

**MINUTES  
OF  
CITY OF WHARTON  
REGULAR CITY COUNCIL MEETING  
MAY 9, 2011**

Mayor Domingo Montalvo, Jr. declared a Regular Meeting duly open for the transaction of business at 7:00 P.M. Councilmember Bryce D. Kocian led the opening devotion and Mayor Domingo Montalvo, Jr. lead the pledge of allegiance.

Councilmember's present were: Mayor Domingo Montalvo, Jr., Councilmembers Terry David Lynch, Bryce D. Kocian, Don Mueller, Alfred Bryant, and Jeff Gubbels.

Councilmember absent was: None.

Staff members present were: City Manager Andres Garza, Jr., Finance Director Joan Anandel, City Secretary Paula Favors, Assistant to City Manager Jackie Jansky, Public Works Director Carter Miska, Building Inspector Ronald Bollom, EMS Director John Kowalik, Emergency Management Coordinator Jim Cooper, and City Attorney Paul Webb.

Visitors present were: John Mercurief II with Wharton Journal Spectator, David Schroeder with Wharton Economic Development Corporation, Sherrill Schooler, I.O. Colman, Jr., Greg Baines, Rachel Rust, Debra Medina, Noe Medina, Lehia Aprea, and Fermin Rosas with H.E.B.

The second item on the agenda was Roll Call and Excuses Absences. Mayor Domingo Montalvo, Jr., and all the City Councilmembers were present. No action was taken.

The third item on the agenda was Public Comments. Ms. Sherrill Schooler addressed the City Council with a request for a Floodplain Variance and an over 50% Variance to remodel her home to care for a handicapped parent. No action was taken.

The fourth item on the agenda was the Wharton Moment. Mayor Domingo Montalvo, Jr. presented Just Do It Now, Inc., H.E.B., McDonald's, the Beautification Committee, and Zarsky's Lumber with a Certificate of Appreciation for contributing to the 2011 City of Wharton Spring Clean Sweep.

The fifth item on the agenda item was a proclamation declaring May 22-29, 2011 as Hurricane Preparedness Week in the City of Wharton, Texas. Mayor Domingo Montalvo, Jr., presented a Proclamation declaring May 22-29, 2011 as Hurricane Preparedness Week in the City of Wharton, Texas, which read as follows:

CITY OF WHARTON  
OFFICE OF THE MAYOR  
**Proclamation**

**Whereas,** Texas hurricane season officially begins June 1 and ends November 30; and

**Whereas,** the 624-mile Texas Gulf coastline, our area in particular, and areas of Texas hundreds of miles inland, are vulnerable to the devastating effects of a hurricane or tropical storm; and

**Whereas,** both public and private entities should develop emergency response and recovery plans in accordance with local jurisdictions and local emergency management offices; and

**Whereas,** the National Weather Service and the Texas Division of Emergency Management are designating the week of May 22<sup>nd</sup> through May 28<sup>th</sup>, 2011 as Hurricane Preparedness Week in Texas and the City of Wharton; and

**Whereas,** the National Weather Service, the Texas Division of Emergency Management and the leaders of the City of Wharton strongly suggest that all residents and visitors to this area be made aware of the potential dangers of these storms; and

**Whereas,** the best defense is preparedness and public education about the dangers of the high winds, storm surge, flooding and tornadoes that may occur for hundreds of miles in conjunction with a hurricane or tropical storm.

**Now, Therefore,** I, Domingo Montalvo, Jr., Mayor of the City of Wharton, urges all citizens of this county and this community to participate in hurricane preparedness activities, and to pay close attention to watch and warning instruction.

**Therefore, In Official Recognition Whereof,** I, the undersigned do hereby proclaim

**May 22 – 29, 2011  
Hurricane Preparedness Week  
in the City of Wharton, Texas.**

**IN WITNESS THEREOF,** I have set my hand and caused the seal of the City of Wharton to be affixed this 9<sup>th</sup> day of May, in the year of our Lord two thousand eleven A.D.

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The sixth item on the agenda item was to review and consider the reading of the minutes from the regular meeting held April 11, 2011, April 25, 2011 and the special meeting held April 18, 2011. After some discussion, Councilmember Don Mueller moved to approve the minutes from the regular meetings held April 11, 2011, April 25, 2011 and the special meeting held April 18, 2011 as presented. Councilmember Terry David Lynch seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider the City of Wharton Annual Financial Report for Fiscal Year October 1, 2009 to September 30, 2010 by Harrison, Waldrop & Uherek, L.L.P. Mr. Steve VanManen with Harrison, Waldrop & Uherek, L.L.P. presented the City of Wharton Annual Financial Report for Fiscal Year October 1, 2009 to September 30, 2010. Mr. VanManen stated that the City of Wharton's annual budget balance was on target and has received an unqualified audit report. After some discussion, Councilmember Bryce D. Kocian moved to approve the City of Wharton Annual Financial Report for Fiscal Year October 1, 2009 to September 30, 2010 as presented by Harrison, Waldrop & Uherek, L.L.P. Councilmember Alfred Bryant seconded the motion. All voted in favor.

The eighth item on the agenda was Executive Session: City Council may adjourn into an Executive Session in accordance with Sections 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:** The evaluation of City Manager and Finance Director regarding the City's financial matters.

Mayor Domingo Montalvo, Jr. adjourned the meeting into Executive Session at 7:17 p.m.  
Mayor Domingo Montalvo, Jr. returned the meeting to Open Session at 7:30 p.m.

The ninth item on the agenda was to Return to Open Session:

- A. **Discussion:** The evaluation of City Manager and Finance Director regarding the City's financial matters.

Mayor Domingo Montalvo, Jr. stated that no action would be taken.

The tenth item on the agenda was to review and consider a request by Ms. Sherrill L. Schooler, Property Owner, 716 E. Caney Street; Dickson, Lot 30B, 31 & 32A for the following:

- A. A Floodplain Variance from the City of Wharton Code of Ordinances, Chapter 18 Building and Construction, Section 18-305(b)(2) Provisions for Flood Hazard Reduction to construct a bedroom/bath addition with handicap accessibility at the same elevation as the existing structure.

