

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
JULY 12, 2010**

Mayor Domingo Montalvo, Jr. declared a Regular Meeting duly open for the transaction of business at 7:00 P.M. Councilmember Don Mueller led the opening devotion and then Mayor Montalvo led the pledge of allegiance.

Councilmembers present were: Mayor Domingo Montalvo, Jr., Councilmembers V. L. Wiley, Jr., Lewis Fortenberry, Jr., Terry David Lynch, Don Mueller, Bryce D. Kocian and Jeff Gubbels.

Councilmember absent was: None.

Staff members present were: City Manager Andres Garza, Jr., Finance Director Joyce Vasut, City Secretary Lisa Olmeda, Assistant to City Manager Jackie Jansky, Public Works Director Carter Miska, Community Services Director Jo Knezek and City Attorney Paul Webb.

Visitors present were: Barry Halvorson- Wharton Journal Spectator, David Schroeder- Wharton Economic Development Corporation, Tim Sanders with BEFCO, Christine Cerny with CenterPoint Energy, Randal M. Pryor with CenterPoint Energy, Ashley Spano-Ramirez, and I.O. Coleman, Jr.

The second item on the agenda was Roll Call and Excused Absences. All present. No action was taken.

The third item on the agenda was Public Comments. No comments were given. No action was taken.

The fourth item on the agenda was Wharton Moment. Councilmember Lewis Fortenberry, Jr. stated that Ms. Ann Dancer passed away. He stated that she was a Sales Clerk at Zarsky Lumber Company for the past 12 years.

Councilmember Lewis Fortenberry, Jr. then stated that volunteerism runs the nation and stated that citizens should get involved in the communities. He stated that Mr. Thomas Araguz, III was a volunteer fire fighter, EMT-Basic, and a reserved Deputy for the Wharton County Sheriff's Office. He stated that the community needed more individuals like him. Mayor Domingo Montalvo, Jr. expressed condolences for the loss of Mr. Thomas Araguz, III during the Maxim Egg Farm fire that occurred on July 3, 2010. Councilmember Don Mueller publicly commended the Houston Fire Department and other agencies for their assistance during the Wharton Fire Department time of need. No action was taken.

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The fifth item on the agenda was to review and consider the reading of the minutes from the regular meetings held June 14, 2010 and June 28, 2010 and the special meeting held June 7, 2010. After some discussion, Councilmember Don Mueller made a motion to approve the minutes from the regular meetings held June 14, 2010 and June 28, 2010 and the special meeting held June 7, 2010 as presented. Councilmember Terry David Lynch seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider the request by Mr. and Mrs. Donald Bates for a zero foot side yard interior property line setback from required five feet for the construction of a 6' x 10' carport extension to be located at 805 Sunny Lane; Mayfair, Block 8, Lot 4B. City Manager Andres Garza, Jr. presented a copy of the memorandum dated July 7, 2010 from Building Official Ronnie Bollom providing the application for an over 50% percent variance request submitted by Mr. and Mrs. Donald Bates for a zero foot side yard interior property line setback variance from the required five feet for the construction of a 6' x 10' carport extension to be located at 805 Sunny Lane; Mayfair, Block 8, Lot 4B. Assistant to City Manager Jackie Jansky presented photographs of the property. She said that Mr. and Mrs. Bates were requesting the variance to construct the remaining portion of the existing carport. After some discussion, Councilmember Jeff Gubbels made a motion to approve the request by Mr. and Mrs. Donald Bates for a zero foot side yard interior property line setback from required five feet for the construction of a 6' x 10' carport extension to be located at 805 Sunny Lane; Mayfair, Block 8, Lot 4B. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider the water service outside the City of Wharton city limits:

A. Request by Ms. Ashley Spano-Ramirez for water service outside of the city limits located at 319 Margaret Street, Peach Acres, Block 2, Lot 12.

