

**MINUTES  
OF  
CITY OF WHARTON  
REGULAR CITY COUNCIL MEETING  
JANUARY 14, 2013**

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

Councilmember's present were: Mayor Domingo Montalvo, Jr., Councilmembers Al Bryant, Jeff Gubbels, Terry David Lynch, Russell Machann, Don Mueller and Karen Schulz.

Councilmembers absent was: None.

Staff members present were: City Manager Andres Garza, Jr., Finance Director Joan Andel, City Secretary Paula Favors, Assistant to City Manager Jackie Jansky, City Attorney Paul Webb, EMS Director John Kowalik, and Public Works Director Carter Miska, P.E.

Visitors present were: David Schroeder, Executive Director, Wharton Economic Development Corporation, Ben Sharp, Wharton Journal Spectator, Teresa L. Rosales, Mary Agnes Grissom, Jan Harrington, Glenna Williams, Bruce Williams, Nicholas Stransky, Sarah Stransky, Sarah Hudgins, Christine Stransky, Doris Teague, Mimi McCart, Kay Sikes, and Rachel Rust.

The second item on the agenda was Roll Call and Excuses Absences. All members were present.

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

The fourth item on the agenda was the Wharton Moment. City Attorney Paul Webb congratulated Councilmember Don Mueller and his wife Betty Mueller on fifty-four years of marriage.

The fifth item on the agenda was to review and consider the reading of the minutes from the regular meeting held December 10, 2012. After some discussion, Councilmember Al Bryant

City of Wharton  
Regular City Council Meeting  
January 14, 2013

moved to approve the minutes from the regular City Council meeting held on December 10, 2012. Councilmember Russell Machann seconded the motion. All voted in favor.

The sixth item discussed on the agenda was to review and consider the City of Wharton financial report for the month of November 2012. Finance Director Joan Anandel presented the financial report for the month of November 2012. Mrs. Anandel stated that the TexPool balance for November was \$151,197.37 with an average monthly yield of 0.16%. After some discussion, Councilmember Don Mueller moved to approve the City of Wharton financial report for the month of November 2012. Councilmember Al Bryant seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider an ordinance approving amendments to the City of Wharton, Texas, Budget for the 2011-2012 Fiscal Year. City Manager Andres Garza, Jr. presented a draft copy of an ordinance approving amendments to the budget for the City of Wharton, Texas, for the Fiscal Year 2011-2012. Finance Director Joan Anandel presented a copy of the spreadsheet detailing the proposed budget amendments. Mrs. Anandel stated the City Council Finance Committee met on January 8, 2013 and voted to recommend the City Council consider approving the proposed budget amendments. After some discussion, Councilmember Don Mueller moved to approve City of Wharton Ordinance No. 2013-01, which read as follows:

**CITY OF WHARTON, TEXAS  
ORDINANCE NO. 2013-01**

**AN ORDINANCE APPROVING AMENDMENTS TO  
THE CITY OF WHARTON, TEXAS, BUDGET FOR  
THE 2011-2012 FISCAL YEAR.**

**WHEREAS,** the City Council of the City of Wharton, Texas finds and determines it necessary to revise the 2011-2012 budget to better reflect actual revenues and expenditures in operations and activities during the fiscal year; and,

**WHEREAS,** the City Council finds and determines that these amendments to the budget are for municipal purposes.

**NOW, THEREFORE BE IT ORDAINED** by the City Council of the City of Wharton, Texas that the 2011-2012 Budget be amended as per Attachment "A;" and is adopted by the following favorable majority of votes of the members of the City Council of the City of Wharton, Texas in a duly assembled city council meeting by the following majority:

City of Wharton  
Regular City Council Meeting  
January 14, 2013

Al Bryant Councilmember District No. 1	Voted Yes	Karen Schulz Councilmember District No. 2	Voted Yes
Terry D. Lynch Councilmember District No. 3	Voted Yes	Donald Mueller Councilmember District No.4	Voted Yes
Russell Machann Councilmember At Large Place No. 5	Voted Yes	Jeff Gubbels Councilmember at Large Place No. 6	Voted Yes
Domingo Montalvo, Jr. Mayor		Voted Yes	