Building Official Ronald Bollom presented the City Council a copy of the Floodplain Variance Application submitted by Ms. Sherrill L. Schooler; property owner, of 716 E. Caney Street; Dickson, Lot 30B, 31 & 32A requesting a variance from the City of Wharton Code of Ordinances, Chapter 18 Building and Construction, Section 18-305(b)(2) Provisions for Flood Hazard Reduction to construct a bedroom/bath (15' x 27.75') addition with handicap

accessibility at the same elevation as the existing structure. Mr. Bollom also presented a copy of the Code of Ordinances, Chapter 18 Building and Construction, Section 18-305(b)(2), and a copy of the elevation certificate. After some discussion, Councilmember Don Mueller moved to approve the Floodplain Variance from the City of Wharton Code of Ordinances, Chapter 18 Building and Construction, Section 18-305(b)(2) Provisions for Flood Hazard Reduction to construct a bedroom/bath addition with handicap accessibility at the same elevation as the existing structure to Ms. Sherrill L. Schooler, Property Owner, 716 E. Caney Street; Dickson, Lot 30B, 31 & 32A.

- B. An Over 50% Variance request to construct a 15' x 27.75' bedroom/bathroom addition zero feet (0') from the required five feet (5') interior side yard setback.

Building Official Ronald Bollom presented the City Council a copy of the City of Wharton City Council Application for Over 50% Variance submitted by Ms. Schooler. Mr. Bollom stated to the City Council that Ms. Schooler requested the City Council's approval to construct a 15' x 27.75' bedroom/bathroom addition zero feet (0') from the required five feet (5') interior side yard setback at 716 E. Caney Street; Dickson, Lot 30B, 31 & 32A, Wharton. Mr. Bollom stated the addition would be constructed over the interior property line and that Ms. Schooler owned both lots. After some discussion, Councilmember Bryce D. Kocian moved to approve an Over 50% Variance request to construct a 15' x 27.75' bedroom/bathroom addition zero feet (0') from the required five feet (5') interior side yard setback to Ms. Sherrill L. Schooler, Property Owner, 716 E. Caney Street; Dickson, Lot 30B, 31 & 32A. Councilmember Don Mueller seconded the motion. All voted in favor.

The eleventh item on the agenda was to review and consider a request by Mr. Ron Sanders, Executive Director of the Wharton Chamber of Commerce requesting the City Council to consider approving the following for the Chamber of Commerce Citywide Garage Sale:

- A. To hold the event on Friday, June 10, 2011 and Saturday, June 11, 2011.
- B. Use of Guffey Park and the City of Wharton Parking Lot at the corner of Fulton and Caney Streets for the event.

City Manager Andres Garza, Jr. presented a copy of the letter dated May 2, 2011 from Mr. Ron Sanders, Executive Director Chamber of Commerce requesting the City Council consider the approval of the afore-mentioned items. City Manager Garza stated the request was the same as requested in 2010 for the Chamber of Commerce Citywide Garage Sale. After some discussion, Councilmember Bryce D. Kocian moved to approve the following requests for the Chamber of Commerce Citywide Garage Sale:

- A. To hold the event on Friday, June 10, 2011 and Saturday, June 11, 2011.
- B. Use of Guffey Park and the City of Wharton Parking Lot at the corner of Fulton and Caney Streets for the event.

Councilmember Alfred Bryant seconded the motion. All voted in favor.

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The twelfth item on the agenda was to review and consider a request by Mr. Ronald Stavena and Mr. Alfred H. Dube, Representatives for the Wharton County Farmers' Market & Craft for City Council to consider approving the following:

- A. To hold the Wharton County Farmers' Market and Craft Show on each Saturday from 8:00 a.m. until 12:00 Noon from May 14, 2011 thru June 25, 2011.
- B. Use of Guffey Park for the event.

City Manager Andres Garza, Jr. presented a copy of the letter dated April 29, 2011 from Mr. Ronald Stavena and a copy of the letter dated May 2, 2011 from Mr. Alfred H. Dube, representatives for the Wharton County Farmers' Market & Craft Show. City Manager Garza stated Mr. Stavena and Mr. Dube were requesting City Council approval to hold the Wharton County Farmers' Market & Craft Show on each Saturday from 8:00 a.m. until 12:00 Noon from May 14, 2011 thru June 25, 2011 and to use Guffey Park for the event. After some discussion, Councilmember Bryce D. Kocian moved to approve the following requests for the Wharton County Farmers' Market and Craft Show:

- A. To hold the Wharton County Farmers' Market and Craft Show on each Saturday from 8:00 a.m. until 12:00 Noon from May 14, 2011 thru June 25, 2011.
- C. Use of Guffey Park for the event.

Councilmember Terry David Lynch seconded the motion. All voted in favor.

The thirteenth item on the agenda was to review and consider a request by Mr. David Copeland, Co-Chairman of the Wharton County Freedom Fest, Inc. (WCFF) Committee for the City Council to consider approving the following:

- A. Authorization to hold the 12<sup>th</sup> Annual Wharton County Freedom Fest event on June 24 and 25, 2011.
- B. Use of Riverfront Park and waiver of park rental fee(s).
- C. Assistance obtaining Port-O-Lets.
- D. Assistance obtaining solid waste receptacles from Waste Corporation of America.
- E. Waiver of the fees for the City of Wharton Temporary Permit for Possession and consumption of alcoholic beverages in City Parks.
- F. Variance to the City of Wharton Code of Ordinances Chapter 54 Parks and Recreation Section 54-2 Park Property, Section 54-3 Hours of Operation, and Section 54-8. Operating or parking motor vehicles in parks.
- G. Authorization to close the following streets:
  - 1. Portions of Houston and Fulton Streets adjacent to the downtown square.
  - 2. Houston Street from Burleson to Elm.
- H. Funding for security through the City of Wharton Hotel/Motel Fund.
- I. Assistance from the Public Works and Facilities Maintenance Departments.
- J. Authorization to use the City of Wharton Performance Stage.

City Manager Andres Garza, Jr. presented a copy of the letter dated May 2, 2011 from Mr. David Copeland, Co-Chairman of the Wharton County Freedom Fest, Inc., requesting City Council approval of the afore-mentioned items. City Manager Garza also presented to the City Council a

copy of the letter dated April 12, 2011 from Mr. Copeland requesting authorization to use the City of Wharton Performance Stage. City Manager Garza stated the Courthouse Square would need to be cleaned by the Sunday after the event. Councilmember Don Mueller made the request that the clean up start on Milam Street in front of Caney Creek Church. Mr. Copeland asked the City Council to consider funding the clean up services out of the Hotel/Motel Tax Fund. After some discussion, Councilmember Terry David Lynch moved to approve all of the aforementioned items with the exception of items C. and H. Councilmember Don Mueller seconded the motion. All voted in favor.