B. **Resolution:** A resolution of the Wharton City Council approving a water service extension contract between the City of Wharton and Ashley Spano-Ramirez for the property located at 319 Margaret Street; Peach Acres, Block 2, Lot 12 and authorizing the Mayor of the City of Wharton to execute the agreement.

City Manager Andres Garza, Jr. presented a copy of the application for water service submitted by Ms. Ashley Spano-Rameriz for the property located at 319 Margaret Street; Peach Acres, Block 2, Lot 12. He said that the property was located outside the city limits and would require the existing water service along Margaret Street to be extended approximately 200 feet. He then presented a drawing indicating the location of the existing and proposed water service. He said that the cost to extend the service was \$6,250.00. He said that Public Works Director Carter Miska and himself had met with Ms. Christa Spano, Ms. Rameriz' mother, who indicated that they would wish to move forward with the water service extension. He said that an agreement would be required between the property owner and the City. He then presented a draft agreement and a draft resolution approving the agreement. City Attorney Paul Webb stated that if additional residents would request service, then there would be a limited reimbursement for the extension; however, the contract period would be for 5 year for additional residents to request the extension. Finance Director Joyce Vasut stated that if a resident would request service, they would reimburse half the cost to Ms. Ashley Spano-Ramirez and the other residences would reimburse in accordance with the formula up to 10 times. Councilmember Bryce D. Kocian asked about maintenance of the line. City Manager Andres Garza, Jr. stated that the City would be responsible for maintenance.

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After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the request by Ms. Ashley Spano-Ramirez for water service outside of the city limits located at 319 Margaret Street, Peach Acres, Block 2, Lot 12 and Resolution No. 2010-39B, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2010-39B**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A WATER SERVICE EXTENSION CONTRACT BETWEEN THE CITY OF WHARTON AND ASHLEY SPANO-RAMIREZ FOR THE PROPERTY LOCATED AT 319 MARGARET STREET; PEACH ACRES, BLOCK 2, LOT 12 AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, Ms. Ashley Spano-Ramirez wishes to obtain water service from the City of Wharton for her property located at 319 Margaret Street; Peach Acres, Block 2, Lot 12; and

WHEREAS, the City of Wharton City Council wishes enter into a water service extension agreement with Ms. Ashley Spano-Ramirez; and

WHEREAS, the City of Wharton and Ms. Ashley Spano-Ramirez 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 authorizes the Mayor of the City of Wharton to execute a water service extension agreement with Ms. Ashley Spano-Ramirez to provide water service at 319 Margaret Street; Peach Acres, Block 2, Lot 12.

Section II. That the City of Wharton and Ms. Ashley Spano-Ramirez are hereby bound by the conditions as set forth in the agreement.

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

Passed, Approved, and Adopted this 12th day of July 2010.

CITY OF WHARTON, TEXAS

By:


DOMINGO MONTALVO, JR.

Mayor

ATTEST:

LISA OLMEDA

City Secretary

Councilmember Bryce D. Kocian seconded the motion. Councilmembers V. L. Wiley, Jr., Lewis Fortenberry, Jr., Don Mueller, Bryce D. Kocian, and Jeff Gubbels voted for the motion. Councilmember Terry David Lynch abstained. The motion carried.

The eighth item on the agenda was to review and consider the request by Mr. David L. Schroeder, Executive Director of the Wharton Economic Development Corporation for City Council consideration of the following:

- A. Amending the Wharton Economic Development Corporation 2009 – 2010 fiscal year budget.
- B. Approving the 2010 – 2011 fiscal year budget.