### **Separability**

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

### **Passage and Approval**

**PASSED AND APPROVED** by the City Council of the City of Wharton, Texas, this 14<sup>th</sup> day of January 2013.

### **CITY OF WHARTON, TEXAS**

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

**ATTEST:**

\_\_\_\_\_  
**PAULA FAVORS**  
City Secretary

**APPROVED AS TO FORM:**

**ADMISSION:**

\_\_\_\_\_  
**PAUL WEBB**  
City Attorney

\_\_\_\_\_  
**JOAN ANDEL**  
Director of Finance

**Error! Main Document Only.**

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

The eighth item on the agenda was to review and consider a request by Ms. Doris Teague to address the City Council regarding drainage issue(s) in the Chapel Heights/Willowbend area. City Manager Andres Garza, Jr. stated that during the regular November 12, 2012 Wharton City Council meeting, the City Council was addressed by Mr. Doris Teague on behalf of other residents who resided Chapel Heights/Willowbend area concerning their drainage issues. City Manager Garza said the City Council authorized the City of Wharton Public Works Department to conduct the necessary work on the utility easement to help alleviate drainage problems affecting the residents in that area. Ms. Teague stated that since that time, additional drainage issues have occurred. City Manager Garza presented a copy of Ms. Teague's letter dated January 8, 2013 to Mayor Domingo Montalvo, Jr. requesting to address the City Council regarding drainage. City Manager Garza stated that the City of Wharton would create a plan to drain the water and report back to the City Council. After some discussion, no action was taken.

The ninth item on the agenda was to review and consider a request by Ms. Cindy Cerny, President of S.P.O.T. Wharton County, for the City of Wharton participation in the Spay-Neuter Unit by providing funding assistance. City Manager Andres Garza, Jr. stated that Ms. Christine Stransky addressed the City Council regarding the request by Ms. Cindy Cerny, President of S.P.O.T. Wharton County, for the City of Wharton to participate in the Spay-Neuter Unit by providing funding assistance. City Manager Garza said the City Council did not take action during the November 26, 2012 special City Council meeting to allow additional time for the local veterinarians to attend a future meeting of the S.P.O.T. Board of Directors regarding the services that could be provided by the local veterinarians. Ms. Stransky stated that S.P.O.T. Wharton County met with local veterinarians to discuss the spay/neuter program. After some discussion, Councilmember Terry David Lynch moved to approve that the City of Wharton assist S.P.O.T. Wharton County's participation for the City of Wharton participation in the spay-neuter program by providing funding assistance for one (1) year at the cost of \$2,500. Councilmember Russell Machann seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider a request by Ms. Teresa Rosales, Property Owner of Sols, Block 1, Lot 3; 201 Mays Street for the City Council to consider approving the following:

- A. Waiver of the residential set back variance fee.
- B. To place a 12'0" x 41'0" carport with attached storage building one (1) foot from the interior side yard property line on the existing carport slab.

Assistant to City Manager Jackie Jansky presented a copy of the City Council Over 50% Variance to place a 12'0" x 41'0" carport with attached storage building one (1) foot from the

**Error!**

**Main**

**Document**

**Only.**

City of Wharton  
Regular City Council Meeting  
January 14, 2013

interior side yard property line on the existing slab and a waiver of the required variance fee in the amount of \$100.00. Mrs. Jansky stated that Ms. Rosales indicated in her letter received by the City of Wharton on December 13, 2012, that she owned the property and has lived there since November 2001. Mrs. Jansky said Ms. Rosales stated that the existing home was in need of repairs and in lieu of conducting those repairs due to cost, she decided to demolish the existing home and carport and rebuild the structures, which would increase the value of the property and improve the neighborhood. Mrs. Jansky said Ms. Rosales intended to rebuild the carport in its original location on the existing slab, which was one (1) foot from the interior side yard property line and she was requesting that the City Council consider approving the carport reconstruction one (1) foot from the interior side yard property line and her request for a waiver of the required \$100.00 variance fee, since the carport slab was in its original location when she purchased the property. She further stated that Ms. Rosales had all ready paid the fee. After some discussion, Councilmember Terry David Lynch moved to approve only Item B. as stated above of Mrs. Teresa Rosales' request for an Over 50% Variance to place a 12'0" x 41'0" carport with attached storage building one (1) foot from the interior side yard property line on the existing slab and that no action be taken on Item A. as stated above. Councilmember Al Bryant seconded the motion. All voted in favor.

