

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
July 25, 2011**

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

Councilmember's present were: Mayor Domingo Montalvo, Jr., Councilmembers Alfred Bryant, Terry David Lynch, Russell Machann, Don Mueller, and Karen Schulz.

Councilmember absent was: Jeff Gubbels

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, Police Chief Tim Guin, Emergency Management Coordinator Jim Cooper and City Attorney Paul Webb.

Visitors present were: David Schroeder with Wharton Economic Development Corporation, Carlos Cotton P.E., with Jones and Carter, Rachel Rust, Paul Sherland, Rosemary Rust, and David Copeland.

The second item on the agenda was Roll Call and Excuses Absences. Councilmember Terry David Lynch moved to excuse Councilmember Jeff Gubbels. Councilmember Don Mueller seconded the motion. All voted in favor.

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

The fourth item discussed on the agenda was the Wharton Moment. No comments were given.

The fifth item on the agenda was to review and consider the City of Wharton Financial Report for the month of June 2011. Finance Director Joan Anandel presented the financial report for the month of June 2011. Mrs. Anandel stated that the total ad valorem taxes collected were \$20,312.76 and the sales tax for the month of June 2011 was \$79,025.63. She further stated that the TexPool balance for June was \$169,936.13 with an average monthly yield of 0.08%. She said Prosperity Bank balance for June 2011 was \$2,289,131.20 with an average monthly yield of 0.15%. Mrs. Anandel further stated that other investments included \$2,661.07 at TexasGulf Federal Credit Union in the debt fund, and \$255,599.93 at Capital One Marketing at a rate of 2%. After some discussion, Councilmember Al Bryant moved to approve the City of Wharton Financial Report for the month of June 2011. Councilmember Karen Schulz seconded the motion. All voted in favor.

The sixth item on the agenda item was to review and consider the Wharton Economic Development Corporation 2011 – 2012 Proposed Budget. City Manager Andres Garza, Jr. stated that during the Regular July 11, 2011 Wharton City Council meeting, the Council requested additional information on the Wharton Economic Development Corporation 2011 – 2012 proposed budget. Finance Director Joan Andel compiled the report with the assistance and approval by Mr. David L. Schroeder, Executive Director of the Wharton Economic Development Corporation (WEDC). City Manager Garza further stated that the Finance Committee recommended approving the WEDC 2011 – 2012 proposed budget. Councilmember Terry David Lynch requested information on the increase in wages for the staff of WEDC. He stated that he did not approve of WEDC receiving increases in wages since the City employees has not received increases last year or the next fiscal year. After some discussion, Councilmember Don Mueller moved to approve the Wharton Economic Development Corporation 2011 – 2012 proposed budget. Councilmember Russell Machann seconded the motion. Councilmembers Don Mueller, Russell Machann, and Karen Schulz voted for the motion. Councilmembers Al Bryant and Terry David Lynch voted against the motion. The motion carried.

The seventh item on the agenda was to review and consider a resolution by the City Council of the City of Wharton, Texas, approving the resolution of the Wharton Economic Development Corporation authorizing a loan agreement, promissory note and redemption of the 2007 Bonds and other matters related thereto and making related findings. City Manager Andres Garza, Jr. presented a copy of the letter dated July 14, 2011 from Mr. David L. Schroeder, Executive Director of the Wharton Economic Development Corporation (WEDC) requesting on behalf of the WEDC Board of Directors, City Council consideration to approve a resolution authorizing WEDC to proceed with a loan from Prosperity Bank for the City of Wharton extension of FM 1301 from SH 60 to US 59 in Wharton. City Manager Garza presented a copy of a draft resolution authorizing the loan agreement prepared by Mr. Dimitri Millas, Fulbright & Jaworski L.L.P. City Manager Garza stated the Finance Committee recommended approving the resolution of the Wharton Economic Development Corporation authorizing a loan agreement, promissory note and redemption of the 2007 Bonds and other matters related thereto and making related findings. After some discussion, Councilmember Don Mueller moved to approve City of Wharton Ordinance No. 2011-54, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2011-54**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF WHARTON,
TEXAS, APPROVING THE RESOLUTION OF THE WHARTON ECONOMIC
DEVELOPMENT CORPORATION AUTHORIZING A LOAN AGREEMENT,
PROMISSORY NOTE AND REDEMPTION OF THE 2007 BONDS AND OTHER
MATTERS RELATED THERETO AND MAKING RELATED FINDINGS.**

WHEREAS, Wharton Economic Development Corporation (the "Issuer") was created by the City of Wharton, Texas (the "City"), pursuant to the provisions of Title 12, Subtitle C1 of the Local Government Code (formerly Section 4B of the Development Corporation Act of 1979, Article 5190.6, Vernon's Texas Civil Statutes), as amended (hereinafter referred to as the "Act"); and

WHEREAS, a sales and use tax at the rate of one-half of one percent for the benefit of the Issuer (the "Sales Tax") was authorized by the voters of the City at an election held on January 17, 1998; and

WHEREAS, the Board of Directors of the Issuer proposes to enter into a loan agreement (the "Loan Agreement") with Prosperity Bank (the "Bank"), by which the Bank would agree to loan approximately \$1,150,000 to the Issuer (the "Loan") and the Issuer would agree to repay the Loan on terms provided in the Loan Agreement, solely from and to the extent of revenues received by the Issuer from the pledge of sales and use tax revenues, which obligation would be evidenced by a promissory note of the Issuer (the "Note") in the principal amount of the Loan; **WHEREAS**, the Issuer has approved the economic development projects to be financed, in part, with the proceeds of the Note, which projects consist of the relocation of FM 102 and the extension of FM 1301 to US 59 and FM 1301 Overpass, pursuant to a resolution (the "Issuer Resolution") adopted by the Board of Directors of the Issuer on July 14, 2011;

WHEREAS, said projects will promote or develop new or expanded business enterprises within the City;

WHEREAS, the Issuer has further determined to refund the following described outstanding bonds of the Corporation (hereinafter referred to as the "Refunded Bonds") pursuant to the Issuer Resolution, to wit: Wharton Economic Development Corporation Sales Tax Revenue Bonds, Series 2007, dated August 15, 2007, scheduled to mature on August 1, 2017, with an original principal amount of \$850,000;

WHEREAS, Section 501.204 of the Act requires the City Council of the City approve the resolution of the Issuer providing for the issuance of the Note no more than sixty (60) days prior to the delivery of the Bonds; now, therefore,

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

The Issuer Resolution authorizing the issuance of the Note, adopted by the Issuer on July 14, 2011 and submitted to the City Council this day, is hereby approved in all respects. The Note is being issued to (i) undertake the financing of and expenditure of funds for the relocation of FM 102 and the extension of FM 1301 to US 59 and FM 1301 Overpass and the costs of professional services incurred in connection therewith, for the purpose of promoting or developing new or expanded business enterprises pursuant to provisions of the Act; (ii) redeem all of the Issuer's outstanding Sales Tax Revenue Bonds, Series 2007 (the "*Refunded Bonds*"); and (iii) pay the costs of professional services incurred in connection therewith.