City Manager Andres Garza, Jr. presented a copy of the letter dated June 28, 2010 from Mr. David L. Schroeder, Executive Director of the Wharton Economic Development Corporation (WEDC) requesting the City Council to consider approving the amendment to the WEDC fiscal year 2009- 2010 budget and the proposed fiscal year 2010 – 2011 budget. Mr. Schroeder addressed the City Council and stated that Wharton Economic Development Corporation Board approved the amendments to 2009-2010 fiscal year budget as well as the 2010-2011 fiscal year budget. Councilmember Bryce D. Kocian requested a breakdown for personnel costs. Mayor Domingo Montalvo, Jr. requested the City Council Finance Committee review amendments to the 2009-2010 fiscal year budget and the proposed 2010-2011 budget. Mr. David Schroeder stated that the expenditures had to be approved 60 days prior to the adoption date of October 1, 2010 in accordance by 4B Corporation rules and regulations. After some discussion, Councilmember Lewis Fortenberry, Jr. referred the amending of the Wharton Economic Development Corporation 2009 – 2010 fiscal year budget and the proposed 2011-2011 budget to the City Council Finance Committee. Councilmember Bryce D. Kocian seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider the 2010 Street Improvement Project:

A. Bid Tabulation.

B. **Resolution:** A resolution of the Wharton City Council awarding the bid for the 2010 Street Improvement Project and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. stated that on July 7, 2010, the bid opening was held for the 2010 Street Improvement Program. He then presented a copy of the bid tabulation. He said that the work to be performed by the contractors was prime coating and applying a single course seal coat to the streets. He also presented a copy of the memorandum dated July 8, 2010 from Public Works Director Carter Miska providing his recommendation to the City Council to award the bid. He said that eighteen bid packages were issued and the City received three bids. He said that after Mr. Miska's review of the bids, he was recommending that the contract be awarded to Faltisek Paving Partnership, Ltd. in the amount of \$53,064.20. He then presented a draft resolution awarding the bid. After some discussion, Councilmember Bryce D. Kocian made a motion to approve Resolution No. 2010-40, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2010-40**

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A RESOLUTION APPROVING A CONTRACT BETWEEN FALTISEK PAVING PARTNERSHIP, LTD. AND THE CITY OF WHARTON FOR THE 2010 STREET IMPROVEMENT PROJECT.

WHEREAS, competitive, sealed bids were received on July 7, 2010 for 2010 Street Improvement Project; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton, Texas to execute an agreement with Faltisek Paving Partnership, LTD. and the City of Wharton for the 2010 Street Improvement Project; and

WHEREAS, the City of Wharton and Faltisek Paving Partnership, LTD. wishes to be bound by the conditions as set forth in 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 authorizes the Mayor of the City of Wharton, Texas to execute an agreement Faltisek Paving Partnership, LTD. and the City of Wharton for the 2010 Street Improvement Project.

Section II. That Faltisek Paving Partnership, LTD. and the City of Wharton are hereby bound by the conditions as set forth in the agreement.

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

Passed, Approved, and Adopted this the 12th day of July 2010.

CITY OF WHARTON

By: _____

DOMINGO MONTALVO, JR.

Mayor

ATTEST:

LISA OLMEDA

City Secretary

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

The tenth item on the agenda was to review and consider a resolution of the Wharton City Council approving an Interlocal Agreement between the City of Wharton and Wharton County for certain projects under the 2010 Street Improvement Program and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. presented a draft resolution

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approving an interlocal agreement between the City of Wharton and Wharton County for certain projects under the 2010 Street Improvement Program. He said that his conversations with Commissioner Chris King, Precinct 2, he had indicated that Precinct 2 would be willing to assist the City with certain street improvement projects in the Harris Park area that included seal coating Camella Street from the Harris Park entrance to MLK Blvd, the Harris Park entrances from West Milam Street and Camella, and Bailey Street from Outlar Street to Spanish Camp. He said that the Wharton County Commissioner's Court would consider the interlocal agreement during the Commissioner's Court meeting to be held Monday, July 12th at 9:30 a.m. Public Works Director Carter Miska stated that the Wharton County Commissioners Court approved the Interlocal agreement. He stated that Wharton County would conduct all work and charge for equipment. After some discussion, Councilmember Don Mueller made a motion to approve Resolution No. 2010-41, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2010-41**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN
INTERLOCAL AGREEMENT BETWEEN THE CITY OF WHARTON AND
WHARTON COUNTY FOR CERTAIN PROJECTS UNDER THE 2010
STREET IMPROVEMENT PROGRAM AND AUTHORIZING THE
MAYOR OF THE CITY OF WHARTON TO EXECUTE THE
AGREEMENT.**

WHEREAS, the City of Wharton wishes to enter into an interlocal agreement with Wharton County for certain Street Construction Services; and

WHEREAS, the City of Wharton wishes to be bound by the conditions set forth in the agreement; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute the agreement upon approval by Wharton County.