The eleventh item on the agenda to review and consider a recommendation by the Planning Commission for City Council consideration of the request by Mr. C. E. Muegge of CE Muegge Real Estate for approval of a Preliminary/Final Replat of Abst. 19, Tract 5A RR; 3214 FM 1301 to create the American Fireworks Subdivision; a subdivision of a 2.93 tract of land referred to as Parcel No. 4 out of the John Dinsmore ¼ League, A-19 Wharton County, TX; 3214 FM 1301. Assistant to City Manager Jackie Jansky presented a copy of the Planning Commission Application for a Plat or Re-Plat submitted by Mr. C. E. Muegge, Property Owner of the 2.93 tract of land referred to as Parcel No. 4 out of the John Dinsmore ¼ League, A-19 Wharton County, TX; 3214 FM 1301. Mrs. Jansky stated that Mr. Muegge had sold a portion of the 2.93 acre tract of land to American Fireworks and the property was partially located within the City of Wharton's extra-territorial jurisdiction (ETJ) and partially in Wharton County. Mrs. Jansky presented a copy of the proposed replat and a diagram indicating the neighboring property owners and a copy of the email dated December 18, 2012 from Ms. Monica Martin of the Wharton County Permitting Department indicating that Wharton County would not need to consider the proposed replat since the property was partially located within the City's ETJ. Mrs. Jansky said the City of Wharton Planning Commission met and recommended City Council consider approving the request by Mr. C. E. Muegge of CE Muegge Real Estate for approval of a Preliminary/Final Replat of Abst. 19, Tract 5A RR; 3214 FM 1301 to create the American Fireworks Subdivision; a subdivision of a 2.93 tract of land referred to as Parcel No. 4 out of the John Dinsmore ¼ League, A-19 Wharton County, TX; 3214 FM 1301. After some discussion, Councilmember Al Bryant moved to approve the request by Mr. C. E. Muegge of CE Muegge Real Estate for approval of a Preliminary/Final Replat of Abst. 19, Tract 5A RR; 3214 FM 1301 to create the American Fireworks Subdivision; a subdivision of a 2.93 tract of land referred to as Parcel No. 4 out of the John Dinsmore ¼ League, A-19 Wharton County, TX; 3214 FM 1301. Councilmember Karen Schulz seconded the motion. All voted in favor.

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

- A. Acceptance of funding from the Wharton County Emergency Services District (ESD No. 3) for the purchase of four (4) Stryker Load, Power Loading Cot Fastener System from Stryker EMS.
- B. **Resolution:** A resolution of the Wharton City Council approving the purchase of four (4) Stryker Power Load, Power-Loading Cot Fastener Systems from Stryker EMS, a sole source manufacturer; and, authorizing the Mayor of the City of Wharton to execute any and all documents related to said purchase.

City Manager Andres Garza, Jr. stated that the City Council Finance Committee met on January 8, 2012 and considered the request by EMS Director John Kowalik for approval to seek funding from the Wharton County Emergency Services District (ESD) No. 3 for the purchase of four (4) Stryker Power Load, Power-Loading Cot Fastener Systems in the amount of \$86,636.80. City Manager Andres Garza, Jr. presented a copy of EMS Director John Kowalik's memorandum dated December 18, 2012 providing his request to purchase the four (4) pieces of equipment and a copy of the quote provided by Stryker EMS in the amount of \$86,636.80. City Manager Garza said Stryker EMS was the only manufacturer and a sole source manufacturer of this system, which was compatible with the City's Stryker Power Pro Stretchers and that there were no other vendor(s) who carried this product. City Manager Garza stated that the City Council Finance Committee voted to recommend the funding request be presented to the ESD No. 3 during its Board Meeting held Thursday, January 10, 2013 and for the City Council consider approving the purchase of the equipment contingent upon the ESD's approval to provide the funding. EMS Director John Kowalik stated that on January 10, 2012, the ESD #3 Board voted to fund the purchase of the power loading systems. Mr. Kowalik stated that it was his recommendation that the City Council consider approving the acceptance of funding from the Wharton County Emergency Services District No. 3 in the amount of \$86,636.80, and to purchase of four (4) Stryker Load, Power Loading Cot Fastener System from Stryker EMS. After some discussion, Councilmember Terry David Lynch moved to approve City of Wharton Resolution No. 2013-01, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2013-01**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE PURCHASE OF FOUR (4) STRYKER POWER LOAD, POWER LOADING COT FASTENER SYSTEMS FROM STRYKER EMS, A SOLE SOURCE DISTRIBUTOR; AND, AUTHORIZING THE MAYOR THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID CONTRACT.**

