

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
AUGUST 13, 2018**

Mayor Tim Barker 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 Russell Machann led the opening devotion and Mayor Tim Barker led the pledge of allegiance.

Councilmember's present were: Mayor Tim Barker and Councilmembers Al Bryant, Terry Freese, Alice Heard-Roberts, Don Mueller, Russell Machann and Steve Schneider.

Councilmember absent were: None.

Staff members present were: City Manager Andres Garza, Jr., Finance Director Joan Anzel, City Secretary Paula Favors, City Attorney Paul Webb, Public Works Director Wade Wendt, Assistant to City Manager Brandi Jimenez and Community Development Coordinator Gwyn Teves.

Visitors present were: I.O. Coleman, Jr. and Wharton Chamber of Commerce Executive Director Ron Sanders.

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 comments were given.

The fourth item on the agenda was the Wharton Moment. Mayor Tim Barker stated the Colorado River Bridge was set to reopen sometime during the week.

The fifth item on the agenda was to review and consider the reading of the minutes from the regular meetings held July 9, 2018 and July 23, 2018 and special meeting held July 16, 2018. After some discussion, Councilmember Russell Machann moved to approve the reading of the minutes from the regular meetings held on July 9, 2018 and June 23, 2018 and special meeting held July 16, 2018. Councilmember Al Bryant seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider a request from Mr. Samuel Quintana and Ms. Hilda Quintana requesting to address the City Council regarding Ordinance 2013-16. City Manager Andres Garza, Jr. presented a letter from Mr. Samuel Quintana and Ms. Hilda Quintana requesting to address the City Council regarding Ordinance 2013-16. City Manager Garza stated Ms. Quintana requested to withdraw the request. After some discussion, no action was taken. The seventh item on the agenda was to review and consider a request by Mr. Ron Sanders, Executive Director of the Wharton Chamber of Commerce & Agriculture for City of

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Wharton assistance by approving the following for the Wine and Arts Fair to be held Saturday, October 13, 2018:

1. Close Fulton Street to traffic between Burleson Street and Milam Street and create and mark temporary no parking zones within that same area.
2. Close Houston Street to traffic between Burleson Street and the first entrance into Guffey Park and create and mark temporary no parking zones within that same area.
3. Close Polk Street to traffic between Burleson Street and Milam Street and create and mark temporary no parking zones within that same area.
4. Create and mark temporary no parking zones on the north side of Milam Street from Fulton Street to North Richmond Road.
5. Create and mark temporary no parking zones on south side of Burleson Street from Houston Street to Fulton Street.
6. Booths, vendors or other organized use of the public streets in the festival area are understood to be subject to the application process established by the chamber and the chamber's event coordinator.
7. Provide 6 generator lights for safety for the fair location and Guffey Park parking area.
8. Allow open containers for the alcohol on public property on the exterior sides of the Monterey Square and approximately one adjoining block to include all participating businesses.
9. Waive all local permit fees.
10. Turn on lights locate on top of all buildings in the downtown area.
11. Provide stage and power on Houston Street at Milam Street.

City Manager Andres Garza, Jr. presented a copy of the letter dated August 6, 2018 from Mr. Ron Sanders, Executive Director of the Wharton Chamber of Commerce & Agriculture providing his request for the afore-mentioned items. After some discussion, Councilmember Russell Machann moved to approve all afore mentioned items. Councilmember Terry Freese seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider a resolution by the City of Wharton, Texas ("City"), approving a reduction in rates charged by CenterPoint Energy Resources Corporation, D/B/A CenterPoint Energy Entex and CenterPoint Energy Texas Gas-Texas Coast Division ("CenterPoint") related to the reduction in the Federal Corporate Tax Rate; finding the reduction in CenterPoint's rates to be just and reasonable, finding that the meeting complied with the Open Meetings Act; declaring an effective date; and requiring delivery of the resolution to the company and special counsel. City Manager Andres Garza, Jr. presented a copy of the information sheet provided by Mr. Alfred R. Herrera, Herrera Law &

Associates, PLLC. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Resolution No. 2018-62, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2018-62**

