

**MINUTES  
OF  
CITY OF WHARTON  
REGULAR CITY COUNCIL MEETING  
JANUARY 12, 2015**

Mayor Domingo Montalvo, Jr. declared a Regular Meeting duly open for the transaction of business at 7:00 P.M at City Hall 120 E. Caney Street Wharton, TX. Mayor Montalvo led the opening devotion and the pledge of allegiance.

Councilmember's present were: Mayor Domingo Montalvo, Jr. and Councilmembers Tim Barker, Al Bryant, Jeff Gubbels, Russell Machann, Don Mueller and Steven Schneider.

Councilmember absent was: None.

Staff members present were: City Manager Andres Garza, Jr, Finance Director Joan Andel, City Secretary Paula Favors, Assistant to the City Manager – Special Projects Cheryl Urbanovsky, City Attorney Paul Webb, Public Works Director Kyle Marchant, EMS Director John Kowalik and Police Chief Terry Lynch.

Visitors present were: Wharton Economic Development Director David Schroeder, Carlos Cotton, P.E. with Jones and Carter, Inc., Christine Stransky and Natalie Frels with the Wharton Journal Spectator.

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. No Public Comments were made.

The fourth item on the agenda was the Wharton Moment. City Manager Andres Garza, Jr. congratulated Assistant to the City Manager Brandi Jimenez on the birth of her son, Stocks Austin Jimenez, on December 23, 2014. Councilmember Tim Barker spoke on the progress of the future Love's Truck Stop that is set to be built in Hungerford. Mayor Domingo Montalvo, Jr. recognized longtime Wharton resident and Coach Floyd Ciruti. Mayor Montalvo stated that Coach Ciruti was inducted into the Hall of Fame of the Texas High School Baseball Coaches Association.

The fifth item on the agenda was to review and consider the reading of the minutes from the regular meetings held on December 8, 2014 and Special City Council meeting held December 19, 2014. After some discussion, Councilmember Al Bryant moved to approve the reading of the minutes from the regular meetings held on December 8, 2014 and Special City Council meeting held December 19, 2014. Councilmember Russell Machann seconded the motion. All voted in favor.

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The sixth item on the agenda was to review and consider City of Wharton Financial Report for the month of November 2014. Finance Director Joan Andel presented the financial report for the month of November 2014. Mrs. Andel stated that the TexPool balance for November was \$151,357.49 with an average monthly yield of .03%. She said the Prosperity Bank balance for November 2014 was \$7,807,394.97 with an average monthly yield of .15%. After some discussion, Councilmember Don Mueller moved to approve the City of Wharton Financial Report for the month of November 2014. Councilmember Al Bryant seconded the motion. All voted in favor.

The seventh item on agenda was to review and consider Ambulance Permits in the City of Wharton. City Manager Andres Garza, Jr. presented a letter from Mr. Richard Ojo of Support Systems EMS, Inc. requesting to address the City Council regarding ambulance permits in the City of Wharton and Mr. John Kowalik's memorandum to him regarding the ambulance permit moratorium that was in place in the City. Mr. Kowalik stated that the moratorium was placed on August 26, 2013 by the City Council due to the Department of State Health Services moratorium on ambulance licensing due to a large amount of fraud. He stated that it has since been lifted by the State but remained in place by Medicare/Medicaid in Harris County and surrounding counties. Mr. Kowalik recommended the City Council consider removing the moratorium and in the future consider a per capita limit to ambulance services allowed within the City of Wharton. After some discussion, Councilmember Jeff Gubbels moved to lift the moratorium on ambulance provider applications within the City of Wharton. 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 approving an Affiliation Agreement pertaining specifically to EMS Education and the City of Wharton EMS assuming the role of Clinical Affiliation for Field Internship between the City of Wharton and the Wharton County Junior College and authorizing the City Manager to execute the agreement. City Manager Andres Garza, Jr. presented a copy of an agreement from Wharton County Junior College (WCJC) regarding an Emergency Medical Services (EMS) Affiliation Agreement. City Manager Garza stated that the City Staff had submitted the agreement to City Attorney Paul Webb and EMS Director John Kowalik for their review. City Manager Garza presented a copy of the memorandum dated December 29, 2014 from Mr. Kowalik stating that the only change to the agreement would be the time frame, increasing from two to five years. Mr. Webb stated that he recommended City Council consider approving the agreement. After some discussion, Councilmember Tim Barker moved to approve City of Wharton Resolution No. 2015-01, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2015 - 01**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN AFFILIATION AGREEMENT PERTAINING SPECIFICALLY TO EMS EDUCATION AND THE CITY OF WHARTON EMS ASSUMING THE ROLE OF CLINICAL AFFILIATION FOR FIELD INTERNSHIP BETWEEN THE CITY OF WHARTON AND WHARTON COUNTY JUNIOR COLLEGE AND AUTHORIZING**

