

**MINUTES  
OF  
CITY OF WHARTON  
REGULAR CITY COUNCIL MEETING  
MAY 11, 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, Donald Mueller and Steven Schneider.

Councilmember absent was: Russell Machann.

Staff members present were: City Manager Andres Garza, Jr., Finance Director Joan Andel, City Secretary Paula Favors, City Attorney Paul Webb, Assistant to the City Manager Brandi Jimenez, Assistant to the Building Official Gwyn Laney, EMS Director John Kowalik, Public Works Director Kyle Marchant, P.E., and Fire Chief Anthony Abbott.

Visitors present were: Wharton Economic Development Director David Schroeder, Jim Cockrell, D'Sean Harris, Shawna Harris, Otis Harris, Julio Aguilar, I.O. Coleman, Jr., Susan Freese, Carlos Cotton, P.E., with Jones and Carter, Inc., Cliff Braddock with Pepco Energy Services and Natalie Frels with the Wharton Journal Spectator.

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

The third item on the agenda was Public Comments. No comments were made.

The fourth item discussed on the agenda was a proclamation recognizing May as Motorcycle Awareness Month. Mayor Domingo Montalvo, Jr. declared May as Motorcycle Awareness Month. The Proclamation read as follows:

**CITY OF WHARTON  
OFFICE OF THE MAYOR  
Proclamation**

**Whereas,** Motorcycle riding is a popular form of transportation and recreation for over two hundred thousand people across the state and millions across the nation; and,

**Whereas,** In an effort to make motorcycling in Texas a safer and more enjoyable sport, motorcycling organizations from around the state are now planning a collective venture to promote Motorcycle Awareness; and,

**Whereas,** The City of Wharton, wishes to promote the safety campaign of The National Highway Traffic Safety Administration in their effort to ensure the safety and wellbeing of all; and,

**Whereas,** It is especially important that the citizens of Wharton and the State of Texas be aware of motorcycles on the streets and highways and recognize the importance of motorcycle safety; and,

**Whereas,** The National Highway Traffic Safety Administration and the Motorcycle Safety Foundation have named May as Motorcycle Safety and Awareness Month.

**Now, Therefore,** I, Domingo Montalvo, Jr., by the authority vested in me as Mayor of the City of Wharton, Texas, do hereby proclaim the month of May 2015 as

**MOTORCYCLE AWARENESS MONTH**

in the City of Wharton, Texas, and do hereby urge all the citizens to become aware of and support Motorcycle Awareness.

**IN WITNESS THEREOF,** I have set my hand and caused the seal of the City of Wharton to be affixed this 11<sup>th</sup> day of May, in the year of our Lord two thousand fifteen A.D.

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Domingo Montalvo, Jr.  
Mayor, City of Wharton

The fifth item discussed on the agenda was to review and consider the Wharton Moment. No comments were made.

The sixth item on the agenda was to review and consider the reading of the minutes from the regular meetings held on April 13, 2015 and April 27, 2015. After some discussion, Councilmember Al Bryant moved waive the reading of the minutes from the regular meetings held on April 13, 2015 and April 27, 2015 and approve them as presented. Councilmember Don Mueller seconded the motion. All voted in favor.

The seventh item on agenda was to review and consider the acceptance of resignation of Public Works Director Kyle Marchant. City Manager Andres Garza, Jr. presented the Public Works Director Kyle Marchant's resignation letter. Mr. Marchant thanked the City Council, his staff and the City of Wharton for the opportunity to work for the City. After some discussion, Councilmember Don Mueller moved to accept the resignation of Public Works Director Kyle Marchant. Councilmember Al Bryant seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider a recommendation from the Planning Commission regarding a request by Mr. and Mrs. Ken Freese of Freese Realty for a variance to build over existing property line at 1013 N. Alabama Road, Mayfair, Block 1, Lots 1 & 2. City Manager Andres Garza, Jr. presented a request from the Planning Commission regarding a variance request from Mr. and Mrs. Ken Freese of Freese Realty to build over an existing property line at 1013 N. Alabama Road, Mayfair, Block 1, Lots 1 & 2. Assistant to the Building Official Gwyn Laney stated that the Planning Commission had reviewed the request and were recommending City Council approval. After some discussion, Councilmember Don Mueller moved to approve the request by Mr. and Mrs. Ken Freese of Freese Realty for a variance to build over existing property line at 1013 N. Alabama Road, Mayfair, Block 1, Lots 1 & 2. Councilmember Al Bryant seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider a resolution of the Wharton City Council amending a contract between the City of Wharton and Pepco Energy Services for energy conservation measures 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. stated that on January 13, 2014, the Wharton City Council approved the City of Wharton to enter into a contract with Pepco Engineering Services for conservation measures. Garza said the City and Pepco wished to amend the original contract which would reduce the contract cost and the City had authorized the City staff to pursue funding through the Qualified Energy Conservation Bond Program through the State of Texas. Garza said that after reviewing the scope of work with the Texas Bond Review Board it was determined that the scope needed to be revised to meet their criteria. Garza stated that the City staff and Pepco representatives have made the necessary changes to the scope of work to meet the state requirements, therefore, the City staff was requesting City Council authorization to amend the scope of work in the agreement with Pepco Energy Services which would be contingent on the City obtaining the funding from the state QECB program. Mr. Cliff Braddock with Pepco Energy Services stated that the project would touch almost every City facility and the City would be guaranteed savings from reduced energy bills or receive payment for the difference from Pepco. After some discussion, Councilmember Don Mueller moved to approve City of Wharton Resolution No. 2015-33, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2015-33**