**WHEREAS,** the City of Wharton City Council felt it was in the best interest of the City of Wharton EMS Personnel and respective clients to purchase and install power load cot fastener systems on the EMS Department's Stryker Pro Stretchers, which would allow for easier lifting of patients in the Wharton EMS Ambulances; and

**WHEREAS,** the Wharton City Council Finance Committee Members authorized the City Staff to request the Wharton County Emergency Services District No. 3 to provide the funding

City of Wharton  
Regular City Council Meeting  
January 14, 2013

necessary for the purchase and installation of said equipment on the City of Wharton EMS Ambulances; and

**WHEREAS,** the Wharton County ESD No. 3 voted to approve the request for funding in the amount of \$86,636.80 to be used to purchase and install said equipment; and

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

**WHEREAS,** the Wharton City Council wishes to purchase four (4) Stryker Power Load, Power-Loading Cot Fastener Systems from Stryker EMS, a sole source manufacturer; and

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

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

**Section I.** That the Wharton City Council hereby accepts funding from the Wharton County Emergency Services District No. 3 in the amount of \$86,636.80 to be used to purchase and installation of four (4) Stryker Power Load, Power-Loading Cot Fastener Systems from Stryker EMS, a sole source manufacturer of said equipment.

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

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

**Passed, Approved, and Adopted** this 14<sup>th</sup> day of January 2013.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

\_\_\_\_\_  
**PAULA FAVORS**  
City Secretary

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

City of Wharton  
Regular City Council Meeting  
January 14, 2013

The thirteenth item on the agenda was to review and consider a resolution of the Wharton City Council authorizing the Mayor of the City of Wharton to execute the Texas Emergency Medical Task Force Resource Memorandum of Agreement with the SouthEast Texas Regional Advisory Council, a Department of State Health Services Designated Lead Regional Advisory Council, for the City of Wharton EMS Department to participate as a member of the Emergency Medical Task Force (EMTF) in Region 6; and, authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. presented a copy of the memorandum dated January 3, 2013 to him from EMS Director John Kowalik regarding the Texas EMTF Resource Memorandum of Agreement. City Manager Garza stated that Mr. Kowalik indicated in his letter that the agreement was for Mutual Aid of emergency medical services during disaster events. EMS Director Kowalik stated that the purpose of the agreement was to establish possible resources available to the State in the event of a disaster. Mr. Kowalik said he recommended the City proceed with the agreement. Mr. Kowalik said with the execution of the agreement, the City would be able to deploy one (1) unit at the ASL level with the commitment of the resource(s) was only to the extent that the City's local service area would not be significantly affected and the agreement also established rates in which the City would be reimbursed for a disaster event should personnel or equipment be deployed. After some discussion, Councilmember Russell Machann moved to approve City of Wharton Resolution No. 2013-02, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2013-02**

**A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE TEXAS EMERGENCY MEDICAL TASK FORCE RESOURCE MEMORANDUM OF AGREEMENT WITH THE SOUTHEAST TEXAS REGIONAL ADVISORY COUNCIL, A DEPARTMENT OF STATE HEALTH SERVICES DESIGNATED LEAD REGIONAL ADVISORY COUNCIL, FOR THE CITY OF WHARTON EMS DEPARTMENT TO PARTICIPATE AS A MEMBER OF THE EMERGENCY MEDICAL TASK FORCE (EMTF) IN REGION 6; AND, AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.**