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**THE CITY MANAGER OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.**

**WHEREAS,** the City of Wharton and the Wharton County Junior College wishes to enter into an Affiliation Agreement pertaining specifically to EMS Education and the City of Wharton EMS assuming the role of Clinical Affiliation for field internship; and,

**WHEREAS,** the City of Wharton and the Wharton County Junior College wishes to be bound by the conditions as outlined in the agreement; and,

**WHEREAS,** the Wharton City Council wishes to authorize the City Manager of the City of Wharton to execute the agreement; and,

**WHEREAS,** the Wharton City Council wishes the resolution to become effective immediately after its passage.

**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 Affiliation Agreement pertaining specifically to EMS Education and the City of Wharton EMS assuming the role of Clinical Affiliation for field internship between the City of Wharton and the Wharton County Junior College.

**Section II.** The Wharton City Council hereby authorizes the City Manager of the City of Wharton to execute the agreement.

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

**PASSED, APPROVED AND ADOPTED** this 12<sup>th</sup> day of January 2015.

**CITY OF WHARTON**

**By:** \_\_\_\_\_

**DOMINGO MONTALVO, JR.**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**PAULA FAVORS**  
City Secretary

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

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The ninth item on the agenda was to review and consider a resolution of the Wharton City Council approving an Asset Forfeiture Local Agreement between the Wharton County Narcotics Task Force and the District Attorney's Office of the 329th Judicial District and authorizing the Chief of Police of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. presented a copy of Chief Terry D. Lynch's December 8, 2014 email requesting the execution of an interlocal agreement for the WCNTF (Wharton County Narcotic Task Force) with the Wharton Police Department. Chief Lynch stated each agency would contribute one officer to WCNTF and would receive twenty-five percent of any seizure or forfeiture of the task force. After some discussion, Councilmember Jeff Gubbels moved to approve City of Wharton Resolution No. 2015-02, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2015-02**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN ASSET FORFEITURE LOCAL AGREEMENT BETWEEN THE WHARTON COUNTY NARCOTICS TASK FORCE AND THE DISTRICT ATTORNEY'S OFFICE OF THE 329<sup>TH</sup> JUDICIAL DISTRICT AND AUTHORIZING THE CHIEF OF POLICE OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.**

**WHEREAS,** the Wharton City Council wishes to authorize an Asset Forfeiture Local Agreement with the Wharton County Narcotics Task Force and the District Attorney's Office of the 329<sup>th</sup> Judicial District; and,

**WHEREAS,** the Wharton County Narcotics Task Force and the District Attorney's Office of the 329<sup>th</sup> Judicial District wishes to be bound by the conditions set forth in said contract; and,

**WHEREAS,** the Wharton City Council wishes to authorize the Chief of Police of the City of Wharton to execute the agreement; and,

**WHEREAS,** the Wharton City Council wishes this resolution to become effective immediately upon its passage.

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

**Section I.** The Wharton City Council hereby authorizes the Chief of Police of the City of Wharton to execute an Asset Forfeiture Local Agreement between the Wharton County Narcotics Task Force and the District Attorney's Office of the 329<sup>th</sup> Judicial District.

**Section II.** The Wharton County Narcotics Task Force and the District Attorney's Office of the 329<sup>th</sup> Judicial District are hereby bound by the conditions set forth in the agreement.

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

**Passed, Approved, and Adopted** this 12<sup>th</sup> day of January 2015.

**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 tenth item on the agenda was to review and consider a resolution of the Wharton City Council approving a Joint Election Agreement with Wharton County Elections Department for the City Election; and Authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr., presented a copy of the Joint Election Agreement with Wharton County Elections Department for the City Election, which will be held May 9, 2015. City Secretary Paula Favors stated the agreement was the same as the previous year with the only modification being staff changes. After some discussion, Councilmember Russell Machann moved to approve City of Wharton Resolution No. 2015-03, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2015-03**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A JOINT ELECTION AGREEMENT WITH WHARTON COUNTY ELECTIONS DEPARTMENT FOR THE CITY ELECTION; AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.**

**WHEREAS,** The Wharton City Council wishes to approve the joint agreement with Wharton County Elections Department for the City election; and

**WHEREAS,** The City of Wharton and Wharton County Elections Department wishes to be bound by the conditions set forth in the agreement; and

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

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

**Section I.** That the Wharton City Council hereby approves an agreement between the City of Wharton and Wharton County Elections Department for the City election.