**A RESOLUTION OF THE WHARTON CITY COUNCIL AMENDING A CONTRACT  
BETWEEN THE CITY OF WHARTON AND PEPCO ENERGY SERVICES FOR**

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**ENERGY CONSERVATION MEASURES 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 January 13, 2014, the Wharton City Council approved the City of Wharton to enter into a contract between the City of Wharton and Pepco Engineering Services for energy conservation measures; and,

**WHEREAS,** the Parties wish to amend the original contract scope of work which would reduce the contract cost; 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; and,

**WHEREAS,** the contract with Pepco Energy Services is contingent on the City of Wharton obtaining the financing of the scope of work through the State of Texas Qualified Energy Conservation Bond (QECB) Program.

**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 a contract amendment between the City of Wharton and Pepco Energy Services for energy conservation measures.

**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 contract with Pepco Energy Services is approved contingent on the City of Wharton obtaining the financing of the scope of work through the State of Texas Qualified Energy Conservation Bond (QECB) Program.

**Section IV.** That the City of Wharton and Pepco Energy Services are hereby bound by the conditions as set forth in the amended agreement.

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

**Passed, Approved, and Adopted** this the 11<sup>th</sup> day of May 2015.

**CITY OF WHARTON**

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

**ATTEST:**

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**PAULA FAVORS**  
City Secretary

Councilmember Tim Barker 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 adopting the City of Wharton Investment Policy after the Annual Review of City of Wharton Investment Policy and setting an effective date. Finance Director Joan Anandel stated that the City of Wharton Investment Policy must be reviewed and adopted annually. Mrs. Anandel said that the City of Wharton Financial advisor, Mr. Jim Gilley had reviewed the proposed policy and suggested minor changes. She said that City Staff had made the changes and were recommending City Council consider adopting the Investment Policy. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Resolution No. 2015-34, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2015-34**

**A RESOLUTION OF THE WHARTON CITY COUNCIL ADOPTING THE CITY OF WHARTON INVESTMENT POLICY AFTER THE ANNUAL REVIEW OF THE CITY OF WHARTON INVESTMENT POLICY, SETTING AN EFFECTIVE DATE.**

**WHEREAS,** the Public Funds Investment Act, requires the City Council to review and adopt, by resolution, the investment policies and strategies for the City of Wharton on an annual basis; and,

**WHEREAS,** the City of Wharton designates the City Manager and the Finance Director as investment officers; and,

**WHEREAS,** the City of Wharton approves the training courses sponsored or endorsed by the Texas Municipal League, the Government Finance Officers Association of Texas, the Government Treasurers Organization of Texas, or the North Central Texas Council of Governments as adequate to meet the investment training requirements; and,

**WHEREAS,** the attached investment policy complies with the Public Funds Investment Act and authorizes the investment of City funds in safe and prudent investments.

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

**Section I.** The City of Wharton has complied with the requirements of the Public Funds Investment Act and the Investment Policy attached hereto as “Exhibit A” is hereby adopted as the Investment Policy of the City of Wharton effective May 11, 2015.

**Section II:** That this resolution shall be come effective immediately upon its passage.

**Passed, Approved, and Adopted** this 11<sup>th</sup> day of May 2015.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

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**PAULA FAVORS**  
City Secretary

Councilmember Tim Barker seconded the motion. All voted in favor.

