

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
JUNE 11, 2012**

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 Al Bryant, Jeff Gubbels, Russell Machann, Don Mueller and Karen Schulz.

Councilmember absent was: Councilmember Terry David Lynch.

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, Public Works Director Carter Miska, P.E., and Building Official Ronnie Bollom.

Visitors present were: David Schroeder, Executive Director, Wharton Economic Development Corporation, Doris Teague, Georgia Crawford, Don Jackson, David Copeland, I.O. Coleman, Jr., Mini McCart, Rachel Rust, L.M. Smith, JoAnn Smith, Karen Smith, Bo Phillips, Johnnie Gonzales, Sarah Hudgins, Brandon Cruz, Shelly Atkins, and Ben Sharp, Wharton Journal Spectator.

The second item discussed on the agenda was Roll Call and Excuses Absences. After some discussion, Councilmember Don Mueller moved to excuse Councilmember Terry David Lynch. Councilmember Al Bryant seconded the motion. All voted in favor.

The third item discussed on the agenda was to administer the Oath of Office to Elected Officials Mayor Domingo Montalvo, Jr., and Councilmembers Jeff Gubbels, Don Mueller, and Karen Schulz. City Attorney Paul Webb administered the Oath of Office to Elected Officials Mayor Domingo Montalvo, Jr., and Councilmembers Jeff Gubbels, Don Mueller, and Karen Schulz. No action was taken.

The fourth item discussed on the agenda item was a proclamation declaring Thursday, June 14, 2012 National Cancer Survivor's Day in Wharton. Mayor Domingo Montalvo, Jr., presented a Proclamation to Ms. Karen Smith declaring Thursday, June 14, 2012 National Cancer Survivor's Day in Wharton Texas, which read as follows:

**CITY OF WHARTON
OFFICE OF THE MAYOR
PROCLAMATION**

WHEREAS, A “cancer survivor” is defined as anyone living with a history of cancer – from the moment of diagnosis through the remainder of life, and there are nearly 12 million cancer survivors in America; and

WHEREAS, Since over 1.5 million new cancer cases will be diagnosed in the United States this year, increased access to cancer care, screening, and prevention – especially among minorities and the medically underserved – must be a top priority in our community; and

WHEREAS, The great City of Wharton has an active, productive cancer survivor population; and

WHEREAS, Hundreds of communities worldwide will be celebrating life on Thursday, June 14, 2012; and

WHEREAS, On behalf of the people of the City of Wharton, I salute all cancer survivors and those that support them.

NOW, THEREFORE, I, Domingo Montalvo, Jr., by the authority vested in me as Mayor of the City of Wharton, Texas, do hereby proclaim

Thursday, June 14, 2012
NATIONAL CANCER SURVIVORS DAY

in the City of Wharton, Texas, and urge all citizens to join in this joyous celebration of life.

IN WITNESS THEREOF, I have set my hand and caused the seal of the City of Wharton to be affixed this 11th day of June in the year of our Lord two thousand twelve A.D.

Domingo Montalvo, Jr.
Mayor
City of Wharton

No action was taken.

City of Wharton
Regular City Council Meeting
June 11, 2012

The fifth item discussed on the agenda was Public Comments. Mr. Bo Phillips addressed the City Council regarding the Wharton Central Appraisal District's (CAD) proposed 2013 Budget and Estimated Allocations. Mr. Phillips stated his opposition to the additional \$45,000 the CAD had included in the 2013 Budget.

Mr. Johnnie Gonzales addressed the City Council regarding Mr. and Mrs. Harold White's request for a variance to replace their wood frame home with a manufactured home. Mr. Gonzales stated that he believed residents should be able to have a manufactured home on their property when they could not afford to build a house.

Ms. Sarah Hudgins addressed the City Council regarding the need for support letters to advocate for veterans. Ms. Hudgins stated that she was a Boardmember for the proposed rehab facility to be located in Wharton. Ms. Hudgins asked the City Council to write letters of support of the facility that would aid in the care for veterans.

