

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
AUGUST 27, 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. Brother Tony Wishert of First Baptist Church of Wharton led the opening devotion and Mayor 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 was: None.

Staff members present were: City Manager Andres Garza, Jr., Assistant City Attorney Amy Rod, Finance Director Joan Anandel, Community Development Coordinator Gwyneth Teves, Assistant to the City Manager Brandi Jimenez, Police Chief Terry David Lynch and Public Works Director Wade Wendt.

Visitors present were: Brother Tony Wishert of First Baptist Church of Wharton , Joe Stolle, Marquita Perkins, Herman Perkins, Barbara Hearne, Dewayne Williams, Ruby Garley, Garland Mann, Thomas Runnells, Matt Cartier with Waste Corporation of America (WCA), Trevor Royal with Waste Corporation of America (WCA), Ray Linseisen, Clifford Jackson, Clarence Manciaz, Jr., Albert Villegas with the Wharton Journal Spectator.

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

The third item on the agenda was Public Comments. Mr. Joe Stolle addressed the City Council regarding the abandoned nursing home on Rusk Street. Mr. Stolle stated the building had fallen into disrepair and had become a drug hangout. Mr. Tom Russell addressed the City Council regarding the abandoned nursing home stating that he had placed his home for sale due to the condition of the building and the possible drug activity that was taking place in the building.

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The fourth item on the agenda was the Wharton Moment. Mayor Tim Barker stated that it was the one-year anniversary of Hurricane Harvey and it was an event that he never wanted to do again. Mayor Barker commended the City Staff and First Responders for their service during the flooding event and that there was no loss of life. Mayor Barker stated City Manager Andres Garza, Jr. would be in his prayers as he was set to have a medical procedure in the coming days. City Manager Andres Garza, Jr. stated the United States lost a great American Hero with the passing of Senator John McCain. Councilmember Al Bryant stated Senator McCain was well respected and even though his political party was Republican, he was always fair to all political parties.

The fifth item on the agenda was to review and consider the City of Wharton Finance Report for July 2018. Finance Director Joan Andel presented the financial report for the month of July 2018. Mrs. Andel stated that the TexPool balance for July was \$1,010,834.53 with an average monthly yield of 1.89%. She said the Prosperity Bank balance for July 2018 was \$3,473,937.38 with an average monthly yield of .25%. After some discussion, Councilmember Al Bryant moved to approve the City of Wharton Financial Report for the month of July 2018. Councilmember Terry Freese seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider City Manager's submission of the City of Wharton, Texas, Proposed Budget for the fiscal year October 1, 2018 to September 30, 2019. City Manager Andres Garza, Jr. stated that on Thursday, August 23, 2018, he filed with City Secretary Paula Favors the City of Wharton Fiscal Year October 1, 2018 to September 30, 2019 Proposed Budget as required by State Law. City Manager Garza presented under separate cover, on Monday, August 27, 2018 a copy of the Proposed City Budget as required by the City's Charter. After some discussion, no action was taken.

The seventh item on the agenda was to review and consider setting a public hearing date for the City of Wharton, Texas, Proposed Budget for the fiscal year October 1, 2018 to September 30, 2019. City Manager Andres Garza, Jr. stated that under Article VI, Section 53 of the City of Wharton Charter the City Council shall set a time and place for a public hearing. City Manager Garza said that if the date was approved by the City Council, the City Staff would publish the Notice of Public Hearing on Wednesday, August 29, 2018 in the Wharton Journal Spectator. He said he recommend the public hearing be set for the September 10, 2018 Regular City Council meeting which would comply with Section 53 of the City Charter and State law. After some discussion, Councilmember Al Bryant moved to set a public hearing date for the City of Wharton, Texas, Proposed Budget for the fiscal year October 1, 2018 to September 30, 2019 for the September 10, 2018 Regular City Council. Councilmember Steven Schneider seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider an ordinance amending the City of Wharton Code of Ordinances, Chapter 86, Sections 86-15, 86-16, 86-17 and 86-21, Utilities and Services, Article I in General; Providing that a violation of the ordinance or any part of the Code as adopted hereby shall constitute a penalty upon conviction of a fine; 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. presented a copy of the memorandum dated August 22, 2018 from Finance Director Joan Anandel to him regarding the proposed increase in utility rates for customers to be effective October 1, 2018. City Manager Garza stated that as discussed in the City Council Budget Workshop on August 20, 2018, the proposed budget included an 8% increase in water and sewer rates. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Ordinance No. 2018-06, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2018-06**

AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 86, SECTIONS 86-15, 86-16, 86-17 AND 86-21, UTILITIES AND SERVICES, ARTICLE I IN GENERAL; PROVIDING THAT A VIOLATION OF THE ORDINANCE OR ANY PART OF THE CODE AS ADOPTED HEREBY SHALL CONSTITUTE A PENALTY UPON CONVICTION OF A FINE; 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 Chapter 86, Utilities and Services, Article I in General; Sections 86-15, 86-16, 86-17 and 86-21 be amended by the following:

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:

Sec. 86-15. - Water and sewer tap charges, deposits, administrative penalties and other charges.