The eleventh item on the agenda was to review and consider a request to solicit proposals for Audit Services. Finance Director Joan Andel presented a draft proposal for review by the City Council. After some discussion, Councilmember Tim Barker moved to approve the request to solicit proposals for Audit Services. Councilmember Steven Schneider 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 of Wharton, Texas, establishing guidelines and criteria for granting tax abatement in a reinvestment zone created in the City of Wharton, Texas. City Manager Andres Garza, Jr. stated the item would be presented to the City Council at a future meeting after it was reviewed by the City Council Finance Committee. After some discussion, no action was taken.

The thirteenth item on the agenda was to review and consider a resolution providing for the public sale of property acquired by the City of Wharton from delinquent taxes. City Manager Andres Garza, Jr. stated that Ms. Leslie Hilliard with McCreary Veselka Bragg & Allen PC Attorneys at Law was requesting that the described properties were offered for sale by the Sheriff of Wharton County, Texas at a public auction prior to a judgment of foreclosure for

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delinquent taxes by the District Courts of Wharton County. City Manager Garza said that the properties did not receive sufficient bids as set by law and were struck off to the County of Wharton and later conveyed to the City of Wharton, Texas as Trustee. He said they would be up for sale at no minimum bid.

- Cause # 7502 – Lot 49 of Elizabeth Branch Subdivision, City of Wharton, Wharton County, Texas
- Cause # 8444 – 50 feet by 102.8 feet, containing .118 acre, more or less, situated in the A. Jackson survey, Abstract 34, City of Wharton, Wharton County, Texas

After some discussion, Councilmember Al Bryant moved to approve City of Wharton Resolution No. 2015-35, which read as follows:

**CITY OF WHARTON  
 RESOLUTION NO. 2015-35**

**RESOLUTION PROVIDING FOR THE PUBLIC SALE  
 OF PROPERTY ACQUIRED BY THE CITY OF WHARTON  
 FROM DELINQUENT TAXES.**

**WHEREAS**, the following described properties were offered for sale by the Sheriff of Wharton County, Texas at a public auction pursuant to a judgment of foreclosure for delinquent taxes by the District Courts of Wharton County; and

**WHEREAS**, the following described properties did not receive sufficient bids as set by law and were struck off to the County of Wharton and later conveyed to the City of Wharton, Texas as Trustee, for the use and benefit of itself and the other taxing units for which levied taxes on the properties, pursuant to TEX. PROP. TAX CODE § 34.01 (j); and

**WHEREAS**, TEX. PROP. TAX CODE § 34.05 (c) and (d) provide that a taxing unit may request that the Sheriff sell the property at a public sale to the highest bidder with no minimum bid required,

<b>CAUSE #</b>	<b>SUIT STYLING</b>	<b>ACCOUNT #</b>	<b>LEGAL DESCRIPTION</b> ALL PROPERTIES LOCATED IN WHARTON COUNTY, TEXAS UNLESS OTHERWISE NOTED	<b>DEED REFERENCE</b> (Volume/Page, Official Public or Deed Records of Wharton County, Texas)	<b>ORIGINAL SALE DATE</b>
7502	WHARTON COUNTY ET AL VS. ROBERT JACK GOLDEN	R011873	LOT 49 OF ELIZABETH BRANCH SUBDIVISION, CITY OF WHARTON, WHARTON COUNTY, TEXAS	611/924	4/5/2005

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8444	WHARTON COUNTY, ET AL VS. EUGENE WILSON	R022109	50 FEET BY 102.8 FEET, CONTAINING .118 ACRE, MORE OR LESS, SITUATED IN THE A. JACKSON SURVEY, ABSTRACT 34, CITY OF WHARTON, WHARTON COUNTY, TEXAS	770/535	11/4/2008
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**THEREFORE, BE IT HEREBY RESOLVED** that the City of Wharton, Texas, does hereby request the Sheriff of Wharton County, Texas to conduct a public sale in the manner prescribed by the Texas Rules of Civil Procedure and § 34.05 (c) and (d) of the Texas Tax Code and sell the following described properties to the highest bidder for cash.

**THEREFORE, BE IT HEREBY RESOLVED** that the City of Wharton, Texas hereby directs the Sheriff of Wharton County, Texas to conduct a sale on the first Tuesday in July, 2015, in the manner prescribed by the Texas Rules of Civil Procedure and TEX. PROP. TAX CODE § 34.05 (c) and (d).

**THIS RESOLUTION WAS PASSED, APPROVED AND ADOPTED** this 11<sup>th</sup> day of May, 2015.

**CITY OF WHARTON, TEXAS**

**BY:**

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**DOMINGO MONTALVO, JR.**  
Mayor

**ATTEST:**

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**PAULA FAVORS**  
City Secretary

Councilmember Tim Barker seconded the motion. All voted in favor.