The approvals herein given are in accordance with Section 501.204 of the Act and the Issuer's bylaws, and the Bonds shall never be construed an indebtedness or pledge of the City, or the State of Texas (the "State"), within the meaning of any constitutional or statutory provision, and the holder of the Note shall never be paid in whole or in part out of any funds raised or to be raised by taxation (other than sales tax proceeds as authorized pursuant to the Act) or any other revenues of the Issuer, the City, or the State, except those revenues assigned and pledged by the Issuer Resolution.

The City hereby agrees to promptly collect and remit to the Issuer the Sales Tax Revenues (as defined in the Issuer Resolution) in accordance with the terms of the Issuer Resolution and the

Act to provide for the prompt payment of the Note, and to assist and cooperate with the Issuer in the enforcement and collection of sales and use taxes imposed on behalf of the Issuer.

The City hereby authorizes and directs the Mayor, the City Secretary, the City Council Members, and the City Manager, or any of them, to take any and all action necessary to carry out and consummate the transactions described in or contemplated by this Resolution and the instruments approved hereby, and otherwise to give effect to the actions authorized hereby and the intent hereof.

The City hereby acknowledges and recognizes that the Note is being issued as a tax exempt obligation under and pursuant to section 103(a) of the Code (as defined below) and, in connection therewith, the City hereby makes the following representations and warranties to the Issuer:

(a) Definitions. When used in this Section, the following terms have the following meanings:

"Closing Date" means the date on which the Note is first authenticated and delivered to the initial purchasers against payment therefore.

"Code" means the Internal Revenue Code of 1986, as amended by all legislation, if any, effective on or before the Closing Date.

"Computation Date" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Gross Proceeds" means any proceeds as defined in Section 1.148-1(b) of the Regulations, and any replacement proceeds as defined in Section 1.148-1(c) of the Regulations, of the Note.

"Investment" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Nonpurpose Investment" means any investment property, as defined in section 148(b) of the Code, in which Gross Proceeds of the Note are invested and which is not acquired to carry out the governmental purposes of the Note.

"Rebate Amount" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Regulations" means any proposed, temporary, or final Income Tax Regulations issued pursuant to Sections 103 and 141 through 150 of the Code, and 103 of the Internal Revenue Code of 1954, which are applicable to the Note. Any reference to any specific Regulation shall also mean, as appropriate, any proposed, temporary or final Income Tax Regulation designed to supplement, amend or replace the specific Regulation referenced.

"Yield" of (1) any Investment has the meaning set forth in Section 1.148-5 of the Regulations and (2) the Note has the meaning set forth in Section 1.148-4 of the Regulations.

(b) Not to Cause Interest to Become Taxable. The City shall not use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner which if made or omitted, respectively, would cause the interest on the Note to become includable in the gross income, as defined in section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the City receives a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on the Note, the City shall comply with each of the specific covenants in this Section.

(c) No Private Use or Private Payments. Except as permitted by section 141 of the Code and the Regulations and rulings thereunder, the City shall at all times prior to the stated maturity of Note:

(1) exclusively own, operate and possess all property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds of the Note (including property financed with Gross Proceeds of the Refunded Bonds), and not use or permit the use of such Gross Proceeds (including all contractual arrangements with terms different than those applicable to the general public) or any property acquired, constructed or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and

(2) not directly or indirectly impose or accept any charge or other payment by any person or entity who is treated as using Gross Proceeds of the Note or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds (including property financed with the Gross Proceeds of the Refunded Bonds), other than taxes of general application within the City or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

(d) No Private Loan. Except to the extent permitted by section 141 of the Code and the Regulations and rulings thereunder, the City shall not use Gross Proceeds of the Note to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be "loaned" to a person or entity if: (1) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes; (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output or similar contract or arrangement; or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed or improved with such Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.

(e) Not to Invest at Higher Yield. Except to the extent permitted by section 148 of the Code and the Regulations and rulings thereunder, the City shall not at any time prior to the final stated maturity of the Note directly or indirectly invest Gross Proceeds in any Investment (or use Gross Proceeds to replace money so invested), if as a result of such investment the Yield from the Closing Date of all Investments acquired with Gross Proceeds (or with money replaced thereby), whether then held or previously disposed of, exceeds the Yield of the Note.

(f) Not Federally Guaranteed. Except to the extent permitted by section 149(b) of the Code and the Regulations and rulings thereunder, the City shall not take or omit to take any action which would cause the Note to be federally guaranteed within the meaning of section 149(b) of the Code and the Regulations and rulings thereunder.

(g) Payment of Rebatable Arbitrage. Except to the extent otherwise provided in section 148(f) of the Code and the Regulations and rulings thereunder:

(1) The City shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six years after the day on which the Note is discharged. However, to the extent permitted by law, the City may commingle Gross Proceeds of the Note with other money of the City, provided that the City separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.

(2) Not less frequently than each Computation Date, the City shall calculate the Rebate Amount in accordance with rules set forth in section 148(f) of the Code and the Regulations and rulings thereunder. The City shall maintain such calculations with its official

transcript of proceedings relating to the issuance of the Note until six years after the final Computation Date.

(3) As additional consideration for the purchase of the Note by the Purchasers and the loan of the money represented thereby and in order to induce such purchase by measures designed to insure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, the City shall remit to the Issuer for payment to the United States the amount described in paragraph (2) above and the amount described in paragraph (4) below, at the times, in the manner and accompanied by such forms or other information as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder.

(4) The City shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (2) and (3), and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including remitting an amount to the Issuer for payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under Section 1.148-3(h) of the Regulations.

(h) Note Not Hedge Bond. (1) At the time the original bonds refunded by the Note were issued, the Corporation reasonably expected to spend at least 85% of the spendable proceeds of such bonds within three years after such bonds were issued and (2) not more than 50% of the proceeds of the original bonds refunded by the Note were invested in Nonpurpose Investments having a substantially guaranteed Yield for a period of 4 years or more.

(i) Current Refunding. The Note is a current refunding of the Refunded Bonds as the Note will be issued within 90 days of the payment and redemption of the Refunded Bonds.

It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by V.T.C.A., Government Code, Chapter 551, as amended.

This Resolution shall be in force and effect from and after its passage on the date shown below.

