

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
FEBRUARY 23, 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. Councilmember Al Bryant led the opening devotion and Mr. Robert Kleas led 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., City Attorney Paul Webb, Finance Director Joan Andel, City Secretary Paula Favors, TRMC, Assistant to the City Manager – Special Projects Cheryl Urbanovsky, EMS Director John Kowalik, Police Chief Terry David Lynch, Emergency Management Coordinator Steve Johnson and Public Works Director Kyle Marchant, P.E.

Visitors present were: David Schroeder with Wharton Economic Development Corporation (WEDCO), Carlos Cotton, P.E. with Jones and Carter, Inc., Amy Marchant, John Alaniz with Wolfpakradio, Robert Kleas, Glen Kleas, Sharon Kleas, Russ Cenko, Debbi Cenko, Debbie Dimmick, Travis Smith, Jane Rachunek, Andy Kirkland, Sarah Hudgins and Natalie Frels with the Wharton Journal Spectator.

The second item on the agenda was Roll Call and Excused 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. stated that the Wharton High School Boys' Basketball team was doing very well and congratulated them on their success. Councilmember Jeff Gubbels congratulated the Semi-Pro Wharton County Panthers Football Team on the undefeated start to their season.

The fifth item on the agenda was a proclamation declaring Robert "Bobby" Kleas as Mayor for a Day on February 23, 2015. Mayor Domingo Montalvo, Jr. presented Robert "Bobby"

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Kleas with a proclamation for his years of service with the City of Wharton. Mayor Montalvo presented a Proclamation declaring February 23, 2015 as “Robert “Bobby” Kleas Day,” and declaring him Mayor for the Day. The Proclamation read as follows:

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

WHEREAS, Robert “Bobby” Kleas was born in Palacios, Texas on November 21, 1924, was one of three children to Phil and Myrtle Kleas; and,

WHEREAS, He and his family moved to Wharton in 1932 where he went through the Wharton School system and graduated in 1942; and,

WHEREAS, He began attending Texas A & M majoring in business and in his third semester was drafted into the service; and,

WHEREAS, He was assigned as part of the 100th Infantry Division “Century” 397th Infantry Regiment, Company B and was sent to the Vosges Mountains in Northern France where he fought 6 months of uninterrupted ground-combat in the snows of the worst winter in the 20th century in that area; and,

WHEREAS, Kleas returned to Texas to recover from an injury due to enduring zero and below zero conditions and completed his last two semesters at Texas A & M; and,

WHEREAS, He married his high school sweetheart Doris Pearl Schlick and had two children, Glenn and Jane; and,

WHEREAS, Kleas served the City of Wharton as the CEO of Kleas Hardware, Inc., City Councilman for over 10 years, president of the School Board, president of the Lions’ Club, president of the Wharton Cemetery Association, Little League manager and as a song leader and Sunday school teacher at First Presbyterian Church.

NOW, THEREFORE BE IT RESOLVED, I, Domingo Montalvo, Jr., by the authority vested in me as Mayor of the City of Wharton, Texas do hereby proclaim today as Robert Kleas’ Day and declare him Mayor for the Day, with sincere gratitude for years of service to this County and to the City of Wharton.

IN WITNESS THEREOF, I have set my hand and caused the seal of the City of Wharton to be affixed this 23rd day of February, in the year of our Lord two thousand fifteen A.D.

Domingo Montalvo, Jr.
Mayor, City of Wharton

Mayor Montalvo presented a plaque for Mr. Kleas' years of service to the City of Wharton. Mr. Kleas stated his gratitude for the honor and gave a speech regarding his years of military service and service to the Wharton Community.

The sixth item on the agenda was to review and consider City of Wharton Financial Report for January 2015. Finance Director Joan Anandel presented the financial report for the month of January 2015. Mrs. Anandel stated that the TexPool balance for January as \$151,368.90 with an average monthly yield of .05%. She said the Prosperity Bank balance for January 2015 was \$9,028,258.56 with an average monthly yield of .15% and the total ad valorem taxes collected were \$1,116,886 with the sales tax for the month of January 2015 was \$123,991. After some discussion, Councilmember Russell Machann moved to approve the City of Wharton Financial Report for the month of January 2015. Councilmember Don Mueller seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider City of Wharton Emergency Medical Services (EMS) Department:

- A. Acceptance of funding from the Wharton County Emergency Services District (ESD No. 3) for the purchase of software for the City of Wharton Emergency Medical Services (EMS) Department.
- B. **Resolution:** A resolution of the Wharton City Council approving the purchase and installation of software for the City of Wharton Emergency Medical Services (EMS) Department and authorizing the City Manager of the City of Wharton to execute any and all documents related to said purchase.