Water and sewer tap charges, deposits, administrative penalties and other charges shall be as follows:

(1) *Water*. Standard water tap fees for customers inside the city limits and outside the city limits are as follows:

	Size of Tap	Cost of Service

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a.	¾-inch T-off	\$235.77
b.	¾-inch	\$471.52
c.	1-inch	\$619.72 + cost of meter
d.	1½-inch	\$929.58 + cost of meter
e.	2-inch	\$1,239.42 + cost of meter

Customers must pay for the cost of the meter for taps one inch and larger. Tap fees for taps larger than two inches shall be determined and based on the cost to install plus cost of water meter.

In addition to the standard water tap fee, customers must also pay the city for any and all additional costs associated with installing a water tap:

1. Customers are responsible for the actual cost for main line extensions, boring under a street or pre-existing utility line, or any other additional costs necessary to install a water tap. All main line extensions will require the extension to be extended the width of the property to the next adjacent property line unless a variance is issued. All main line extensions will require a written agreement between the city and the customer.
2. Residential customers inside the city limits that qualify for a homestead exemption prior to applying for a building permit will receive up to 200 feet of line extension at no charge for the cost of materials and installation. Residential homestead customers in the city limits will be charged for any borings associated with the installation of

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the first 200 feet of line extension and will be charged for any main line extensions in excess of 200 feet. Residential customers outside the city limits will be charged for the first 200 feet as well as for any boring associated with the first 200 feet and for any main line extensions in excess of 200 feet.

3. Customers will be required to pay the city in advance for any additional costs associated with connecting to the city's main line based on the city's engineer's estimate for projected engineer and construction costs. Once the project is complete, the customer will either be billed or refunded the difference between the estimate and the actual cost.

(2) *Sewer*. Standard sewer tap fees for customers inside the city limits and outside the city limits are as follows:

	Size of Tap	Cost of Service
a.	4-inch	\$471.52
b.	6-inch	\$774.64

In addition to the standard sewer tap fee, customers must also pay the city for any and all additional costs associated with installing a sewer tap:

1. Customers are responsible for the actual cost for main line extensions, boring under a street or pre-existing utility line, or any other additional costs necessary to install a sewer tap. All main line extensions will require the extension to be extended to the width of the property to the next adjacent property line unless a variance is issued. All main line extensions will require a written agreement between the city and the customer.

2. Residential customers inside the city limits that qualify for a homestead exemption prior to applying for a building permit will receive up to 200 feet of line extension at no charge for the cost of materials and installation. Residential homestead customers in the city limits will be charged for any borings associated with the installation of the first 200 feet of line extension and will be charged for any main line extensions in excess of 200 feet. Residential customers outside the city limits will be charged for the first 200 feet as well as for any boring associated with the first 200 feet and for any main line extensions in excess of 200 feet.

3. Customers will be required to pay the city in advance for any additional cost associated with connecting to the city's main line based on the city's engineer's estimate for projected engineer and construction costs. Once the project is complete, the customer will either be billed or refunded the difference between the estimate and the actual cost.

Residential and commercial customers are required to put a sewer clean out at the property line where the city's line ties into the customer's line.

(3) *Deposits.* As a condition of receiving water, sewer and garbage service, the following deposits shall be charged:

a. Deposit amount:

Residential customer.....\$100.00

Residential—Senior citizens.....\$50.00 (60 years or over)

Commercial customer's.....Based on estimated bill \$100.00 minimum

The deposit for all commercial customers including businesses, industrial users, multi-residential units and all others will be based on the estimated water, sewer and garbage charges for one month. If the customer has consumption history, the estimate will be based on a 12-month average. If the customer is a new customer with no consumption history, the estimate will be based on usage of a similar customer and consider the type of garbage service requested. Current deposit amounts will remain for

commercial customers until there is a change in ownership or account status.

b. Deposits will not be required for public schools, counties, and other governmental entities.

c. Customers may transfer their deposits from one account to another account if they move from one address to another. The account must have a zero balance or the current balance will be transferred with the deposit and the new service enacted.

d. Customers transferring from one address to another must have paid the maximum deposit or must pay the difference between the deposit paid and the maximum deposit before the deposit can be transferred and the new service enacted.

e. Residential customers' deposits will be refunded by crediting the deposit amount to the customer's account after the customer has completed 24 months with no delinquent payments or no dishonored payments. If the customer has additional active accounts without deposits that have delinquent payments, the deposit will be transferred to one of the other accounts. A new deposit will be required if a customer appears on the cut-off list after the original deposit has been returned.

f. Customers must terminate utility services by providing written authorization signed or emailed by the customer whose name is on the account. In the event that the account is established under more than one name, any one person may authorize the disconnection of service.

g. Customers' deposits will be refunded by crediting the deposit amount to the customer's account when the account is finalized. Any remaining deposit will be mailed to the forwarding address provided by the customer. If the customer has additional active accounts without deposits, the deposit will be transferred to one of the other accounts.

h. Letters of credit are not acceptable in lieu of cash for payment of deposits as required in this section.

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i. In the event a current utility service customer requests service at an additional address, the deposit may be waived if the customer has had no more than two delinquent payments on the existing account for the previous 12 months prior to the date of the request. In the event that either the initial account or any additional accounts appear on the cut-off list, an additional deposit will be required for each account.