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

Section I. That the City Council of the City of Wharton hereby approves an Interlocal Agreement with Wharton County for certain Street Construction and Maintenance Services.

Section II. That the City Council hereby authorizes the Mayor of the City of Wharton to execute the agreement with Wharton County.

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

Passed, Approved, and Adopted this 12th day of July 2010.

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CITY OF WHARTON, TEXAS

By: 
DOMINGO MONTALVO, JR.
Mayor

ATTEST:

LISA OLMEDA

City Secretary

Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The eleventh item on the agenda was to review and consider a resolution by the City of Wharton, Texas, "City" responding to the application of Centerpoint Energy Houston Electric, LLC (Centerpoint) for authority to change rates and adopt certain rate riders; Authorizing the City to participate in a coalition of cities known as Texas Coast Utilities Coalition of Cities (TCUC); Authorizing the City's intervention in PUC Docket No. 38339 and any related proceedings as part of TCUC; Authorizing the hiring of Counsel and experts through TCUC; Requiring the reimbursement of costs; Determining that the meeting complied with the Texas Open Meetings Act; Making such other findings and provisions related to the subject; and declaring an effective date. City Manager Andres Garza, Jr. stated that on Friday, July 2, 2010, a conference call was held between members of the Texas Coast Utilities Coalition of Cities (TCUC), representatives from Herrera & Boyle Law Firm, and City Attorney Paul Webb regarding the application of CenterPoint Energy Houston Electric, PUC Docket No. 38339, to change rates and adopt certain rate riders. City Manager Andres Garza, Jr. presented a draft resolution that authorizes the City's continued participation in the Texas Coast Utilities Coalition of Cities (TCUC), authorizes the hiring of Herrera & Boyle, PLLC, and authorizes intervention in PUC Docket No. 38339, which was the pending rate case filed by CenterPoint Energy. He also presented a copy of the agenda information sheet that outlined CenterPoint's notice of intent to increase the rates submitted by CenterPoint Energy Houston Electric, LLC. City Attorney Paul Webb stated that CenterPoint included DCRF Rider and recommended filing opposing rate increase along with the different riders. After some discussion, Councilmember Lewis Fortenberry, Jr. made a motion to approve Resolution No. 2010-42, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2010-42**

A RESOLUTION BY THE CITY OF WHARTON, TEXAS, ("CITY") RESPONDING TO THE APPLICATION OF CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC (CENTERPOINT) FOR AUTHORITY TO CHANGE RATES AND ADOPT CERTAIN RATE RIDERS; AUTHORIZING THE CITY TO PARTICIPATE IN A COALITION OF CITIES KNOWN AS TEXAS COAST UTILITIES COALITION OF CITIES (TCUC); AUTHORIZING THE CITY'S INTERVENTION IN PUC DOCKET NO. 38339 AND ANY RELATED PROCEEDINGS AS PART OF TCUC; AUTHORIZING THE HIRING OF COUNSEL AND

EXPERTS THROUGH TCUC; REQUIRING THE REIMBURSEMENT OF COSTS; DETERMINING THAT THE MEETING COMPLIED WITH THE TEXAS OPEN MEETINGS ACT; MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, on or about June 30, 2010, CenterPoint Energy Houston Electric, LLC (CenterPoint) filed with the City Secretary an application for authority to change rates and to adopt certain rate riders ("the application"); and

WHEREAS, simultaneously with the filing of the application with the City Secretary, CenterPoint filed a similar if not identical application with the Public Utility Commission of Texas ("PUCT" or "Commission") which has been docketed as Docket No. 38339; and