The fourteenth item on the agenda was to review and consider a recommendation by the Wharton Regional Airport Board for the Wharton City Council to authorize the submission of a Notice of Intent to participate in the Texas Department of Transportation Aviation Division Terminal Building Program. City Manager Andres Garza, Jr. presented a copy of the memorandum dated May 5, 2011 from Airport Manager David Allen providing the Wharton Regional Airport Boards recommendation from its meeting held May 3, 2011. City Manager Garza stated that the City of Wharton had been notified that the Texas Department of Transportation (TxDOT) Aviation Division had funds available for the construction of terminal buildings at airports. Airport Manager David Allen stated to the City Council that the Wharton Regional Airport had considered a terminal building project in the past but due to lack of construction funding, the project was placed on hold. City Manager Garza added the Wharton Regional Airport Board had considered applying to TxDOT Aviation for construction funding for a terminal building, and the project would be more feasible if the scope of work, size of the building were reduced to be within the funding available. Mr. Allen stated the Airport Board voted to recommend the City Council consider approving the submission of a Notice of Intent to apply for funding for the construction of the proposed terminal building. After some discussion, Councilmember Jeff Gubbels moved to approve the submission of a Notice of Intent to participate in the Texas Department of Transportation Aviation Division Terminal Building Program. Councilmember Alfred Bryant seconded the motion. All voted in favor.

The fifteenth item on the agenda was to review and consider a presentation provided by Emergency Management Coordinator Jim Cooper regarding the activities of the City of Wharton Emergency Management Department. City Manager Andres Garza, Jr. informed the City Council that at the City Council Public Safety Committee meeting held May 6, 2011, Emergency Management Coordinator Jim Cooper gave a presentation regarding hurricane preparedness and the preparedness of any type of disaster event. Mr. Cooper presented to the City Council a copy of emergency information and checklists that were available to the public on the City of Wharton's website. Mr. Cooper stated that last year was an active hurricane season and this year was also predicted to be active. After some discussion, no action was taken.

The sixteenth item on the agenda was to review and consider a resolution of the Wharton City Council approving a contract amendment to the agreement between the City of Wharton and Ashbritt, Inc. for Primary Disaster Debris Clearance and Removal Services and authorizing the Mayor of the City of Wharton to execute all documents related to the agreement on behalf of the City of Wharton. City Manager Andres Garza, Jr. stated that on July 28, 2008, the City of Wharton entered into a contract with Ashbritt, Inc. for primary disaster debris clearance and removal services. City Manger Garza informed the City Council that the contract, which was a two year contract, was due to expire on September 30, 2011. City Manager Garza stated that

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with the upcoming hurricane season, Emergency Management Coordinator Jim Cooper was requesting the City Council consider approving a contract amendment to the agreement, and to extend the agreement an additional two years, prior to the contracts termination to insure that there was no lapse between agreements, in the event of a disaster. City Manager Garza presented a copy of the proposed contract amendment and a copy of the draft resolution approving the contract, and stated the contract amendment was also submitted to City Attorney Paul Webb for his review. City Manager Garza presented a copy of Mr. Webb's letter dated March 31, 2011 providing his recommendation that the City Council could consider extending the contract. After some discussion, Councilmember Terry David Lynch moved to approve City of Wharton Resolution 2011-32, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2011 - 32**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A CONTRACT AMENDMENT BETWEEN THE CITY OF WHARTON AND ASHBRIIT, INC. FOR PRIMARY DISASTER DEBRIS CLEARANCE AND REMOVAL SERVICES 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,** On July 28, 2008, the City of Wharton entered into an agreement with Ashbriit, Inc. for Primary Disaster Debris Clearance and Removal Services; and

**WHEREAS,** the Wharton City Council wishes to approve a contract amendment between the City of Wharton and Ashbriit, Inc. for primary Disaster Debris Clearance and Removal Services; and

**WHEREAS,** the City of Wharton and Ashbriit, Inc. 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 amendment between the City of Wharton and Ashbriit, Inc. for primary Disaster Debris Clearance and Removal Services.

**Section II.** That the Wharton City Council hereby approves to authorize the Mayor of the City of Wharton to execute the agreement.

**Section III.** That the City of Wharton and Ashbriit, Inc. 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 9th day of May 2011.

**CITY OF WHARTON**

By: \_\_\_\_\_  
**DOMINGO MONTALVO, JR.**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**PAULA FAVORS**  
City Secretary

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

The seventeenth item on the agenda was to review and consider a resolution of the Wharton City Council approving a contract between the City of Wharton and Ceres Environmental Services, Inc. for Debris Clearance and Removal Services and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. stated that on July 28, 2008, the City Council also approved a contract with CERES Environmental Services, Inc. for secondary Disaster Debris Clearance and Removal Services. City Manager Garza stated the contract with CERES Environmental Services, Inc. was also due to expire on September 30, 2011. Emergency Management Coordinator Jim Cooper addressed the City Council and asked for consideration to approve renewing the contract with CERES for an additional two years. City Manager Garza stated to the City Council that a contract amendment was submitted to City Attorney Paul Webb. After some discussion, Councilmember Terry David Lynch moved to approve City of Wharton Resolution 2011-33, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2011 - 33**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A CONTRACT BETWEEN THE CITY OF WHARTON AND CERES ENVIRONMENTAL SERVICES, INC. FOR DEBRIS CLEARANCE AND REMOVAL SERVICES AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.**

**WHEREAS,** the Wharton City Council wishes to renew its contract with Ceres Environmental Services, Inc. for Debris Clearance and Removal Services; and

**WHEREAS,** the City of Wharton and Ceres Environmental Services, Inc. wishes to be bound by the conditions set forth in the agreement; and

**WHEREAS,** the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute the contract renewal agreement.

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



**Section I.** The Wharton City council hereby approves a contract renewal agreement between the City of Wharton and Ceres Environmental Services, Inc.

**Section II.** The City of Wharton and Ceres Environmental Services, Inc. are hereby bound by the conditions set forth in the agreement.

**Section III.** The Mayor of the City of Wharton is hereby authorized to execute the agreement.

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

**Passed, Approved, and Adopted** this 9<sup>th</sup> day of May 2011.

**CITY OF WHARTON, TEXAS**

**By:**

\_\_\_\_\_  
**DOMINGO MONTALVO, JR.**

Mayor

**ATTEST:**

\_\_\_\_\_  
**PAULA FAVORS**

City Secretary

Councilmember Alfred Bryant seconded the motion. All voted in favor.