(4) *Administrative penalty.* If payment is not received on a delinquent account and is placed on the cut-off list and water is due to be or is disconnected, an administrative penalty will be assessed as follows:

Administrative penalty.....\$25.00

(5) *Other charges* include the following:

a. *Late charges.* If payment is not received by the 15th of each month, a penalty will be assessed on the 16th of each month at the rate noted below:

Late charges.....5% of balance due

b. *After hours charge.* An afterhours charge will be assessed for a reconnection due to nonpayment requested by the customer that is not between the hours of 8:00 a.m. and 5:00 p.m. on Monday through Friday. Services requested on holidays will also be charged an after hour charge.

After hours charge.....\$30.00

c. *Charges of damages.* Charges shall also be made for damages to equipment, such as meters, cutoff valves and locks. These charges shall be based on the actual cost of replacement, including labor, where applicable.

d. *Industrial users.* Industrial users may be subject to additional charges and fees, relating to permitting and noncompliance issues, as outlined in article II, Industrial Waste Disposal and Pretreatment, sections 86-41 through 86-78.

e. *Restaurants, food preparation facilities and other commercial users.* Restaurants, food preparation facilities, institutional facilities and other commercial type facilities utilizing grease traps will be subject to a \$100.00 fee for each exceedance of the local oil and grease limit of 100 mg/l. This fee is not a surcharge. The payment of this fee does not authorize the

discharge of wastes containing oil and grease in concentrations greater than 100 mg/l. This limit applies only to food grade oils of animal or vegetable origin. The concentration of petroleum-based oil and grease is limited to 15mg/l. The oil and grease exceedance fee will be assessed for each sample result, which indicates an excess oil and grease concentration in sewer discharges from the facility. The city will be responsible for collecting and analyzing all oil and grease samples from grease traps. Oil and grease trap sampling will be conducted on a periodic basis at the city's discretion.

f. Septic *tank waste* hauled or trucked into wastewater treatment plant as outlined in article II, section 86-54 will be billed at the following rate:

Fees for hauling waste, per 1,000 gallons.....\$52.50

Sec. 86-16. - Water service charges.

(a) The monthly charges for water service rendered by the city shall be as follows:

Volume Charges

First 2,000 gallons (minimum)..... \$21.41
Next 2,000 gallons, per 1,000..... \$4.06
Next 3,000 gallons, per 1,000..... \$4.21
Next 4,000 gallons, per 1,000..... \$4.37 Next 4,000 gallons, per 1,000..... \$4.65
Next 35,000 gallons, per 1,000..... \$4.93
Next 50,000 gallons, per 1,000..... \$5.11
Next 50,000 gallons, per 1,000..... \$5.49
Next 50,000 gallons, per 1,000..... \$5.83

(b) Customers requesting temporary water services (seven-day increments) can apply for a temporary water rate based on the following:

Volume Charges

First 8,000 gallons for seven days..... \$49.48
Over 8,000 gallons, per 1,000..... \$4.52

The temporary water rate is intended as a temporary service for water only and will not be extended for more than 14 consecutive days without a deposit or connection fee being made in accordance with section 86-2, subsections (4) and (5). The base rate must be paid at the time the service is requested. Additional gallons will be billed after the temporary service is disconnected.

Sec. 86-17. - Sewer service charges.

(a) The monthly charges for sanitary sewer services rendered by the city shall be as follows:

Volume Charges

First 2,000 gallons (minimum).....	\$23.00
Next 2,000 gallons, per 1,000.....	\$3.58
Next 3,000 gallons, per 1,000.....	\$4.37
Next 4,000 gallons, per 1,000.....	\$4.85
Next 4,000 gallons, per 1,000.....	\$5.21
Next 35,000 gallons, per 1,000.....	\$5.64
Next 50,000 gallons, per 1,000.....	\$6.13
Next 50,000 gallons, per 1,000.....	\$6.49
Next 50,000 gallons, per 1,000.....	\$6.95

(b) Residential customers. Monthly service charges for sewer service are based on the average water consumption for three winter months (December, January and February). The winter averaging is calculated in March and is reflected in the April 1st bill. New residential customers with no historical usage shall be billed for sewer usage based on the average residential customers' usage based on the most current winter averaging.

(c) Regular commercial customers. Monthly service charge for sewer service shall be based on the monthly-metered water usage at the rates set forth above.

Sec. 86-21. - Bulk water rates.

(a) Bulk sales through fire hydrant water meters temporarily installed at locations remote from the Wharton Volunteer Fire Department on Fulton Street will require the following:

- (1) Advance, nonrefundable payment of \$50.00 to the City of Wharton at City Hall for setting the meter connection at the fire hydrant or other appropriate locations as the city may determine; and
- (2) Payment of bulk sales rate of \$82.46 per month for the first 1,000 gallons of water dispensed, or any fraction thereof; \$32.99 per month per 1,000 gallons dispensed, or any fraction thereof, beyond the initial 1,000 gallons dispensed; and
- (3) Advance, refundable fire hydrant meter deposit payment of \$200.00 to the City of Wharton at City Hall.

(b) Bulk sales through permanently installed water meter dispensation point at the Wharton Volunteer Fire Department on Fulton Street will require the following:

- (1) No requirement for payment of meter setting fee; and

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- (2) Payment of bulk sales rate of \$82.46 for the first 1,000 gallons of water dispensed, or any fraction thereof; \$32.99 per 1,000 gallons dispensed, or any fraction thereof, beyond the initial 1,000 gallons dispensed; and
- (3) No requirement for payment of the \$200.00 fire hydrant meter deposit, however each water dispensation transaction authorized under this section must be prepaid to the City of Wharton at City Hall where a one-day dispensation voucher will be issued for presentation to the water plant operator to authorize a one-day dispensation of a not to exceed amount of water in gallons. The one-day dispensation voucher identifying the cumulative number of gallons purchased will allow for scheduled multiple withdrawals of water, but only during the same City of Wharton working day upon which initial dispensation commences.