PASSED AND ADOPTED, this July 25, 2011.

CITY OF WHARTON, TEXAS

Domingo Montalvo, Jr., Mayor

ATTEST:

Paula Favors, City Secretary

(City Seal)

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

The eighth item on the agenda was to review and consider a request by the Wharton Economic Development Corporation (WEDC) Board of Directors for City Council consideration to approve the following:

- A. Amendment to the WEDC Articles of Incorporation, Article VIII Directors and By-Laws Section 3.03 - Number, Qualifications and Tenure of Directors.

City Manager Andres Garza, Jr. presented a copy of the letter dated July 14, 2011 from Mr. David L. Schroeder, Executive Director of the Wharton Economic Development Corporation (WEDC), on behalf of the WEDC Board of Directors, requesting the City Council to consider amending the WEDC Articles of Incorporation, Article VIII Directors and the WEDC By-Laws Section 3.03, Number, Qualifications and Tenure of Directors. He stated that a copy of the article with the tracked changes was included in the packet. He said that the WEDC Board of Directors wished to amend the section to state that members could serve in accordance with Section 505.052 of the Texas Local Government Code. City Manager Garza further stated that the proposed revisions included that members could serve three consecutive two year terms and could be reappointed after a one year duration occurred. City Attorney Paul Webb stated that the article regarding directors had been amended five times since 1998 and that he did not believe, in his opinion, that that was the original intent. Mr. Webb further stated that the directors were appointed at the discretion of the City Council.

- B. Amend the City of Wharton Resolution No. 2010-64 to include WEDC Members on the City Council WEDC Board of Directors Selection Committee.

City Manager Andres Garza, Jr. stated that in Mr. Schroeder's July 14th letter, he indicated the WEDC Board of Directors was requesting the City Council include two (2) of the WEDC Board of Directors as members on the City Council WEDC Board of Directors Selection Committee. City Manager Garza presented a copy of the Resolution No. 2010-64 approving the selection process and application for the WEDC Board. City Manager Garza further stated that currently, Mayor Domingo Montalvo, Jr. and Councilmembers Al Bryant and Karen Schulz served as the City Council Committee Members. After some discussion, Councilmember Don Mueller moved to approve the afore mentioned items A. and B. listed above. Councilmember Al Bryant seconded the motion. Councilmembers Don Mueller and Al Bryant voted for the motion. Councilmembers Karen Schulz, Terry David Lynch, and Russell Machann voted against the motion. The motion failed.

The ninth item on the agenda was to review and consider a resolution of the Wharton City Council accepting a grant award from the Texas Department of Public Safety for the City of Wharton Remotely Hosted Criminal Incident Based Management System (RRMS) Project for the Wharton Police Department and authorizing the Mayor of the City of Wharton to execute all documents related to said agreement. City Manager Andres Garza, Jr. presented a copy of the memorandum dated July 20, 2011 from Police Chief Tim Guin providing information regarding the Texas Department of Public Safety (TxDPS) grant award to the City of Wharton for the Remotely Hosted Criminal Incident Based Management System (RRMS) Project for the Wharton Police Department. Police Chief Tim Guin stated TxDPS had awarded the City a grant in the amount of \$91,020.00. Chief Guin further stated the cost to implement the hardware and

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software at the Wharton Police Department totals \$119, 548.31, which included setup and programming services, leaving a balance not covered by the grant award in the amount of \$28,528.31. Chief Guin stated the City could cover the additional costs of the equipment through a lease purchase agreement. City Manager Garza stated that the City Council Finance Committee had reviewed the grant award and was recommending approval. City Manager Garza also stated that during last fiscal year, the City did not purchase police vehicles and that the lease purchase could be considered at a later date after other items were researched; however he recommended the City Council consider approving the resolution accepting the grant from the State. After some discussion, Councilmember Terry David Lynch moved to approve City of Wharton Resolution No. 2011-55, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2011-55**

A RESOLUTION OF THE WHARTON CITY COUNCIL ACCEPTING A GRANT AWARD FROM THE TEXAS DEPARTMENT OF PUBLIC SAFETY FOR THE CITY OF WHARTON REMOTELY HOSTED CRIMINAL INCIDENT BASED MANAGEMENT SYSTEM (RRMS) PROJECT FOR THE WHARTON POLICE DEPARTMENT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID AGREEMENT.

WHEREAS, the Texas Department of Public Safety awarded the City of Wharton grant funds in the amount of \$54,700.00 for the City of Wharton Remotely Hosted Criminal Incident Based Management System (RRMS); and

WHEREAS, eForce, IntelliChoice Inc., has committed to donate \$36,320.00 towards said project; and, combined with the State grant award, for a total value of funding for the hardware and software of \$91,020.00; and

WHEREAS, additional funding in the amount of \$28,528.31 will be required to fully install and maintain said hardware and software for the RRMS, which the City of Wharton wishes to fund through a future lease purchase agreement; and

WHEREAS; the Wharton City Council wishes to enter into a Memorandum of Agreement to accept the afore-mentioned grant award; and

WHEREAS, the Wharton City Council wishes to enter into a Product License and Service Agreement with eForce, IntelliChoice, Inc. for the purchase of said hardware and equipment; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute all documents related to said project.

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

Section I. The Wharton City Council hereby accepts the grant award from the Texas Department of Public Safety in the amount of \$54,700.00 for the City of Wharton Remotely Hosted Criminal Incident Based Management System (RRMS).

Section II. The Wharton City Council hereby accepts the donation of funding from eForce, IntelliChoice, Inc. in the amount of \$36,320.00 towards said project for a total of \$91,010.00 when combined with the State grant award.

Section III. The Wharton City Council hereby approves the Memorandum of Agreement to accept the afore-mentioned grant award.

Section IV. The Wharton City Council hereby approved the Product License and Service Agreement with eForce, IntelliChoice, Inc. for the purchase of said hardware and equipment.

Section V. The Wharton City Council authorizes the Mayor of the City of Wharton to execute all documents related to said project.

Section VI. This resolution will become effective immediately upon its passage.

Passed, Approved and Adopted this 25th day of July 2011.

CITY OF WHARTON, TEXAS

By: _____
DOMINGO MONTALVO, JR.
Mayor

ATTEST:

PAULA FAVORS
City Secretary

Councilmember Karen Schulz seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider City of Wharton Window Retrofit Project for the Wharton Police Department and City Hall:

A. **Resolution:** A resolution of the Wharton City Council accepting the proposals provided by Exeter Architectural Products through the Disaster Recovery Purchasing Program administered by the United States General Services Administration (GSA) for State and Local Governmental

Entities for the City of Wharton Window Retrofit Project for the Wharton Police Department and City Hall, GSA Contract # GS-07F-0224L.