The eighteenth item on the agenda was to review and consider a resolution of the Wharton City Council approving the Multi-Jurisdictional Hazard Mitigation Action Plan prepared by the Texas Colorado River Floodplain Coalition. City Manager Andres Garza stated that on July 14, 2004, the Texas Colorado River Floodplain Coalition (TCRFC) Hazard Mitigation Action Plan (HMAP) for the Lower Colorado River Basin was approved. City Manager Garza added the original Hazard Mitigation Plan was effective for a five-year period (which expired in July 2009) and steps to update the basin wide action plan in 2008 were taken. City Manager Garza added the TCRFC, in an effort to help reduce costs to entities along the river basin, assisted those entities who were interested in participating in updating the Hazard Mitigation Action Plan in the preparation of the plan. City Manager Garza further stated that since the plan update had begun in 2008, 61 entities participated in providing input in the plan, and after a final draft of the updated plan was prepared, the TCRFC submitted the plan to the State of Texas and the Federal Emergency Management Administration (FEMA), for approval. City Manager Garza presented a copy of the email dated April 20, 2011 from Ms. Melissa Lerma of H2O Partners providing information regarding the plan process, development, and notification that the plan was approved by FEMA and now that the plan update has been approved, participating entities would be eligible for FEMA grant disaster funding until 2016. Assistant to City Manager Jackie Jansky stated that the TCRFC funded the plans update. She also stated that with the adoption of the plan the City could apply for funding through FEMA if it was needed. Mayor Domingo

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Montalvo, Jr. stated that the cost to TCRFC to update the plan was approximately \$135,000. City Manager Garza also presented a copy of the portion of the plan pertaining to the City of Wharton action items. City Manager Garza further stated that a resolution was required by the TCRFC, which approves the plan by the participating jurisdiction. City Manager Garza stated to the City Council Public Works Committee met on May 2, 2011 and voted to recommend the City Council consider approving the resolution approving the Multi-jurisdictional Hazard Mitigation Action Plan. After some discussion, Councilmember Don Mueller moved to approve City of Wharton Resolution 2011-34, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2011-34**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE MULTI-JURISDICTIONAL HAZARD MITIGATION ACTION PLAN PREPARED BY THE TEXAS COLORADO RIVER FLOODPLAIN COALITION.**

**WHEREAS**, natural hazards in the Lower Colorado Basin historically have caused significant disasters with losses of life and property and natural resources damage; and

**WHEREAS**, the City of Wharton is a participating member of the Texas Colorado River Floodplain Coalition (TCRFC); and

**WHEREAS**, the Federal Disaster Mitigation Act of 2000 and Federal Emergency Management Agency (FEMA) require communities to adopt a hazard mitigation action plan to be eligible for the full range of pre-disaster and post-disaster federal funding for mitigation purposes; and

**WHEREAS**, FEMA requires that communities update hazard mitigation action plans every five years in order to be eligible for the full range of pre-disaster and post-disaster federal funding for mitigation purposes; and

**WHEREAS**, the City of Wharton has assessed the community's potential risks and hazards and is committed to planning for a sustainable community and reducing the long-term consequences of natural and man-caused hazards; and

**WHEREAS**, the TCRFC's Hazard Mitigation Plan Update outlines a mitigation vision, goals and objectives; assesses risk from a range of hazards; and identifies risk reduction strategies and actions for hazards that threaten the community.

**NOW THEREFORE BE IT RESOLVED THAT:**

**Section I.** The TCRFC's Hazard Mitigation Plan Update is approved in its entirety;

**Section II.** The City of Wharton will pursue available funding opportunities for implementation of the proposals designated therein, and will, upon receipt of such funding or other necessary resources, seek to implement the actions contained in the mitigation strategies;

**Section III.** The City of Wharton vests with the Mayor/County Judge the responsibility, authority, and means to inform all parties of this action; assure that the Hazard Mitigation Plan Update will be reviewed at least annually; and that any needed adjustments will be presented to the City Council/Commissioner's Court for consideration; and

**Section IV.** The City of Wharton agrees to take such other action as may be reasonably necessary to carry out the objectives of the Plan Update and report on progress as required by FEMA and the Texas Division of Emergency Management (TDEM).

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

**Passed, Approved, and Adopted** this the 9<sup>th</sup> day of May 2011.

**CITY OF WHARTON**

By: \_\_\_\_\_  
**DOMINGO MONTALVO, JR.**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**PAULA FAVORS**  
City Secretary

Councilmember Terry David Lynch seconded the motion. All voted in favor.

The nineteenth item on the agenda was to review and consider a resolution of the Wharton City Council rescinding the City of Wharton Resolution No. 2005-51 and approving new rates for the Emergency Medical Services. City Manager Andres Garza, Jr. presented a copy of a draft resolution amending the City of Wharton's rates for EMS services, and provided a copy of the City of Wharton Resolution No. 2005-51 regarding the current rates. EMS Director John Kowalik stated the City Staff was requesting City Council approval to charge a \$100.00 fee for refusal of service, a \$500 fee for treatment only – no transport and mileage rate to be increased from \$10.50 per mile to \$12.50 per mile. City Manager Andres Garza, Jr. presented a copy of the memorandum dated April 29, 2011 from Ms. Debra Medina, R.N., and Owner of Prudentia, providing information regarding improving the collection of rates for EMS services rendered and addresses the Ambulance Fee Schedule in her second memorandum dated April 29, 2011. City Manager Garza stated that Prudentia was the City's EMS billing and collection service provider. City Manager Garza further stated that the City Council Finance Committee met on May 2, 2011 and voted to recommend the proposed changes to the EMS service rates and to authorize the filing of motor vehicle liens. After some discussion, Councilmember Jeff Gubbels moved to approve City of Wharton Resolution No. 2011-35 with the removal of the word helicopter in Section A. City of Wharton Resolution No. 2011-35, read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2011 - 35**

**A RESOLUTION OF THE WHARTON CITY COUNCIL RESCINDING THE CITY OF WHARTON RESOLUTION NO. 2005-51 AND APPROVING NEW RATES FOR EMERGENCY MEDICAL SERVICES.**

**WHEREAS,** the City Council of the City of Wharton established rates in accordance with Resolution No. 2005-51; and

**WHEREAS,** the City wishes to establish new charges and rates for emergency medical services; and

**WHEREAS,** the City Council of the City of Wharton wishes to authorize the Emergency Medical Services Director to enforce said charges and the applicable fees.

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

**Section I.** The City Council of the City of Wharton hereby adopts the charges and fees for emergency medical services as described below:

<b>A. SERVICE LEVEL</b>	<b>RATE</b>
Basic Life Support – Non-Emergency	\$400.00
Basic Life Support – Emergency	\$450.00
Advanced Life Support 1 – Non Emergency	\$475.00
Advanced Life Support 1 – Emergency	\$500.00
Advanced Life Support 2	\$600.00
Advanced Life Support – Special Care	\$700.00
Treatment Only No Transport	\$500.00
Ambulance – Refusal - No Transport	\$100.00

**B. MILEAGE**

\$12.50 per mile.