City Manager Andres Garza, Jr. stated that on February 12, 2015, the ESD #3 Board voted to grant funding for the purchase and installation of software for the City of Wharton Emergency Medical Services (EMS) Department. City Manager Garza presented a copy of EMS Director John Kowalik's memorandum dated February 19, 2015 providing his request to purchase of software in the amount of \$19,089.00 from ESO Solutions, Inc. Mr. Kowalik stated that he had requested quotes and was recommending the software be purchased from ESO. After some discussion, Councilmember Don Mueller moved to approve City of Wharton Resolution No. 2015-13, which read as follows:

CITY OF WHARTON

RESOLUTION NO. 2015-13

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE PURCHASE AND INSTALLATION OF SOFTWARE FOR THE CITY OF WHARTON EMERGENCY MEDICAL SERVICES DEPARTMENT AND, AUTHORIZING THE CITY MANAGER OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID CONTRACT.

WHEREAS, the City of Wharton City Council felt it was in the best interest of the City of Wharton EMS Personnel and respective clients to purchase and install ESO Solutions, Inc. software, which would allow for direct integration of patient information between the Wharton EMS Ambulances and hospitals; and

WHEREAS, the Wharton County Emergency Services District No. 3 agreed to provide the funding necessary for the purchase and installation of said software; and

WHEREAS, the Wharton County ESD No. 3 voted to approve funding in the amount of \$19,089.00 to be used to purchase and install said software; and

WHEREAS, the Wharton City Council wishes to accept the said funding from the Wharton County ESD No. 3; and

WHEREAS, the Wharton City Council wishes to purchase ESO Solutions, Inc. software; and

WHEREAS, the Wharton City Council wishes to authorize the City Manager of the City of Wharton to execute any and all documents related to said software's purchase and installation.

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 accepts funding from the Wharton County Emergency Services District No. 3 in the amount of \$19,089.00 to be used to purchase and installation of ESO Solutions, Inc. software, manufacturer of said equipment.

Section II. That the City Manager of the City of Wharton is hereby authorized to execute any and all documents related to said equipment's purchase and installation.

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

Passed, Approved, and Adopted this 23rd day of February 2015.

CITY OF WHARTON, TEXAS

DOMINGO MONTALVO, JR.
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The eighth item on the agenda was to review and consider Wharton Police Department Annual Contact Report for 2015. City Manager Andres Garza, Jr. presented a copy of the memorandum dated February 18, 2015 to him from Police Chief Terry D. Lynch submitting the City of Wharton 2015 Racial Profiling Report in accordance with Senate Bill 1074. Chief Lynch stated that no complaints were received regarding racial profiling. He stated that the traffic contacts that resulted in a citation or an arrest by race or ethnicity were:

Caucasian/White	671	32.4%
Hispanic	616	29.7%
Black	742	35.8%
Asian	27	1.3%
Middle Eastern-Descent	17	0.8%
Native American	0	0.0%

Chief Lynch stated that the report needs only to be presented and that action was not required by the City Council. After some discussion, no action was taken.

The ninth item on the agenda was to review and consider an Ordinance amending the City of Wharton Code of Ordinances, Chapter 86, Utilities and Services, Article I in General Section 86-1 by adding and deleting definitions as stated; providing a savings clause and revoking all ordinances or parts of ordinances in conflict herewith only to the extent same are in conflict herewith otherwise provided herein. City Manager Andres Garza, Jr. stated that on January 26, 2015, the City Council adopted Ordinance No. 2015-04, that set the requirements for the disposal of grease. City Manager Garza said the amendment would allow definitions that were found in other sections of the ordinance to be consistent. After

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some discussion, Councilmember Tim Barker moved to approve City of Wharton Ordinance No. 2015-05, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2015-05**

AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 86, UTILITIES AND SERVICES, ARTICLE I IN GENERAL SECTION 86-1 BY ADDING AND DELETING DEFINITIONS AS STATED; PROVIDING A SAVINGS CLAUSE AND REVOKING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH ONLY TO THE EXTENT SAME ARE IN CONFLICT HEREWITH OTHERWISE PROVIDED HEREIN.

BE IT ORDAINED by the City Council of the City of Wharton, Texas that:

Section I. Amendment

The Code of Ordinances of the City of Wharton, Texas, Chapter 86 Utilities and Services is hereby amended to be enforced by the City of Wharton as follows:

Article I. In General

Sec. 86-1. Definitions

The following words, terms and phrases, when used in this and subsequent articles shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Analytical Laboratory (or laboratory) means the independent EPA-approved laboratory specifically contracted by the City to perform required analysis of wastewater discharges subject to the requirements of this Ordinance. Only the laboratory specifically contracted by the City shall be recognized for the analysis of compliance point samples.