Police Chief Tim Guin stated the City of Wharton was moving forward with the Window Retrofit Project for the Wharton Police Department and City Hall. He said that Emergency Management Coordinator Jim Cooper had received quotes for the project from Exeter Architectural Products through the Disaster Recovery Purchasing Program administered by the United States General Services Administration (GSA) for State and Local Governmental Entities. City Manager Andres Garza, Jr. presented a copy of the quote for the Police Department phase of the project in the amount of \$82,388.00 and the City Hall phase in the amount of \$194,172.00 for a total project cost estimate of \$276,560.00. City Manager Garza also presented the Texas Department of Public Safety letter dated December 3, 2010 approving the project submitted under the FEMA Hazard Mitigation Grant Program with the grant being in the amount of \$207,420.00. He said that the City's match was 25% of the total project cost or \$69,140, which was allocated in the 2009 bond fund. City Manager Garza stated that the City Council Finance Committee had met and was recommending approval of the proposal. City Manager Garza also stated the City Staff was requesting that the City Council consider accepting the quotes as presented.

B. Resolution: A resolution of the City Council of the City of Wharton, Texas awarding a contract for the purchase and installation of Hurricane Window Barriers at City Hall and the Police Department, to Exeter Architectural Products of Wyoming, Pennsylvania, derived from a bid through the Federal General Services Administration Disaster Recovery Cooperative Purchasing Program, in the approximate amount of \$276,560.00; Authorizing the City Manager and City Attorney to negotiate the final terms of the contract substantially in the draft form attached hereto; Authorizing the Mayor to execute the final contract once prepared; Authorizing the City Finance Director to allocate funding to the Project; and establishing the effective date of this resolution.

City Manager Andres Garza, Jr. presented a copy of a draft resolution approving a contract between the City and Exeter Architectural Products for the purchase and installation of the hurricane window barriers at City Hall and the Police Department. City Manager Garza stated that should the total project come in at over the quoted amount, the resolution authorizes the City Manager to negotiate additional funding not to exceed \$310,000.00. After some discussion, Councilmember Terry David Lynch moved to approve both City of Wharton Resolution No. 2011-56 and City of Wharton Resolution No. 2011-57, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2011-56**

A RESOLUTION OF THE WHARTON CITY COUNCIL ACCEPTING PROPOSALS PROVIDED BY EXETER ARCHITECTURAL PRODUCTS THROUGH THE DISASTER RECOVERY PURCHASING PROGRAM ADMINISTERED BY THE UNITED STATES GENERAL SERVICES ADMINISTRATION (GSA) FOR STATE AND LOCAL GOVERNMENTAL ENTITIES FOR THE CITY OF WHARTON WINDOW RETROFIT

PROJECT FOR THE WHARTON POLICE DEPARTMENT AND CITY HALL, GSA CONTRACT #GS-07F-0224L.

WHEREAS, the City of Wharton is eligible to participate in the United States General Services Administration (GSA), Disaster Recovery Program available to State and Local Governmental Entities; and

WHEREAS, the City of Wharton received quotes from Exeter Architectural Products through GSA through Contract #GS-07F-0224L for the City of Wharton Window Retrofit project for the Wharton Police Department and City Hall; and

WHEREAS, the quote provided for the Wharton Police Department phase of said project was in the amount of \$82,388.00 and the quote provided for the Wharton City Hall phase of said project was in the amount of \$194,172.00 for a total quote of \$276,560.00; and

WHEREAS, the Wharton City Council wishes to accept the quotes provided by Exeter Architectural Products through the United States General Services Administration (GSA), Disaster Recovery Program available to State and Local Governmental Entities for the City of Wharton Window Retrofit project for the Wharton Police Department and City Hall for a total quote of \$276,560.00.

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

Section 1. The Wharton City Council hereby accepts the quotes provided by Exeter Architectural Products through the United States General Services Administration (GSA), Disaster Recovery Program available to State and Local Governmental Entities for the City of Wharton Window Retrofit project for the Wharton Police Department and City Hall in accordance with the quotes listed above, for a total quote of \$276,560.00.

Section II. This resolution will become effective immediately upon its passage.

Passed, Approved and Adopted this 25th day of July 2011.

CITY OF WHARTON, TEXAS

By: _____
DOMINGO MONTALVO, JR.
Mayor

ATTEST:

PAULA FAVORS
City Secretary

**CITY OF WHARTON
RESOLUTION NO. 2011-57**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHARTON,
TEXAS AWARDING A CONTRACT FOR THE PURCHASE AND**

INSTALLATION OF HURRICANE WINDOW BARRIERS AT CITY HALL AND THE POLICE DEPARTMENT, TO EXETER ARCHITECTURAL PRODUCTS OF WYOMING, PENNSYLVANIA, DERIVED FROM A BID THROUGH THE FEDERAL GENERAL SERVICES ADMINISTRATION DISASTER RECOVERY COOPERATIVE PURCHASING PROGRAM, IN THE APPROXIMATE AMOUNT OF \$276,560.00; AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO NEGOTIATE THE FINAL TERMS OF THE CONTRACT SUBSTANTIALLY IN THE DRAFT FORM ATTACHED HERETO; AUTHORIZING THE MAYOR TO EXECUTE THE FINAL CONTRACT ONCE PREPARED; AUTHORIZING THE CITY FINANCE DIRECTOR TO ALLOCATE FUNDING TO THE PROJECT; AND ESTABLISHING THE EFFECTIVE DATE OF THIS RESOLUTION.

WHEREAS, the City Council of the City of Wharton desires to make cost-effective use of the economic opportunity to utilize the federal General Services Administration (“GSA”) Cooperative Purchasing Program to procure disaster recovery goods and services competitively bid on a national scale; and

WHEREAS, in anticipation of recurring tropical storms and hurricanes along the Texas coast that require proactive disaster preparedness by municipal officials to prepare and protect the area health and safety of City residents and first responders; and

WHEREAS, the Wharton Police Department and City Hall are essential public facilities to protect during disasters in order to allow officials to continue to orderly manage response and rescue operations for the benefit of area citizenry; and

WHEREAS, by utilizing the federally sponsored, competitive bidding, group purchasing program, that is similar to Statewide group purchasing programs in which the City has previously participated, the City can legally minimize the time and administrative costs normally associated with a locally conducted, competitively bid procurement, which might not attract the number and type of bidders to yield the best value for the City; and

WHEREAS, the proposed products, services and pricing of Exeter Architectural Products was derived from the GSA Contract No. GS-07F-0224L, and should satisfy the City’s need for acquiring hurricane window barriers in timely and cost effective manner.