A RESOLUTION BY THE CITY OF WHARTON, TEXAS (“CITY”), APPROVING A REDUCTION IN RATES CHARGED BY CENTERPOINT ENERGY RESOURCES CORPORATION, D/B/A CENTERPOINT ENERGY ENTEX AND CENTERPOINT ENERGY TEXAS GAS – TEXAS COAST DIVISION (“CENTERPOINT”) RELATED TO THE REDUCTION IN THE FEDERAL CORPORATE TAX RATE; FINDING THE REDUCTION IN CENTERPOINT’S RATES TO BE JUST AND REASONABLE; FINDING THAT THE MEETING COMPLIED WITH THE OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THE RESOLUTION TO THE COMPANY AND SPECIAL COUNSEL.

WHEREAS, the City of Wharton, Texas (“City”) is a regulatory authority under the Gas Utility Regulatory Act (“GURA”) and under § 103.001 of GURA has exclusive original jurisdiction over **CenterPoint Energy Resources Corporation, d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas – Texas Coast Division (“CenterPoint” or “Company”)** rates, operations, and service of a gas utility within the municipality; and

WHEREAS, on about May 23, 2017, the Railroad Commission of Texas in Gas Utility **Docket No. 10567 (“GUD No. 10567),”** approved an increase in annual revenue for CenterPoint; and

WHEREAS, the City participated in CenterPoint’s general rate case at the Railroad Commission of Texas in **GUD No. 10567**; and

WHEREAS, the corporate tax rate on federal income included in CenterPoint’s current rates and made part of the increase in revenue approved by the Railroad Commission of Texas, was based on a federal-income-tax rate of 35%; and

WHEREAS, the corporate tax rate on federal income included in CenterPoint’s current rates and approved by the Railroad Commission of Texas in **GUD No. 10567**, was based on a federal-income-tax rate of 35%; and

WHEREAS, effective January 1, 2018, the corporate tax rate on income is 21%; and

WHEREAS, CenterPoint seeks administrative approval under Utilities Code § 104.111 to reduce its annual revenue by approximately \$2.3 million; and

WHEREAS, CenterPoint’s proposed decrease in rates comprises a change in rates thus invoking GURA § 103.022, which requires CenterPoint to reimburse the City’s reasonable expenses associated with reviewing CenterPoint’s proposal to change rates; and

WHEREAS, the City's Special Counsel and consultants engaged to review CenterPoint's calculation of the effect of the reduction in the corporate federal-income-tax rate from 35% to 21% has on CenterPoint's rates, have confirmed that CenterPoint's calculation of the reduction in CenterPoint's revenue is mathematically accurate; and

WHEREAS, the reduction in CenterPoint's annual revenue is limited to the tax expense related to the change in the corporate tax rate from 35% to 21%, and thus will need to be adjusted further in a future proceeding to account for excess deferred income taxes resulting from the Tax Cut and Jobs Act of 2017; and

WHEREAS, by approving the reduction in CenterPoint's rates, the City, in future proceedings or in other jurisdictions, is under no obligation to take the same positions with regard to the methodology resulting in a reduction in rates, as the methodology underlying the reduction proposed by CenterPoint, nor shall the City's approval of the reduction in CenterPoint's rates, be used against the City in any future proceeding with respect to different positions the City may take with regard to setting CenterPoint's rates.

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

Section 1. The findings set forth in this Resolution are hereby in all things approved and incorporated herein.

Section 2. CenterPoint shall submit to the City within fourteen days from the effective date of this Resolution, amended tariffs reflecting the reduction in revenue noted above.

Section 3. CenterPoint is directed to reimburse the City's expenses related to review of CenterPoint's proposal to change rates within thirty (30) days from submission to CenterPoint of the City's invoices related to such expenses.

Section 4. To the extent any Resolution previously adopted by the City Council is inconsistent with this Resolution, it is hereby superseded.

Section 5. The meeting at which this Resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 6. If any one or more sections or clauses of this Resolution is judged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Resolution and the remaining provisions of the Resolution shall be interpreted as if the offending section or clause never existed.

Section 7. This Resolution shall become effective from and after its passage; rates approved by this Resolution shall have an effective date of September 1, 2018.