**C.** Additional supplies and equipment usage fees.

**D. RECORDS REQUEST FEE**

Personal Request	No Charge
Family Member Request	\$35.00
Attorney of Law Office Request	\$35.00

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**Section II.** The City Council of the City of Wharton hereby authorizes the Emergency Medical Services Director and his duly authorized representative to enforce charges and the applicable fees.

**Section III.** That the Wharton City Council hereby authorizes the filing of motor vehicle liens.

**Section IV.** That Resolution No. 2005-51 shall become null and void on May 31, 2011.

**Section V.** That this resolution shall become effective on June 1, 2011.

**Passed, Approved, and Adopted** this 9th day of May 2011.

**CITY OF WHARTON, TEXAS**

**By:** \_\_\_\_\_  
**DOMINGO MONTALVO, JR.**  
Mayor

**ATTEST:**

**PAULA FAVORS**  
City Secretary

Councilmember Alfred Bryant seconded the motion. Councilmembers Alfred Bryant, Don Mueller, Bryce D. Kocian and Jeff Gubbels voted for the motion. Councilmember Terry David Lynch voted against the motion. The motion carried.

The twentieth item on the agenda was to review and consider an ordinance amending the City of Wharton Code of Ordinances, Chapter 27 Emergency Medical Services; Providing for Separability; Establishing a Penalty and Setting an Effective Date. City Manager Andres Garza, Jr. stated during the City Council Public Safety Committee meeting held February 28, 2011, the Committee Members requested additional information regarding proposed amendments to the City of Wharton, Code of Ordinances, Chapter 27 – Emergency Medical Services. City Manager Andres Garza, Jr. presented a draft ordinance that had been revised to include the information. EMS Director John Kowalik stated that he presented the proposed revisions to the EMS ordinance to the City Council Public Safety Committee on May 6, 2011. City Manager Garza stated the Public Safety Committee voted to recommend the proposed amendments to the ordinance be considered for approval by the Wharton City Council. After some discussion, Councilmember Terry David Lynch moved to approve the City of Wharton Ordinance No. 2011-08, which read as follows:

**CITY OF WHARTON  
ORDINANCE NO. 2011-08**

**AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 27 EMERGENCY MEDICAL SERVICES; PROVIDING FOR SEPARABILITY; ESTABLISHING A PENALTY AND SETTING AN EFFECTIVE DATE.**

**BE IT ORDAINED** by the City Council of the City of Wharton, Texas, that the City of Wharton Code of Ordinances, Chapter 27 Emergency Medical Services read as follows:

Chapter 27 EMERGENCY MEDICAL SERVICES\*

Sec. 27-1. Establishment and purpose of the EMS.

Whereas there was a need for the establishment of a pre-hospital care system for the City of Wharton, the city council of Wharton established the emergency medical services department for its citizens and caused to be created the structure to facilitate such a service in February 1972. The City of Wharton may enter into an interlocal agreement with ESD #3 to provide EMS services for their established service area. The purpose of this organization is to provide the citizens of the City of Wharton and the service area of the Wharton County Emergency Services District (ESD) #3 quality pre-hospital health care and make such services available for the medical community as may be needed. This service is to operate 24 hours a day 365 days a year. The service shall be operated according to the Texas Department of State Health Services guidelines and rules that govern such operations and the medical direction of an appointed medical director for the service

Sec. 27-2. Ambulance service charges.

The city provides for and establishes charges and rates for ambulance service which the city will provide in accordance with the fees and rates set forth by council. These fees and rates for service will be adopted by council in the form of a resolution at such times as deemed necessary. The cost of materials used to care for patients will be adjusted from time to time at the discretion of the department as needed to reflect the costs of these materials.

Sec. 27-3. Definitions.

As used in this chapter, the following words and terms shall have the meanings ascribed in this section, unless the context of their usage clearly indicates another meaning:

**Ambulance** means a ground motor vehicle used, designed or redesigned, and equipped for the primary purpose of the transportation of sick or injured persons, whether functioning as a basic life support, advanced life support or mobile intensive care unit service level as provided by state law and this chapter. The term does not include an ambulance that is owned by the state or federal government or an agency or subdivision thereof and operated by its employees.

**Ambulance Personnel** means persons certified or licensed by the Texas Department of State Health Services at the level of Emergency Care Attendant (ECA), emergency medical technician (EMT), emergency medical technician-intermediate (EMT-I), or emergency medical technician-paramedic (EMT-P) who respond to life-threatening and non-life threatening emergencies and unscheduled non-emergencies in an ambulance.

**Ambulance Service Provider** means a service other than local or state agency that provides ambulance service to the public.

**City Certification** means the written authorization issued by the City of Wharton for a designed company to provide medical care or service to any patient for that level of care.

**Designated Representative** means any person authorized by the director. The designated representative shall have authority to conduct inspections of vehicles, equipment, and performance of personnel.

**Director** means the director of the Emergency Medical Services Department.

**Emergency Call/s** means a telephone call or other similar communication from a member of the public, as part of a 9-1-1 system or other emergency access communication system, made to obtain emergency medical services.

**Emergency Care Attendant (ECA)** means a person certified by the Texas Department of State Health Services proficient to perform as required by the Texas Health and Safety Code and relevant regulations for that level of certification.

**Emergency Medical Service** means services used to respond to an individual's perceived need for immediate medical care and to prevent death or aggravation of physiological or psychological illness or injury or the transportation of such individual from one place to another.

**Emergency Medical Technician (EMT)** means a person certified by the Texas Department of State Health Services as minimally proficient to perform basic life support and as further required by the Texas Health and Safety Code and relevant regulations.

**Emergency Medical Technician (EMT-I)** means a person certified by the Texas Department of State Health Services as minimally proficient to provide emergency prehospital care by initiating under medical supervision certain procedures, as regulated by the Texas Health and Safety Code and relevant regulations.

**Emergency Medical Technician-Paramedic (EMT-P)** means a person certified by the Texas Department of State Health Services as minimally proficient to provide advanced life support that includes initiating under medical supervision of certain procedures, as regulated by the Texas Health and Safety Code and relevant regulations.

**Medical Director** means the physician that has been appointed by the Wharton City Council and has medical responsibility of procedures and protocols for the care of patients by an emergency medical service.

**Person** means an individual, corporation, or partnership.

**Provider** means an organization or business providing medical transfer services and holding a valid ambulance provider permit.

Sec. 27-4. Cumulative effect.