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

Section 1. The City Council hereby conditionally awards the contract for supply and installation of hurricane window barriers for City Hall and the Police Department to: “Exeter Architectural Products” of 242 West Eighth Street, Wyoming, Penn., 18644, in the approximate amount of \$276,560.00, subject to final negotiations of contract and financial terms to be expeditiously conducted by the City’s negotiating team: City Manager, City Finance Director, and City Attorney.

Section 2. The Mayor is hereby authorized to execute any resulting negotiated contract upon the advice of the City’s negotiating team, and so long as the final document is reasonably consistent with the draft document attached hereto,

and the final contract price does not exceed \$310,000.00. Should the final contract price exceed \$310,000.00, the contract will be returned to the City Council for further consideration.

Section 3. The City Finance Director is hereby authorized to allocate not-to-exceed \$310,000.00 from prior-appropriated funds to finance this project.

Section 4. Due to the emergency nature of this procurement action, and in the interest of protecting the health, safety and welfare of the Wharton citizenry, this Resolution shall be in full force and effect, from and after the date of its passage.

PASSED and APPROVED ON this the 25th day of July 2011.

CITY OF WHARTON, TEXAS

By: _____
DOMINGO MONTALVO, JR.
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The eleventh item on the agenda was to review and consider a resolution of the Wharton City Council approving an ingress/egress easement with Mr. & Mrs. Bernard Svatek for the property located at A20036 Abst. 36, Tract 27A-2 and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. presented a copy of the letter dated July 14, 2011 from Mr. Bernard Svatek, owner of the property located at 2951 Hwy 60 South requesting the City of Wharton to grant an ingress/egress easement to his property. City Manager Garza stated that Mr. Svatek was in the process of selling the property to Helena Chemical Co., and he shared the driveway with Prime Eco Fluids. City Manager Garza further stated that Helena Chemical Co. was requesting its own access through the railroad right of way that was owned by the City of Wharton. City Manager Garza stated the Public Works Committee met on July 18, 2011 and voted to recommend the City Council consider approving the request. After some discussion, Councilmember Terry David Lynch moved to approve City of Wharton Resolution No. 2011-58, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2011-58**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN EGRESS/INGRESS EASEMENT AGREEMENT WITH MR. & MRS. BERNARD SVATEK FOR THE PROPERTY LOCATED AT A20036 ABST. 36; TRACT 27A-2 AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, Mr. and Mrs. Bernard Svatek wishes to obtain a 90 feet egress/ingress easement from the City of Wharton to the property located at A20036 Abst. 36, Tract 27A-2, Wharton County, Texas; and

WHEREAS, The Wharton City Council wishes to approve a 90 feet egress/ingress easement to Mr. and Mrs. Bernard Svatek at their property located at A20036 Abst. 36, Tract 27A-2, Wharton County, Texas; and

WHEREAS, The City of Wharton and Mr. and Mrs. Bernard Svatek 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 all documents related to said agreement.

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

Section I. That the Wharton City Council hereby approves a 90 feet egress/ingress easement agreement between the City of Wharton and Mr. and Mrs. Bernard Svatek for the property located at A20036 Abst. 36, Tract 227A-2, Wharton County, Texas

Section II. That the Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute the agreement.

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

Passed, Approved, and Adopted this the 25th day of July 2011.

CITY OF WHARTON

By: _____
DOMINGO MONTALVO, JR

ATTEST:

PAULA FAVORS
City Secretary

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

The twelfth item on the agenda was to review and consider a City Staff request to solicit proposals to provide Bank Depository Services for the City of Wharton. Finance Director Joan Anandel stated the Bank Depository Agreement between the City of Wharton and Prosperity Bank would expire on September 30, 2011. City Manager Andres Garza, Jr. stated that the City Staff was requesting City Council authorization to solicit proposals for the banking depository services. Mrs. Anandel further stated that the contract would be for three years with the option to renew for two (2) consecutive one (1) year periods for a total of five (5) years. City Manager Garza further stated that the City Council Finance Committee met on Monday, July 25, 2011 and recommended approving the City Staff request to solicit proposals to provide Bank Depository Services for the City of Wharton. After some discussion, Councilmember Russell Machann moved to approve the request to solicit proposals to provide Bank Depository Services for the City of Wharton. Councilmember Karen Schulz seconded the motion. All voted in favor.

The thirteenth item on the agenda was to review and consider the ***Final Acceptance: Ordinance:*** an ordinance authorizing the Mayor of the City of Wharton to execute on behalf of the City of Wharton, Texas, an Electric Power Distribution Franchise with Wharton County Electrical Cooperative, Inc., and its successors and assigns, to use the Public Rights-of-Way of the City for the Distribution of Electric Power; Providing for Period of Grant; for Consideration; for Construction and Relocation of System Facilities; for assignment; and for Publication in accordance with the Authority Granted in this Ordinance. City Manager Andres Garza, Jr. presented a copy of the City of Wharton Ordinance No. 2011-10 authorizing the execution of the Electric Power Distribution Franchise Agreement with the Wharton County Electrical Cooperative, Inc. (WCEC). City Manager Garza further stated the City of Wharton Charter Section 117 – Franchises, maximum life; power of council, requires that franchise agreements be read at three (3) separate meetings of the City Council. City Manager Garza presented a copy of that section of the Charter. City Manager Garza further stated that the first reading of the ordinance occurred during the regular June 13, 2011 Wharton City Council meeting, the second reading occurred during the regular June 27, 2011 and the third reading was held during the regular July 11, 2011 Wharton City Council meeting. City Manager Garza stated the City Charter Section 117 states that franchise agreements shall not be finally passed within thirty days of its first reading; therefore, the City Staff was requesting the City Council to read the ordinance a fourth time for finally accept and pass the ordinance granting the franchise agreement. After some discussion, Councilmember Don Mueller moved to approve the fourth and final reading of City of Wharton Ordinance No. 2011-10, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2011-10**

AN ORDINANCE AUTHORIZING THE MAYOR OF THE TO EXECUTE ON BEHALF OF THE CITY OF WHARTON, TEXAS AN ELECTRIC POWER DISTRIBUTION FRANCHISE WITH WHARTON COUNTY ELECTRIC COOPERATIVE, INC., AND ITS SUCCESSORS AND ASSIGNS, TO USE THE PUBLIC RIGHTS-OF-WAY OF THE CITY FOR THE DISTRIBUTION OF ELECTRIC POWER; PROVIDING FOR PERIOD OF GRANT; FOR CONSIDERATION; FOR CONSTRUCTION AND RELOCATION OF SYSTEM FACILITIES; FOR ASSIGNMENT; AND FOR PUBLICATION IN ACCORDANCE WITH THE AUTHORITY GRANTED IN THIS ORDINANCE.