Approving Authority means *the* Public Works Director of the City of Wharton or his/her duly authorized representative.

Authorized Representative of the User means

- (1) If the user is a corporation:
 - (a) The president, secretary, treasurer, or a vice-president of the corporation in charge of the principal business function, or any other

person who performs similar policy or decision-making functions for the corporation; or

- (b) The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
- (2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively;
- (3) The individuals described in paragraphs 1 and 2, above may designate another authorized representative if this authorization is in writing, the authorization **specifies** the individual or position responsible for the overall operation of the facility from which the discharge originates, or specifies the individual having overall responsibility for environmental matters for the company, and this written authorization is submitted to the city.

Biochemical Oxygen Demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration [milligrams oxygen utilized per liter of wastewater (mg/l)].

Building Sewer means the extension from the building drain to the public sewer or other place of disposal (also called line lateral and line connection).

Categorical Pretreatment Standard or Categorical Standard means any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Sections 307(b) and (c) of the Clean Water Act, which applies to an Industrial User.

City means the City of Wharton, Texas, or the City Council of Wharton, Texas, and those persons authorized by the City Council to represent the City.

Chemical Oxygen Demand (COD) means the measure of the oxygen-consuming capacity of inorganic and organic matter present in the water or wastewater expressed in mg/l as the amount of oxygen consumed from a chemical oxidant in a specific test, but not differentiating between stable and unstable organic matter and thus not necessarily correlating with biochemical oxygen demand.

Composite Sample means the sample resulting from the combination of individual discrete wastewater samples taken at selected intervals based on an increment of either flow or time.

Contact Cooling Water means water used for cooling which may come into direct contact with any raw material, intermediate product, waste product, or finished product either by deliberate design or by accidental occurrence.

Control Authority – City representative including but not limited to code enforcement Building Official or Public Works Director.

Control Manhole means a manhole giving access to building sewer at some point before the building sewer discharge mixes with other discharges into the public sewer.

Control Point means a point of access to course of discharge before the discharge mixes with other discharges in the public sewer. For industrial discharges, the control point is also considered the compliance point.

Compliance Point means a point of access to a course of discharge from an industrial user at which samples are collected and analyzed for flow and quality. These samples must be representative of the total discharge to the public sewer and must be collected prior to comingling with any other noncontrolled flows. Samples are taken at the compliance point of an industrial user for the purposes of determining the user's compliance with all applicable pretreatment standards and requirements. Samples collected at locations other than at the compliance point are considered for water quality information and background purposes only.

Director means the Public Works Director of the City of Wharton, or his/her duly authorized representative.

Domestic Wastewater means waterborne waste normally discharged from the sanitary conveniences of dwellings, residences, hotels, apartments, office buildings and factories, free from storm water, ground water, surface water, and industrial waste. Normal domestic wastewater shall mean domestic wastewater that is "normal" sewage for the city.

Emulsifiers, Surfactants or Lubricants means those chemical compounds, either naturally-occurring or synthetically-derived, which are added to, or incorporated into, an aqueous stream to chemically alter the properties of that stream to improve solubility, viscosity, lubricity or heat transfer characteristics.

Excessive Strength Wastewater means any industrial wastewater in which any of the following concentrations are exceeded:

BOD = 150 milligrams per liter of wastewater

TSS = 200 milligrams per liter of wastewater

Total Oil and Grease =15 milligrams per liter of wastewater

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Existing Source means any source of discharge, the construction or operation of which commenced prior to the effective date of this pretreatment Ordinance and prior to the publication date of any EPA proposed Categorical Pretreatment Standards, which would be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Clean Water Act.

Fat, Oil, and Grease (FOG) – A semi solid viscous liquid organic polar compound derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in 40 Code of Federal Regulations (CFR) Part 136, as may be amended from time to time. All are sometimes referred to herein as “grease” or “greases.”

Food-Based Oils and Greases means the liquid, semi-solid or solid substances originating from animal or vegetable sources which are encountered in sewer discharges from food processing activities. These substances are discernible from other types of oils and greases, which are not generated from typical food-processing activities.

Food-Processing Activities means those activities specifically involved in the preparation of food items for human consumption. These activities may be conducted at residential, retail, commercial or institutional type facilities.

Garbage means animal and vegetable wastes and residue from the preparation, cooking and dispensing of food and from the handling, processing, storage and sale of food products and produce.

Grab Sample means a sample, which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.

Indirect Discharge means the introduction of pollutants into the public sewer from any nondomestic or industrial source regulated under Section 307(b), (c), or (d) of the Clean Water Act.

Industrial Oils and Greases means those oils and greases present in wastes discharged from industrial facilities as a result of industrial activities conducted at those facilities. Industrial oils and greases may be food-based, petroleum-based, synthetic or natural products that are employed in industrial operations or which are an integral part of those operations.