The sixth item discussed on the agenda was the Wharton Moment. City Manager Andres Garza, Jr. congratulated 2012 Wharton High School Valedictorian Hannah Gubbels and Salutatorian Parkes Ousley.

The seventh item on the agenda was to review and consider reading of the minutes from the regular meetings held May 14, 2012 and May 28, 2012. After some discussion, Councilmember Al Bryant moved to approve the minutes from the regular meetings held May 14, 2012 and May 28, 2012. Councilmember Russell Machann seconded the motion. All voted in favor.

The eighth item discussed on the agenda was to review and consider Planning Commission recommendations for City Council to consider the following:

A. Request by Mr. and Mrs. Harold White for a variance to the City of Wharton Code of Ordinances, Chapter 38 Manufactured Housing, Mobile Homes & Travel Trailers; Article III Requirements concerning Mobile Homes, Manufactured Housing and Recreational Vehicles; Division I – Generally; Section 38-36 Authorized Locations to remove existing wood frame residential structure and replace with a manufactured home at 408 East Belle Avenue; Ahldag, Block 6, Lot 6A.

Assistant to City Manager Jackie Jansky stated that in December 2011 a request was made by Mr. and Mrs. Harold White for a variance to the City of Wharton Code of Ordinances, Chapter 38 Manufactured Homes, Manufactured Housing and Recreational Vehicles authorized locations - to replace a wood frame residential structure at 408 East Belle Avenue; Ahldag, Block 6, Lot 6A with a manufactured home. Mrs. Jansky said the Planning Commission deferred the decision to consider the variance from Mr. and Mrs. White to the City Council. City Attorney Paul Webb stated that the Planning Commission had to make a decision before the City Council could review the variance in accordance with the City's code. The City Council instructed the City Staff to return the item to the Planning Commission for a decision.

B. Ordinance: An Ordinance amending the Chapter 38 Manufactured Housing, Mobile Homes and Travel Trailers and Parks; Article VI Miscellaneous; Section 38.262. Variations and Provisions to include requirements that would establish a variance procedure.

Mrs. Jansky presented a draft copy of the proposed ordinance amendment to the Chapter 38 Manufactured Housing, Mobile Homes and Travel Trailers and Parks; Article VI Miscellaneous; Section 38.262. Variations and Provisions to include language that would establish fee requirements for variances and a copy of a draft resolution that established the variance fee. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Ordinance No. 2012-09, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2012-09**

AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 38 MANUFACTURED HOUSING, MOBILE HOMES AND TRAVEL TRAILERS AND PARKS; ARTICLE VI MISCELLANEOUS; SEC. 38-262. VARIATIONS AND PROVISIONS; PROVIDING THAT A VIOLATION OF THE ORDINANCE OR ANY PART OF THE CODE AS ADOPTED HEREBY SHALL CONSTITUTE A PENALTY UPON CONVICTION OF A FINE; PROVIDING FOR SEPARABILITY AND SETTING AN EFFECTIVE DATE.

BE IT ORDAINED by the City Council of the City of Wharton, Texas that the City of Wharton Code of Ordinances, Chapter 38 Manufactured Housing, Mobile Homes and Travel Trailers and Parks; Article VI Miscellaneous; Section 38.262. Variations and Provisions shall read as follows:

Sec. 38-262. Variations and Provisions.

- (a) Variations and modifications of the general requirements of mobile homes, mobile home parks and recreational vehicle parks will be considered by the planning commission when in its judgment special or particular factors and conditions warrant such variation and they do not affect the general application or spirit of the rules and regulations, or the master plan of the city. An application for a variance shall be obtained through the code enforcement department and submitted to the planning commission at the next regularly scheduled meeting for consideration. Advice and cooperation is to be offered and will always be fully given by the members of the city staff and planning commission.
- (b) Before any decision of the planning commission regarding a variance or modification shall become final, such decision shall be subject to review by the city council, if within ten days from the date of the planning commission's decision, any member of council requests review of such decision at the next regularly scheduled council meeting. The council may approve or deny the decision of the planning commission.
- (c) If the application is denied by the planning commission, an applicant may appeal the decision to the city council within ten days from the date of the decision. If the city council denies the application, the applicant may appeal to the appropriate local court.