* * *

The following statements are true and correct and constitute the basis upon which the City Council of the City of Wharton, Texas (the "**City**") may pass, approve and adopt this Ordinance:

WHEREAS, Texas Utilities Code § 41.005 provides that "An electric cooperative shall be an electric utility for purposes of Section 182.025, Tax Code, and Section 33.008."

WHEREAS, Texas Utilities Code § 33.008(a) provides that, "a municipality may impose on an electric utility, transmission and distribution utility ... or electric cooperative that provides distribution service within the municipality a reasonable charge as specified in Subsection (b) for the use of a municipal street, alley, or public way to deliver electricity to a retail customer."; and

WHEREAS, Wharton County Electric Cooperative, Inc. is an "electric cooperative" as that term is defined in the Texas Utilities Code and wishes to use the City of Wharton's streets, alleys, and public ways to deliver electricity to retail customers; and

WHEREAS, the City of Wharton wishes to grant Wharton County Electric Cooperative, Inc. ("**Company**") the right to use its streets, alleys, and public ways to distribute electricity to retail customers for a reasonable charge; and

WHEREAS, the City of Wharton finds that the charge provided in this Franchise Agreement is reasonable and comparable to fees charged to other providers;

WHEREAS, the City Council has reviewed the terms and conditions of the agreement covering the City's grant of the Franchise to Company ("**Franchise**"), as described with greater specificity below; and

WHEREAS, the City Council adopts this Franchise Authorizing Ordinance which authorizes the Mayor of the City to execute a Franchise with Company on behalf of the City strictly upon the terms as set forth herein; and

WHEREAS, City of Wharton finds that the publication of this Ordinance, as required by the City Charter Section 117(b), fully complies with that Charter requirement, with the Franchise being available to the public to review in the City Secretary's Office; and

WHEREAS, upon passage, approval and adoption of this Ordinance, and after publication and written acceptance by the Company, the Mayor may execute the Franchise on behalf of the City, which Franchise shall include the terms and conditions as described herein; and

WHEREAS, as set forth herein, the terms and conditions of the Franchise are provided for summary purposes only and are limited in their entirety by the actual terms and conditions of the Franchise to be entered into by and between the City and the Company; capitalized terms not otherwise defined herein shall have the same meaning as set forth in the Franchise.

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

The City Council adopts this Franchise Authorizing Ordinance authorizing the Mayor to execute on behalf of the City a Franchise with Company, which Franchise shall include the following terms and conditions:

The term of the Franchise shall be no longer than ten (10) years;

Company shall provide the City with written acceptance of the Franchise in accordance with its term;

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Company shall pay to the City on a quarterly basis a franchise fee in the amount of four percent (4%) of Company's Gross Revenue for the privileges conferred to Company under the Franchise, or the maximum allowed by Section 33.008 of the Texas Utilities Code;

City shall be allowed to review books and records of the Company to verify franchise fee payments;

Company shall agree to abide by with all applicable City ordinances concerning the construction, use, excavation, maintenance, operation, and removal of the Company's electrical system facilities that are in, on or over the public rights-of-way in the City;

Company shall relocate its electrical distribution facilities at its cost for City construction projects;

Company shall indemnify the City;

The Franchise may not be assigned or transferred by Company without the prior written consent of the City, as provided for in the Franchise

The Franchise shall provide for forfeiture and termination for material breaches;

Venue for disputes shall be in Wharton County; and

Company shall distribute electrical power service in full conformity with its tariffs, but only in the areas of the City where the Company is authorized to provide electrical power service.

Upon publication of this Ordinance as required by the City Charter Section 117(b), and written acceptance of the Franchise by Company, the City Council hereby authorized the Mayor to execute on behalf of the City and with Company a Franchise having the terms and conditions as described above.

This Ordinance shall be in full force and effect following its publication in accordance with the City Charter Section 117(b).

Read in full and passed and adopted on first reading at a regular meeting of the City Council of Wharton, Texas, on the 13th day of June 2011, and approved by the Mayor.

APPROVED:

DOMINGO MONTALVO, JR.
MAYOR OF THE CITY OF
WHARTON, TEXAS

ATTEST:

PAULA FAVORS
CITY SECRETARY OF WHARTON, TEXAS

Read in full and passed and adopted on second reading at a regular meeting of the City Council of Wharton, Texas, on the 27th day of June 2011, and approved by the Mayor.

APPROVED:

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DOMINGO MONTALVO, JR.
MAYOR OF THE CITY OF
WHARTON, TEXAS

ATTEST:

PAULA FAVORS
CITY SECRETARY OF WHARTON, TEXAS

Read in full and passed and adopted on third reading at a regular meeting of the City Council of Wharton, Texas, on the 11th day of July day of 2011, and approved by the Mayor.

APPROVED:

DOMINGO MONTALVO, JR.
MAYOR OF THE CITY OF
WHARTON, TEXAS

ATTEST:

PAULA FAVORS
CITY SECRETARY OF WHARTON, TEXAS

Read in full and passed and adopted for final acceptance at a regular meeting of the City Council of Wharton, Texas, on the 25th day of July day of 2011, and approved by the Mayor.

APPROVED:

DOMINGO MONTALVO, JR.
MAYOR OF THE CITY OF
WHARTON, TEXAS

ATTEST:

PAULA FAVORS
CITY SECRETARY OF WHARTON, TEXAS

THE STATE OF TEXAS §
 §
COUNTY OF WHARTON §

I, the duly appointed, qualified and acting City Secretary of Wharton, Texas, do hereby certify that the above and foregoing ordinance was passed and adopted on first reading at a regular meeting of the City Council of said Wharton, Texas, held on the 13th day of June 2011; that written notice of the date, place and subject of said meeting was posted on a bulletin board located at a place convenient to the public in the City Hall for at least 72 hours preceding the day of said meeting; that the Mayor Domingo Montalvo, Jr. and five (5) Councilmembers Al Bryant, Karen Schulz, Terry D. Lynch, Don Mueller, and Russell Machann, were present at said meeting and acted as the Council throughout, that the above and was passed and adopted on second reading at a regular meeting of the City Council of said Wharton, Texas, held on the 27th day of June 2011; that written notice of the date, place and subject of said meeting was posted on a bulletin board located at a place convenient to the public in the City Hall for at least 72 hours preceding the day of said meeting; that the Mayor Domingo Montalvo, Jr. and six (6) Councilmembers Al Bryant, Karen Schulz, Terry D. Lynch, Don Mueller, Russell Machann and Jeff Gubbels were present at said meeting and acted as the Council throughout; that the above and was passed and adopted on third reading at a regular meeting of the City Council of said Wharton, Texas, held on the 11th day of July 2011; that written notice of the date, place and subject of said meeting was posted on a bulletin board located at a place convenient to the public in the City Hall for at least 72 hours preceding the day of said meeting; that the Mayor Domingo Montalvo, Jr. and six (6) Councilmembers Al Bryant, Karen Schulz, Terry D. Lynch, Don Mueller, Russell Machann and Jeff Gubbels were present at said meeting and acted as the Council throughout; that the above and was passed and adopted on final reading at a regular meeting of the City Council of said Wharton, Texas, held on the 25th day of July 2011; that written notice of the date, place and subject of said meeting was posted on a bulletin board