Bulk sales water service customers must provide a suitable mobile water containment vessel of sound quality for receiving and hauling water for use or consumption at any location within the Wharton water system.

Public or private volunteer fire fighting organizations that procure water only for fire prevention and control purposes and do not resell such water for other purposes, are exempt from this classification, rates and fees schedule. Contractors constructing City of Wharton Public Works projects requiring potable water for dust control and construction operations shall also be exempt from this classification, rates and fees schedule.

Any \$200.00 refundable fire hydrant meter deposit paid to the City of Wharton may be applied by the City of Wharton to the payment of any bulk sales customer unpaid bills, and when so partially consumed through past-due account application, shall be restored by the bulk sales customer to the original \$200.00 amount.

Bulk sales water service dispensation to consumers having only an occasional need for such water service are encouraged to utilize the permanently installed water meter dispensation point at the Wharton Volunteer Fire Department located on Fulton Street.

Use of the Fulton Street permanently installed water meter dispensation point requires advanced payment by check or cash to the City of Wharton at City Hall and at least four hours advanced scheduling of prospective water withdrawals which shall also only occur during the following city working hours Monday—Friday 9:00 a.m.—12:00 p.m. and 1:00 p.m.—4:00 p.m. (Saturday, Sunday and city holidays excluded).

Severability

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.

Penalties and Fines

Any person knowingly or recklessly found violating and are convicted of a violation of this ordinance shall be fined in an amount not to exceed \$2,000.00. Each day or fraction of a day during which this ordinance or any part thereof is violated shall be deemed a separate offense and punishable as such.

Effective Date

This ordinance shall be effective on the 1st day of October 2018 at 12:01 a.m.

Passage and Approval

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, this 27th day of August 2018.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

Paula Favors
City Secretary

APPROVED AS:

PAUL WEBB
City Attorney

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

The ninth item on the agenda was to review and consider a request from Wharton County Recovery Team requesting City assistance for the ground maintenance and extension of water services at the former Franklin Furniture Property. City Manager Andres Garza, Jr. presented a letter from President of the Wharton County Recovery Team, Mrs. Carol Wootton, regarding assistance from the City in the maintenance and the extension of water services at the Franklin Furniture Property. City Manager Garza stated the owner, Mr. David Zhang, had donated the use of the building as a warehouse to be used by the Recovery Team for the purpose of distributing donations and resources and supplies to aid in the long-term recovery process. He said the Recovery Team was requesting assistance in the initial, one-time mowing and the cleanup of the grounds/property due to the property being unkept and was in dire need of mowing and cleanup. After some discussion,

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Councilmember Al Bryant moved to approve the request from Wharton County Recovery Team for City assistance for the ground maintenance and extension of water services at the former Franklin Furniture Property. Councilmember Don Mueller seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider a request by Advance Surveying, Inc. on behalf of Guru Sai, LLC. for the recommendation of approval of a Preliminary/Final Re-Plat of A20034 ABST.34, Tract 67C South & Kirks Glen Block 1 for construction of a hotel. City Manager Andres Garza, Jr. stated the Planning Commission was requesting consideration for the approval of a preliminary/final replat by Advance Surveying, Inc. on behalf of Guru Sai, LLC. For the recommendation of approval of a Preliminary/Final Re-Plat of A20034 ABST.34, Tract 67C South & Kirks Glen Block 1 for construction of a hotel. Community Development Coordinator Gwyn Teves stated the Planning Commission had met and were recommending City Council consider approving the request. After some discussion, Councilmember Al Bryant moved to approve the request by Advance Surveying, Inc. on behalf of Guru Sai, LLC. for the recommendation of approval of a Preliminary/Final Re-Plat of A20034 ABST.34, Tract 67C South & Kirks Glen Block 1 for construction of a hotel. Councilmember Don Mueller seconded the motion. All voted in favor.

The eleventh item on the agenda was to review and consider a request by Mr. Garland Mann for recommendation of approval of a Preliminary/Final Re-Plat of Hawes 3, Block 5, Lots 22, 23. City Manager Andres Garza, Jr. stated the Planning Commission was requesting consideration of an approval of a preliminary/final replat by Mr. Garland Mann for recommendation of approval of a Preliminary/Final Re-Plat of Hawes 3, Block 5, Lots 22, 23. Community Development Coordinator Gwyn Teves stated the Planning Commission had met and were recommending the City Council consider approving the request. After some discussion, Councilmember Al Bryant moved to approve the request by Mr. Garland Mann for recommendation of approval of a Preliminary/Final Re-Plat of Hawes 3, Block 5, Lots 22, 23. Councilmember Terry Freese seconded the motion. All voted in favor.

Councilmember Russell Machann arrived at 7:25 p.m.