Industrial User means any person that discharges industrial wastes to the public sewer system and any other source of "indirect discharge" as defined above. An industrial facility is one that engages in manufacturing, production or processing operations and which has been identified as such by the Standard Industrial Classification Code applicable to that facility.

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Industrial Waste means water-borne solids, liquids, or gaseous wastes resulting from a discharged, permitted to flow, or escaping from any industrial, manufacturing, or processing operation, or any mixture of these wastes with water or domestic wastewater. This definition does not apply to food preparation or other institutional wastes, which are considered "nondomestic" wastes.

Industrial Waste Charge means the charge made on those persons who discharge industrial wastes into the public sewer system.

Industrial Waste Permit means the authorization, by way of issuance of a permit, by the Director to an industrial facility to discharge particular waste streams to the public sewer system. The permit describes the wastes and concentrations, which may be discharged by a facility and describes the conditions under which those wastes may be discharged.

Instantaneous Maximum Allowable Discharge Limit means the maximum concentration (or loading) of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference means a discharge which alone or in conjunction with a discharge or discharges from other sources inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal, and therefore, is a cause of a violation of the City's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Act; the Solid Waste Disposal Act, Resource Conservation and Recovery Act (RCRA); any State regulation contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

Milligrams per liter (mg/l) means the same as parts per million and is a weight-to-volume ratio; the milligram-per-liter value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.

Minor Industrial User means any nonsignificant industrial user which may discharge "excessive strength wastewater" (as the term is herein defined) to the public sewer system, but that is not a Significant Industrial User.

National Pollution Discharge Elimination System (NPDES) means the federal wastewater and storm water permitting program authorizing discharges to waters of the U.S. This permitting program sets out requirements for industrial discharges in addition to State and Local permit programs.

Natural Outlet means any outlet into a watercourse, ditch, lake or other body of surface water or groundwater.

New Source means

- (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the effective date of this pretreatment Ordinance or after the publication date of any EPA proposed pretreatment standards under Section 3070 of the Clean Water Act which would be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - (a) The building, structure, facility, or installation is constructed at a site at which no existing source is located; or
 - (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (c) The production or wastewater generated or processed at the building, structure, facility, or installation is substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, will be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1) (b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
 - (a) Begun, or caused to begin as part of a continuous onsite construction program
 - (i) any placement, assembly, or installation of facilities or equipment; or
 - (ii) significant site preparation work including clearing, excavation, or removal of existing building structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

- (b) Entered into a binding contractual obligation for the purchase of facilities or equipment, which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Nondomestic User means any person that discharges nondomestic wastes to the public sewer system that is not considered an industrial waste. Nondomestic sources include those wastes from food preparation and processing, commercial and retail facilities and institutional wastes from hotels, hospitals, schools, criminal justice facilities, nursing homes and other miscellaneous nonindustrial activities.

Noncontact Cooling Water means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Overload means the imposition of organic or hydraulic loading on a treatment facility in excess of its engineered design capacity.

Pass Through means a discharge which exits the Publicly Owned Treatment Works (POTW) into water of the U.S. in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's NPDES permit (including an increase in the magnitude or duration of a violation).

Person means any individual, group of individuals, authorized corporate representatives or corporation which is directly involved in and responsible for the discharge of any wastes to the public sewer system.

Petroleum - Based Oil and Grease means those liquid semi-solid or solid wastes originating from petroleum products, including crude and refined oils, distillates, degreasing solvents, lubricating oils and cooling or thermal oils.

pH means the reciprocal of the logarithm (base ten) of the hydrogen ion concentration expressed in grams per liter.

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural, food-based, synthetic, and petroleum oil or petroleum oil-containing wastes and industrial wastes, and certain characteristics of wastewater [i.e., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor].

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to (or

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in lieu of) introducing such pollutant into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means. Dilution of an industrial waste stream with other nonpolluted waters or domestic wastes is, not permitted as a form of pretreatment.

Pretreatment Requirements means any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

Pretreatment Standards (or Standards) shall mean prohibited discharge standards, Categorical Pretreatment Standards, and other Federal, State or local limits set out in, this pretreatment Ordinance.

Prohibited Discharge Standards (or Prohibited Discharges) means absolute prohibitions against the discharge of certain substances.

Publicly Owned Treatment Works (POTW) means a "treatment works", or combination of all wastewater collection and treatment facilities owned and operated by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to treatment plant. This definition, however, does not include pipes, sewers, other conveyances, or sampling points located exclusively on private property, and that are physically located anterior to the indirect discharge point.

Sanitary sewer means a public sewer that conveys domestic wastewater or industrial wastes or a combination of both and into which stormwater, surface water, groundwater and other unpolluted wastes are not intentionally passed.

