks – Pleasure Park.
- C. Waiver of Fees.

City Manager Andres Garza, Jr. presented a copy of the Softball Field Reservation form and a copy of the City of Wharton Application for Temporary Permit for Possession/Consumption of Alcoholic Beverages in Certain Parks submitted by Mr. Curtis Evans, President of Wharton Wave and Track Club, requesting the use of Pleasure Park for a softball tournament. He stated that Mr. Evans was requesting that the fee for the temporary alcohol permit be waived. He stated that the application was submitted to Police Chief Tim Guin who would provide his recommendation during the meeting. Police Chief Tim Guin addressed the City Council and recommended approval for the temporary permit for possession/consumption of alcoholic beverages at Pleasure Park for the softball tournament held June 23-25, 2006. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the Wharton Wave and Track Club to be held June 23-25, 2006 for use of Pleasure Park for a Softball Tournament to be held June 23-25, 2006, approve a temporary permit for possession/consumption of alcoholic beverages at City parks – Pleasure Park, and waiver of fees. Councilmember Ken Freese seconded the motion. All voted in favor.

The twelfth item on the agenda was to review and consider the recommendation by the Planning Commission:

- A. Request by Wharton County Junior College for a variance to place a traveling light sign (message board) to be located at 911 Boling Highway.

City Manager Andres Garza, Jr. presented a copy of the memorandum dated May 16, 2006 from Planning Commission Chairman A. J. Rath, which provided the Planning Commissions recommendation to approve the request. Mayor Bryce D. Kocian abstained from the discussion. Planning Director Prudencio V. Arriaga, Sr. addressed the City Council and stated that the sign would be set back 10' from the property line. He stated that the sign would be 20' X 8' X 2' set on a 4' high brick base. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the request by Wharton County Junior College for a variance to place a traveling light sign (message board) to be located at 911 Boling Highway. Councilmember David Samuelson seconded the motion. Mayor Bryce D. Kocian abstained. The motion carried.

- B. Request by Wharton Holdings, L.P. for approval to construct a commercial building over three property lines located at 103 West Ahldag, Ahldag, Block 4, Lot 1-6, 7A, 7B and 8B.

City Manager Andres Garza, Jr. presented a copy of the memorandum dated May 16, 2006 from Planning Commission Chairman A. J. Rath, which provided the Planning Commissions recommendation to approve the request. Councilmember David Samuelson abstained from discussion. Planning Director Prudencio V. Arriaga, Sr. addressed the City Council and stated that the request was to construct over the interior property lines. After some discussion, Councilmember Ray Linseisen made a motion to approve the request by Wharton Holdings, L.P. for approval to construct a

commercial building over three property lines located at 103 West Ahldag, Ahldag, Block 4, Lot 1-6, 7A, 7B and 8B. Councilmember V. L. Wiley, Jr. seconded the motion. Councilmember David Samuelson abstained. The motion carried.

The thirteenth item on the agenda was to review and consider an update by the U.S. Army Corp of Engineers regarding the Wharton Interim Feasibility Study/Proposed Levy Project. Mr. Elston Eckhardt, P.E. of the U.S. Army Corp of Engineers (Corp) presented an update regarding the progress of the Wharton Interim Feasibility Study. He stated that the Wharton Interim Study focused on the flood damage reduction and working with the City to compliment local drainage plans. He stated that the total budget was \$1,110,000 with \$555,000 from Corps, \$277,500 from City of Wharton, and \$277,500 from Texas Water Development Board. He stated that the project schedule was as follows:

Draft Feasibility Report by August 2006; Final Feasibility Report by October 2006; Chief's Report to Congress by December 2006, and Initiate Design by January 2007.

He stated that the design would be initially cost shared at a 75%/25% rate with a new agreement to be executed between the Corps and the City of Wharton. He stated that plan formulation had been completed, the feasibility design was 80% complete, the detailed cost estimate was currently being developed, the real estate gross appraisal would be performed in June 2006, and the cultural investigation along Baughman Slough would be performed in June 2006. He stated that the estimated city project cost was \$7 million, which included the Santa Fe Ditch of \$2.9 million. He stated the remaining cost was in the form of real estate acquisitions and/or easements; however full appraised value would be credited regardless of the actual cost of acquired property. He stated that the congressional actions would be required prior to pre-construction, engineering, and design with appropriations in fiscal year 2007 and a Water Resources Development Act to pass with language to authorize construction of the project. Councilmember Domingo Montalvo, Jr. publicly thanked Elston Eckhardt, Gilbert Ward, Ricky Villagomez, Rob Newman, John Mc Leod for their contributions towards the project. No action was taken.