The twelfth item on the agenda was to review and consider a resolution of the Wharton City Council approving the Amended & Restated Solid Waste Collection and Disposal Service Contract with Waste Corporation of America and authorizing the Mayor of the City of Wharton to execute all documents related to said contract. City Manager Andres Garza, Jr. stated that the City Staff, under the City Councils direction approved on February 12, 2018, met with Waste Corporation America representatives to negotiate an Amended & Restated Solid Waste Collection and Disposal Service Contract. City Manager Garza presented a copy of the draft agreement recommended for approval. City Manager Garza stated that Waste Corporation of America had agreed to hold the 2017-2018 prices for the 2018-2019 Fiscal Year and the major changes to the contract were as follows:

1. **Number of Forty (40) cubic yard roll off boxes per year at no cost to the City:**

Current Contract: Twenty (20) boxes.

New Contract: Forty (40) boxes.

2. **Fleet:**

Current Contract: No age requirements for fleet.

New Contract: Section 4.05 Collection Equipment - No residential waste collection vehicle shall be larger than twenty-five (25) cubic yards in capacity. All vehicles, Bins, Roll Offs and other equipment shall be kept in good repair, appearance, and in sanitary condition at all times. Each vehicle shall have clearly visible on each side the identity and telephone number of the contractor. Contractor will use the equipment listed below in the performance of the services under this contract until replaced by Contractor by a newer vehicle. Contractor agrees to maintain the average age of the fleet performing work on this contract to no more than five (5) years and the maximum age of any vehicle to more than seven (7) years.

3. **Rates for Other Services:**

Current Contract: Disaster relief services is \$100.00 per hour.

New Contract: Disaster Relief Services: (Cost consistent with other disaster contractors)

- \$125 per hour (manpower only).
- \$275 per hour per collection vehicle used to provide such services.
- Contractor's actual incurred costs for other equipment (e.g., chipping machines, dumpsters, etc.).
- Contractor's disposal costs at the Fort Bend County Regional Landfill.

He said the City Staff was recommending approval by the City Council with an effective date of October 1, 2018. After some discussion, Councilmember Don Mueller moved to approve City of Wharton Resolution No. 2018-64, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2018-64**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE AMENDED & RESTATED SOLID WASTE COLLECTION AND DISPOSAL SERVICES CONTRACT WITH WASTE CORPORATION OF AMERICA AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID CONTRACT.

WHEREAS, The Wharton City Council wishes to approve the Amended & Restated Solid Waste Collection and Disposal Service Contract with Waste Corporation of America; and,

WHEREAS, The initial term of the contract shall be for a five (5) year period beginning on October 1, 2018 and shall include one (1) optional five-year (5) extensions thereafter at the discretion of the City Council; and,

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WHEREAS, The City of Wharton and Waste Corporation of America wish to be bound by the terms and conditions outlined in the contract; 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 the Amended & Restated Solid Waste Collection and Disposal Service Contract with Waste Corporation of America for period beginning October 1, 2018.

Section II. That the Mayor of the City of Wharton is hereby authorized to sign all documents relating to the agreement.

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

Passed, Approved, and Adopted this 27th day of August 2018.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The thirteenth item on the agenda was to review and consider a request for Walk/Don't Walk Pedestrian Traffic Control Devices. City Manager Andres Garza, Jr. presented a memorandum from Chief of Police Terry Lynch regarding a request from a citizen to have Walk/Don't Walk Pedestrian Traffic Control Devices at the following locations:

- 100 W. Milam St at 100 N. Houston St
- 100 W. Milam St at 100 S. Houston St
- 100 W. Burleson St at 100 S. Houston St
- 100 W. Burleson St at 200 S. Houston St
- 100 E. Milam St at 100 N. Fulton St
- 100 E. Milam St at 100 S. Fulton St
- 100 E. Burleson St at 100 S Fulton St

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- 100 E. Burleson St at 200 S. Fulton St
- 100 E. Milam St at 100 N. Rusk St
- 100 E. Milam St at 100 S. Rusk St

City Manager Garza stated that each intersection would be required to have two (2) devices at each intersection for a total of ten (10) devices and each of the intersections that were state highways and Texas Department of Transportation (TxDOT) would be the responsible agency to install and maintain them. He said the City Staff recommended that the City Council would consider authorizing the submission of the request to TxDOT. After some discussion, Councilmember Al Bryant moved to approve the request for Walk/Don't Walk Pedestrian Traffic Control Devices to be placed at the afore mentioned intersections and authorized the submission of the request to TxDOT for each of the intersections that were state highways and the responsible agency to install and maintain them. Councilmember Terry Freese seconded the motion. All voted in favor.

The fourteenth item on the agenda was to review and consider a resolution of the Wharton City Council designating authorized signatories for contractual documents and documents for requesting funds pertaining to the Texas Community Development Block Grant Program (TXCDBG) Contract Number 7216124. City Manager Andres Garza, Jr. stated the City of Wharton had received a Texas Community Development Block Grant award to provide planning studies for the City of Wharton Comprehensive Plan and it was necessary for the City to appoint persons to execute contractual documents and documents requesting funds from the Texas Department of Agriculture. City Manager Garza said that an original signed copy of the TxCDBG Depository/Authorized Signatories Designation Form (Form A202) would be submitted with a copy of the resolution. He said the City of Wharton acknowledges that in the event that an authorized signatory of the City changes (elections, illness, resignations, etc.) the City would provide TxCDBG with the following:

- A. A resolution stating who the new authorized signatory is (not required if this original resolution names only the title and not the name of the signatory); and
- B. A revised TxCDBG Depository/ Authorized Signatories Designation Form (Form A202).