WHEREAS, CenterPoint is requesting an increase its retail transmission and distribution rates of approximately \$76 million, and wholesale transmission rates of about \$18 million; and

WHEREAS, as part of CenterPoint's application, CenterPoint also requests approval of several rate riders, including the "Rider DCRF" (distribution cost recovery factor); and

WHEREAS, CenterPoint's request for approval of its Rider DCRF and other riders raises several legal, policy, and substantive issues, and

WHEREAS, the City has been participating as a member of the Texas Coast Utilities Coalition of Cities (TCUC), a coalition of similarly situated municipalities; and

WHEREAS, the City has benefitted from its participation in the coalition through the sharing of costs and expertise; and

WHEREAS, given the complexity in determining the reasonableness of CenterPoint's current and proposed rates and proposed rate riders, it is necessary to participate with TCUC in order to hire special counsel and experts for the purpose of assisting the City in its role as a regulatory authority under the Public Utility Regulatory Act ("PURA"); and

WHEREAS, the application filed by CenterPoint with the City and at the Commission is a request for a change in rates, the City is entitled to have its reasonable rate case expenses reimbursed by the electric utility in ratemaking proceedings.

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

Section 1. That the statements and findings set out in the preamble to this resolution are hereby in all things approved and adopted.

Section 2. The City authorizes the law firm of Herrera & Boyle, PLLC to file an intervention in Docket No. 38339 and related proceedings at the Commission on behalf of the City as a member of the Texas Coast Utilities Coalition of Cities (TCUC).

Section 3. The City is authorized to participate as a member of TCUC and to retain the law firm of Herrera & Boyle, PLLC to represent its interests related to CenterPoint's application and to retain such experts as are appropriate for such a proceeding.

Section 4. The City retains its right to withdraw from TCUC at any time without any financial obligation to the remaining coalition members or to the experts or lawyers hired by the coalition after its withdrawal.

Section 5. CenterPoint is ordered to pay the City's reasonable rate case expenses incurred in response to CenterPoint's application in a timely manner.

Section 6. 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 7. This resolution shall be effective immediately upon passage.
PASSED AND APPROVED this 12th day of July 2010.

~~CITY OF WHARTON~~

BY: 

DOMINGO MONTALVO, JR.

Mayor

ATTEST:

BY: _____

LISA OLMEDA
City Secretary

APPROVED AS TO FORM:

BY: _____

PAUL WEBB
City Attorney

Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The twelfth item on the agenda was to review and consider a resolution of the Wharton City Council approving a supplemental agreement to the professional engineering services agreement between the City of Wharton and BEFCO Engineering, Inc. for the City of Wharton Ahldag

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Addition Sanitary Sewer Improvement Project, TxCDBG Contract No. 728459 and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. presented a copy of the professional engineering services supplemental agreement that amended the original agreement between the City of Wharton and BEFCO Engineering. He said that BEFCO Engineering would develop plans and specifications for Texas Street from Wayside Avenue to the Ahldag Addition Outfall Channel. He said that the cost for the proposed services was \$7,500.00. He then presented a draft resolution approving the agreement. After some discussion, Councilmember Jeff Gubbels made a motion to approve Resolution No. 2010-43, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2010-43**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A SUPPLEMENTAL AGREEMENT TO THE PROFESSIONAL ENGINEERING SERVICES AGREEMENT BETWEEN THE CITY OF WHARTON AND BEFCO ENGINEERING, INC. FOR THE CITY OF WHARTON AHLDAG ADDITION SANITARY SEWER IMPROVEMENT PROJECT, TXCDBG CONTRACT NO. 728459 AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, On November 24, 2008 the City of Wharton approved Resolution No. 2008-72 approving a professional engineering services agreement between the City of Wharton and BEFCO Engineering for the Ahldag Addition Sanitary Sewer Improvement Project, Office of Rural Community Affairs, Texas Community Development Block Grant Program, TxCDBG Contract No. 728459; and