Sewage means the normal mixture of human wastes generated by domestic, residential, institutional, commercial and restaurant facilities. Sewage may include some cleaning compounds such as soaps, detergents or other cleaning products.

Septic Tank Wastes means those liquid and solid wastes collected from underground septic systems. Septic systems are those which use biological processes to treat domestic sewage and do not include industrial waste systems.

Significant Industrial User means:

- (1) A user subject to any Categorical Pretreatment Standards; or
- (2) A user that:
 - (a) Discharges an average of 25,000 gallons per day (gpd) or more of nondomestic wastewater to the POTW; or

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- (b) Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - (c) Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
- (3) Upon finding that a user meeting the criteria in Subsection (2) has no reasonable potential for adversely affecting the POTW's operation, or for violating any pretreatment standard or requirement, the City may, at any time, on its own initiative, or in response to a petition received from a user determine that such use should not be considered a significant industrial user.

Slug Load (or Slug) means any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards of this Ordinance.

Standard Methods means the examination and analytical procedures set forth in the latest edition, at the time of analysis, of Standard Methods for the Examination of Water and Wastewater, as prepared, approved and published jointly by the American Public Health Association, the American Water Works Association and the Water Environment Federation (WEF).

Storm Sewer means a public sewer, which carries stormwaters and surface waters and drainage, and into which domestic wastewater or industrial wastes are not intentionally passed.

Stormwater means rainfall or any other forms of precipitation and the natural over land drainage of precipitation.

Total Suspended Solids (TSS) – The total suspended matter that floats on the surface of or is suspended in water, wastewater or other liquid and which is removable by laboratory filtering.

To Discharge means to deposit, conduct, drain, emit, throw, run, allow to seep or otherwise release or dispose of or to allow, permit or suffer any of these acts or omissions.

Grease Trap – A receptacle utilized by commercial or industrial generators of liquid waste to intercept, collect and restrict the passage of organic, inorganic, greasy or fatty liquid, semi-liquid and/or solid wastes into both public and private sanitary sewers to which the receptacle is directly or indirectly connected. Typically located inside a building with a capacity of less than 500 gallons.

Unpolluted Wastewater means water, which does not contain any:

- (1) Free or emulsified grease or oil;
- (2) Acids or alkalis;
- (3) Phenols or other substances producing taste or odor in the receiving water;
- (4) Toxic or poisonous substances in suspension, colloidal state or solution;
- (5) Noxious or otherwise obnoxious or odorous gases;
- (6) More than ten mg/l each of suspended solids and BOD; and
- (7) Color exceeding 50 units as measured by the platinum-cobalt method of determination as specified in Standard Methods.

User (Industrial User or Nondomestic User) means any person who discharges industrial or nondomestic wastewater to the wastewater system, and any other source of indirect discharge as defined herein.

Waste means rejected, unutilized or superfluous substances in liquid, gaseous or solid form resulting from domestic, agricultural or industrial activities.

Wastewater means liquids and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are discharged into the POTW.

Wastewater Facilities includes all facilities for the collection, pumping, treating and disposing of wastewater and industrial wastes.

Wastewater Service Charge means the charge on all users of the public sewer system whose wastes do not exceed in strength the concentration values established as representative of normal wastewater.

Wastewater Treatment Plant or Treatment Plant means that portion of the POTW, which is designed to provide treatment of sanitary wastewater and industrial waste.

Watercourse means a natural or manmade channel in which a flow of water occurs, either continuously or intermittently.

Secs. 86-24 -86-40. Reserved.

Section II. Severability

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If any court of competent jurisdiction rules that any section, subsection, sentence, clause, phrase, or portion of this ordinance is invalid or unconstitutional, any such portion shall be deemed a separate, distinct, and independent provision, and any such ruling shall not affect the validity of the remaining portions hereof.

Section III. Effective Date

This ordinance shall be effective on the 1st day of March 2015 at 12:01 a.m.

Section IV. Passage and Approval

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, this 23rd day of February 2015.

CITY OF WHARTON, TEXAS

By: _____
DOMINGO MONTALVO, JR.
Mayor

ATTEST:

Paula Favors
City Secretary

APPROVED AS:

PAUL WEBB
City Attorney

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

The tenth item on the agenda was to review and consider the Texas Department of Public Safety 2013 Grant Adjustment Notice for City of Wharton – SAA Award #13-GA 78136-02F. City Manager Andres Garza, Jr. presented an email to him from Emergency Management Coordinator Steve Johnson regarding a Grant Adjustment Notice from Texas Department of Public Safety for unexpended funds of \$1709.91 from the Homeland Security Grant Program (HSGP) State Homeland Security Program (SHSP) for SAA Award Number 13-GA 78136-02F. Sgt. Johnson stated all funds from the grant were used with the exception of \$1709.91. After some discussion, Councilmember Russell Machann moved to approve the Texas Department of Public Safety 2013 Grant Adjustment Notice

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for the City of Wharton – SAA Award #13-GA 78136-02F in the amount of \$1709.91. Councilmember Tim Barker seconded the motion. All voted in favor.