**WHEREAS,** the Department of State Health Services designated the SouthEast Texas Regional Advisory Council (SETRAC) as the Lead Regional Advisory Council for Region 6; and

**WHEREAS,** the Wharton City Council wishes the Wharton Emergency Medical Services (EMS) to provide the State mutual aid during disaster events and wishes to enter into a Texas Emergency Medical Task Force Resource Memorandum of Agreement with SETRAC; and

**WHEREAS,** the City of Wharton and SouthEast Texas Regional Advisory Council (SETRAC) wishes to be bound by the conditions set forth in the afore-mentioned agreement ; and

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



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

- Section I.** That the Wharton City Council hereby approves the Texas Emergency Medical Task Force Resource Memorandum of Agreement that authorizes the City of Wharton EMS Department to participate as a member of the Emergency Medical Task Force (EMTF) in Region 6.
- Section II.** The City of Wharton and SouthEast Texas Regional Advisory Council are hereby bound by the conditions set forth in said agreement.
- Section III.** That the Mayor of the City of Wharton is hereby authorized to execute the agreement.
- Section IV.** That this resolution shall become effective immediately upon its passage.

**Passed, Approved, and Adopted** this 14<sup>th</sup> day of January 2013.

**CITY OF WHARTON, TEXAS**

---

**DOMINGO MONTALVO, JR.**  
Mayor

**ATTEST:**

---

**PAULA FAVORS**  
City Secretary

Councilmember Al Bryant 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 authorizing the City of Wharton's submission of an application for funding to the Texas Department of Agriculture under the Texas Capital Fund Program in an effort to assist with the funding efforts of Ballygle, Inc., for infrastructure improvements for the proposed Wharton Ballygle, Inc. Rehabilitation Facility and authorizing the Mayor of the City of Wharton to execute any and all documents related to the said application. City Manager Andres Garza, Jr. stated that during the September 10, 2012 City Council Finance Committee meeting the Committee Members met and were presented with information regarding a proposed rehabilitation facility being considered by Ballygle, Inc. City Manager Garza said that at that time the Finance Committee Members did not take any action regarding the requests for assistance pending additional information being submitted to the City and evident development of the project. City Manager Garza stated that the City of Wharton had received periodic project updates from Ms. Jorita Nix, Ballyle Board Member and Mr. Stewart Boyd had requested the

City of Wharton  
Regular City Council Meeting  
January 14, 2013

City of Wharton provide assistance for grant funding through the Texas Department of Agriculture (TDA) under the Texas Capital Fund (TCF) Program. City Manager Garza said that the City Council Finance Committee met on January 8, 2013 and voted to recommend the City Council consider authorizing the City of Wharton to assist the company with the application contingent upon the company providing the necessary information that would be required by the State. After some discussion, Councilmember Russell Machann moved to approve City of Wharton Resolution No. 2013-03, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2013-03**

**A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE CITY OF WHARTON'S SUBMISSION OF AN APPLICATION FOR FUNDING TO THE TEXAS DEPARTMENT OF AGRICULTURE UNDER THE TEXAS CAPITAL FUND PROGRAM IN AN EFFORT TO ASSIST WITH THE FUNDING EFFORTS OF BALLYGLE, INC. FOR INFRASTRUCTURE IMPROVEMENTS FOR THE PROPOSED WHARTON BALLYGLE, INC. REHABILITATION FACILITY AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ANY AND ALL DOCUMENTS RELATED TO SAID APPLICATION.**

**WHEREAS,** Ballygle, Inc. wishes to construct a rehabilitation facility in Wharton County and wishes the City of Wharton to assist in their efforts by providing assistance in the completion of a Texas Department of Agriculture Texas Capital Fund (TCF) application for funding for proposed infrastructure improvements; and

**WHEREAS,** the Wharton City Council wishes to authorize the City Staff assist in Ballygle, Inc.'s efforts in submitting said TCF application contingent upon the company provides the necessary information and documentation required for the proposed TCF application; and

**WHEREAS,** the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute any and all documents related to said application; and

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

**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 City Staff assist in Ballygle, Inc.'s efforts in submitting a Texas Capital Fund application for infrastructure improvements for the proposed Wharton Ballygle, Inc. Rehabilitation Facility to the Texas Department of Agriculture contingent upon the company providing the necessary information and documentation required for the proposed TCF application.