The fourteenth item on the agenda was to review and consider the request by Nex-Med dba Medix EMS for a City of Wharton Ambulance Provider Permit. City Manager Andres Garza, Jr. presented a copy of the memorandum dated May 16, 2006 from City Secretary Lisa Stavena providing a copy of the ambulance provider permit application filed by Nex-Med, Inc. dba Medix EMS. He also presented a copy of the memorandum dated May 15, 2006 from EMS Director John Kowalik, which indicated that he had reviewed the application and found that they were in compliance with the rules and regulations with the Texas Department of Health rules and regulations. EMS Director John Kowalik addressed the City Council and recommended approved. After some discussion, Councilmember Ray Linseisen made a motion to approve the request by Nex-Med dba Medix EMS for a City of Wharton Ambulance Provider Permit for the period May 22, 2006 to May 21, 2007. Councilmember David Samuelson seconded the motion. All voted in favor.

The fifteenth 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. Building Standards Commission.
- D. Electrical Board.
- E. Holiday Lighting Commission.
- F. Planning Commission.
- G. Plumbing and Mechanical Board.
- H. Youth Advisory Commission.
- I. Wharton Economic Development Corporation Board of Directors.
- J. City Council Committees:
 - 1. Finance Committee.
 - 2. Public Works Committee.
 - 3. Telecommunications Committee.
 - 4. Intergovernmental Relations Committee.
 - 5. Housing Committee.
 - 6. Public Safety Committee.

City Manager Andres Garza, Jr. stated that the terms for the City of Wharton Boards, Commissions, and Committees expired June 30, 2006. He then presented a copy of the list of the current members and their respective terms. He stated that each member had been contacted and the list indicated who were willing to continue to serve an additional two year term. He stated that there was a vacancy on the Beautification Commission, which needs to be filled, and Mr. Doug Smolik was resigning as the Holiday Light Decorating Chairman. He stated that Mr. Smolik was recommending that Mrs. Beverly Baker be appointed in his position. He stated that Ms. Baker had indicated that she would be willing to serve as the Holiday Light Decorating Chairman. He stated that Mr. Walter Garrett was also resigning as a Commissioner on the Planning Commission, which would leave a vacant position. After some discussion, Councilmember Ken Freese made a motion to approve the following:

AIRPORT BOARD (TWO YEAR TERM)

Member	Term Expires
Garland Mann	June 30, 2008
David Allen	June 30, 2008
Glenn Erdelt	June 30, 2008

BEAUTIFICATION CITY COMMISSION (TWO YEAR TERM)

Mack Mathis	June 30, 2008
Iris Albrecht	June 30, 2008
Lewis Fortenberry, Jr.	June 30, 2008
Richard Wozniak	June 30, 2008

BUILDING STANDARDS COMMISSION (TWO YEAR TERM)

Chester Houston	June 30, 2008
Gary Nunez	June 30, 2008
Howard Singleton	June 30, 2008

ELECTRICAL BOARD (TWO YEAR TERM)

Wayne Adam	June 30, 2008
Max Barbee	June 30, 2008

Scott Stewart June 30, 2008

PLANNING COMMISSION (TWO YEAR TERM)

A.J. Rath June 30, 2008
Billie H. Jones June 30, 2008
Michael Wootton June 30, 2008

PLUMBING & MECHANICAL (TWO YEAR TERM)

Patrick Gwosdz June 30, 2008
Gary Eldridge June 30, 2008

WHARTON ECONOMIC DEVELOPMENT CORPORATION (WEDCo)

Don Carlson 1st Tuesday June, 2008
Raymond Harrison 1st Tuesday June, 2008
Scott Chambers 1st Tuesday June, 2008
Ray Linseisen 1st Tuesday June, 2008

CITY COUNCIL COMMITTEES

Finance Committee: Ken Freese, Ken Freese, Dr. David Samuelson
Public Works Committee: V. L. Wiley, Jr., Don Mueller and Domingo Montalvo, Jr.
Telecommunications Committee: Bryce D. Kocian, Ken Freese, Don Mueller
Intergovernmental Relations Committee: Bryce D. Kocian, Ken Freese
Legislative Committee: Bryce D. Kocian, Domingo Montalvo, Jr., Ray Linseisen
Housing Committee: Dr. David Samuelson, V. L. Wiley, Jr., Ray Linseisen
Public Safety Committee: Bryce D. Kocian, Domingo Montalvo, Jr., Ray Linseisen

Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The sixteenth item on the agenda was Executive Session: City Council may adjourn into an Executive Session in accordance with Section 551.071 and 551.072 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:** Centerpoint Energy Houston, LLC cost of service rate filing pending as PUC Docket No. 32093 and related proceedings.
- B. **Discussion:** Acquisition of real estate for City of Wharton Facilities.

Mayor Bryce D. Kocian adjourned into Executive Session at 7:57 p.m.
Mayor Bryce D. Kocian returned to Open Session at 8:52 p.m.

The seventeenth item on the agenda was to review and consider Return to Open Session: Action on items discussed in Executive Session:

- A. **Review & Consider:** A resolution of the City of Wharton, Texas, pertaining to Centerpoint Energy Houston, LLC cost of service rate filing pending as PUC Docket No. 32093 and related proceedings.

