

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
August 8, 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, Jeff Gubbels, Terry David Lynch, Russell Machann, Don Mueller, and Karen Schulz.

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, and City Attorney Paul Webb.

Visitors present were: David Schroeder with Wharton Economic Development Corporation, I.O. Colman, Jr., David Mata, Mickey Reynolds with Halff & Associates, Dr. David Samuelson, Alan Bojorquez of the Bojorquez Law Firm, PLLC, and Rachel Rust.

The second item on the agenda was Roll Call and Excuses Absences. All members were present.

The third item on the agenda was Public Comments. Mr. David Mata addressed the City Council with his concerns regarding the FM 1301 extension project. Mr. Mata asked if the City had funding to conduct the project. Mr. Mata stated that he believed the FM 1301 extension project was "a road to no where" that would cost the taxpayers money.

The fourth item on the agenda was the Wharton Moment. There were none.

The fifth item on the agenda item was to review and consider the reading of the minutes from the regular meetings held July 11, 2011 and July 25, 2011 and the special meeting held July 12, 2011. After some discussion, Councilmember Don Mueller moved to approve the minutes from the regular meetings held July 11, 2011 and July 25, 2011 and the special meeting held July 12, 2011. Councilmember Al Bryant seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider a presentation by Alan Bojorquez of the Bojorquez Law Firm, PLLC, on draft plans for the reapportionment of the City's four single-member council districts. City Manager Andres Garza, Jr. presented a copy of the email dated August 3, 2011 from Attorney Damien Shores of the Bojorquez Law Firm providing the Public

City of Wharton
Regular City Council Meeting
August 8, 2011

Notice that was published in the Wharton Journal Spectator to inform citizens that Attorney Alan Bojorquez would give a presentation on the draft plans for the reapportionment of the City's four single-member council districts. Attorney Alan Bojorquez, with the Bojorquez Law Firm presented proposed alternatives regarding the redistricting of the City's four-single member districts. Mr. Bojorquez stated that from the comments provided by the City Councilmembers, the firm had developed proposed alternatives to be presented to the public in an effort to obtain their comments regarding the redistricting. After some discussion, no action was taken.

The seventh item on the agenda was to review and consider a request by Mr. Steven D. May, Wharton High School Principle, for City Council approval for the following:

- A. Approval to hold the Wharton High School Homecoming Pep Rally on Friday, September 23, 2011 from 2:00 – 2:30 p.m. in downtown Wharton on the 100 block of Houston Street.
- B. City Council authorization to close Houston Street from its intersection with Alabama Street to Milam Street and from Milam Street to Burleson Street during the event.

City Manager Andres Garza, Jr. presented a copy of the letter dated July 28, 2011 from Wharton High School Principal Mr. Steven May requesting City Council approval of the afore-mentioned items. Assistant to City Manager Jackie Jansky stated that Mr. May indicated to her that said the Wharton High School Football Team would travel from the intersection of Alabama Street along Houston Street toward the downtown area and was requesting that Houston Street be blocked from traffic along the route to Burleson Street. Mrs. Jansky further stated the Pep Rally would be held on the downtown square in front of the Plaza Theatre. After some discussion, Terry David Lynch moved to approve the afore mentioned items A. and B. Councilmember Al Bryant seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider a request by Dr. David Samuelson, Executive Director of East Wharton County Habitat for Humanity for the following:

- A. Recommendation by the Planning Commission for City Council consideration to approve the following variances for the construction of a 24' x 60' home to be located at 705 Jefferson, Habitat for Humanity No. 2, Block 1, Lot 2:
 - 1. A five (5) feet front property line setback variance from the required twenty-five (25') feet setback.
 - 2. Two (2) feet interior side yard setback from the required five (5) setback.
 - 3. Waiver of all fees associated with the variances and construction of the proposed home.