City of Wharton  
Regular City Council Meeting  
January 14, 2013

**Section II.** That the Wharton City Council hereby authorizes the Mayor of the Wharton to execute any and all documents related to said application

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

**Passed, Approved, and Adopted** this the 14<sup>th</sup> day of January 2013.

**CITY OF WHARTON**

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

**ATTEST:**

\_\_\_\_\_  
**Paula Favors**  
City Secretary

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

The fifteenth item on the agenda was an ordinance authorizing the Mayor of the City of Wharton to execute an Economic Development Agreement and a related Personal Property Bill of Sale, to transfer City surplus fill dirt to Wharton Dental, in support of the proposed development of a new dental facility along FM 102 that would increase local sales. City Manager Andres Garza, Jr. stated that the City Council Finance Committee met on January 8, 2013 and considered the request submitted by Mr. David L. Schroeder, Executive Director of the Wharton Economic Development Corporation (WEDC) on behalf of Wharton Dental, for the City Council to consider providing Wharton Dental with City of Wharton fill dirt to be used to elevate property along FM 102 for the construction of a medical/dental facility. City Manager Garza said Wharton Dental requested approximately 10,000 cubic yards of surplus fill dirt. City Manager Garza stated the Finance Committee voted to recommend the City Council consider approving the request. City Manager Garza presented the City Council with copies of agreements that were required since the funding request was for economic development and Wharton Dental was required to approach the City through WEDC and enter into an Economic Development Agreement and Personal Property Bill of Sale to obtain the fill dirt. City Attorney Paul Webb stated that it was his recommendation that the company obtain dirt samples to determine the quality of the material before moving forward. After some discussion, Councilmember Jeff Gubbels moved to approve the City of Wharton Ordinance No. 2013-02 pending approval of the corrected language of the 380 agreement, which read as follows:

**CITY OF WHARTON  
ORDINANCE NO. 2013-02**

**AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE AN ECONOMIC DEVELOPMENT AGREEMENT AND A RELATED**

**PERSONAL PROPERTY BILL OF SALE, TO TRANSFER CITY SURPLUS FILL DIRT TO WHARTON DENTAL, IN SUPPORT OF THE PROPOSED DEVELOPMENT OF A NEW DENTAL FACILITY ALONG FM 102 THAT WILL INCREASE LOCAL SALES AND PROPERTY TAX BASES AND CREATE EMPLOYMENT OPPORTUNITIES.**

**WHEREAS**, the City of Wharton and the Wharton Economic Development Corporation work jointly to foster private area developments that increase local sales and property tax bases and create employment opportunities; and

**WHEREAS**, Wharton Dental of Wharton, Texas, has approached the City and WEDC for forms of public assistance to develop a new dental facility, together with related supporting facilities located at South Texas Medical Center, Lot B; 2011 FM 102 Wharton, Texas 77488; and

**WHEREAS**, the City has ownership of large quantities of excess spoil fill dirt from various recent drainage excavation projects, and Wharton Dental needs the fill dirt to develop the tract intended for its retail development.

**NOW, THEREFORE, BE IT ORDAINED BY THE WHARTON CITY COUNCIL**

**THAT:**

1. The City hereby declares that, not-to-exceed, 10,000 cubic yards of fill dirt as surplus City personal property, now able to be sold to Wharton Dental for Ten Dollars (\$10.00) and other valuable consideration, in support of the development of its new dental facility that is reasonably anticipated to generate and enhance the local sales and property tax bases and create area employment.

2. The Mayor is hereby authorized to execute an Economic Development Agreement and related Personal Property Bill of Sale Agreement with Wharton Dental substantially in the form of the agreements attached hereto for reference.