This chapter is cumulative of applicable state laws and regulations. This chapter establishes standards for the operation and services of ambulances that are stricter in many respects than those provided by applicable state laws and regulations. To the extent of any difference in the standards for operations or services of an ambulance between this chapter and state standards, then the more restrictive shall apply.

Sec. 27-5. Penalty.

- A. Any person or provider who violates any of the provisions of this Chapter shall be guilty of a misdemeanor and each day the violation continues shall be a separate offense. Each offense shall be punishable by a fine not to exceed two thousand (\$2,000.00) dollars.
- B. Each day that any violation of this Chapter is committed or permitted to continue shall constitute a separate offense.
- C. This section shall not serve to limit any other remedies available to the City in law or equity.

Secs. 27-6--27-11. Reserved.

Sec. 27-12. Ambulance provider permit.

Any person who desires to operate an ambulance within the jurisdiction of the City of Wharton must obtain an ambulance provider's permit. Application should be made with the City Secretary of the City of Wharton. It shall be unlawful for any person, including a provider, other than an employee of the department officially on duty, or an agency of the United States, to furnish, operate, conduct, maintain, advertise for, or otherwise be engaged in the operation of an emergency ambulance or the providing of emergency service in the City. It shall be unlawful to operate an ambulance within the jurisdiction of the city by picking up non emergency patients without having an ambulance provider's permit, issued by the City of Wharton. A provider shall place its equipment and personnel at the disposal of the City Manager in the event of a public calamity or major disaster.

All emergency calls that originate in the City of Wharton will be responded to by the City of Wharton - Emergency Medical Service. In the event that a private ambulance service receives a direct call requesting an ambulance that originates within the City of Wharton, it will be the duty of the private ambulance service to immediately refer the emergency medical call to the City of Wharton – Emergency Medical Service (EMS).

Sec. 27-13. Requirements for ambulance provider permit.

- (a) Application shall be filed with the City Secretary on the Ambulance Provider Permit form, subscribed, and sworn to before a notary public. The Ambulance Provider Permit shall include:
  - (1) Complete name(s);
  - (2) Complete address (business and home);
  - (3) Phone numbers (business and home);
  - (4) Provide proof of licenses issued by the Texas Department of State Health Services;



- (5) Proof of insurance as required by the requirements established by the Texas Department of State Health Services.
- (6) Copy of types of ambulance(s) to be used and VIN, license plate numbers, make and model, year, and manufacturer of each unit.
- (7) Each application shall be sworn to be true and correct upon personal knowledge by the applicant.
- (8) Statement that the applicant has not been convicted of a felony or of a misdemeanor involving moral turpitude within the past ten (10) years.
- (9) Applicant's permanent residence and mailing address. If the person submitting the application represents a partnership, then such information shall be given on all partners and persons having an interest in the business. If a corporation, the name and location of its principal place of business, the name, date of birth, telephone number and address of all the officers, directors and all stock holders of the organization. If the applicant's business is a corporation or association, a copy of the documents establishing the business and the name, address, and citizenship of each person with a direct interest in the business. Corporate applicants must provide a certified copy of the corporate charter, articles of incorporation, and statement from the Secretary of State certifying that the corporation is in good standing.
- (10) The application must be approved by the City Council.
- (11) There shall be three (3) copies of all related information submitted to the City of Wharton for processing purposes.
- (12) The company shall notify the City of Wharton EMS Director, in writing, of any change in location of the company's place of business.
- (13) The company shall provide the City of Wharton EMS Director, in writing, a list of all personnel and of any and all changes in said personnel.

Sec. 27-14. Application Fee for Emergency Medical Services Certification.

The application fee per person, partnership, or corporation having applied for the City of Wharton Emergency Medical Services Certification shall be \$500.00, thus being non-refundable. An application fee may be approved for transfer by the City Manager for a change in ownership. The transfer fee shall be \$250.00.

Sec. 27-15. Equipment

A provider shall furnish at its own expense all vehicles and necessary equipment which meet the minimum standards of the department.

The periodic inspection required hereunder shall be in addition to any other safety or motor vehicle inspection required to be made for ambulance or other motor vehicles in the State of Texas, or other inspections required to be made, under general laws and ordinances, and shall not excuse compliance with any requirements of law and ordinance to display any official certificate of motor vehicle inspection at all times.

Sec. 27-16 Vehicles

Each vehicle to be used shall comply with the following requirements and such other requirements or modifications as may be established by the department:

- (1) Comply with the federal General Services Administration specifications KKK-A-1822 minimum requirements.
- (2) Comply with the Texas Transportation Code.
- (3) Shall be equipped as required by 25 Texas Administrative Code, § 157.12.
- (4) Every ambulance must be maintained in a clean and sanitary condition.
- (5) The Director of EMS or his designee shall cause all ambulances to be inspected before being placed in service and shall thereafter inspect such ambulances no less than once each year. All permitted ambulances and or vehicles are subject to spot inspections with no notice. In the event an ambulance or vehicle fails to pass inspection, the chief EMS officer shall notify the ambulance operator to correct the defects noted in the inspection and, after such notification, the chief EMS officer shall cause such ambulance to be re-inspected within forty-eight (48) hours. If upon such re-inspection the defects noted in the original inspection have not been corrected, the permit decal shall be removed from the ambulance or vehicle and shall only be replaced upon such ambulance or vehicle after the defects have been corrected.
- (6) No ambulance that has been substantially damaged or altered, or has received damage where the repair costs exceeds one thousand dollars (\$1000.00), shall be again placed in service until it has been repaired and re-inspected by the chief EMS officer. There will be no charge for re-inspection.

#### Sec. 27-17 Personnel

Each vehicle shall be staffed at the level required by Texas Department of State Health Services.

A provider shall maintain a current personnel file on each employee.

#### Sec. 27-18. Insurance.

A provider shall maintain a valid Certificate of Insurance coverage for the duration of the ambulance provider permit. The provider and/or insurance carrier is responsible for providing the certificate of insurance coverage to the City of Wharton prior to the expiration of the current policy.

#### Sec. 27-19. Terms.

A provider's permit shall be personal to the holder and may not be sold, transferred or assigned, including any assignment by operation of law without consent from the City of Wharton. Unless sooner revoked, a provider permit is valid from date of issue until December 31<sup>st</sup> of that calendar year. Prior to any placement in service or replacement of an ambulance, the provider will submit the required information on the ambulance along with a fee of \$20.00/unit per month from the date of the application through December 31<sup>st</sup> of that calendar year.

The fee for the period January 1<sup>st</sup> through December 31<sup>st</sup> shall be \$240.00/unit.