Assistant to City Manager Jackie Jansky presented a copy of the letter dated July 27, 2011 from Dr. David Samuelson, Executive Director of East Wharton County Habitat for Humanity (HH) requesting the afore-mentioned variances to construct a 24' x 60' home at 705 Jefferson Street; Habitat for Humanity No. 2, Block 1, Lot 2. She said the Planning Commission met on August 1, 2011 and voted to recommend the City Council consider approving the variance requests and to consider waiving all fees associated with the proposed project. Mrs. Jansky also provided a copy of the Planning Commission Communications from the meeting. Dr. David Samuelson stated that part of the lot had the old swimming pool concrete below the ground, which was why the variances were needed. He stated that the City of Wharton supported Habitat for Humanity homebuilding efforts in the past and that Habitat for Humanity was requesting the variances.

City of Wharton
Regular City Council Meeting
August 8, 2011

After some discussion, Councilmember Terry David Lynch moved to approve the aforementioned item A 1-3 as listed above. Councilmember Karen Schulz seconded the motion. All voted in favor.

- B. East Wharton County Habitat for Humanity fundraiser event:
 - 1. City Council authorization for the organization to use of the City of Wharton Stage during the fundraising event to be at the Crescent Fairgrounds October 29, 2011.
 - 2. City Council authorization for the Facilities Maintenance Department Personnel to erect and dismantle the City Stage for said event.

City Manager Andres Garza, Jr. stated that in Dr. Samuelson's letter, he was also requesting Item B above. Dr. Samuelson addressed the City Council and stated that Habitat for Humanity would be holding its fundraiser event on October 29, 2011 at the Crescent Fairgrounds and was requesting the use of the City of Wharton stage. City Manager Garza further stated that Dr. Samuelson was also requesting assistance from the Facilities Maintenance Department to erect and dismantle the stage. Councilmember Russell Machann asked if tractor trailer beds could be used to make the stage large enough and why the City's stage was needed. Dr. Samuelson stated that Dr. Greg Dimmick was working with the promoters and could best provide an answer. After some discussion, the City Council deferred the item until information on the stage was received. No action was taken.

The ninth item on the agenda was to review and consider a recommendation by the Planning Commission for City Council consideration to approve the request by Ms. Susan Harris Hohnbaum, Owner of Hohnbaum RV & Lodging Resort to be located at William Kincheloe League, Abstract no. 38; 2601 North Richmond Road, Wharton for the following:

- A. Variance from the City of Wharton Code of Ordinances, Chapter 38 Manufactured Housing, Mobile Homes and Travel Trailers, Article III – Mobile Home, Manufactured Housing and Recreational Vehicle (RV) Parks, Section 38-212 Requirements and Principals, Item (a) (2) to reduce the RV lot size from 3,600 square feet to be approximately 2,200 square feet.
- B. Preliminary/final replat for the proposed Hohnbaum RV & Lodging Resort.

Assistant to City Manager Jackie Jansky presented a copy of the application for a plat or re-plat filed by Ms. Susan Harris Hohnbaum and a copy of the preliminary/final plat of the proposed RV Park and Resort to be constructed at 2601 North Richmond Road. Mrs. Jansky also presented a copy of the City of Wharton Code of Ordinances, Chapter 38 Manufactured Housing, Mobile Homes and Travel Trailers, Article III – Mobile Home, Manufactured Housing and Recreational Vehicle (RV) Parks regarding the requirements for this type of park. She stated that the code of ordinances indicated that mobile home park should be constructed at a minimum of 3,600 square feet; however, that particular lot size is for a mobile home or manufactured home and not necessarily a recreational vehicle (RV). Mrs. Jansky further stated that Ms. Hohnbaum was requesting a variance from the code to construct the RV lot sizes to be approximately 2,200 to better accommodate the size of RV's. Mrs. Jansky introduced Mr. Jason Henrichs, P.E., the engineer for the projects. Mr. Henrichs stated that the plat showed the location of the 111 proposed RV spaces, curb and gutter struts; office locations, etc. He stated that the electrical outlets would be constructed above ground on poles and that the sewer connections would be capped. Mrs. Jansky stated that the 50' drainage easement was maintained along the Kansas

City of Wharton
Regular City Council Meeting
August 8, 2011

City Southern Railroad tracks. Mrs. Jansky stated the Planning Commission met on August 1, 2011 and voted to recommend the City Council consider approving both the lot size variance request and the preliminary/final plat of the RV Park. After some discussion, Councilmember Jeff Gubbels moved to approve the afore mentioned items A. and B. Councilmember Terry David Lynch seconded the motion. All voted in favor.