WHEREAS, On March 22, 2010, the Wharton City Council approved Resolution No. 2010-12 approving the addition of lines to be improved under the Ahldag Addition Sanitary Sewer Improvement Project, Office of Rural Community Affairs, Texas Community Development Block Grant Program, TxCDBG Contract No. 728459; and

WHEREAS, The Wharton City Council wishes to amend the professional engineering services agreement with BEFCO Engineering, Inc. for the project to include the engineering and design of Texas Street sanitary sewer system improvements from Wayside Avenue to the Ahldag Addition Outfall Channel in the amount of \$7,500.00; and

WHEREAS, The City of Wharton and BEFCO Engineering, Inc. wishes to be bound the conditions outlined in the contract; and

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

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

Section I: The Wharton City Council hereby approves to amend the professional engineering services agreement with BEFCO Engineering, Inc. for the project to include the engineering and design of Texas Street sanitary sewer system improvements from Wayside Avenue to the Ahldag Addition Outfall Channel in the amount of \$7,500.00 under the Office of Rural Community Affairs, Texas Community Development Block Grant Program, TxCDBG Contract No. 728459.

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

Section III: This resolution will become effective immediately upon its passage.

Passed, Approved and Adopted this 12th day of July 2010.

CITY OF WHARTON, TEXAS
By: 
DOMINGO MONTALVO, JR.
Mayor

ATTEST:

LISA OLMEDA

City Secretary

Councilmember Terry David Lynch seconded the motion. All voted in favor.

The thirteenth item on the agenda was to review and consider the City of Wharton Ahldag Addition Sanitary Sewer System Improvement Project, TxCDBG Contract No. 728459, Supak Construction, Inc., Pay Request No. 6. City Manager Andres Garza, Jr. presented a copy of the letter dated July 8, 2010 from Mr. Bradley C. Loehr, P.E. of BEFCO Engineering providing the Pay Request No. 6 for the Ahldag Addition Sanitary Sewer System Improvement Project, TxCDBG No. 728459. He said that the pay request was in the amount of \$7,875.00. After some discussion, Councilmember Bryce D. Kocian made a motion to approve the City of Wharton Ahldag Addition Sanitary Sewer System Improvement Project, TxCDBG Contract No. 728459, Supak Construction, Inc., Pay Request No. 6 in the amount of \$7,875.00. Councilmember Lewis Fortenberry, Jr. 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 approving the Amendment Number 01 to the Attachment A – Scope of Services of the Grant for the Routine Airport Maintenance Program Agreement between the City of Wharton and the Texas Department of Transportation TxDOT CSJ No.: M013WHRTN and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. presented a copy of the letter dated July 2, 2010 from the Texas Department of Transportation

(TxDOT) Aviation Division providing the Amendment No. 1 to the Scope of Services for the City's 2009 Airport Maintenance Program (RAMP) grant to include the purchase of a Jet-A fuel tank. He said that the Wharton Regional Airport Board met on July 6, 2010 and voted to recommend the City Council consider approving the contract amendment. He said that the estimated cost of the Jet-A tank was \$97,600.00, which under the 2009 RAMP grant the State would pay 50% up to \$100,000; therefore, the State would pay \$48,779.09 toward the fuel tank and the remaining \$1,220.92 was for the AWOS maintenance. He said that the City of Wharton would pay the 50% (\$50,000 for both projects) match of the \$100,000. He said that the remaining unpaid portion of the cost of the fuel tank would be funded under the 2010 RAMP program, which would become effective on September 1, 2010. He said that a separate agreement for the 2010 RAMP would be presented to the City Council in August 2010. He then presented a draft resolution approving the purchase of the Jet-A tank under the 2009 RAMP grant. After some discussion, Councilmember Jeff Gubbels made a motion to approve Resolution No. 2010-44, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2010 - 44**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE AMENDMENT NUMBER 01 TO THE ATTACHMENT A – SCOPE OF SERVICES OF THE GRANT FOR THE ROUTINE AIRPORT MAINTENANCE PROGRAM AGREEMENT BETWEEN THE CITY OF WHARTON AND THE TEXAS DEPARTMENT OF TRANSPORTATION TXDOT CSJ NO.: M013WHRTN AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID CONTRACT.

