

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
APRIL 9, 2012**

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

Councilmember's present were: Mayor Domingo Montalvo, Jr., Councilmembers Al 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, City Attorney Paul Webb, Building Official Ronald Bollom, Police Chief Tim Guin, Emergency Management Coordinator Jim Cooper, EMS Lieutenant Frank Giese, and Public Works Director Carter Miska, P.E.

Visitors present were: David Schroeder, Executive Director, Wharton Economic Development Corporation, I.O. Coleman, Jr., Steve Van Manen with Harrison, Waldrop & Uherek, LLP, Carlos Cotton, P.E., Jones and Carter, Inc., Bradley C. Loehr with BEFCO Engineering, Inc., Johnnie Gonzales, Raymond Johnson, Keithalynn Schooler, T. Francis, Tekiah Francis, Ronald Stavena, and Keith Magee, Wharton Journal Spectator.

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. No comments were given.

The fourth item on the agenda item was the Wharton Moment. Councilmember Terry David Lynch informed the Council that Mallori Matula R.N., daughter of City of Wharton Utilities Supervisor Harold Matula, graduated with a degree in nursing. Councilmember Lynch congratulated Ms. Matula for her hard work and for accomplishing her dream of becoming a nurse. Councilmember Lynch went on to say that Ms. Matula had received her dream job in San Antonio as a nurse for the Methodist Hospital out patient Bone Marrow Transplant Unit. Councilmember Karen Schulz congratulated Ms. Matula as well.

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The fifth item on the agenda was to review and consider the reading of the minutes from the regular meetings held March 12, 2012 and March 26, 2012. After some discussion, Councilmember Al Bryant moved to approve the minutes from the regular meetings March 12, 2012 and March 26, 2012. Councilmember Don Mueller seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider City of Wharton Annual Financial Report for Fiscal Year October 1, 2010 to September 30, 2011 by Harrison, Waldrop & Uherek, L.L.P. Mr. Steve Van Manen of Harrison, Waldrop & Uherek, L.L.P. presented the City of Wharton Annual Financial Report for Fiscal Year October 1, 2010 to September 30, 2011. Mr. Van Manen stated that the report was complete and accurate. Mr. Van Manen said the City went above what was required and the audit went well without any problems arising. Mr. Van Manen stated the City's finances had improved slightly over the previous year. City Manager Andres Garza, Jr. stated that the Finance Committee made the recommendation that the Council consider approving the City of Wharton Annual Financial Report for Fiscal Year October 1, 2010 to September 30, 2011. After some discussion, Councilmember Terry David Lynch moved to approve the City of Wharton Annual Financial Report for Fiscal Year October 1, 2010 to September 30, 2011 by Harrison, Waldrop & Uherek, L.L.P. Councilmember Russell Machann seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider in 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:** 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 7:08 p.m.

Mayor Domingo Montalvo, Jr. returned to open session at 7:18 p.m.

The eighth item on the agenda was to return to Open Session: Action on items discussed in Executive Session:

A. **Review & Consider:** The evaluation of City Manager and Finance Director regarding the City's financial matters.

Mayor Montalvo, Jr. stated that no action would be taken on the afore mentioned items and the Executive Session was for information purposes only.

The ninth item on the agenda was City of Wharton Budget Calendar for fiscal year 2012 – 2013. City of Wharton Finance Director Joan Anandel presented the proposed City of Wharton Budget Calendar for fiscal year 2012- 2013. Mrs. Anandel stated that the only change to the City of Wharton Budget Calendar for fiscal year 2012 – 2013 presented in the packet was to move the July 10, 2012 Budget Workshop to July 16, 2012. After some discussion, no action was taken.

The tenth item on the agenda Planning Commission recommendation for City Council to approve the following requests for the property owned by Mr. Ronald Stavena located at Croom Plantation, Block 7A; 2316 Old Lane City Road:

- A. Variance to the City of Wharton Code of Ordinances, Appendix A – Subdivisions, Section 5 General requirements and design standards, Section 5.02 Lots, Item 3 Minimum Width, to design the front property line to be a width of 51.79 feet (8.21 feet variance from the required 60 feet).
- B. Preliminary/Final Replat.