The fourteenth item on the agenda was to review and consider rescheduling May 25, 2015 Regular City Council Meeting due to Memorial Day Holiday. City Manager Andres Garza, Jr. stated that the next regular City Council meeting was scheduled to be held on Monday, May 25, 2015. Garza said that on that day, the City Offices would be closed in observation of Memorial Day and the City staff was recommending the regular meeting be rescheduled to a



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different date which would be Tuesday, May 26, 2015. After some discussion, Councilmember Don Mueller moved to approve rescheduling the May 25, 2015 Regular City Council Meeting due to the Memorial Day Holiday to Tuesday, May 26, 2015. Councilmember Tim Barker seconded the motion. All voted in favor.

The fifteenth item on the agenda was to review and consider a resolution of the Wharton City Council approving a contract between the City of Wharton and the Department of State Health Services for funding for a remount of one EMS unit and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. presented a copy of EMS Director John Kowalik's memorandum dated May 4, 2015 providing his request of a grant in the amount of \$38,912 for the remount of one EMS Unit. EMS Director John Kowalik stated that the City had also received a \$50,000 grant to go towards the remount of the ambulance as well. After some discussion, Councilmember Don Mueller moved to approve City of Wharton Resolution No. 2015-36, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2015-36**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A CONTRACT BETWEEN THE CITY OF WHARTON AND THE DEPARTMENT OF STATE HEALTH SERVICES FOR FUNDING FOR A REMOUNT OF ONE EMS UNIT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.**

**WHEREAS,** the City of Wharton received a grant award from the Department of State Health Services in the amount of \$38,912 for the funding toward a remount of one of the EMS units; and,

**WHEREAS,** the Wharton City Council wishes to approve the agreement between the City of Wharton and the Department of State Health Services for the grant award; and,

**WHEREAS,** the City of Wharton and the Department of State Health Services wishes to be bound by the conditions as set forth in the agreement; and,

**WHEREAS,** the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute 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 the agreement between the City of Wharton and the Department of State Health Services for the grant award in the amount of \$38,912 for the purchase of a remount of one of the EMS units.

**Section II.** That the City of Wharton and the Department of State Health Services are hereby bound by the conditions as set forth in the agreement.

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

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

**Passed, Approved, and Adopted** this 11<sup>th</sup> day of May 2015.

**CITY OF WHARTON, TEXAS**

**By:** \_\_\_\_\_  
**Domingo Montalvo, Jr.**  
Mayor

**ATTEST:**

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**Paula Favors**  
City Secretary

Councilmember Tim Barker seconded the motion. All voted in favor.

The sixteenth item on the agenda was to review and consider Executive Session: City Council may adjourn into an Executive Session in accordance with Section 551.071, 551.072, and 551.074 of the Government Code, Revised Civil Statutes of Texas. Final action, decision or vote, if any with regard to any matter considered in Executive Session shall be made in Open Meeting:

- A. Review & Consider:** Appointment of Director of Public Works.
- B. Review & Consider:** Discussion with City Attorney regarding contemplated litigation of ESD.
- C. Review & Consider:** Acquisition of Right of Way-FM 1301 Extension and Railroad Overpass Project.
- D. Review & Consider:** Acquisition of Right of Way-Wharton Flood Reduction (Levee) Project.

Mayor Domingo Montalvo, Jr. moved the meeting into closed session at 7:26 p.m.

The seventeenth item on the agenda was to review and consider actions on items discussed in Executive Session:

- A. Review & Consider:** Appointment of Director of Public Works.
- B. Review & Consider:** Discussion with City Attorney regarding contemplated litigation of ESD.
- C. Review & Consider:** Acquisition of Right of Way-FM 1301 Extension and Railroad Overpass Project.
- D. Review & Consider:** Acquisition of Right of Way-Wharton Flood Reduction (Levee) Project.

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Mayor Domingo Montalvo, Jr. returned to open session at 8:25 p.m. Mayor Montalvo stated that information only was received on the afore mentioned items. No action was taken.

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

- A. Beautification Commission.
- B. Holiday Light Decorating Chairman.
- C. Planning Commission.
- D. Building Standards Commission.

After some discussion, no action was taken.

The nineteenth item on the agenda was to review and consider City Council Boards, Committees and Commissions reports:

- A. Planning Commission meeting held on May 4, 2015.
- B. Wharton Regional Airport Board meeting held on May 5, 2015.

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 8:26 p.m.

**CITY OF WHARTON, TEXAS**

By: \_\_\_\_\_  
**Domingo Montalvo, Jr.**  
**Mayor**

**ATTEST:**

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