**Section II.** That the City of Wharton and Wharton County Elections Department are hereby bound by the conditions set forth in the agreement.

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

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

**Passed, Approved, and Adopted** this the 12<sup>th</sup> day of January 2015.

**CITY OF WHARTON**

**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 request by US Army Corp of Engineers for additional funding to modify Phase 1 Plans and Specifications of the Wharton Flood Reduction Project (Levee Project) for City of Wharton Project Value Engineering Study. City Manager Andres Garza, Jr. stated that on December 17, 2014, the City Staff met with US Army Corp of Engineers on the Wharton Flood Reduction Project (Levee Project). City Manager Garza said Mr. Elston Eckert, P. E. of the Corp of Engineers informed the City of the possibility to receive funding for continuation of the construction phase of the project and he said that a Value Engineering Study found ways to reduce the project cost. He said the Corp of Engineers was requesting an additional \$25,000 of the non-Federal dollars and they would contribute \$75,000 of Federal dollars to modify Phase 1 Plans and Specs which would result in significant savings to the project. City Manager Garza said Mr. Eckert stated that the modification was necessary to continue with the project and allowed the City to remain compliant with the US Army Corp of Engineers Section 902 Cost Limit Policy. City Manager

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Garza stated that the City Council Public Works and Finance Committees had reviewed the request and were recommending approval of the \$25,000.00. After some discussion, Councilmember Al Bryant moved to approve the request by the US Army Corp of Engineers for additional funding to modify Phase I Plans and Specifications of the Wharton Flood Reduction Project (Levee Project) for the City of Wharton Project Value Engineering Study in the amount of \$25,000. Councilmember Don Mueller seconded the motion. All voted in favor.

The twelfth item on the agenda was to review and consider a resolution of the Wharton City Council approving a contract for commercial janitorial cleaning services for the City Hall and Public Works Facilities with TLC Cleaning Services and authorizing the Mayor of the City of Wharton to execute the agreement. City Secretary Paula Favors stated that in an effort to provide consistent janitorial cleaning services to both the City Hall and Public Works facilities, the City Staff was requesting City Council consider approving a contract with TLC Cleaning Services. City Manager Andres Garza, Jr. presented a draft copy of the contract for commercial janitorial services from TLC Cleaning Services for the City Hall and Public Works Facilities in the amount of \$1,400 a month. Mrs. Favors stated that the service would provide cleaning twice weekly at both facilities with a detailed list of services to be provided by the contractor. Mrs. Favors said the service would provide cleaning supplies with the exception of trash bags, floor cleaner and air filters. She said that City Attorney Paul Webb had reviewed the contract and recommended the City be placed as an additional insured on TLC Cleaning Services insurance which they had done. City Manager Garza presented the certificate of liability insurance with the City of Wharton listed as insured. After some discussion, Councilmember Russell Machann moved to approve City of Wharton Resolution No. 2015-04, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2015-04**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A CONTRACT FOR COMMERCIAL JANITORIAL CLEANING SERVICES FOR THE CITY HALL AND PUBLIC WORKS FACILITIES WITH TLC CLEANING SERVICES AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.**

**WHEREAS,** The Wharton City Council wishes to enter into a contract with TLC Cleaning Services for commercial janitorial cleaning services for the City Hall and Public Works facilities; and

**WHEREAS,** TLC Cleaning Services and the City of Wharton wishes to be bound by the conditions outlined the agreement; and

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

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**WHEREAS**, this resolution is passed in accordance with said contract.

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

**Section I.** That the Wharton City Council hereby enters into a contract with TLC Cleaning Services for commercial janitorial cleaning services.

**Section II.** That the effective date of the contract will be the 1<sup>st</sup> day of February 2015.

**Section III.** That the Mayor of the City of Wharton is hereby authorized to execute the contract amendment.

**Passed, Approved, and Adopted** this 12<sup>th</sup> day of January 2015.

**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 to review and consider Change Order No. 1 from BEFCO Engineering on Ahldag Addition 2013-2014 Sanitary Sewer Collection System Improvements TxCDBG Project No. 713510. City Manager Andres Garza, Jr. stated that on December 19, 2014, the Wharton City Council approved the Notice of Award to Supak Construction for the Ahldag Addition 2013-2014 Sanitary Sewer Collection System Improvements TxCDBG Project No. 713510. City Manager Garza said the available grant funds total \$350,000 and the lowest bid received totaled \$447,000; a difference of \$97,000. He said the City Staff had discussed the following alternate plan with the Texas Department of Agriculture and they are in agreement that the City of Wharton could modify this project as follows:

1. The \$20,000 for Administration costs would be moved to Construction.
2. The difference of \$47,000 would be allocated from the 2013 Bond Fund.