- (d) The applicant shall pay an application fee as established by the Wharton City Council under a separate resolution.

Sec. 38-263—270- Reserved.

Repeal of Controlling Ordinance/Effective Date

All ordinances or parts of ordinances in conflict or inconsistent with any of the provisions of this Ordinance are hereby repealed insofar as the same are in conflict with the provisions hereof, and insofar as necessary to give this Ordinance full force and effect. This Ordinance repeals and replaces Ordinance No. 2000-06 and shall be effective on Wednesday, August 1, 2012 at 12:01 a.m.

Separability

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

Passage and Approval

PASSED, APPROVED AND ADOPTED by the Wharton City Council on this 11th day of June 2012.

CITY OF WHARTON, TEXAS

DOMINGO MONTALVO, JR.
Mayor

ATTEST:

PAULA FAVORS
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

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

C. Resolution: A resolution of the Wharton City Council establishing fees for the City of Wharton Code of Ordinances, Chapter 38 Manufactured Housing and Mobile Homes, and Travel Trailers and Parks; Articles I-IV; in accordance with Section 38-262 Variations and Provisions.

City Attorney Paul Webb recommended that the City Council approve the resolution establishing fees for variations and provisions with the effective date of August 1, 2012. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Resolution No. 2012-22, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2012 - 22**

A RESOLUTION OF THE WHARTON CITY COUNCIL ESTABLISHING FEES FOR THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 38, MANUFACTURED HOUSING AND MOBILE HOMES, AND TRAVEL TRAILERS AND PARKS; ARTICLES I-IV; IN ACCORDANCE WITH SECTION 38-262 VARIATIONS AND PROVISIONS.

WHEREAS, the Wharton City Council wishes to establish the fees for variance applications to the City of Wharton Code of Ordinances, Chapter 38, Manufactured Housing and Mobile Homes, and Travel Trailers and Parks in accordance with Section 38-362 Variations and Provisions; and

WHEREAS, the Wharton City Council wishes to authorize the Building Official and/or designated representative to enforce said charges and the applicable fees.

WHEREAS, The Wharton City Council wishes to establish the Manufactured Housing and Mobile variances fees to be as follows:

\$250.00 non-refundable fee if requesting a variance; and

WHEREAS, the Wharton City Council wishes this resolution to become effective in conjunction with the City of Wharton Ordinance No. 2012-09, which shall be Wednesday, August 1, 2012 at 12:01 a.m.

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

Section I. The Wharton City Council hereby establishes the fees for filing a Variance Application in accordance with the City of Wharton Code of Ordinances, to the City of Wharton Code of Ordinances, Chapter 38, Manufactured Housing and Mobile Homes, and Travel Trailers and Parks in accordance with Section 38-362 Variations and Provisions as follows:

\$250.00 non refundable fee if requesting a variance.

Section II. That the Wharton City Council hereby authorizes the Building Official or his designated representative to enforce said fees.

Section III. That this resolution shall become effective become effective on the 1st day of August 2012 at 12:01 a.m.

Passed, Approved, and Adopted this 11th day of June 2012.

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 ninth item discussed on the agenda was to review and consider a request by the Wharton Economic Development Corporation for City Council approval of the following:

- A. 2011- 2012 Budget Adjustments.
- B. 2012-2013 Proposed Budget.