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located at a place convenient to the public in the City Hall for at least 72 hours preceding the day of said meeting; that the Mayor Domingo Montalvo, Jr. and five (5) Councilmembers Al Bryant, Karen Schulz, Terry D. Lynch, Don Mueller, and Russell Machann were present at said meeting and acted as the Council throughout; that after the first reading and before the date of the final reading, the full text of the above and foregoing ordinance was published one each week for four consecutive weeks in the official newspaper of the city; that the same has been signed and approved by the Mayor and is duly attested by the City Secretary; and that the same has been duly filed with the City Secretary and recorded by the City Secretary in full in the books kept for the purpose of recording the ordinances of the City of Wharton.

EXECUTED under my hand and the official seal of the seal of the City of Wharton, Texas at said City, this the 25th day of July 2011.

Paula Favors
City Secretary
City of Wharton, Texas

[S E A L]

Councilmember Russell Machann seconded the motion. All voted in favor.

The fourteenth item on the agenda was to review and consider a request by St. Thomas Episcopal Church for a preliminary/final replat of Block 55, City of Wharton being a replat of Lots 9, 10, 11, 11A & 12. Assistant to City Manager Jackie Jansky stated that during the regular August 24, 2009 City Council meeting, the City Council approved the request by St. Thomas Episcopal Church to exchange City of Wharton property located at Wharton Block 55, portions of Lots 11 and 12, with all legal, reviewing, re-platting, and title policy costs associated with the transaction be paid by St. Thomas Episcopal Church. Mrs. Jansky presented a copy of that portion of the August 24th minutes. Mrs. Jansky further stated that the Planning Commission also approved the original set of the preliminary/final replat of the property on September 21, 2009 and presented a copy of those minutes. Mrs. Jansky added that the land trades have finally been completed and associated deeds recorded with Wharton County and the City Staff had received the final replat documents from the surveyor and was requesting City Council approval of the replat of the properties. After some discussion, Councilmember Terry David Lynch moved to approve the request by St. Thomas

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Episcopal Church for a preliminary/final replat of Block 55, City of Wharton being a replat of Lots 9, 10, 11, 11A & 12. Councilmember Karen Schulz seconded the motion. All voted in favor.

The fifteenth item on the agenda was **Executive Session:** City Council may adjourn into an Executive Session in accordance with Section 551.074 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: City Manager's Performance Evaluation.

Mayor Domingo Montalvo, Jr. convened the City Council into executive session at 7:50 p.m.

Mayor Domingo Montalvo, Jr. returned the City Council to open session at 8:39 p.m.

The sixteenth item on the agenda was to Return to Open Meeting: Action on items discussed in Executive Session:

Review & Consider: City Manager's Performance Evaluation.

After some discussion, Terry David Lynch moved to reimburse City Manager Andres Garza, Jr. for health insurance not to exceed \$500 dollars per month, beginning August 1, 2011. Councilmember Al Bryant seconded the motion. All voted in favor.

The seventeenth item on the agenda was to review and consider 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 Light Decorating Chairman.
- F. Mayor's Committee on People with Disabilities.
- G. Planning Commission.
- H. Plumbing and Mechanical Board.
- I. Wharton Economic Development Corporation Board of Directors.
- J. Youth Advisory Commission.
- K. City Council Committees:
 - 1. Annexation Committee.
 - 2. Finance Committee.
 - 3. Housing Committee.
 - 4. Intergovernmental Relations Committee.
 - 5. Legislative Committee.
 - 6. Public Health Committee.
 - 7. Public Safety Committee. Public Works Committee.
 - 8. Public Works.
 - 9. Telecommunications Committee.
 - 10. Wharton Economic Development Corporation Board of Directors Selection Committee.

Assistant to City Manager Jackie Jansky presented an updated list of the members of the City of Wharton Boards, Commissions, and Committees. Mrs. Jansky stated that since the July 11th Wharton City Council meeting, Ms. Margaret Scheller had contacted the City Staff and stated that she would like to remain on the Beautification Commission. She further stated that recommendations could be made to fill the remaining vacancies on the respective Boards, Commissions and Committees. After some discussion, Councilmember Al Bryant moved to appoint Ms. Margaret Scheller to the Beautification Commission for a two year term ending June 30, 2013. Councilmember Russell Machann seconded the motion. All voted in favor.

The eighteenth item on the agenda was to review and consider an update on the City of Wharton On-going Projects. City Manager Andres Garza, Jr. presented copy of his memorandum dated July 25, 2011 to the City Council providing an update on the City of Wharton on-going projects, which read as follows:

FLOOD REDUCTION (LEVEE) PROJECT

The U.S. Army Corp of Engineers (USACE) Lower Colorado River Phase I Report - City of Wharton Flood Prevention Project and Recommended report is located at the Wharton County Library and the office of the City of Wharton City Secretary for viewing or the report may be viewed on line at <http://www.swf.usace.army.mil/pubdata/notices/LowerColorado/>.

The Public Works Committee met to discuss the possibility of the City of Wharton executing rights of entry agreements in lieu of the USACE to assist with the property owners a more direct point of contact. The changes are intended to provide a more user friendly agreement to the property owners. City Staff met via conference call with Halff Associates and USACE representatives to discuss design issues and the changes to the right of entry agreements on July 12, 2011.

Halff Associates has provided a 35% complete set of construction plans for review. City Staff is currently reviewing the changes and will be providing comments to Halff/USACE. The City Staff requested Halff/USACE to brief the Mayor and City Council on the work progress. They have indicated that September 12th would be a good dated for them.

DRAINAGE:

1. Santa Fe Outfall Channel.

The Public Works Department has finished excavation up to Alabama Road. The Public Works Department will now focus on installing grade stabilization structures and installing other best management practices needed to control erosion. Excavation will continue weather permitting.

2. Highway 60 & Old Lane City Road Drainage Improvements

The construction plans have been approved by the TxDOT Yoakum District Office. City Staff is working with the Yoakum District to acquire the right of way needed for construction. City Staff met with Bill Kostka on July 20, 2011 to discuss right of way acquisition on his property.

