

**MINUTES  
OF  
CITY OF WHARTON  
REGULAR CITY COUNCIL MEETING  
MAY 28, 2013**

Mayor Pro-Tem Don Mueller declared a Regular Meeting duly open for the transaction of business at 7:00 P.M. Mayor Pro-Tem Mueller led the opening devotion and the pledge of allegiance.

Councilmember's present were: Mayor Pro-Tem Don Mueller, Councilmembers Al Bryant, Terry David Lynch, Jeff Gubbels, and Russell Machann.

Councilmembers absent were: Mayor Domingo Montalvo and Councilmember Karen Schulz.

Staff members present were: City Manager Andres Garza, Jr., City Attorney Paul Webb, Finance Director Joan Anzel, City Secretary Paula Favors, Building Official Ronnie Bollom, Public Works Director Carter Miska, P.E., and Fire Marshal Todd Johse.

Visitors present were: David Schroeder, Executive Director of the Wharton Economic Development Corporation (WEDCO), Carol Lynch, Sarah Lynch, Adam Elrod with Wadler, Perches, Hundl, and Kerlick, Wayne Wildman, Dalby Fleming with Burch Law Firm and Ben Sharp, Wharton Journal Spectator.

The second item on the agenda was to administer Oath of Office to Elected Officials Councilmembers Al Bryant, Terry David Lynch, and Russell Machann. City Attorney Paul Webb administered the oaths of office to Councilmembers Al Bryant, Terry David Lynch, and Russell Machann.

The third item on the agenda was Roll Call and Excused Absences. After some discussion, Councilmember Terry David Lynch moved to excuse Mayor Domingo Montalvo, Jr. and Councilmember Karen Schulz. Councilmember Al Bryant seconded the motion. All voted in favor.

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

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

The sixth item on the agenda was to review and consider Appointment of Mayor Pro-Tem. City Manager Andres Garza, Jr. stated that Section 15 of the City Charter requires that following a regular annual election and upon the induction of the newly elected members of the governing body into office, the members of the City Council shall elect one of the Councilmembers to be

Mayor Pro-Tem. After some discussion, Councilmember Jeff Gubbels moved to appoint Councilmember Don Mueller as Mayor Pro-Tem. Councilmember Terry David Lynch seconded the motion. All voted in favor.

The seventh item on the agenda was City of Wharton Financial Report for the month of April 2013. Finance Director Joan Andel presented the financial report for the month of April 2013. Mrs. Andel stated that the TexPool balance for April was \$151,265.16 with an average monthly yield of .10%. She said the Prosperity Bank balance for April 2013 was \$7,634,901.35 with an average monthly yield of .15%. After some discussion, Councilmember Al Bryant moved to approve the City of Wharton Financial Report for the month of April 2013. Councilmember Russell Machann seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider a resolution of the Wharton City Council authorizing the Sale of City of Wharton Surplus Personal Property in accordance with Article VII – Section 75 of the City Charter. City Manager Andres Garza, Jr. presented a copy of the memorandum dated May 22, 2013 from City Secretary Paula Favors to him regarding the City of Wharton Surplus Property. City Manager Garza stated that Mrs. Favors also provided a copy of the list of surplus personal property that was obtained from the various City Departments that had surplus personal property. City Manager Garza said the City Staff was recommending the sale through a Public Surplus website. Mrs. Favors stated that the City had utilized the website since 2011 and it was easy to use and it increased the availability of viewing the items to a greater number of people. After some discussion, Councilmember Jeff Gubbels moved to approve City of Wharton Resolution No. 2013-32, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2013-32**

**A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHROIZING THE SALE OF CITY OF WHARTON SURPLUS PERSONAL PROPERTY IN ACCORDANCE WITH ARTICLE VII – SECTION 75 OF THE CITY CHARTER.**

**WHEREAS,** the City of Wharton has identified surplus personal property; and

**WHEREAS,** the Wharton City Council of the City of Wharton wishes to authorize the City Manager to sell the surplus personal property directly to the public by publication notification and through the Public Surplus website in accordance with Article VII – Section 75 of the City Charter, Sale of City personal property; procedures; and

**WHEREAS,** the Wharton City Council wishes to authorize the City Manager to sell City personal property out right on a first come first serve basis if said property did not sell through the bidding process.