Community Development Coordinator Gwyn Teves stated the City Staff was recommending that the Mayor, City Manager, and Finance Director be authorized to execute contractual documents between the Texas Department of Agriculture and the City for the Texas Community Development Block Grant Program. After some discussion, Councilmember Russell Machann moved to approve City of Wharton Resolution No. 2018-65, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2018-65**

A RESOLUTION WHARTON CITY COUNCIL DESIGNATING AUTHORIZED SIGNATORIES FOR CONTRACTUAL DOCUMENTS AND DOCUMENTS FOR REQUESTING FUNDS PERTAINING TO THE TEXAS COMMUNITY

**DEVELOPMENT BLOCK GRANT PROGRAM (TXCDBG) CONTRACT NUMBER
7216124.**

WHEREAS, The City of Wharton has received a Texas Community Development Block Grant award to provide Planning Studies; and,

WHEREAS, It is necessary to appoint persons to execute contractual documents and documents requesting funds from the Texas Department of Agriculture; and,

WHEREAS, An original signed copy of the TxCDBG Depository/Authorized Signatories Designation Form (Form A202) is to be submitted with a copy of this Resolution; and,

WHEREAS, The City of Wharton acknowledges that in the event that an authorized signatory of the City changes (elections, illness, resignations, etc.) the City must provide TxCDBG with the following:

- a resolution stating who the new authorized signatory is (not required if this original resolution names only the title and not the name of the signatory); and
- a revised TxCDBG *Depository/ Authorized Signatories Designation Form (Form A202)*.

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

Section I. The Mayor, City Manager, and Finance Director be authorized to execute contractual documents between the Texas Department of Agriculture and the City for the Texas Community Development Block Grant Program.

Section II. The Mayor, and City Manager be authorized to execute the *State of Texas Purchase Voucher* and *Request for Payment Form* documents required for requesting funds approved in the Texas Community Development Block Grant Program.

Passed, Approved and Adopted this 27th day of August 2018.

CITY OF WHARTON, TEXAS

By: _____
Tim Barker
Mayor

ATTEST:

Paula Favors

City Secretary

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

The fifteenth item on the agenda was to review and consider an application by Premier Care EMS Service for an Ambulance Provider Permit. City Manager Andres Garza, Jr. presented a copy of the Ambulance Provider Permit Application submitted by Premier Care EMS Service to provide emergency medical services in the City of Wharton and a memorandum from EMS Director John Kowalik to him stating that the Texas Department of Health and Premier Care EMS Service was currently certified and in good standing with the Texas Department of State Health Services. City Secretary Paula Favors stated City Attorney Paul Webb had reviewed the application and was requesting the City Council consider approving the application. After some discussion, Councilmember Al Bryant moved to approve the application by Premier Care EMS Service for an Ambulance Provider Permit. Councilmember Terry Freese seconded the motion. All voted in favor.

The sixteenth item on the agenda was to review and consider a resolution of the Wharton City Council authorizing the submission of a Community Development Block Grant Disaster Recovery (CDBG-DR) 2016 Application to the Texas General Land Office; committing matching funds; and authorizing the Mayor to act as the City's executive officer and authorized representative in all matters pertaining to the City's participation in the CDBG-DR 2016 Program. City Manager Andres Garza, Jr presented a draft resolution authorizing the submission of a Community Development Block Grant Disaster Recovery (CDBG-DR) 2016 Application to the Texas General Land Office (GLO). City Manager Garza stated that by submitting the application the City would be able to develop housing and economic opportunities for persons of low-to-moderate income by assisting with elevations, rehabilitations and reconstruction. Community Development Coordinator Gwyn Teves stated the GLO had prioritized housing for the 2016 program. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Resolution No. 2018-66, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2018-66**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE SUBMISSION OF A COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY (CDBG-DR) 2016 APPLICATION TO THE TEXAS GENERAL LAND OFFICE; COMMITTING MATCHING FUNDS; AND AUTHORIZING THE MAYOR TO ACT AS THE CITY'S EXECUTIVE OFFICER AND AUTHORIZED REPRESENTATIVE IN ALL MATTERS PERTAINING TO THE CITY'S PARTICIPATION IN THE CDBG-DR 2016 PROGRAM.

WHEREAS, The City Council of Wharton desires to develop a viable community, including decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low-to-moderate income; and

WHEREAS, Certain conditions exist related to flooding that occurred during an eligible federally declared disaster in 2016 which represent a threat to the public health and safety; and

WHEREAS, It is necessary and in the best interests of to apply for funding under the CDBG-DR 2016 Program.

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

Section I. That a CDBG-DR application is hereby authorized to be filed with the Texas General Land Office for funding consideration under the State Housing Competition.

Section II. That the application be for \$2,000,000 of grant funds to provide single-family homeowner assistance through elevation, rehabilitation, and reconstruction throughout the City of Wharton.

Section III. That the Mayor is designated as the Chief Executive Officer and Authorized Representative to act in all matters in connection with this application and participation in the CDBG-DR 2016 Program.

Section IV. That the Community Development Coordinator is designated as the overseer of all grant activities so as to ensure there are no Conflicts of Interest.