Assistant to City Manager Jackie Jansky stated the Planning Commission met on Monday, April 2, 2012 and reviewed the afore-mentioned requests by Mr. Ronald Stavena respectively. Mrs. Jansky presented a copy of the memorandum dated April 2, 2012 from Chairman A. J. Rath providing the Planning Commissions recommendation for City Council to consider approving the requests and presented a copy of the Planning Commission meeting communications that provides the Application for Variance and the Application for Replat submitted by Mr. Stavena. She said before Mr. Stavena's property could be replatted, an 8.21 feet variance from the required 60 feet front property line minimum width must be considered. She stated the City of Wharton's Code of Ordinances, Appendix A – Subdivisions, Section 5 General requirements and design standards, Section 5.02 Lots, Item 3 Minimum Width required the front property line of a lot to be a minimum of 60 feet. Mrs. Jansky stated that Mr. Stavena was requesting to replat the property with the front property line being 51.79 feet; therefore, the 8.21 feet variance was needed. After some discussion, Councilmember Karen Schultz moved to approve a. Variance to the City of Wharton Code of Ordinances, Appendix A – Subdivisions, Section 5 General requirements and design standards, Section 5.02 Lots, Item 3 Minimum Width, to design the front property line to be a width of 51.79 feet (8.21 feet variance from the required 60 feet) and b. Preliminary/Final Replat. Councilmember Al Bryant seconded the motion. All voted in favor.

The eleventh item on the agenda a request by Mr. Johnnie Gonzales, American Legion Post 87 Commander for City of Wharton assistance with the Wharton County Vietnam Traveling Memorial Wall Ceremony by providing the following:

- A. Assembling and dismantling of the City of Wharton Stage for use during the Saturday, July 14, 2012 ceremony to be held at Myatt Elementary School in El Campo, Texas.
- B. Providing memorial plaques to approximately twenty (20) fallen Wharton County Veterans.

City Manager Andres Garza, Jr. presented a copy of the letter dated March 28, 2012 from Mr. Johnnie Gonzales, American Legion Post 87 Commander, who was requesting the City Council to consider assisting with the Wharton County Vietnam Traveling Memorial Wall Ceremony by providing the use of the City of Wharton Stage. City Manager Garza stated that the event was scheduled for Saturday, July 14, 2012 at 9:00 a.m. at the Myatt Elementary School in El Campo. Mr. Johnnie Gonzales, American Legion Post 87 Commander requested the stage to be brought to the event site on Friday, July 13th, and to return the stage on Monday, July 16th, 2012. Mr. Gonzales stated the Wall was 300 feet long and a very flat surface was required. He stated that he has approached W.I.S.D. and the City, and El Campo. He said that representatives from the Myatt Elementary School in El Campo offered their facility without a waiting period. Mr.

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Gonzales also requested the City of Wharton to assist with the event by providing approximately twenty (20) memorial plaques for the families of the fallen Wharton County Vietnam Veterans. After some discussion, Councilmember Terry David Lynch moved to approve A. assembling and dismantling of the City of Wharton Stage for use during the Saturday, July 14, 2012 ceremony to be held at Myatt Elementary School in El Campo, Texas and B. providing memorial plaques to approximately twenty (20) fallen Wharton County Veterans. Councilmember Al Bryant seconded the motion. All voted in favor.

The twelfth item on the agenda a request by Ms. Keithalynn Schooler for City Council consideration to close a portion of Burleson Street between Ford Street and South Kaiser Lane on Sunday, April 22, 2012 for a private birthday party. Assistant to City Manager Jackie Janksy presented a copy of the letter dated April 5, 2012 from Ms. Keithalynn Schooler of Wharton, Texas, who was planning a private birthday party for her daughter to be held on April 22, 2012 at 110 South Ford Street. Mrs. Janksy stated that in Ms. Schooler's letter, she was requesting the City Council consider approving the closure of Burleson Street between Ford Street and South Kaiser Lane on April 22nd from 1:00 p.m. to 8:00 p.m. while the actual event was to be held from 2:00 p.m. to 7:00 p.m. Mrs. Janksy further stated that Ms. Schooler was requesting the street closure to help insure the safety of the children who will attend the party. After some discussion, Councilmember Al Bryant moved to approve the request by Ms. Keithalynn Schooler to close a portion of Burleson Street between Ford Street and South Kaiser Lane on Sunday, April 22, 2012 for a private birthday party from 1:00 p.m. to 8:00 p.m. Councilmember Terry David Lynch seconded the motion. All voted in favor.