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

**Section I.** The City Council of the City of Wharton hereby authorizes the City Manager to sell

the City of Wharton surplus personal property in accordance with Article VII – Section 75 of the City Charter, Sale of City personal property; procedures.

**Section II.** The City Council of the City of Wharton hereby authorizes the sale of this personal property by publication notification and through the Public Surplus website.

**Section III.** The Wharton City Council hereby authorizes the City Manager to sell City personal property out right on a first come first serve basis if said property did not sell through the bidding process.

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

**Passed, Approved, and Adopted** this 28<sup>th</sup> day of May 2013.

**CITY OF WHARTON, TEXAS**

**By:**

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**DONALD MUELLER**

Mayor Pro-Tem

**ATTEST:**

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**PAULA FAVORS**

City Secretary

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

The ninth item on the agenda was to review and consider a request by Mr. W Fireworks represented by Dalby Fleming, Attorney for Burch Law Firm for consideration of a grace period and/or exemption for Sale of Fireworks at 3019 FM 1301. City Manager Andres Garza, Jr. presented a copy of the letter dated May 15, 2013 from Dalby Fleming on behalf of Mr. W Fireworks, Inc. City Manager Garza stated that Mr. Fleming requested the issue be brought to the City Council’s attention and to “consider a grace-period and/or exemption for sale of fireworks at the Property”. City Manager Garza presented a letter received from Mr. Fleming on February 11, 2013 outlining Mr. W Fireworks intent to explore continued sale of fireworks at the property located at 3019 FM 1301 in Wharton. City Manager Garza said that the business began receiving citations on December 28, 2012 for violation of the sale of fireworks within 5,000 feet of the city limits and the City annexed property along FM 1301 that placed Mr. W Fireworks building within 5,000 feet of the city limits (the property is now approximately 4,000 feet inside the city limits). City Manager Garza said Mr. W stated that they were assured by City officials that the City would not inhibit the sale of fireworks due to the recent annexation. After some discussion, Councilmember Jeff Gubbels moved to approve a five-year exemption expiring June 1, 2018 for fireworks stands operating within 4,000 feet of the city limits. Councilmember Al Bryant seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider 2012 Annual Drinking Water Quality Report (Consumer Confidence Report).

- A. Setting the Public Hearing Date
- B. Dissemination of Consumer Confidence Report

City Manager Andres Garza, Jr. stated the City of Wharton was required by the Texas Commission on Environmental Quality to provide its water customers copies of the Annual Drinking Water Quality Report (Consumer Confidence Report) (CCR) on a yearly basis to keep customers informed as to the quality of the water supply. Finance Director Joan Andel stated the City Staff were requesting to make the Consumer Confidence Report available on the City of Wharton's website and notify customers with a printed notice on the back of the water bill. After some discussion, Councilmember Russell Machann moved to approve setting the public meeting for Thursday, June 20, 2013 at 7:00 p.m. at City Hall and to post the Consumer Confidence Report on the City of Wharton's website with a notice of the location to be placed on the back of the water bill. Councilmember Terry David Lynch seconded the motion. All voted in favor.

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

- 1. Appointments:
  - 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 whose term was expiring on June 30<sup>th</sup>. City Manager Garza stated that the City Staff was seeking Council approval to contact all individuals whose term is expiring to see if they are willing to continue serving. After some discussion, Councilmember Jeff Gubbels moved to approve reappointing members of the City of Wharton City Council Boards, Commissions, and Committees, including City Council Committees whose term was expiring on June 30<sup>th</sup>.