Section 8. A copy of this Resolution shall be sent to CenterPoint, care of Perrin Wall, Manager of Regulatory Affairs, CenterPoint Energy Corporation, 1111 Louisiana Street, Houston, Texas 77002-5231, and to Mr. Alfred R. Herrera, Herrera Law & Associates, PLLC, 816 Congress Avenue, Suite 950, Austin, Texas 78701.

PASSED AND APPROVED this 13th day of August, 2018.

Tim Barker
Mayor

ATTEST:

Paula Favors
City Secretary

Councilmember Terry Freese 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 approving a contract with Jones & Carter for engineering services for the NRCS EWP Project # 5103 and authorizing the Mayor of the City of Wharton to execute all documents related to said contract. City Manager Andres Garza, Jr. presented a copy of the proposed contract with Jones & Carter for engineering services for the NRCS EWP Project #5103. City Attorney Paul Webb stated that he had reviewed the contract and was recommending City Council consider approving it. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Resolution No. 2018-63, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2018-63**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A CONTRACT WITH JONES & CARTER FOR ENGINEERING SERVICES FOR THE NRCS EWP PROJECT # 5103 AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID CONTRACT.

WHEREAS, The City of Wharton wishes to enter into an agreement with Jones & Carter for engineering services for the NRCS EWP Project # 5103; and,

WHEREAS, The Wharton City Council and Jones & Carter 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 all documents related to 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 with Jones & Carter for engineering services for the NRCS EWP Project # 5103.

Section II. That the Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute all documents related to the agreement.

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

Passed, Approved, and Adopted this 13th day of August 2018.

CITY OF WHARTON, TEXAS

By: _____
Tim Barker
Mayor

ATTEST:

Paula Favors
City Secretary

Councilmember Terry Freese seconded the motion. All voted in favor.

The tenth item on the agenda was Executive Session: City Council may adjourn into an Executive Session in accordance with Section 551.074 of the Local 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:

Discussion:

A. City Managers Evaluation.

Mayor Tim Barker moved the meeting into closed session at 7:13 p.m.

The eleventh item on the agenda was to Return to Open Meeting: Action on items discussed in Executive Session:

Review & Consider:

A. City Managers Evaluation.

Mayor Tim Barker returned to open session at 7:33 p.m. After some discussion, Councilmember Alice Heard-Roberts moved to increase the contribution to City Manager Andres Garza's Health Reimbursement Account (HRA) by \$4,000.00. Councilmember Al Bryant seconded the motion. All voted in favor.

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The twelfth item on the agenda was to review and consider pay requests No. 26 and No. 27 from Ceres Environmental for disaster debris removal. City Manager Andres Garza, r. presented Pay Requests from Ceres Environmental for debris removal services No. 26 in the amount of \$ 15,491.74 and No. 27 in the amount of \$ 3,637.87 with a total due of \$19,129.61. After some discussion, Councilmember Al Bryant moved to approve pay requests No. 26 and No. 27 from Ceres Environmental for disaster debris removal in the amount of \$19,129.61. Councilmember Terry Freese seconded the motion. All voted in favor.

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

- A. Beautification Commission.
- B. Building Standards Commission.
- C. Plumbing and Mechanical Board.
- D. Mayor's Committee on People with Disabilities.

After some discussion, no action was taken.

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

- a. Wharton Economic Development Corporation meeting held June 18, 2018.
- b. City Council Consultant Selection Committee and Public Works Committee meeting held July 23, 2018.
- c. City Council Housing Committee meeting held July 23, 2018.

After some discussion, no action was taken.

The fifteenth item on the agenda was to review and consider City Manager Travel Reimbursement. City Manager Andres Garza, Jr. presented his request for City Manager Travel Reimbursement. Councilmember Russell Machann moved to approve the City Manager Travel Reimbursement request. Councilmember Don Mueller seconded the motion. All voted in favor.

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

The meeting adjourned at 7:36 p.m.

CITY OF WHARTON, TEXAS

By: _____
Tim Barker
Mayor

ATTEST:

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Paula Favors
City Secretary