WHEREAS, On July 7, 2009, the Wharton City approved the contract to conduct improvements to the Wharton Regional Airport under the 2009 Routine Airport Maintenance Program; and

WHEREAS, The Wharton City Council wishes to amend the agreement to include the purchase of a Jet-A Tank and Materials to the Scope of Services outlined in the agreement; and

WHEREAS, The Texas Department of Transportation Aviation Division and the City of Wharton wishes to be bound by the conditions outlined in the 2009 Routine Airport Maintenance Program; and

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

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

Section I. That the Wharton City Council hereby approves the Amendment No. 1 to Attachment A – Scope of Services for the Grant a contract with the Texas

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Department of Transportation Aviation Division for the 2009 Routine Airport Maintenance Program.

Section II. That the Texas Department of Transportation Aviation Division and the City of Wharton are hereby bound by the conditions as set forth in the agreement.

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

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

Passed, Approved, and Adopted this the 12th day of July 2010.

CITY OF WHARTON

By: 

DOMINGO MONTALVO, JR.

Mayor

ATTEST:

LISA OLMEDA

City Secretary

Councilmember Lewis Fortenberry, Jr. 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 authorizing the submission of a pre-application to the US Department of Transportation for funding under the Transportation Investments Generating Economic Recovery II grant program for the FM 102 Relocation, Overpass, and Road Extension to US 59 Projects and authorizing the Mayor of the City of Wharton to execute all documents related to said application. City Manager Andres Garza, Jr. stated that the deadline to submit the City of Wharton's pre-application to the US Department of Transportation (DOT) for funding under the Transportation Investments Generating Economic Recovery (TIGER) II grant program for the FM 102 Relocation, Overpass, and road Extension to US 59 Projects was July 26, 2010. He said that the City Staff, The Ruiz Companies and Jones & Carter, Inc. was preparing the pre-application for its submission; however, a resolution authorizing its submission was required. He then presented a draft resolution authorizing the submission of the pre-application to the US DOT for funding under the TIGER II grant program. He said that if the City's pre-application was approved, then it would be invited to submit a full application that was due in late August 2010. After some discussion, Councilmember Lewis Fortenberry, Jr. made a motion to approve Resolution No. 2010-45, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2010-45**

**A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE
SUBMISSION OF A PRE-APPLICATION TO THE US DEPARTMENT OF**

TRANSPORTATION FOR FUNDING UNDER THE TRANSPORTATION INVESTMENTS GENERATING ECONOMIC RECOVERY (TIGER) II GRANT PROGRAM FOR THE FM 102 RELOCATION, OVERPASS, AND ROAD EXTENSION TO US 59 PROJECTS AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE AND SUBMIT ALL DOCUMENTS RELATED TO SAID APPLICATION.

WHEREAS, the Wharton City Council wishes to make improvements to the City's transportation system in accordance with the priorities listed in the City of Wharton Resolution No. 2009-60 approving the City of Wharton Transportation Plan; and

WHEREAS, the proposed projects to be included in the application is set forth in the City of Wharton Transportation Plan as Priority No. 1, which includes the following:

Extension of FM 1301 to US Highway 59 extending to County Road 235 (Owens Road); Rerouting FM 102 from approximately Spanish Camp Road intersection to Richmond Road/FM 1301 intersection, including the construction of an overpass over the Kansas City Southern Railroad Line; Development of US Hwy. 59 north bound side service road from Super 8 Motel to FM 1301 intersection with on ramp.

WHEREAS, the Wharton City Council wishes to submit a pre-application to the US Department of Transportation for funding under the Transportation Investments Generating Economic Recovery (TIGER) II Discretionary Grant Program; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute and submit all documents related to said application.

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

Section I. The Wharton City Council hereby authorizes the submission of a pre-application to the US Department of Transportation for funding under the TIGER II Discretionary Grant Program.