**2. Resignations:**

A. Beautification Commission – Dana Black

City Manager Andres Garza presented a copy of the letter received from Dana Black regarding her resignation from the Beautification Commission. After some discussion, Councilmember Jeff Gubbels moved to authorize the City Staff to contact all individuals whose terms were expiring on June 30<sup>th</sup>, 2013 to see if they were willing to serve another term and to approve the appointment of Councilmembers to the City Council Committees as listed. Councilmember Terry David Lynch seconded the motion. All voted in favor.

The twelfth item on the agenda was to review and consider the Status Report on City of Wharton Projects. City Manager Andres Garza, Jr. presented a copy of his memorandum dated May 23, 2013 providing an update on the City of Wharton current projects.

**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.cityofwharton.com/information-a-notices/lcrb-feasibility-study>.

The City Staff continues to work with the USACE and Halff Associates in obtaining the required ROE agreements and engineering data. The agreement for the Third and Restated Agreement between the City of Wharton and the Lower Colorado River Authority (LCRA) has been executed. The amendment incorporates Segment 1(a) into the project, which is the extension of the levee along FM 102.

The City Staff has been coordinating with Halff Associates via telephone and e-mail this month to work towards completing the 95% set of construction plans. The City Staff has indicated to Halff Associates that it is too early to acquire the services of a professional land surveyor to prepare metes and bounds since we do not know for sure if the alignment will stay as shown on the current set of draft construction plans. Hughes St. utility relocation and identification of spoil areas. The City Staff and Halff Associates went through the plan set page by page to identify utility relocations that will be necessary during or prior to construction of the levee. The City will be responsible for all relocations of water, sewer and drainage infrastructure. The City will

work together with Halff Associates to coordinate other utility relocations. These include utilities owned by others including CenterPoint Electric, CenterPoint Gas, MidCoast Cable, and Panther Pipeline. The City Staff worked with Jones & Carter and has completed the preliminary layout for the Hughes St. utility relocation. Halff along with the City Staff are working together to solve the issue of spoil disposal.

This design is for the first phase of levee construction along the Colorado River. The segment that is under design is from FM 102 to Business 59.

### **DRAINAGE:**

#### 1. Santa Fe Outfall Channel.

Public Works continued installing grade stabilization structures to eliminate erosion thereby reducing or eliminating the need to reshape the channel. The Public Works Department has installed six grade stabilization structures or pipe drops along the channel so far. These structures are part of the original engineering design and not only control erosion but are helping to improve drainage in the city by serving as the outfall for water that has been redirected to the Santa Fe Channel. The City Staff met with property owners along the channel a few months ago to discuss work that needed to be performed by the City in accordance with the agreements. Work on some of the property owners land is now complete. The City Staff will continue to work on completing the agreements with the remaining property owners over the next several months weather permitting.

#### 2. Highway 60 & Old Lane City Road Drainage Improvements

Mercer Construction completed construction of the dual run 30" culverts under Highway 60 on March 11, 2013. The Public Works Department served as construction inspector and reports that the job was completed as shown in the construction plans. In addition, the Public Works Department installed a 48 inch CMP to serve as the outfall into the Santa Fe Channel. TxDOT and the Public Works Department began re-grading the ditch along Hwy 60 on March 23. The ditch re-grading project is approximately 80% complete. Re-grading is complete on the south side of Hwy 60. Crews are finishing up the sloped paving at culvert inlets and outlets on the south side of Hwy 60 and will be done in about one to two weeks, weather permitting. The Public Works Department will re-grade the North side without TxDOT and install all structures. This work should go much faster due to the reduced amount of cut required to achieve final grades. The City Staff anticipate completion in the month of June, weather permitting.

### **WATER/SEWER IMPROVEMENTS:**

#### 1. 2012 -2013 Water Storage Tank Maintenance Program

The hydropneumatic tank is required for continued service after the elevated storage tank is dismantled. The City Staff approved the final design and the bid was advertised to the public. The City has executed a contract with the contractor to complete all work. The City Staff attended a pre-construction meeting with Jones & Carter and the contractor this month. The contractor has ordered

the tank and will not begin the bulk of the work until the tank is completed. The tank should be completed within the next two to three months and work will commence.