3. Construction Change Order No. 1 would allow the City of Wharton to back the line flushing and video services out of this contract which would reduce the cost of the project for a cost savings of approximately \$30,000.

He said the proposed change order would reduce Supak Construction's contract by \$45,400.00. After some discussion, Councilmember Al Bryant moved to approve Change Order No. 1 from BEFCO Engineering on Ahldag Addition 2013-2014 Sanitary Sewer Collection System Improvement TxCDBG Project No. 713510. Councilmember Don Mueller seconded the motion. All voted in favor.

The fourteenth item on the agenda was to review and consider a resolution approving a memorandum of understanding agreement between Stray Pet Outreach Team (SPOT), City of Wharton Animal Control (WAC) and Jackson County Happy Tails (JCHT); and authorizing the Mayor of the City of Wharton to execute said agreement. City Manager Andres Garza, Jr. presented a copy of the Memorandum of Understanding Agreement from SPOT for an adoption event they wished to conduct on February 7, 2015 at the Silver Wings Skating Rink, El Campo, Texas. Mayor Domingo Montalvo, Jr. stated the SPOT boardmembers requested the item be pulled from the agenda. After some discussion, no action was taken.

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

City Manager Andres Garza, Jr. presented the list of persons serving on the various City Boards, Commissions and Committees. City Manager Garza stated that there were still vacancies that need to be filled.

- 1. Appointments:**
  - A. Electrical Board.
  - B. Holiday Light Decorating Chairman.
  - C. Beautification Commission.

After some discussion, no action was taken.

The sixteenth item on the agenda was to review and consider a resolution of the Wharton City Council approving an Agreement for Release of Driver Records to Governmental Entities with the Texas Department of Public Safety and authorizing the Mayor to execute the agreement. City Manager Andres Garza, Jr. presented a copy of the memorandum submitted to him from City Secretary Paula Favors, TRMC in regards to an agreement for release of driver records to governmental entities with the Texas Department of Public Safety (TXDPS). City Secretary Paula Favors stated the Wharton Municipal Court required information on driver records to be able to process defendant of the Court and the agreement would allow clerks access through the agreement. City Attorney Paul Webb stated he had reviewed the agreement and recommended City Council consider approval. After some discussion, Councilmember Don Mueller moved to approve City of Wharton Resolution No. 2015-06, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2015 - 06**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN AGREEMENT FOR RELEASE OF DRIVER RECORDS TO GOVERNMENTAL ENTITIES WITH THE TEXAS DEPARTMENT OF PUBLIC SAFETY AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT.**

**WHEREAS,** the City of Wharton and the Texas Department of Public Safety (TXDPS) wishes to enter into an Agreement pertaining specifically to the release of driver records for the Wharton Municipal Court; and,

**WHEREAS,** the City of Wharton and TXDPS wishes to be bound by the conditions as outlined in the agreement; and,

**WHEREAS,** the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute the agreement; and,

**WHEREAS,** the Wharton City Council wishes the resolution to become effective immediately after its passage.

**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 Agreement pertaining specifically to the release of driver records for the Wharton Municipal Court pertaining specifically to the release of driver records.

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

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

**PASSED, APPROVED AND ADOPTED** this 12<sup>th</sup> day of January 2015.

**CITY OF WHARTON**

By: \_\_\_\_\_  
**DOMINGO MONTALVO, JR.**  
Mayor

**ATTEST:**

\_\_\_\_\_

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**PAULA FAVORS**  
City Secretary

Councilmember Steven Schneider seconded the motion. All voted in favor.

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

- A. Finance Committee meeting held on December 8, 2014.
- B. Public Works meeting held on December 8, 2014.
- C. Beautification Commission meeting held on December 10, 2014.
- D. Wharton Economic Development Corporation meeting held on December 17, 2014.

After some discussion, no action was taken.

The eighteenth item on the agenda was to review and consider City Manager's Reports:

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

After some discussion, no action was taken.

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

The meeting adjourned at 7:29 p.m.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

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**Paula Favors**  
**City Secretary**