The thirteenth item on the agenda was to review and consider the City Council acceptance of a grant, in the amount of, \$50,000, from the M.G. and Lillie A. Johnson Foundation, Inc. for the purchase of a chassis and re-mount of the box on an ambulance for the City of Wharton Emergency Medical Service (EMS) Department. City Manager Andres Garza, Jr. presented a copy of the letter dated March 23, 2012 from Mr. Robert Halepeska, Executive Vice President of the M.G. and Lillie A. Johnson Foundation, Inc. awarding the City of Wharton EMS Department a grant, in the amount of, \$50,000.00, for the purchase of a chassis and re-mount of the box on an ambulance. EMS Lieutenant Frank Giese stated that the grant would be used to remount the oldest ambulance the Department fleet. After some discussion, Councilmember Karen Schulz moved to approve the acceptance of a grant, in the amount of, \$50,000, from the M.G. and Lillie A. Johnson Foundation, Inc. for the purchase of a chassis and re-mount of the box on an ambulance for the City of Wharton Emergency Medical Service (EMS) Department. Councilmember Russell Machann seconded the motion. All voted in favor.

The fourteenth item on the agenda was a resolution of the Wharton City Council approving an amendment to the 380 Economic Development Agreement between the City of Wharton and Prime Eco Group and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. stated that on February 6, 2012, during a special meeting of the Wharton City Council, the City Council approved Ordinance No. 2012-06 approving the 380 Economic Development Agreement between the City of Wharton and Prime Eco Group. City Manager Garza went on to say that the purpose of the original agreement was to transfer ownership of 750 cubic yards of dirt (loaded) from the City to Primo Eco Group to assist with Prime Eco Group's expansion. City Manager Garza stated that since that time, Mr. Fernando J. Guzman, President of Prime Eco Group, had determined that in order to complete the elevation

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of the property, an additional 400 cubic yards of dirt was needed, and he was requesting the additional 400 cubic yards of dirt, loaded, in his letter dated March 26, 2012. After some discussion, Councilmember Terry David Lynch moved to approve City of Wharton Resolution No. 2012-12, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2012-12**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN AMENDMENT TO THE 380 ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE CITY OF WHARTON AND PRIME ECO GROUP AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, On February 6, 2012, the Wharton City Council, in special session, approved Ordinance No. 2012-06 approving a 380 economic development agreement between the City of Wharton and Prime Eco Group; and

WHEREAS, Prime Eco Group was provided 750 cubic yards of City of Wharton surplus dirt, loaded, in accordance with said agreement; and

WHEREAS, Prime Eco Group is wishing the Wharton City Council to amend the agreement to provide an additional 400 cubic yards of surplus dirt; and

WHEREAS, the Wharton City Council wishes approve an amendment to the 380 Economic Development Agreement and Bill of Sale which would allow the transfer of an additional 400 cubic yards of City of Wharton surplus dirt to be used for economic development purposes; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute any and all documents related to said contract amendment.

NOW, THEREFORE BE IT RESOLVED, that:

Section 1. The Wharton City Council hereby approves an amendment to the 380 Economic Development Agreement and Bill of Sale which would allow the transfer of an additional 400 cubic yards of City of Wharton surplus dirt to be used for economic development purposes

Section 2. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute any and all documents related to said contract amendment.

Section 3. That this resolution shall become effective immediately upon its passage.

Passed, Approved and Adopted this 9th day of April 2012.

CITY OF WHARTON, TEXAS

By: _____
DOMINGO MONTALVO, JR.
MAYOR

ATTEST:

BY: _____
PAULA FAVORS
CITY SECRETARY

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

The fifteenth item on the agenda was to review and consider a resolution of the Wharton City Council authorizing the Mayor of the City of Wharton to submit the City of Wharton Resolution No. 2009-60 establishing the City of Wharton Transportation Plan as public input for the Texas Department of Transportation 2012 Unified Transportation Program. City Manager Andres Garza, Jr. stated that on April 3, 2012, the City Council Public Works Committee met and discussed the Texas Department of Transportation 2012 Unified Transportation Program. City Manager Garza presented a copy of his memo to the City Council regarding the Texas Department of Transportation's (TxDOT) availability of \$2 billion more available for roads. City Manager Garza further stated that on March 22, 2012, TxDOT held a public meeting to receive input on the States 2012 Unified Transportation Program Review and the dead line for submitting comments was April 23, 2012. City Manager Garza stated that this was an opportunity for the City of Wharton to submit its comments and specific projects request for funding. City Manager Garza stated that the Public Works Committee Members voted to recommend the City Council consider approving the submission of the City of Wharton's Resolution No. 2012-13 authorizing the Mayor of the City of Wharton to submit Resolution 2009-60 establishing the City of Wharton Transportation plan as the City's public input for the Texas Department of Transportation's Unified Transportation Program. After some discussion, Councilmember Don Mueller moved to approve City of Wharton Resolution No. 2012-13, which read as follows:

CITY OF WHARTON
RESOLUTION NO. 2012-13

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO SUBMIT THE CITY OF WHARTON RESOLUTION NO. 2009-60 ESTABLISHING THE CITY OF WHARTON TRANSPORTATION PLAN AS PUBLIC INPUT FOR THE TEXAS DEPARTMENT OF TRANSPORTATION 2012 UNIFIED TRANSPORTATION PROGRAM.