## 2. Pressure Switches at City Water Plants

Jones & Carter replaced the faulty pressure control switches with new control switches earlier this month. Jones & Carter paid for the switches and the installation. City Staff is closely monitoring the performance of the new switches, which are functioning as designed. Staff will continue to monitor and tweak the switches for optimum performance. These switches are designed to minimize and equalize pumping times, thereby extending the life of the water plants.

## 3. Wastewater Treatment Plant No. 1 Rehabilitation Proposal

City Staff is currently exploring various avenues to fund the rehabilitation of WWTP No. 1. The top priority is the WWTP's clarifier. The City Staff is working with Jones & Carter, Inc. to plan and prepare preliminary cost estimates for the WWTP No. 1 Rehabilitation project.

The Public Works Department with the assistance of Jones & Carter, Inc. is developing plans to fix a failing force main line used to bypass sewer influent in an effort to avoid any catastrophic failures.

## 4. On-going Water and Sewer Maintenance Program

Water leaks and sewer failures were on average the month of May.

The Public Works Department has developed a preliminary layout for a sanitary sewer extension on Alabama St from Texas St to SE Ave. This new line will provide enough depth to reroute the 1940s sewer lines between Texas St, Koehl St, and Speed St. This area has old lines that have severely deteriorated and are laid on a flat slope causing a major increase in sewer back-ups. The new line will also alleviate sewer problems at Svatek's Grocery and Angel's Care Home Health at the intersection of Alabama Rd and Alabama St. Jones & Carter has prepared preliminary cost estimates for this project.

The City's aging lift stations continues to keep the Public Works Department busy, especially with pump and float failures. The City Staff with the assistance of Jones & Carter, Inc. has prepared preliminary cost estimates for rehabilitating the lift stations.

Grease build up has continued to be a problem in the sanitary sewer lines and manholes along Richmond Rd. This results in sewer back-ups and has kept crews busy on nights and weekends. The Public Works Department is coordinating with Code Enforcement to begin a grease trap inspection program at restaurants throughout town. The City Staff hopes this will eliminate some of the unnecessary grease build up and sewer back-ups along Richmond Rd and other areas of the City.

## **STREET IMPROVEMENTS**

### 1. FM 1301 Extension and Overpass Project Progress Report

IDC Inc. continues to work with City Staff in an effort to develop preliminary engineering for the project. The City Staff has obtained the necessary rights of entry agreements for the project. The City Staff continues to coordinate with TxDOT to ensure the project continues to move forward. The City Staff and IDC Inc. coordinated via e-mail and telephone this month in a continuing effort to complete drainage associated with the project.

2. 2012 Street Improvement Program

The Public Works Department planned to resume the street repairs at the end of November but was unable to acquire the materials required to complete the project. Quality Hot as well and several other material plants contacted by the City Staff are now requiring a minimum order of 100 – 200 tons of hot mix before they will consider starting up their plant to produce hot mix. This amount is larger than what the City's typically needs on a given day and therefore the project is on hold until a supplier can be found that will provide material in an amount more conducive to the patch work that remains. The City has been unsuccessful so far in finding a supplier and is now considering alternative materials as a possible solution. The project is nearly complete with the exception of patch work on Fulton and Alabama St.

3. 2013 Street Improvement Program

The City Staff has identified streets needing repair in 2013 and completed cost estimates for these repairs. The estimates and recommendations from the City Staff will be made to the Public Works Committee in the upcoming weeks.