Section II. The Wharton City Council hereby approves the projects to be submitted in the proposed grant application to include the following:

FM 102 Relocation, Overpass, and Road Extension to US Hwy. 59 and Service Road Projects.

Section III. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute all documents relating to said application.

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

Passed, Approved, and Adopted this 12th day of July 2010.

CITY OF WHARTON, TEXAS

By: 

DOMINGO MONTALVO, JR.

Mayor

ATTEST:

LISA OLMEDA

City Secretary

Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The sixteenth item on the agenda was to review and consider recommendation to the Texas Municipal League – Intergovernmental Risk Pool Board of Directors – Place 9. City Manager Andres Garza, Jr. presented a copy of the memorandum dated June 24, 2010 from the Texas Municipal League – Intergovernmental Risk Pool (TML-IRP) providing the nominations to the TML-IRP Board of Trustees. He said that he was currently serving in Place 9 on the Board of Trustees and that he would like to continuing serving. He said that City Council action was required to submit the City’s nomination to TML-IRP. He said that the deadline to submit nominations was August 12, 2010. He said that he was also requesting the City Council authorize the use of City stationery and postage in order for him to conduct a mail out to fund members. After some discussion, Councilmember Terry David Lynch made a motion to approve the Texas Municipal League – Intergovernmental Risk Pool Board of Directors – Place 9 of Andres Garza, Jr. and to authorize City of Wharton stationery and postage for electioneering purposes. Councilmember Jeff Gubbels seconded the motion. All voted in favor.

The seventeenth item on the agenda was Executive Session: City Council may adjourn into an Executive Session in accordance with Section 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. **Discussion:** Appointment of Municipal Court Judge.

B. **Discussion:** City Manager Performance Evaluation.

Mayor Domingo Montalvo, Jr. adjourned into Executive Session at 7:44 p.m.

Mayor Domingo Montalvo, Jr. returned to Open Session at 7:54 p.m.

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

A. **Review & Consider:** Appointment of Municipal Court Judge.

Councilmember Terry David Lynch made a motion to appoint Jeanette Krenek as the Municipal Court Judge with the rate of pay of \$20.00 per hour. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

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B. Review & Consider: City Manager Performance Evaluation.
Mayor Domingo Montalvo, Jr. stated that no action would be taken.

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

- A. Beautification Commission.
- B. Building Standards Commission.
- C. Holiday Light Decorating Chairman.
- D. Mayor's Committee on People with Disabilities.

City Manager Andres Garza, Jr. presented a copy of the list of Boards, Commissions and Committees. Vacancies exist on the Beautification Commission, Building Standards Commission, Holiday Light Decorating, and Mayor's Committee on People with Disabilities Committee. Assistant to City Manager Jackie Jansky stated that Mr. Chester Houston had indicated that he wished to continue serving on the Building Standards Commission. After some discussion, Councilmember Bryce D. Kocian made a motion to appoint Mr. Chester Houston to the Building Standards Commission. Councilmember Terry David Lynch seconded the motion. All voted in favor.

The twentieth item on the agenda was to review and consider the City Council Committees, Boards and Commission's Reports:

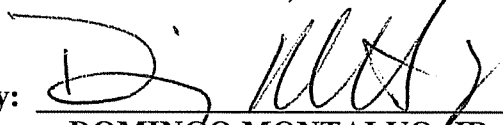
- A. Wharton Economic Development Corporation meeting held on June 29, 2010.
- B. Wharton Regional Airport Board meeting held on July 6, 2010.

City Manager Andres Garza, Jr. presented the report to the City Council. No action was taken.

The twenty-first item on the agenda was adjournment. After some discussion, Councilmember Don Mueller made a motion to adjourn. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The meeting adjourned at 7:59 p.m.

CITY OF WHARTON, TEXAS

By: 
DOMINGO MONTALVO, JR.
Mayor

ATTEST:


LISA OLMEDA
City Secretary