The eleventh item on the agenda was to review and consider Contract Extension with AshBritt, Inc. for Disaster Debris Clearance and Removal Services for the City of Wharton:

- A. **Resolution:** A resolution of the Wharton City Council extending a contract between the City of Wharton and Ashbritt, Inc. for primary Disaster Debris Clearance and Removal Services and authorizing the Mayor of the City of Wharton to execute all documents related to the agreement on behalf of the City of Wharton.

City Manager Andres Garza, Jr. presented an email to him from Emergency Management Coordinator Steve Johnson regarding an extension to the Debris Removal Contract with AshBritt, Inc. that was entered into on July 28, 2008. City Manager Garza stated that there had been several extensions to the contract and the last extension would terminate September of 2015. Sgt. Johnson stated that the amendment would extend the contract to September, 2017. After some discussion, Councilmember Tim Barker moved to approve City of Wharton Resolution No. 2015-14, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2015-14**

A RESOLUTION OF THE WHARTON CITY COUNCIL EXTENDING A CONTRACT BETWEEN THE CITY OF WHARTON AND ASHBRIIT, INC. FOR PRIMARY DISASTER DEBRIS CLEARANCE AND REMOVAL SERVICES AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO THE AGREEMENT ON BEHALF OF THE CITY OF WHARTON.

WHEREAS, On July 28, 2008, the Wharton City Council approved the City of Wharton to enter into a contract between the City of Wharton and AshBritt, Inc. for primary Disaster Debris Clearance and Removal Services; and

WHEREAS, the Parties wish to amend the contract term to extend for an additional two (2) years with a termination date of September 30, 2017; and

WHEREAS, the Parties agree that all other terms, conditions and obligations of the Contract remain in effect throughout the term of the Contract except for those provisions of the Contract that are directly contradicted by this Amendment, in which event the terms of this Amendment shall control.

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

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Section I. That the Wharton City Council hereby approves a contract amendment between the City of Wharton and Ashbritt, Inc. for primary Disaster Debris Clearance and Removal Services.

Section II. That the Wharton City Council hereby approves to authorize the Mayor of the City of Wharton to execute the amended agreement.

Section III. That the City of Wharton and Ashbritt, Inc. are hereby bound by the conditions as set forth in the amended agreement.

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

Passed, Approved, and Adopted this the 23rd day of February 2015.

CITY OF WHARTON

By: _____
DOMINGO MONTALVO, JR.
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The twelfth item on the agenda was to review and consider a request from John Alaniz of Wolfpakradio to host a Sunday Fun Day Fiesta Tribute to Selena Quintanilla's 20 Year Anniversary of Her Passing on March 29, 2015 from 11:00 a.m. through 5:00 p.m.:

- A.** Road closing at Fulton between Milam and Burleson prior to event which will run from 11:00 a.m. through 5:00 p.m.
- B.** Approximately 20 trash containers with liners throughout the venue.
- C.** Use of the City of Wharton stage and City personnel to assemble and dismantle the stage at no cost.
- D.** Waiver of Security fees for the day of the event.
- E.** Waiver of permit(s), if required.

Mr. John Alaniz of Wolfpakradio stated the event would be a family event without alcohol being served and would honor the 20th anniversary of the passing of Selena Quintanilla. After some discussion, Councilmember Tim Barker moved to approve afore mentioned items A., B., D., and E. Councilmember Russell Machann seconded the motion. All voted in favor.

The thirteenth item on the agenda was to review and consider a resolution of the Wharton City Council approving the submission of an application to the Criminal Justice Division (CJD) of the Governor's Office for funding of a diversion program titled *Passport to Manhood*. City Manager Andres Garza, Jr. presented a letter from the Wharton Boys and Girls Club requesting for the City of Wharton to act as the Grantee for funding from the Criminal Justice Division (CJD) of the Governor's office. Finance Director Joan Anel stated the City had acted as grantee on previous programs for the last three years. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Resolution No. 2015-15, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2015- 15**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE SUBMISSION OF AN APPLICATION TO THE CRIMINAL JUSTICE DIVISION (CJD) OF THE GOVERNOR'S OFFICE FOR FUNDING OF A DIVERSION PROGRAM TITLED PASSPORT TO MANHOOD.