WHEREAS, The Texas Department of Transportation held public hearings regarding the 2012 Unified Transportation Program Revisions due to additional availability of approximately \$2 billion of federal funding; and

WHEREAS, The Texas Department of Transportation is seeking public input regarding proposed projects; and

WHEREAS, The Wharton City Council wishes to submit its 2009-60 Resolution that establishes the City's Transportation Plan to the State for consideration to include the City's projects in the 2012 Unified Transportation Plan; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton to formally submit the City of Wharton's Transportation Plan.

NOW, THEREFORE BE IT RESOLVED, that:

Section 1. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to formally submit the City of Wharton's Transportation Plan in the form of the City of Wharton Resolution No. 2009-60 establishing said plan to the Texas Department of Transportation to be included in the 2012 Unified Transportation Program.

Section 2. That this resolution shall become effective immediately upon its passage.

Passed, Approved and Adopted this 9th day of April 2012.

CITY OF WHARTON, TEXAS

By: _____
DOMINGO MONTALVO, JR.
MAYOR

ATTEST:

BY: _____
PAULA FAVORS
CITY SECRETARY

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

The sixteenth item on the agenda was to review and consider the City of Wharton Construction/Installation of Hurricane Storm Window Barriers at the City of Wharton City Hall – BAM Construction, Inc. – Change Order No. 1. City Manager Andres Garza, Jr. stated that the City of Wharton Construction/Installation of Hurricane Storm Window Barriers at the City of Wharton City Hall Project had moved forward and was nearing completion by BAM Construction, Inc. City Manager Garza presented a copy of the Change Order No. 1 to reduce the contract amount from \$158,700.00 to \$133,000.00 which was due to a mathematical error made on the bid when it was originally submitted. City Manager Garza further stated that City Council approval was required for Mayor Domingo Montalvo, Jr. to fully execute the change order. After some discussion, Councilmember Karen Schulz moved to approve the Change Order No. 1 submitted by BAM Construction, Inc. for the Construction/Installation of Hurricane

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Storm Window Barriers at the City of Wharton City Hall. Councilmember Russell Machann seconded the motion. All voted in favor.

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

- A. Beautification Commission
 - a. Appointment of Mr. Jim Grummons.
 - b. Vacancy.
- B. Building Standards Commission - Vacancies.
- C. Holiday Light Decorating Chairman - Vacancy.
- D. Mayor's Committee on People with Disabilities:
 - a. Appointment of Ms. Cindy Kloesel, MA.
 - b. Vacancies.

City Manager Andres Garza, Jr. presented a copy of a letter dated April 5, 2012 from Mr. Jim Grummons indicating that he was willing to serve on the Beautification Commission; however, he lived in Boling, Texas. City Manager Garza stated that the ordinance establishing the Beautification Commission requires that the members either be residents of Wharton or have a business in the City. City Manager Garza further stated that Mr. Grummons moved from Wharton in 2007; however, he continues to attend Church in Wharton and patrons the local establishments. City Manager Garza also presented a copy of the email dated April 3, 2012 from Ms. Cindy Kloesel, MA, providing her indication that she was willing to serve on the Mayor's Committee on People with Disabilities. After some discussion, Councilmember Don Mueller moved to approve the appointments contingent on City Attorney Paul Webb conducting a review of the Code of Ordinances regarding Mr. Grummons and Mrs. Kloesel's eligibility to serve sine the Code of Ordinances and City Policy indicated that members should be Wharton residents and/or own a Wharton business. Councilmember Karen Schulz seconded the motion. All voted in favor.

The eighteenth item on the agenda was to review and consider the City Council Committees, Boards and Commission's Reports:

- A. Wharton Economic Development Corporation Meeting held March 26, 2012.
- B. Planning Commission meeting held April 2, 2012.
- C. City Council Public Works Committee meeting held April 3, 2012.
- D. Wharton Regional Airport Board meeting held April 3, 2012.

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

The nineteenth item on the agenda was 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 7:42 p.m.

CITY OF WHARTON, TEXAS

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By: _____
Domingo Montalvo, Jr.
Mayor

ATTEST:

Paula Favors
City Secretary