The tenth item on the agenda was a resolution of the Wharton City Council approving an Interlocal Agreement between the City of Wharton, Wharton County, the City of El Campo and the City of East Bernard for Geographic Information System (GIS) Services and authorizing the Mayor of the City of Wharton to execute all documents related to the said agreement.

City Manager Andres Garza, Jr. presented a copy of a revised Attachment A to the Scope of Services for the Wharton GIS Website Agreement. Mr. Eric Scheibe, P.E. of Halff Associates stated that the G.I.S. services charge would be split between Wharton County, City of El Campo, City of Wharton, and the City of East Bernard. Mr. Scheibe further stated that Wharton County would pay 50% of the cost, City of El Campo and City of Wharton would each be responsible for 22 ½% while the City of East Bernard would be responsible for 5% of the service costs. After some discussion, Councilmember Terry David Lynch moved to approve City of Wharton Resolution No. 2011-59, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2011-59**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF WHARTON, WHARTON COUNTY, THE CITY OF EL CAMPO AND THE CITY OF EAST BERNARD FOR GEOGRAPHIC INFORMATION SYSTEM (GIS) SERVICES AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, the Wharton County has developed a county-wide Drainage plan and obtained drainage related data in a geographic information system (GIS) format, which was developed by Halff Associates, Inc.; and

WHEREAS, The GIS System would be available to Wharton County and the Cities of Wharton, El Campo and East Bernard through the internet; and

WHEREAS, the cost of the GIS services is \$45,000, which the City of Wharton being responsible for 22.5%, the City of El Campo for 22.5%, the City of East Bernard for 5%, and Wharton County for 50%; and

WHEREAS; the City of Wharton wishes to enter into an interlocal agreement with the respective entities for the GIS service, upon mutual consent of the Cities of El Campo and East Bernard; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute the 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 the City of Wharton enter into an interlocal agreement with Wharton County, the City of El Campo and the City of East Bernard for geographic information system (GIS) services.

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

Section III: This resolution will become effective immediately upon its passage.

Passed, Approved and Adopted this 8th day of August 2011.

CITY OF WHARTON, TEXAS

By: _____
DOMINGO MONTALVO, JR.
Mayor

ATTEST:

PAULA FAVORS
City Secretary

Councilmember Don Mueller 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 accepting the Donation Deed from Mr. Edwin W. Kostka, Jr. for certain properties for the City of Wharton Hwy. 60 Drainage Re-route Project and authorizing the Mayor of the City of Wharton to execute said donation deed. City Manager Andres Garza, Jr. stated that the City Staff had been working with Mr. Edwin W. Kostka, Jr. to provide the necessary right of way needed for the Hwy. 60 Drainage Re-Route Project. City Manager Garza presented a letter dated August 2, 2011 from Mr. Kostka that stated he would be willing to donate the necessary right of way, waiving the right to an appraisal and just compensation. City Manager Garza recommended the City Council consider accepting the donation of the parcels owned by Mr. Kostka as set forth in the agreement. After some discussion, Councilmember Russell Machann moved to approve City of Wharton Resolution No. 2011-60, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2011-60**

A RESOLUTION OF THE WHARTON CITY COUNCIL ACCEPTING THE DONATION DEED FROM MR. EDWIN W. KOSTKA, JR. FOR CERTAIN PROPERTIES FOR THE CITY OF WHARTON HWY. 60 DRAINAGE REROUTE PROJECT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, the City of Wharton wishes to move forward with the Hwy. 60 Drainage Reroute Project that will assist with drainage in the City of Wharton; and

WHEREAS, Mr. Edwin W. Kostka, Jr. wishes to donate the necessary right of way to the City of Wharton for said project; and

WHEREAS, the needed right of way is located on the following parcels:

1. 0.0452 acre situated in the Randell Jones ½ League, Abstract No. 36
2. 0.4312 acre situated in the Randell Jones ½ League, Abstract No. 36
3. 0.0631 acre situated in the Randell Jones ½ League, Abstract No. 36
4. 0.1230 acre situated in the Randell Jones ½ League, Abstract No. 36; and

WHEREAS; the City of Wharton wishes to accept said parcels from Mr. Kostka; and

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

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 following parcels as needed right of way for the City of Wharton Hwy. 60 Drainage Re-route Project from Mr. Edwin W. Kostka, Jr.:

1. 0.0452 acre situated in the Randell Jones ½ League, Abstract No. 36
2. 0.4312 acre situated in the Randell Jones ½ League, Abstract No. 36
3. 0.0631 acre situated in the Randell Jones ½ League, Abstract No. 36
4. 0.1230 acre situated in the Randell Jones ½ League, Abstract No. 36

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

Section III: This resolution will become effective immediately upon its passage.

Passed, Approved and Adopted this 8th day of August 2011.

CITY OF WHARTON, TEXAS

By: _____
DOMINGO MONTALVO, JR.
Mayor

ATTEST:

PAULA FAVORS

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

The twelfth item on the agenda was to review and consider the Central Appraisal District of Wharton County 2012 proposed budget. City Manager Andres Garza, Jr. presented a copy of the letter dated August 3, 2011 from Ms. Tylene Gamble, Chief Appraiser of the Central Appraisal District of Wharton County (CAD), providing a copy of the CAD's 2012 proposed budget. City Manager Garza stated the 2012 proposed budget was a \$852.00 increase from last year. He stated that although approval was not required the City Council could formally approve the budget. After some discussion, Councilmember Al Bryant moved to approve the Central Appraisal District of Wharton County 2012 proposed budget. Councilmember Karen Schulz seconded the motion. All voted in favor.

The thirteenth item on the agenda was a resolution of the Wharton City Council submitting projects to the Texas Department of Transportation – Yoakum District regarding Proposition 12 Funding. City Manager Andres Garza, Jr. presented a copy of his memorandum dated July 22, 2011 to the City Council providing them with a copy of the email dated July 18, 2011 from Ms. Jennifer Shepard who provided the letter dated July 18th from Mr. Gary Bushell, Attorney & Government Consultant and other information concerning Proposition 12 Funding for I-69 Projects & Public Comment on I-69 Segments Process. City Manager Garza stated the Texas Transportation Commission (TTC) would be reviewing possible projects that could be funded under Proposition 12 and were seeking proposed project considerations from the Texas Department of Transportation (TxDOT). City Manager Garza further stated that proposed projects were to be submitted to TxDOT District Offices for their consideration and recommendation to the TTC.

City Manager Garza also presented a copy of the TxDOT Update online newsletter providing information regarding July 28th TTC meeting. City Manager Garza stated that he had been in discussion with Mr. Lonnie Gregorcyk, P.E. of the TxDOT – Yoakum District to discuss the possibility of the US 59 proposed overpass and service road project being submitted for funding consideration. After some discussion, Councilmember Jeff Gubbels moved to approve City of Wharton Resolution No. 2011-61, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2011-61**

A RESOLUTION OF THE WHARTON CITY COUNCIL SUBMITTING PROJECTS TO THE TEXAS DEPARTMENT OF TRANSPORTATION – YOAKUM DISTRICT REGARDING PROPOSITION 12 FUNDING.

WHEREAS, Under Proposition 12, the Texas Department of Transportation has been allocated funding for possible projects and is seeking comments from Cities for proposed projects; and

WHEREAS, The Wharton City Council is wishing to submit the following projects to the Texas Department of Transportation – Yoakum District for possible funding:

- Priority #1** US 59 Main Lane Grade Separation Overpass over proposed county road with South and North bound frontage roads along US 59, North and South bound entrance and exit ramps along US 59.
- Priority #2** FM 1301 extension from SH 60 to US 59.
- Priority #3** US 59 Exit Ramp & Access Improvements South of FM 102 (for the NanYa Plastic and JM Eagle Plants)
- Priority #4** FM 1301 Extension from US 59 to Owens Road.