City Manager Andres Garza, Jr. stated that during the regular May 14, 2012 City Council meeting the City Council was presented the Wharton Economic Development Corporation (WEDC) 2011-2012 Budget Adjustments and the WEDC 2012-2013 proposed budget by Mr. David L. Schroeder. City Manager Garza said the City Council deferred action on the items pending a review of the City Council Finance Committee. City Manager Garza presented a copy memorandum dated May 25, 2012 providing the Finance Committee's recommendation. City Manager Garza stated that the Finance Committee recommended the City Council approve the Wharton Economic Development Corporation (WEDC) 2011-2012 Budget Adjustments and the WEDC 2012-2013 proposed budget by Mr. David L. Schroeder. After some discussion, Councilmember Karen Schulz moved to approve the Wharton Economic Development Corporation 2011-2012 Budget Adjustments. Councilmember Al Bryant seconded the motion. All voted in favor. Councilmember Russell Machann moved to approve the Wharton Economic Development Corporation 2012-2013 Proposed Budget. Councilmember Jeff Gubbels seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider Central Appraisal District Proposed 2013 Budget and Estimated Allocations. City Manager Andres Garza, Jr. presented information submitted by Ms. Tylene Gamble, Chief Appraiser of the Central Appraisal District (CAD) providing revised CAD budget information. Ms. Gamble stated that the CAD budget was very tight and some increased were regulated by law. Ms. Gamble said the CAD staff had not had an

City of Wharton
Regular City Council Meeting
June 11, 2012

increase in wages in two years and had an increase in their health insurance deductible from \$500 to \$1000 per year. After some discussion, no action was taken.

The eleventh item on the agenda to review and consider City of Wharton Tremco Roofing & Building Maintenance for Police Station Upper Roof Restoration and Lower Roof Repair/Preventative Maintenance Project-First and Final Pay Request. City Manager Andres Garza, Jr. presented a copy of the Application and Certificate of Payment submitted by TREMCO for the City of Wharton Tremco Roofing & Building Maintenance for Police Station Upper Roof Restoration and Lower Roof Repair/Preventative Maintenance Project in the amount of \$27,277.60. He stated the project had been complete and inspected by Building Official Ronnie Bollom. After some discussion, Councilmember Don Mueller moved to approve the Tremco Roofing & Building Maintenance for Police Station Upper Roof Restoration and Lower Roof Repair/Preventative Maintenance Project-First and Final Pay Request in the amount of \$27,277.60. Councilmember Karen Schulz seconded the motion. All voted in favor.

The twelfth item on the agenda was a resolution of the Wharton City Council approving the Amendment No. 3 to the professional engineering services contract between IDC Inc. and the City of Wharton for environmental work on proposed HWY 59 overpass and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. stated that on April 30, 2012 the City Council Public Works Committee met with Mr. Paul Frerich, P.E. of the Texas Department of Transportation (TxDOT) Yoakum District Office who informed the Committee Members about proposed funding that was being made available for transportation projects. He stated that projects such as access roads could be considered. City Manager Garza stated that at that time, the Committee Members discussed and voted to recommend to the City Council that the IDC Inc. contract be amended to add the overpass on Hwy 59 to the environmental study aspect of the project and the cost for the additional work was \$84,948.00. City Manager Garza said subsequently, the City had been informed by Mr. Lonnie Gregorcyk, P.E., Yoakum District Engineer that the Yoakum District had requested the funding to be used for environmental studies along Hwy 59 from the Fort Bend County line to the City of El Campo. However, Mr. Gregorcyk had stated that the available funding needed to be obligated by September 2012; therefore, construction projects would not be considered and that the Yoakum District would pursue environmental studies along the I-69 corridor from the Ft. Bend County line with Wharton County. City Manager Garza stated that in the City's discussion with Mr. Gregorcyk, he stated that if the District did receive the funding, the overpass could be included as part of the environmental study for the segment; however, the study could take four(4) to five(5) years.