3. The City Manager and legal counsel for the City are hereby authorized to coordinate with the WEDC and Wharton Dental to finalize, implement, and administer the additional subsidiary activities and documents related hereto to foster the creation of the anticipated private development that will enhance the area sales and property tax bases, while creating area employment opportunities, in furtherance of the public interest and for the benefit of area citizens.

**PASSED AND APPROVED THIS 14<sup>th</sup> DAY OF JANUARY 2013.**

**CITY OF WHARTON**

---

**Domingo Montalvo, Jr.**  
**Mayor**

**Attest:**

---

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

**Approved as to Form:**

---

**Paul Webb**  
**City Attorney**

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

The sixteenth item on the agenda was a resolution of the Wharton City Council authorizing the City of Wharton's Participation as a member of the Texas Coast Utilities Coalition (TCUC) Legislative Initiative on City's Original Jurisdiction. City Manager Andres Garza, Jr. presented a copy of the House Committee on State Affairs Interim Report to the 83<sup>rd</sup> Texas Legislature. City Manager Garza stated the report indicated that the Legislature should adopt legislation that would transfer the original jurisdiction from municipalities to the State of Texas agencies. City Manager Garza said the TCUC was a Coalition of Cities that was formed to evaluate the rate increase submitted by the Investor Owned Utilities (IOU) and the Coalition was requesting its members to contribute towards a legislature initiative to prevent this from occurring. City Manager Garza further stated that the City of Wharton's share to participate as a member would be \$750.00. City Manager Garza said the City Council Finance Committee met on January 8, 2013 and voted to recommend the City Council consider approving the City's joining the Coalition. After some discussion, Councilmember Karen Schulz moved to approve City of Wharton Resolution No. 2013-04, which read as follows:

**CITY OF WHARTON**  
**RESOLUTION NO. 2013-04**

**A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE CITY OF WHARTON'S PARTICIPATION AS MEMBER OF THE TEXAS COAST UTILITIES (TCUC) LEGISLATIVE INITIATIVE ON CITY'S ORIGINAL JURISDICTION.**

**WHEREAS,** the 83<sup>rd</sup> Texas Legislature will review the House Committee on State Affairs Interim Report, which indicates that the Legislature could adopt legislation that would transfer the original jurisdiction from municipalities to the State of Texas agencies; and

**WHEREAS,** the Texas Coast Utilities Coalition (TCUC) is a Coalition of Cities that was formed to evaluate the rate increase submitted by the Investor Owned Utilities (IOU) who

City of Wharton  
Regular City Council Meeting  
January 14, 2013

has requested its members to contribute towards a legislature initiative to prevent the original jurisdiction being shifted from municipalities to State agencies; and,

**WHEREAS**, the Wharton City Council wishes the City of Wharton to participate in the initiative at a cost of approximately \$750.00 to join in TCUC's legislative initiative; and,

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

**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 City of Wharton to participate, at a cost of approximately \$750.00, the Texas Coast Utilities Coalition (TCUC) Legislative Initiative in an effort for municipalities to retain its original jurisdiction.

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

**Passes, Approved, and Adopted this the 14<sup>th</sup> date of January 2013.**

**CITY OF WHARTON**

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

**ATTEST:**

\_\_\_\_\_  
**Paula Favors, City Secretary**

Councilmember Al Bryant 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 551.071 and 551.072 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:** Cause No. 44746; William Kings Satterwhite v. Larry Robert Guerrero, et al in the District Court of Wharton County, Texas; 329<sup>th</sup> Judicial District.
- B. Discussion:** Appointment of a temporary Municipal Court Judge

Mayor Domingo Montalvo, Jr. moved the meeting into closed session at 7:43 p.m.

The eighteenth item on the agenda was to return to open meeting: Action on Items discussed in Executive Session:

City of Wharton  
Regular City Council Meeting  
January 14, 2013

- A. Review & Consider:** Cause No. 44746; William Kings Satterwhite v. Larry Robert Guerrero, et al in the District Court of Wharton County, Texas; 329<sup>th</sup> Judicial District.
- B. Review & Consider:** Appointment of a temporary Municipal Court Judge

Mayor Domingo Montalvo, Jr. returned to open session at 8:08 p.m. Mayor Montalvo stated that no action was taken on Item A listed above. After some discussion, Councilmember Don Mueller moved to appoint Wharton County Precinct 2 Justice of the Peace Cynthia Kubicek as a temporary Municipal Court Judge. Councilmember Karen Schulz seconded the motion. All voted in favor.