Section V. That all funds will be used in accordance with all applicable federal, state, local and programmatic requirements including but not limited to procurement, environmental review, labor standards, real property acquisition, and civil rights requirements.

Section VI. That one percent (1%) of the CDBG-DR 2016 grant request amount, not to exceed \$20,000, is committed from the general fund as a cash contribution toward the activities of this project.

Passed, Approved, and Adopted this 27th day of August 2018.

CITY OF WHARTON, TEXAS

By: _____
Tim Barker
Mayor

ATTEST:

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Paula Favors
City Secretary

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

The seventeenth a. item on the agenda was to review and consider a resolution of the Wharton City Council adopting a Citizen Participation Plan for the Texas General Land Office (GLO) Community Development Block Grant Disaster Recovery (CDBG-DR) Program and authorizing the Mayor of the City of Wharton to execute all documents related to said plan. City Manager Andres Garza, Jr. presented a copy of the Citizen Participation Plan from the Texas General Land Office (GLO) Community Development Block Grant Disaster Recovery (CDBG-DR) Program. City Manager Garza stated the plan included Compliant Procedures, Technical Assistance and Public Outreach Efforts guidelines in English and Spanish. Community Development Coordinator Gwyn Teves stated citizens could obtain a copy of these procedures at City Hall. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Resolution No. 2018-67, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2018-67**

A RESOLUTION OF THE WHARTON CITY COUNCIL ADOPTING A CITIZEN PARTICIPATION PLAN FROM THE TEXAS GENERAL LAND OFFICE (GLO) COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY (CDBG-DR) PROGRAM AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID PLAN.

WHEREAS, The City of Wharton is required to develop and adopt a Citizen Participation Plan for the Texas General Land Office (GLO) Community Development Block Grant Disaster Recovery (CDBG-DR) Program; and,

WHEREAS, The Plan is in both English (Exhibit A) and Spanish (Exhibit B); and,

WHEREAS, The Wharton City Council wishes to adopt a Citizen Participation Plan for the Texas General Land Office (GLO) Community Development Block Grant Disaster Recovery (CDBG-DR) Program.

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

Section I. The Wharton City Council hereby approves and adopts the Citizen Participation Plan for the Texas General Land Office (GLO) Community Development Block Grant Disaster Recovery (CDBG-DR) Program in both English (Exhibit A) and Spanish (Exhibit B) as attached.

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Section II. The Wharton City Council hereby authorizes the Mayor or the City of Wharton to execute all documents related to said plan.

Passed, Approved and Adopted this 27th day of August 2018.

CITY OF WHARTON, TEXAS

By: _____
Tim Barker
Mayor

ATTEST:

Paula Favors
City Secretary

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

The eighteenth item on the agenda was to review and consider a resolution of the Wharton City Council designating a City of Wharton Representative and Alternate to the Houston-Galveston Area Council 2019 General Assembly. City Manager Andres Garza, Jr. presented a copy of a letter dated August 16, 2018 to Mayor Tim Barker from Mr. Chuck Wemple of the Houston-Galveston Area Council (H-GAC) requesting the City of Wharton designate a City of Wharton representative, and alternate representative, to the H-GAC 2019 General Assembly. City Manager Garza stated Councilmember Al Bryant served as the City's representative for the 2018 General Assembly and Councilmember Russell Machann served as the alternate representative. After some discussion, Councilmember Terry Freese moved to approve City of Wharton Resolution No. 2018-68, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2018-68**

A RESOLUTION DESIGNATING A CITY OF WHARTON REPRESENTATIVE AND ALTERNATE TO THE HOUSTON-GALVESTON AREA COUNCIL 2019 GENERAL ASSEMBLY.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS that Councilmember Al Bryant be, and is hereby designated as its Representative to the General Assembly of the Houston-Galveston Area Council for the year 2019.

FURTHER, that the Official Alternate authorized to serve as the voting representative should the hereinabove named representative become ineligible, or should he/she resign, is Councilmember Russell Machann.

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THAT, the Executive Director of the Houston-Galveston Area Council be notified of the designation of the hereinabove named representative and alternate.

Passed, Approved, and Adopted this 27th day of August 2018.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The eighteenth item on the agenda was to review and consider the Official Ballot of the Texas Municipal League Intergovernmental Risk Pool Board of Trustees Election. City Manager Andres Garza, Jr. presented a copy the Official Ballot of the Texas Municipal League Intergovernmental Risk Pool Board of Trustees Election. City Manager Garza stated the officials listed on the ballot had been nominated to serve a six-year term and he was recommending that the City Council cast its vote for the following:

Place 11-Randy Criswell (Incumbent)
Place 12-Bert Lumbreras
Place 13-Byron Black (Incumbent)
Place 14-David Rutledge

After some discussion, Councilmember Al Bryant moved to approve casting votes for the following Place 11-Randy Criswell (Incumbent), Place 12-Bert Lumbreras, Place 13-Byron Black (Incumbent) and Place 14-David Rutledge on the Official Ballot of the Texas Municipal League Intergovernmental Risk Pool Board of Trustees Election. Councilmember Terry Freese seconded the motion. All voted in favor.

The nineteenth item on the agenda was Executive Session: City Council may adjourn into an Executive Session in accordance with Sections 551.072 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. Acquisition of Real Property-Wharton Flood Reduction Project-Levee.