#### Sec. 27-20. Renewal.

Renewal application shall be filed at least 60 days prior to expiration in order to ensure any action before expiration of the permit. Prior to any placement in service or replacement of an ambulance, the provider will submit the required information on the ambulance along with a fee

of \$250.00/ unit. The City Manager shall have the authority to approve a renewal permit application.

**Sec. 27-21 City Certification Required.**

No person shall furnish, operate, conduct, maintain, advertise or otherwise be engaged in the operation or control of any ambulance upon the public street or thoroughfare in the City, attend or render any care to any patient for compensation without having been issued City Certification by the City in accordance with the terms and provisions set forth.

**Sec. 27-22 Display of City Certification.**

The City Certification shall be displayed on the issued ambulance on the back window on each permitted vehicle.

**Sec. 27-23 Notification**

The City of Wharton and the City Secretary shall be notified immediately if the Ambulance Provider receives any deficiencies from the Texas Department of State Health Services.

**Sec. 27-24. Termination, suspension.**

The director or his designee may immediately suspend the operations, in whole or in part, of a provider if the director determines that continued operation by the provider would endanger the health, safety, or welfare of the public. The director shall present a written determination to the provider, detailing the deficiencies or violations forming the basis of is/her determination and setting therein a reasonable period for compliance. The City may cause an ambulance service provider's permit to be terminated or may refuse renewal as provided in this section.

- (1) Failure to meet the requirements in this Chapter;
- (2) Failure to pay the City Certification fee;
- (3) Violation of rules in this Chapter;
- (4) Failure to maintain Texas Department of State Health Services standards.
- (5) Failure to maintain insurance requirements.
- (6) Lapse in permit, process shall begin with \$500.00 non-refundable application fee.

In the event that the ambulance service provider fails to comply with any other applicable requirement as set forth in this document or in the event that the permit was issued through error or on the basis of materially false or incomplete information, the city may give the service provider written notice of the grounds and may schedule a hearing regarding the termination of the permit or the refusal to renew the permit, as applicable. The ambulance service provider shall be given written notice of the date, time and place of the hearing.

A failure to achieve compliance shall convert the suspension to a termination. A provider may appeal a termination to City Council by filing a request with the director within ten (10) days of the termination. The City Council may uphold, vacate, or modify the director's determination.

**Sec. 27-25. Denial.**

The City Council has the authority to deny an application for an ambulance provider permit. The City Council shall notify the applicant, in writing, if the application for permit has been denied and shall provide a reason(s) for denial.

Upon denial of an ambulance provider permit application, the applicant shall not have authority to operate in the City of Wharton for a duration of one (1) year from the date of denial. During the denial period, the ambulance provider may not submit a new application with the same ownership with a different business named operation. The ambulance provider may apply for an ambulance provider permit after the one (1) year duration and submit the required non-refundable \$500.00 application fee along with the required documentation.

Sec. 27-26. Exemption.

The ambulance provider permit application and requirements shall not apply to non-profit organizations or public agencies.

### **Separability**

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

### **Effective Date**

This Ordinance shall become effective on the 20<sup>th</sup> day of May 2011 at 12:01 a.m.

### **Passage and Approval**

**PASSED AND APPROVED** by the City Council of the City of Wharton, Texas, on this 9<sup>th</sup> day of May 2011.

CITY OF WHARTON, TEXAS

By: \_\_\_\_\_  
**DOMINGO MONTALVO, JR.**  
Mayor

**ATTEST:**

\_\_\_\_\_  
PAULA FAVORS  
City Secretary

**APPROVED AS TO FORM:**

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PAUL WEBB  
City Attorney

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

The twenty-first item on the agenda was to review and consider a request by Ms. Leahia Aprea, RN, Quality Control for the Aprea Group, LLC dba Texas Critical Care for the City Council to reconsider their request for a City of Wharton Ambulance Provider Permit. City Manager Andres Garza, Jr. stated that during the regular April 11, 2011 Wharton City Council meeting, the City Council considered a request by Ms. Leahia Aprea, RN, Quality Control for Aprea Group, LLC dba Texas Critical Care for a City of Wharton Ambulance Provider Permit. City Manager Garza further stated the City Council took no action regarding the request. City Manager Garza presented a copy of the letter dated April 25, 2011 from Ms. Aprea requesting the City Council to reconsider their original request and presented a copy of the application submitted by the company. City Manager Garza presented a copy of the memorandum dated April 1, 2011 from EMS Director John Kowalik recommending the City Council consider approving their request for an ambulance provider permit. City Manager Garza stated that City Attorney Paul Webb also reviewed the application and presented a copy of the letter dated April 5, 2011 from Mr. Webb that indicated the company was in compliance and good standing with the Texas Department of Health and recommended approval of the permit request. After some discussion, Councilmember Terry David Lynch moved to approve the request by Ms. Leahia Aprea, RN, Quality Control for the Aprea Group, LLC dba Texas Critical Care for the City of Wharton Ambulance Provider Permit. Councilmember Alfred Bryant seconded the motion. All voted in favor.

The twenty-second item on the agenda was to review and consider a resolution of the Wharton City Council adopting the City of Wharton Investment Policy. City Manager Andres Garza, Jr. presented a copy of the City of Wharton Investment Policy and stated that it was required by the City Charter that the Investment Policy must be adopted each year. City Manager Garza further stated Finance Director Joan Andel had submitted the current policy to the City's financial advisor Mr. Jim Gilley, Managing Director of Coastal Securities for his review. City Manager Garza stated that Mr. Gilley indicated his letter dated April 28, 2011 that the policy, if followed, provided a sound framework for investing the City's cash, and provided customary investment guidelines and safeguards followed by governmental entities in Texas. City Manager Garza stated Mr. Gilley did not suggest any modifications to the policy and the only addition recommended was the adding of Coastal Securities to the Broker/Dealer list. Finance Director Joan Andel stated the City Council Finance Committee met on May 2, 2011 and voted to recommend the City Council consider adopting the 2011 City of Wharton Investment Policy. After some discussion, Councilmember Jeffery Gubbels moved to approve City of Wharton Resolution No. 2011-36, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2011-36**

**A RESOLUTION OF THE WHARTON CITY COUNCIL ADOPTING THE CITY OF WHARTON INVESTMENT POLICY.**

**WHEREAS,** the Public Funds Investment Act, requires the City Council to review and adopt, by resolution, the investment policies and strategies for the City of Wharton on an annual basis; and

**WHEREAS,** the City of Wharton designates the City Manager and the Finance Director as investment officers; and

**WHEREAS,** the City of Wharton approves the training courses sponsored or endorsed by the Texas Municipal League, the Government Finance Officers Association of Texas, the Government Treasurers Organization of Texas, or the North Central Texas Council of Governments as adequate to meet the investment training requirements; and

**WHEREAS,** the attached investment policy complies with the Public Funds Investment Act and authorizes the investment of City funds in safe and prudent investments.