City Manager Garza said the City Council voted to undertake the environmental study on the project and TxDOT allocated \$200,000 towards the construction costs and the actual cost for the study was \$160,000.00. City Manager Garza presented the project schedule with the environmental assessment completion target date of August 2013. City Manager Garza stated that Mr. Larry Janak, P.E. of IDC Inc. had informed him that if the additional environmental work was added by the middle of June it would not delay the current time schedule and that the environmental work was moving forward; however, if the additional work was not added by the middle of June, but added at a later date then the proposed costs and schedule would have to be amended. City Manager Garza said that in his discussions with Mr. Gregorcyk, if the City prepared the environmental work for the Highway 59 overpass then there could be opportunities available to obtain the necessary funding for the overpass. He said that Mr. Gregorcyk had

indicated that several projects on Hwy 59/I-69 were being constructed because the environmental work has been completed. City Manager Garza said that if the City decided to let TxDOT undertake the environmental work, should they obtain the funding, then there could be a three (3) to four (4) year lag before construction funding for the project would become available. City Manager Garza stated that it was his recommendation that the additional environmental work be authorized and the proposed resolution approved. After some discussion, Councilmember Don Mueller moved to approve City of Wharton Resolution No. 2012-23, which reads as follows:

**CITY OF WHARTON
RESOLUTION NO. 2012-23**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A CONTRACT AMENDMENT TO THE PROFESSIONAL ENGINEERING SERVICES AGREEMENT BETWEEN THE CITY OF WHARTON AND IDC INC. FOR THE ROAD EXTENSION OF FM 1301 FROM SH 60 TO US HWY. 59; AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, On April 25, 2011 the Wharton City Council entered into a professional engineering services agreement with IDC Inc. for the engineering phase of the FM 102 Relocation or FM 1301 to Hwy 59 Expansion and Overpass Project; and

WHEREAS, On December 12, 2011, the Wharton City Council approved the Amendment No. 2 to include environmental assessment services for said project; and

WHEREAS, the City of Wharton and IDC Inc. wishes to amend the agreement to include additional environmental assessment services in the amount of \$84,948 for said project; and

WHEREAS, the City of Wharton and IDC, Inc. wishes to be bound by the conditions as set forth in the agreement; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute said contract amendment.

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

Section I. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute the Amendment No. 2 to the professional engineering services agreement between the City of Wharton and IDC Inc. to include additional environmental assessment services.

Section II. The City of Wharton and IDC Inc. are hereby bound by the conditions as set forth in the contract amendment.

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

Passed, Approved, and Adopted this 11th day of June 2012.

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 thirteenth item on the agenda was to review and consider 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. Municipal Court Judge.
- L. Health Officer.
- M. Veterinarian.
- N. 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.

City Manager Andres Garza, Jr. presented a copy of the list of all of the City of Wharton City Council Boards, Commissions, and Committees, including City Council Committees. He said the list indicated who was willing to renew their positions and which ones had vacancies. Assistant to City Manager Jackie Jansky presented a copy of the letter from Ms. Sarah L. Hudgins

indicating that she would be willing to serve on the Mayor's Committee on People with Disabilities. Mrs. Jansky stated that Ms. Hudgins was not a resident of the City of Wharton; however, the City Staff submitted her letter to City Attorney Paul Webb for his opinion regarding her possible appointment. Mrs. Jansky presented a copy of Mr. Webb's letters dated June 7, 2012 indicating that her appointment would be acceptable. Mrs. Jansky stated Building Official Ronnie Bollom had recruited two (2) individuals to serve on the Building Standards Committee stating Code Enforcement Officer Jimmy Nickolyn had indicated to Mr. Bollom that he had spoken with Mr. Judd Perry and Mr. Damon Parker, who both indicated their willingness to serve. After some discussion, Councilmember Al Bryant moved to appoint the following:

- | | |
|--|----------------------|
| C. Building Standards Commission | <u>Term Expiring</u> |
| 1. Judd Perry | June 30, 2013 |
| 2. Damien Parker | June 30, 2013 |
|
 | |
| F. Mayor's Committee on People with Disabilities | |
| 1. Sarah Hudgins | June 30, 2014 |

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

The fourteenth item on the agenda was to review and consider the Planning Commission report from the meeting held June 4, 2011. City Manager Andres Garza, Jr. presented the report to the City Council. No action was taken.

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

The meeting adjourned at 8:00 p.m.

CITY OF WHARTON, TEXAS

By: _____
Domingo Montalvo, Jr.
Mayor

ATTEST:

Paula Favors
City Secretary