Mayor Barker moved the meeting into closed session at 7:47 p.m.

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

Review & Consider:

A. Acquisition of Real Property-Wharton Flood Reduction Project-Levee.

Mayor Tim Barker returned to open session at 8:10 p.m. After some discussion, no action was taken.

The twenty-first item on the agenda was to review and consider an update of City of Wharton Grant Programs. Community Development Coordinator Gwyn Teves presented an update on the City of Wharton Grant Programs. After some discussion, no action was taken.

The twenty-second item on the agenda was the update of City of Wharton on-going Projects. City Manager Andres Garza, Jr. presented a copy of his memorandum dated August 22, 2018 providing an update on the City of Wharton current projects as of July 31, 2018.

FLOOD REDUCTION (LEVEE) PROJECT

The U.S. Army Corp of Engineers (USACE) Lower Colorado River Phase I Report - City of Wharton Flood Prevention Project and Recommended report is located at the Wharton County Library and the office of the City of Wharton City Secretary for viewing or the report may be viewed on line at <http://www.cityofwharton.com/information-a-notices/lcrb-feasibility-study>. The City of Wharton was informed by the USACE that the federal legislation passed in Congress provided funding for the project. The City Staff is working with the Fort Worth District Office regarding the Project Participation Agreement (PPA) that must be signed by the City and the USACE. The USACE is developing the guidance on the process to move this project forward. The City is expecting the PPA from the USACE soon.

DRAINAGE:

1. 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.

2. Ahldag Ditch Improvement.

The project was approved by the City Council. Public Works Director is currently working out the details.

3. On-going Drainage and Maintenance Program.

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

4. Pecan Acres (Mahann, Kinkaid, Delmas) Drainage Project.

The project area has been surveyed and an improvement plan has been developed by Schibe Engineering. The City Staff has contacted property owners for the necessary easements needed to install the drainage pipes. All four (4) property owners have executed the drainage agreements and have been accepted by the City Council. The Public Works Department is working with the contractor for installation of the drainage pipes.

WATER/SEWER IMPROVEMENTS:

1. On-going Water and Sewer Maintenance Program.

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

2. Alabama Street Sewer Line Project.

The project has been completed.

STREET IMPROVEMENTS

1. FM 1301 Extension and Overpass Project Progress Report.

IDC Inc. has submitted to TxDOT Yoakum District Office all required plans for the project. The City Staff continues to coordinate with TxDOT to ensure the project continues to move forward. The City is awaiting TxDOT announcement of the project to be funded in Wharton County.

2. I-69 Project.

The City submitted the comments as approved by the City Council to TxDOT.

3. NanYa Exit Ramp Project.

TxDOT has been coordinating with NanYa on the exit design.

4. 2017-2018 City Street Improvements.

The City 2017-2018 Street Improvement Program was approved by the City Council on April 9, 2018. The City Public Works Department has begun the Street Improvement Project. Monthly updates will be submitted to the Mayor and City Council as the project progresses.

After some discussion, no action was taken.

The twenty-third item on the agenda was to review and consider appointments and Resignations to the City of Wharton Boards, Commissions, and Committees:

- A. Beautification Commission.
- B. Building Standards Commission.

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- C. Plumbing and Mechanical Board.
- D. Mayor's Committee on People with Disabilities.

After some discussion, Councilmember Steven Schneider moved to appoint the following:

A. <u>Beautification Commission:</u>	Term Expiring
Clifford Jackson	June 30, 2019

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

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

- A. Planning Commission meeting held on August 20, 2018.

After some discussion, no action was taken.

The twenty-fifth 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 twenty-sixth item on the agenda was to review and consider a resolution of the Wharton City Council approving a Memorandum of Understanding with Acme Partnerships for the digital billboard and authorizing the Mayor of the City of Wharton to execute all documents. City Manager Andres Garza, Jr. presented an email from Mr. Brent Harper with Acme Partnerships regarding some changes to the digital billboard. City Manager Garza stated that the easement that Walmart had on the property had caused a location change of the billboard and at the new location the trees were blocking the view when traveling Highway 59 when heading South. City Manager Garza said that for this reason, the sign that faced Highway 59 when heading south would be vinyl instead digital. After some discussion, Councilmember Russell Machann moved to approve the City of Wharton Resolution No. 2018-69, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2018-69**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A MEMORANDUM OF UNDERSTANDING WITH ACME PARTNERSHIP, L. P. FOR THE DIGITAL BILLBOARD AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS.

WHEREAS, ACME Partnership, L. P. signed a Lease with the City of Wharton on August 15, 2017; and

WHEREAS, ACME Partnership, L. P. is requesting a Memorandum of Understanding for a temporary change in terms of the lease due to height restraints from TxDOT; and

WHEREAS, The Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute said MOU.

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

Section I. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute a Memorandum of Understanding with ACME Partnership, L. P.

Section II. The City of Wharton and ACME Partnership, L.P. are hereby bound by the conditions as set forth in the MOU.

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

Passed, Approved, and Adopted this 27th day of August 2018.

CITY OF WHARTON, TEXAS

By: _____
Tim Barker
Mayor

ATTEST:

Paula Favors
City Secretary

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

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The twenty-seventh 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 8:16 p.m.

CITY OF WHARTON, TEXAS

By: _____

Tim Barker
Mayor

ATTEST:

Paula Favors
City Secretary