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

**Section I.** The City of Wharton has complied with the requirements of the Public Funds Investment Act and the Investment Policy attached hereto as "Exhibit A" is hereby adopted as the Investment Policy of the City of Wharton effective May 9, 2011.

**Section II:** That this resolution shall be come effective immediately upon its passage.

**Passed, Approved, and Adopted** this 9<sup>th</sup> day of May 2011.

**CITY OF WHARTON, TEXAS**

**By:** \_\_\_\_\_  
**DOMINGO MONTALVO, JR.**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**PAULA FAVORS**

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

The twenty-third item on the agenda was to review and consider a resolution authorizing the publication of Notice of Intention to issue Certificates of Obligation. City Manager Andres Garza, Jr. stated that as part of the overpass project, the City would have to issue the bonds. City Manager Garza presented a copy of the schedule for the bond issuance. City Manager Garza further stated the City Council Finance Committee met on May 2, 2011 and voted to recommend to the City Council to proceed with the publication of the "Notice of Intention to Issue Certificates of Obligation" in the amount of, \$4,600,000. After some discussion, Councilmember Don Mueller moved to approve a resolution authorizing the publication of Notice of Intention to issue Certificates of Obligation, which read as follows:

**RESOLUTION AUTHORIZING PUBLICATION OF NOTICE  
OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION**

**THE STATE OF TEXAS    §  
COUNTY OF WHARTON       §  
CITY OF WHARTON        §**

**WHEREAS**, the City Council of the City of Wharton, Texas (the "City"), deems it advisable to issue certificates of obligation of the City in accordance with the notice hereinafter set forth; Now, Therefore

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

**Section 1.** The facts and recitations contained in the preamble of this resolution are hereby found and declared to be true and correct.

**Section 2.** The City Secretary is hereby authorized and directed to cause to be published in the manner required by law and in substantially the form attached hereto, a notice of intention to issue certificates of obligation.

**Section 3.** The notice set forth in Section 2 above shall be published once a week for two (2) consecutive weeks in a newspaper which is of general circulation in the City, the date of the first publication to be at least thirty-one (31) days before the date tentatively set in said notice for the passage of the ordinance authorizing the issuance of such certificates of obligation.

**Section 4.** The Mayor, City Secretary, and other officers and agents of the City are hereby authorized and directed to do any and all things necessary or desirable to carry out the provisions of this resolution.

**Section 5.** This resolution shall take effect immediately upon its passage.

**Section 6.** The notice and agenda relating to this meeting and heretofore posted by the City Secretary, and the posting thereof, are hereby authorized, approved, and ratified.

**PASSED AND APPROVED** the 9th day of May, 2011.

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**Mayor**  
**City of Wharton, Texas**

**ATTEST:**

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**City Secretary**  
**City of Wharton, Texas**

Councilmember Jeff Gubbels seconded the motion. All voted in favor.

The twenty-fourth item on the agenda was to review and consider Wharton City Council approving Jones & Carter, Inc. to prepare a report that establishes a plan for a rehabilitation of improvements to the City of Wharton Wastewater Treatment Plant No. 1. City Manager Andres Garza stated the City of Wharton had been receiving Texas Commission on Environmental Quality (TCEQ) violations for the Wastewater Treatment Plant No. 1 due to the plant needing improvements to its equipment. City Manager Garza further stated on February 1, 2011, the Committee reviewed cost estimates from Mr. Carlos Cotton, P.E. of Jones & Carter, Inc. regarding the cost to replace the clarifier at the plant. City Manager Garza added the City Staff met with Mr. Cotton to discuss what would be needed to upgrade the plant. City Manager Garza presented a copy of the letter dated April 18, 2011 from Mr. Carlos Cotton, P.E. of Jones & Carter, Inc. providing his proposal for the firm to prepare a report that establishes a plan for the rehabilitation of and improvements to the plant to meet the future needs of the City and to meet future permit requirements. City Manager Garza further stated the estimated cost for Jones & Carter, Inc. to prepare a letter report with estimates and proposed scheduled was \$9,000. City Manager Garza stated the City Council Public Works Committee met May 2, 2011 and voted to recommend the City Council consider approving Jones & Carter, Inc. to prepare the report that established a plan for the rehabilitation of and improvements to the City of Wharton Wastewater Treatment Plant No. 1. After some discussion, Councilmember Don Mueller moved to approve Jones & Carter, Inc. to prepare the report that established a plan for the rehabilitation of and improvements to the City of Wharton Wastewater Treatment Plant No. 1. Councilmember Terry David Lynch seconded the motion. All voted in favor.



The twenty-fifth item on the agenda was to review and consider the City of Wharton City Council Boards, Commissions, and Committees:

- A. Beautification Commission.
- B. Building Standards Commission.
- C. Electrical Board.
- D. Holiday Light Decorating Chairman.
- E. Mayor's Committee on People with Disabilities.
- F. City Council Committees:
  - 1. Housing Committee.
  - 2. Public Health Committee.
  - 3. Telecommunications Committee.
  - 4. Wharton Economic Development Corporation Board of Directors Selection Committee.

After some discussion, no action was taken.

The twenty-sixth item on the agenda was to review and consider the City Council, Committee, Commissions, and Board Reports. City Manager Andres Garza, Jr. presented the following City Council Committee, Commission and Board reports to the City Council:

- A. Wharton Economic Development Corporation Public Hearing held April 18, 2011.
- B. City of Wharton Spring Sweep held April 30, 2011.
- C. Consultant Selection Committee for the Sidewalk Accessibility and Historic Streetscape Project held May 2, 2011.
- D. City Council Public Works Committee meeting held May 2, 2011.
- E. City Council Finance Committee Meetings held May 2, 2011 and May 9, 2011.

No action was taken.

The twenty-seventh item on the agenda was adjournment. After some discussion, Councilmember Don Mueller made a motion to adjourn. Councilmember Alfred Bryant seconded the motion. All voted in favor.

The meeting adjourned at 8:20 p.m.

**CITY OF WHARTON, TEXAS**

By: \_\_\_\_\_  
**Domingo Montalvo, Jr**  
**Mayor**

**ATTEST:**

City of Wharton  
Regular City Council Meeting  
May 9, 2011

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**Paula Favors**  
**City Secretary**