City Staff is currently preparing cost estimates on the project and will continue to work towards acquiring the right of way needed so that the project can move forward.

WATER/SEWER IMPROVEMENTS:

1. Ahldag Addition Sanitary Sewer Project – TxCDBG Contract No. R729710.

This project is complete. The City has a one-year warranty with AR Turnkee on this project. Recently City Staff discovered a few problem areas in need of repair. AR Turnkee has been contacted and will be making the needed changes under the one-year warranty agreement.

2. Water Storage Tank Maintenance Program.

The City of Wharton has received the professional engineering services agreement with Dunham Engineering and the City Staff is currently working with Dunham Engineering to develop plans and specifications for renovating two ground storage tanks. One of three tanks at Alabama will be renovated and the Vahalla tank will be renovated under this contract. Dunham has submitted draft specifications and City Staff is currently reviewing them. Staff submitted final comments concerning the specifications for renovation and Dunham has made the appropriate changes. Dunham is working on the bid package. A final bid date will be set once the package is complete and cleared by the City's attorney. Tentatively we have set a bid opening for 11:00 am on September 1, 2011 at City Hall. The City would like to begin work in October and finish around January/February 2012. This would be ideal since these months are typically when water usage is at it's lowest.

3. Quick Connect/Transfer Switch Project

Quick connects and transfer switches are being installed at all city lift stations, city water plants, City Hall, the Fire Station, EMS Headquarters, WWTP #1, and WWTP#2. Electrical Automation Controls is approximately 90% complete.

4. Pressure Switches at City Water Plants

This project is complete; however, the Public Works Staff continues to monitor the system to insure that it is working properly.

5. Energy Efficiency Audit

The City Staff met with representatives from Seimens Industry on June 17th and reviewed the areas that could be improved to provide better energy efficiency. The company representatives will be meeting with Jones & Carter, Inc. to review alternatives for the wastewater treatment plant number one since the water plant rehabilitation report is being prepared by Jones & Carter. The City Staff will meet again with Seimens once the alternatives have been determined.

6. Wastewater Treatment Plant No. 1 Rehabilitation Proposal

City Council approved a proposal from Jones and Carter, Inc. to prepare a report that establishes a plan for the rehabilitation of and improvements to Wastewater Treatment Plant No. 1 to meet the future needs of the City and to meet future permit requirements.

On June 7th the Public Works Director and the Water and Sewer Superintendent met with Jones & Carter, Inc. Staff in Houston to begin the planning process. Jones & Carter, Inc. and City Staff discussed several options. City Staff agreed to complete a capacity analysis for WWTP #1 which will help to enhance the rehabilitation proposal Jones & Carter, Inc. is developing.

On July 18, 2011 City Staff traveled to Houston to observe two different types of bar screens in operation and to discuss the pros and cons with engineers from Jones & Carter, Inc. and the plant operators. Plant No. 1 will need a new bar screen eventually. The bar screen removes large debris from the influent as it enters the plant.

STREET IMPROVEMENTS

1. FM 102 Relocation and/or FM 1301 Extension and Overpass Project

A. Progress Report on Project.

IDC Inc., City Staff and the City Council Public Works Committee met July 1, 2011 to review the alternatives on routes and recommend to the City Council a preferred alternative for the FM 102 Relocation and the FM 1301 Road Extension routes. Also, the alternatives and preferred alternative for the road between the railroad and Business 59 were discussed.

IDC Inc., City Staff, members of the Mayor's Transportation Committee, and the City Council Public Works Committee met again on July 18, 2011 to continue discussions on various alignments presented by IDC Inc. in an attempt to get closer to finalizing a recommendation on the preferred alternatives.

B. Update on status of Advance Funding Agreement (AFA) between the City of Wharton and the Texas Department of Transportation (TxDOT).

The executed AFA has been submitted to the TxDOT Yoakum District office. The City Staff is awaiting an executed copy.

2. 2011 Street Improvement Program

Public Works Staff is currently identifying and preparing cost estimates for possible street improvements in 2011.

3. Wharton Sidewalk Accessibility and Historic Streetscape Project

The City Staff met with Mr. Bradley Loehr, P.E. of BEFCO to negotiate an agreement for the engineering services. Discussions were held to identify the scope of work and pricing of the engineering work. Negotiations are continuing.

OTHER PROJECTS

1. Fire Station Expansion Project

On Monday, July 25, 2011 the Public Works Department, working with the Facilities Maintenance Department, will begin preparing the site for the driveways. Public Works will complete the dirt work only. Once Public Works is finished with site preparation the Facilities Maintenance Director will hire and supervise a contractor to pour the concrete for the new driveways. The building is nearing completion.

WHARTON REGIONAL AIRPORT

1. Capital Improvement Drainage Project.

The City Staff met with the State and O'Malley Engineers on June 30, 2011. Mr. Russell Deason of TxDOT Aviation Division indicated that the TxDOT Aviation Division Planners indicated that rail installation at the Wharton Regional airport was unjustifiable and would not recommend their installation. Mr. Deason informed the City Staff that he would check to see if the runway numbers could be updated to 15/33 from 14/32. Discussions were held regarding the plans and specifications for the drainage, runway slurry seal and culvert installation. The project will be bid in the near future. The project is moving forward.

After some discussion, no action was taken.

The nineteenth item on the agenda was to review and consider City Council, Committee, Commissions and Boards Reports:

- A. Wharton Economic Development Corporation meeting held on July 14, 2011.
- B. City Council Public Works Committee meeting held July 18, 2011.
- C. Consultant Selection Committee for the Sidewalk Accessibility and Historic Streetscape Project held June 21, 2011.

City Manager Andres Garza, Jr. presented a copy of the reports to the City Council. After some discussion, no action was taken.

The twentieth item discussed on the agenda was to review and consider the City's Reports:

- | | |
|--|--------------------------------|
| A. City Secretary/Personnel. | I. Legal Department. |
| B. Code Enforcement. | J. Municipal Court. |
| C. Community Services Department
/Civic Center. | K. Police Department |
| D. Emergency Management. | L. Public Works Department. |
| E. E.M.S. Department. | M. Water/ Sewer Department. |
| F. Engineer/Planning Department. | N. Weedy Lots/ Sign Ordinance. |
| G. Facilities Maintenance Department. | O. Wharton Municipal Pool. |
| H. Fire Department. | P. Wharton Regional Airport. |

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City Manager Andres Garza, Jr. presented the reports to the City Council. No action was taken.

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

The meeting adjourned at 8:36 p.m.

CITY OF WHARTON, TEXAS

By: _____
Domingo Montalvo, Jr
Mayor

ATTEST:

Paula Favors
City Secretary