WHEREAS, the Wharton City Council wishes to authorize the submission of an application to CJD for funding of a diversion program titled Passport to Manhood using an external contractor; and

WHEREAS, the application would be for funding a diversion program administered by an external contractor for the City of Wharton in the amount of \$65,995.52.

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

WHEREAS, the Wharton City Council designates Domingo Montalvo, Jr., Mayor, as the grantee's authorized official. The authorized official is given the power to apply for, accept, reject, alter, or terminate the grant on behalf of the applicant agency.

WHEREAS, the Wharton City Council gives written assurance that in the event of loss or misuse of grant funds, the City of Wharton will return funds to CJD.

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

Section 1. The Wharton City Council authorizes the submission of an application to CJD for funding a diversion program in the amount of \$65,995.52.

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

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PASSED, APPROVED AND ADOPTED this 23rd day of February 2015.

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 fourteenth item on the agenda was to review and consider an application for utility service by Exelon which was located outside of the Wharton City Limits. City Manager Andres Garza, Jr. presented an application from Exelon for water service. City Manager Garza stated that the original contract with Exelon allowed the one water tap, however due to the construction work they are requesting an additional tap that required City Council's action in accordance with the City's Utility Ordinance. Public Works Director Kyle Marchant, P.E. requested the City Council consider approving a two inch tap instead of the requested three inch tap. After some discussion, Councilmember Don Mueller moved to approve the application for a two inch water tap by Exelon which was located outside of the Wharton City Limits. Councilmember Tim Barker seconded the motion. All voted in favor.

The fifteenth item on the agenda was to review and consider a request from Ricochet Energy, Inc. for approval for use of Wharton Municipal Airport road for access to proposed drill site location. City Manager Andres Garza, Jr. stated that on January 27, 2015, he received a letter from Mr. Ray Gallaway, Jr., Vice President of Land & Legal for Ricochet Energy, Inc. requesting approval for use of Wharton Municipal Airport road for access to their proposed drill location. City Manager Garza said their concern was the existing entrance road to O.B. Ranches not having ample clearance crossing the railroad tracks for their rigs to enter the property. He said that on February 19, 2015, Airport Manager David Allen and he met with Mr. Gallaway to discuss their request. City Manager Garza said after the meeting, he proposed to Mr. Gallaway that the request be narrowed to the following:

1. A one-time use for placing and removing the gas drilling rig.

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2. If for some reason they needed to bring in equipment or material that could not be brought in through their entrance they needed to obtain City permission from the Airport Manager, this would be on a case-by-case basis
3. They provide a bond to insure that if they damaged the road it would be repaired.
4. All contingent on the TxDOT Aviation Division allowing the City Airport to approve this request.

City Manager Garza presented Google Earth photos of their entrance as well as the entrance to the airport. He said the Public Works Committee met on Monday, February 9, 2015 and recommended City Council consider approving the requested from Ricochet Energy, Inc. contingent on the proposed requests. After some discussion, Councilmember Russell Machann moved to approve the request from Ricochet Energy, Inc. for use of the Wharton Municipal Airport road for access to proposed drill site location with the following conditions:

1. A one-time use for placing and removing the gas drilling rig.
2. If for some reason they needed to bring in equipment or material that could not be brought in through their entrance they needed to obtain City permission from the Airport Manager, this would be on a case-by-case basis
3. Provide a bond to insure that if they damaged the road it would be repaired.
4. All contingent on the TxDOT Aviation Division allowing the City Airport to approve this request.

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

The sixteenth item on the agenda was to review and consider update of City of Wharton on-going Projects. City Manager Andres Garza, Jr. presented a copy of the memorandum dated February 3, 2015 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>.

Half Associates submitted the 100% set of construction plans for the portion of the levee under design and the City Staff has reviewed the document. The City Staff has indicated to Half 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 construction plans. The City Staff and Half 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 Half

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 from FM 102 to Business 59. The U.S. Corps of Engineers requested the City submit a letter of support for the 2016 Federal Budget. Mayor Montalvo has submitted to the Corp a letter requesting assistance for this project. The City is awaiting a response.

On December 17, 2014, the City Staff met with US Army Corp of Engineers on the Wharton Flood Reduction Project (Levee Project). The Corp of Engineers informed the City of the possibility to receive funding for continuation of the construction phase of the project, a Value Engineering Study is needed. The Corp of Engineers is requesting an additional \$25,000 of the non-Federal dollars and they will contribute \$75,000 of Federal dollars to modify Phase 1 Plans and Specs which would result in significant savings to the project. This study is necessary to continue with this project and allows us to remain compliant with the US Army Corp of Engineers Section 902 Cost Limit Policy.

On January 26, 2015 the City Council approved the request of \$25,000 for the Value Engineering Study recommendation to modify the plans and specifications. The City Staff is awaiting the Corps' response.