The nineteenth item on the agenda was to review and consider a resolution of the Wharton City Council approving a Joint Election Agreement with Wharton County Elections Department for the 2013 City Election and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. presented a copy of the Joint Election Agreement with Wharton County Elections Department for the City Election, which would be held Saturday, May 11, 2013. City Secretary Paula Favors stated the contract was unchanged from the previous year. After some discussion, Councilmember Terry David Lynch moved to approve City of Wharton Resolution No. 2013-05, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2013-05**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A JOINT ELECTION AGREEMENT WITH WHARTON COUNTY ELECTIONS DEPARTMENT FOR THE CITY ELECTION; AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.**

**WHEREAS,** The Wharton City Council wishes to approve the joint agreement with Wharton County Elections Department for the City election; and

**WHEREAS,** The City of Wharton and Wharton County Elections Department 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.

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

**Section I.** That the Wharton City Council hereby approves an agreement between the City of Wharton and Wharton County Elections Department for the City election.

**Section II.** That the City of Wharton and Wharton County Elections Department are hereby bound by the conditions set forth in the agreement.

**Section III.** That the Wharton City Council hereby authorizes the Mayor of the Wharton to execute the agreement.

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

**Passed, Approved, and Adopted** this the 14<sup>th</sup> day of January 2013.

**CITY OF WHARTON**

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

**ATTEST:**

\_\_\_\_\_  
**Paula Favors**  
City Secretary

Councilmember Karen Schulz seconded the motion. All voted in favor.

The twentieth item on the agenda was to review and consider Texas Municipal League Elected Official's Conference to be held February 1-3, 2013 and the Texas Municipal League Legislative Briefing to be held February 4, 2013, both in Austin, Texas. City Manager Andres Garza, Jr. presented a copy of information regarding the Texas Municipal League (TML) Elected Official's Conference to be held February 1-3, 2013 and the TML Legislative Briefing to be held February 4, 2013, both in Austin, Texas. City Manager Garza also presented an estimate of the related costs to attend the conferences and stated that Mayor Domingo Montalvo, Jr. wished to attend the Texas Municipal League Legislative Briefing to be held February 4, 2013 and would require only conference registration be paid. After some discussion, Councilmember Terry David Lynch moved to approve the conference registration fee be paid for Mayor Domingo Montalvo, Jr.'s to attend the Texas Municipal League Legislative Briefing to be held February 4, 2013, in Austin, Texas. Councilmember Karen Schulz seconded the motion. All voted in favor.

The twenty-first item on the agenda was to review and consider the City Manager's request for travel reimbursement. City Manager Andres Garza, Jr. presented a request for travel reimbursement for the period of August 20, 2012 through December 18, 2012 in the amount of \$712.62. After some discussion, Councilmember Karen Schulz moved to approve the request for travel reimbursement for the period of August 20, 2012 through December 18, 2012 in the amount of \$712.62 to City Manager Andres Garza, Jr. Councilmember Al Bryant seconded the motion. All voted in favor.

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

- A. Holiday Light Decoration Chairman
- B. Mayor's Committee on People with Disabilities



City of Wharton  
Regular City Council Meeting  
January 14, 2013

After some discussion, no action was taken.

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

- A. Wharton Economic Development Corporation meeting held December 17, 2012.
- B. City Council Finance Committee meeting held January 8, 2013.
- C. City Council Beautification Commission meeting held January 9, 2013.

After some discussion, no action was taken.

The twenty-fourth item on the agenda was adjournment. There being no further discussion, Councilmember Don Mueller moved to adjourn. Councilmember Jeff Gubbels seconded the motion. All voted in favor.

The meeting adjourned at 8:12 p.m.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

\_\_\_\_\_  
**Paula Favors**  
**City Secretary**