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton to submit the transportation priorities to the Texas Department of Transportation.

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

Section I. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to submit the afore-mentioned projects to the Texas Department of Transportation – Yoakum District for possible funding under Proposition 12.

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

Passed, Approved, and Adopted this 8th day of August 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 fourteenth item on the agenda was to review and consider City Council authorization for the City Staff to prepare a pre-application for submission U S Department of Transportation for the fiscal Year 2011 TIGER III Discretionary Grant Program. City Manager Andres Garza, Jr.

City of Wharton
Regular City Council Meeting
August 8, 2011

presented a copy of information found on the US Department of Transportation website regarding additional funding that could be made available under the Fiscal Year 2011 TIGER III Discretionary Grant Program. City Manager Garza also presented a copy of frequently asked questions regarding the program. City Manager Garza stated that the deadline to submit pre-applications is October 3, 2011, at 5:00 p.m. City Manager Garza further stated that the City Council Public Works Committee met August 5, 2011 and voted to recommend the City Staff prepare a pre-application for submission to the US Department of Transportation for the Fiscal year 2011 TIGER III Discretionary Grant Program for road projects and to seek any other type of funding for transportation projects the City Council had identified. After some discussion, Councilmember Jeff Gubbels moved to approve authorization for the City Staff to prepare a pre-application for submission to the U S Department of Transportation for the Fiscal Year 2011 TIGER III Discretionary Grant Program. Councilmember Russell Machann seconded the motion. All voted in favor.

The fifteenth item on the agenda was to review and consider preferred alternatives for the Extension of FM 1301 from SH 60 to US 59 in Wharton Project. City Manager Andres Garza, Jr. stated the City Council Public Works Committee met on August 1, 2011 and discussed various alternatives for the Extension of FM 1301 from SH 60 to US 59 Project with IDC Inc. representatives. City Manager Garza further stated the Committee voted to recommend that the City Council consider approving the FM 1301 extension to US 59, the FM 1301 extension to FM 102, the overpass at the railroad tracks, the US 59 overpass and service roads, and the exit ramp at NanYa Plastics JM Eagle and extension of the county road from US 59 to Owens Road to be the primary alternatives for the project in order for the City to move forward with the environmental assessment needed to meet the National Environmental Policy Act (NEPA) requirements. Mr. Larry Janak, with IDC, Inc., stated there were seven alternatives prepared for the City Council to review. Mr. Janak further stated there would be three phases of the project: phase one would connect to FM 102, phase two would be a spur to Highway 59 with a two-way frontage road, and phase three would be to build the overpass at Highway 59. After some discussion, Councilmember Jeff Gubbels moved to approve alternative G for the Extension of FM 1301 from SH 60 to US 59 in Wharton in order to begin the environmental phase of the project. Councilmember Karen Schultz seconded the motion. All voted in favor.

The sixteenth 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.

City of Wharton
Regular City Council Meeting
August 8, 2011

Assistant to City Manager Jackie Jansky presented a copy of the list of members on the City Council Boards, Commissions and Committees, which indicated the vacancies that remained. Mrs. Jansky stated that there were vacancies on the afore mentioned Boards and Commissions. After some discussion, no action was taken.

The seventeenth item was to review and consider City Council Committees, Boards and Commission's Reports:

- A. Planning Commission meeting held August 1, 2011.
- B. City Council Public Safety Committee meeting held August 4, 2011.
- C. City Council Legislative Committee meeting held August 4, 2011.
- D. City Council Public Works Committee meeting held August 5, 2011.

After some discussion, no action was taken.

The eighteenth item on the agenda was adjournment. There being no further discussion, Councilmember Don Mueller moved to adjourn. Councilmember Al Bryant seconded the motion. All voted in favor.

The meeting adjourned at 8:24 p.m.

CITY OF WHARTON, TEXAS

By: _____
Domingo Montalvo, Jr
Mayor

ATTEST:

Paula Favors
City Secretary