4. Wharton Sidewalk Accessibility and Historic Streetscape Project

TxDOT completed the review of the sidewalk re-bid package earlier this month allowing the City to advertise for re-bid. On Tuesday March 5, 2013 at 2:00 PM the City of Wharton held a bid opening for the sidewalk enhancement project. The lowest bidder was M & C Fonseca Construction Co. Inc. After checking references, BEFCO Engineering, Inc. recommended awarding the Base Bid and all Additive Alternatives to M & C Fonseca in the amount of \$374,165.75. The City Council voted to accept BEFCO's recommendation at the March 11, 2013 Council meeting. A pre-construction meeting will be held prior to any work commencing.

5. Willowbend/Kelving Way Court Drainage Project

The Public Works Department completed excavation of a shallow swale in the 32 feet easement between Willowbend Dr. and Kelving Way Ct. at the end of December. There remains a couple of small areas of ponding inside the easement area and the City Staff is exploring options to correct this. This project is nearing completion.

6. On-going Street and Drainage Maintenance Program

The Public Works Department has been working to clean residential drainage ditches that have been experiencing poor drainage. These efforts to improve drainage are paying off. Areas that use to flood are no longer flooding. The Public Works Department has been noticing a significant decrease in citizen complaints during larger rainfall events concerning poor drainage. The City Staff continued this drainage improvement effort through May. The Public Works Department has noticed

a significant drop in drainage complaints and attributes the decrease to the improvements being made.

### **WHARTON REGIONAL AIRPORT**

1. Capital Improvement Drainage Project.

This project is complete.

### **OTHER PROJECTS**

1. Fire Hydrant Testing Program and ISO Rating

The Fire Department, with the assistance of the Public Works Department, has begun an annual hydrant testing program. The Fire Department has completed testing on all the City's hydrants. The majority of the hydrants were in good working condition. Those in need of maintenance have been repaired by the City's Public Works Staff. This program will help to improve the City's ISO insurance rating.

The City Staff met with a Verisk Insurance Solutions representative on March 21, 2013 to discuss the preliminary report on the new ISO insurance rating recently submitted to the City. The City Staff will be submitting recommendations to Verisk Insurance Solutions on at the end of April in hopes of lowering the ISO rating even more.

2. Wharton County / City of Wharton Web Map Project

The City Staff continues to work with Halff Associates to complete the initial design for the Web based GIS mapping tool. This tool will help City Staff and City Officials make daily decisions by allowing them to view GIS data files via the Internet.

The City Staff will meet with the El Campo City Staff at City Hall in El Campo on April 23, 2013 to discuss alternative plans and with the CAD staff on April 26, 2013 to discuss improving Parcel map. The City Staff believes the Parcel Maps will be backbone of the overall GIS system.

After some discussion, no action was taken.

The thirteenth item on the agenda was City Council Boards, Commissions, and Committees:

- A. WEDC Special Committee Meeting held May 15, 2013.
- B. Public Safety Committee Meeting held May 21, 2013.

After some discussion, no action was taken.

The fourteenth item on the agenda was City Manager's Reports:

- |                                  |                      |
|----------------------------------|----------------------|
| A. City Secretary/Personnel.     | I. Legal Department. |
| B. Code Enforcement.             | J. Municipal Court.  |
| C. Community Services Department | K. Police Department |

City of Wharton  
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- /Civic Center.
- D. Emergency Management.
- E. E.M.S. Department.
- F. Engineer/Planning Department.
- G. Facilities Maintenance Department.
- H. Fire Department.
- L. Public Works Department.
- M. Water/ Sewer Department.
- N. Weedy Lots/ Sign Ordinance.
- O. Fire Marshal.
- P. Wharton Regional Airport.

The fifteenth item on the agenda was adjournment. After some discussion, Councilmember Terry David Lynch moved to adjourn. Councilmember Jeff Gubbels seconded the motion. All voted in favor.

The meeting adjourned at 7:29 p.m.

**CITY OF WHARTON, TEXAS**

**By:** \_\_\_\_\_  
**Don Mueller**  
**Mayor Pro-Tem**

**ATTEST:**

\_\_\_\_\_  
**Paula Favors**  
**City Secretary**