DRAINAGE:

1. Santa Fe Outfall Channel.

The Public Works Department has finished excavation of the channel. During the month of January, routine maintenance was done on the Channel. The channel is slowly increasing in grass cover which is allowing several eroded areas to heal themselves over time. The Public Works Department has installed grade stabilization structures to eliminate erosion thereby reducing or eliminating the need to reshape the channel areas with active erosion. 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. Work on property owners land is now complete.

2. Stavena Addition Drainage Project.

The design and construction plans are complete. The challenge on this project is to find locations to place approximately 35,000 cubic yards of soil.

3. Ahldag Ditch Improvement.

The project was approved in the 2013 Bond Program. Public Works Director is currently working out the details.

WATER/SEWER IMPROVEMENTS:

1. On-going Water and Sewer Maintenance Program.

Water leaks and sewer failures are still being seen in the month of January.

The grease ordinance was adopted by the City Council on January 26, 2015 with implementation date of March 1, 2015. The Public Works and Code Enforcement Departments will begin the implementation of the Ordinance.

2. Alabama Street Sewer Line Project.

Bid opening resulted in one bid which was substantially higher than anticipated. City Council rejected the bid on December 19, 2014 and the City Staff is reviewing the project for base bid and alternate bid options.

After the bid was rejected as a combined project, the City Staff is proposing to submit to the Texas Department of Agriculture for the 2015-2016 Texas Community Development Board Grant for funding along of the Rusk 2, 3 and 4 Addition sewer lines along with lateral lines.

3. Kelving Way and Croom/Price Waterline Project.

After the bid was rejected on December 19, 2014 for the combined project, the City Staff is evaluating how to proceed with this project.

4. South Highway 60 Waterline Extension Project.

This project was completed. With the few items that were not finalized by AR Turnke. The City Staff is consulting with Exelon on the close—out of this contract.

5. Wastewater Treatment Plant No. 1 Improvement Project.

The City Staff met with Jones & Carter, Inc. on January 28, 2015 to discuss design efforts, engineering, new cost estimates of this project. The preliminary cost estimate came in quite a bit higher than the allocation in the Bond Fund. The City Staff met with the City Council Public Works Committee to develop the bid format in order to proceed.

6. WWTP 1 & 2 Permit Renewals.

Permits have been received for both plants, however we are now required to test for E-coli.

7. Ahldag Additional Sanitary Sewer System Improvement Project TxCDBG No. 713510.

City Council approved a Notice of Award for Supak Construction on December 19, 2014. Contracts have been executed. The project should be ready to proceed in the next few weeks.

STREET IMPROVEMENTS

1. FM 1301 Extension and Overpass Project Progress Report.

IDC Inc. continues to work with City Staff in an effort to develop engineering design for the project. The City Staff continues to coordinate with TxDOT to ensure the project continues to move forward.

The City Staff is awaiting Environmental Clearance from the Federal Highway Administration (FHWA). Once received the City will begin to move toward the acquisition of property for this project.

2. I-69 Project.

The City Council authorized the submission of comments proposed improvements previously submitted by the City to TxDOT.

3. Wharton Sidewalk Accessibility and Historic Streetscape Project.

Phase II - A pre-design meeting was held with TxDOT Yoakum on December 3, 2014 with CivilCorp and members of City Staff. Plans are approximately 90% complete.

4. On-going Street and Drainage Maintenance Program.

The Public Works Department has continued working on cleaning residential drainage ditches that have experienced poor drainage.

5. Kansas City Southern Railroad Quiet Zone.

The City Council gave BEFCO Engineering authorization to submit the PPA at the October 13, 2014 meeting. Based on the return receipt, the Federal Railroad Administration (FRA) acknowledged receipt of the application on October 27, 2014. This process could take approximately 6- 12 months for the response from the FRA.

WHARTON REGIONAL AIRPORT

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1. Hangar Construction Project.

The project is moving forward.

After some discussion, no action was taken.

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

- A. Electrical Board.
- B. Holiday Light Decorating Chairman.
- C. Beautification Commission.
- D. Planning Commission.

City Manager Andres Garza, Jr. stated that Ms. Jeanene Merka who served on the Planning Commission passed away on February 16, 2015. After some discussion, no action was taken.

The eighteenth item on the agenda was to review and consider City Council Boards, Commission and Committee Report:

- A. Public Works Committee meeting held on February 9, 2015.
- B. Finance Committee meeting held on February 9, 2015.

After some discussion, no action was taken.

The nineteenth item on the agenda was 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 twentieth 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 8:02 p.m.

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CITY OF WHARTON, TEXAS

By: _____

Don Mueller
Mayor Pro-Tem

ATTEST:

Paula Favors
City Secretary