

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
JUNE 10, 2013**

Mayor Pro-Tem Don Mueller declared a Regular Meeting duly open for the transaction of business at 7:00 P.M at City Hall 120 E. Caney Street Wharton, TX. Mayor Pro-Tem Don Mueller led the opening devotion and the pledge of allegiance.

Councilmember's present were: Mayor Pro-Tem Don Mueller, Councilmembers Al Bryant, Jeff Gubbels, Russell Machann, and Karen Schulz.

Councilmembers absent was: Mayor Domingo Montalvo, Jr. and Councilmember Terry David Lynch.

Staff members present were: City Manager Andres Garza, Jr., Finance Director Joan Anandel, City Secretary Paula Favors, Administrative Assistant Emily Bergstrom, Building Official Ronnie Bollom, and Public Works Director Carter Miska, P.E.

Visitors present were: Carlos Cotton, P.E. of Jones & Carter, Inc., David Schroeder, Executive Director, Wharton Economic Development Corporation, Dwight Winkler, Cecil Wondrash, Mickey Reynolds, and Ben Sharp with Wharton Journal Spectator.

The second item on the agenda was Roll Call and Excuses Absences. Councilmember Russell Machann moved to excuse Mayor Domingo Montalvo, Jr. and Councilmember Terry David Lynch. Councilmember Karen Schultz seconded the motion. All voted in favor.

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

The fourth item on the agenda was the Wharton Moment. City Manager Andres Garza, Jr. congratulated the Wharton High School's graduating class of 2013. City Manager Garza wished all area graduates success in their future endeavors.

The fifth item on the agenda was to review and consider reading of the minutes from the regular meeting held May 13, 2013 and the regular meeting held May 28, 2013. After some discussion, Councilmember Karen Schultz moved to approve the minutes from the regular meeting held May 13, 2013 and the regular meeting held May 28, 2013. Councilmember Al Bryant seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider Ordinances for Drainage Criteria.

- A. Ordinance:** An ordinance amending the City of Wharton Code of Ordinances, Appendix A – Subdivisions, Section 6.05, Drainage Criteria; 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 for severability; and establishing an effective date.

- B. Ordinance:** An ordinance amending the City of Wharton Code of Ordinances, Chapter 18, Buildings and Construction; by establishing Article VIII – Drainage Criteria; 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 for severability; and establishing an effective date.

City Manager Andres Garza, Jr. presented two draft ordinances for drainage criteria. Public Works Director Carter Miska, P.E. stated that the Public Works Committee met on October 23, 2012 and made a recommendation to City Council for approval of the proposed amendments for drainage criteria. Mr. Miska said the current drainage criteria was weak and needed to be stronger before additional development came into the area. After some discussion, Councilmember Jeff Gubbels moved to approve City of Wharton Ordinance No. 2013-11 and City of Wharton Ordinance No. 2013-12, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2013-11**

AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES, APPENDIX A - SUBDIVISIONS, SECTION 6.05, DRAINAGE CRITERIA; 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 FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ORDAINED by the City Council of the City of Wharton, Texas, that the City of Wharton Code of Ordinances, Appendix A – Subdivisions, Section 6.05, Drainage and Storm Sewers be amended as follows:

6.05 Drainage Criteria.

Adequate drainage shall be provided by developers and their engineers within the limits of subdivisions. The protection of adjoining property shall be considered in the review of plans submitted to the City.

All drainage plans shall be developed in accordance with the Wharton County Drainage Criteria Manual. Wharton County’s manual uses the following terms: “Drainage Regulation Entity”; “Drainage Review Authority”; “Wharton County”; “County or County’s”; and “County Engineer”. These terms appear throughout the manual so that other governmental entities such as the City of Wharton can adopt the criteria and a Countywide drainage coordination can be achieved. The City of Wharton hereby adopts the Wharton County Drainage Criteria Manual; therefore the generic terms mentioned above shall be generally defined as follows unless the specific context of a reference to the “County” should remain:

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“Wharton County”:	City of Wharton
“County” or “County’s”:	City, or City’s
“Drainage Regulation Entity”:	City of Wharton
“Drainage Review Authority”:	City Engineer
“County Engineer”:	City Engineer

Variances to the Wharton County Drainage Criteria Manual may be granted by the City of Wharton’s Engineer.

Effective Date

This Ordinance shall become effective on the 21st day of June 2013 at 12:01 a.m.

Passage and Approval

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, on the 10th day of June 2013.

CITY OF WHARTON, TEXAS

By: _____
DONALD MUELLER
Mayor Pro-Tem

ATTEST:

PAULA FAVORS
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

**CITY OF WHARTON
ORDINANCE NO. 2013-12**

AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 18, BUILDINGS AND CONSTRUCTION; BY ESTABLISHING ARTICLE VIII – DRAINAGE CRITERIA; 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 FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ORDAINED by the City Council of the City of Wharton, Texas, that the City of Wharton Code of Ordinances, Chapter 18, Buildings and Construction, be amended as follows:

Article VIII – Drainage Criteria.

Adequate drainage shall be provided by developers and their engineers within the limits of the City of Wharton. The protection of adjoining property shall be considered in the review of plans submitted to the City.

All drainage plans shall be developed in accordance with the Wharton County Drainage Criteria Manual. Wharton County’s manual uses the following terms: “Drainage Regulation Entity”; “Drainage Review Authority”; “Wharton County”; “County or County’s”; and “County Engineer”. These terms appear throughout the manual so that other governmental entities such as the City of Wharton can adopt the criteria and a Countywide drainage coordination can be achieved. The City of Wharton hereby adopts the Wharton County Drainage Criteria Manual; therefore the generic terms mentioned above shall be generally defined as follows unless the specific context of a reference to the “County” should remain:

“Wharton County”:	City of Wharton
“County” or “County’s”:	City, or City’s
“Drainage Regulation Entity”:	City of Wharton
“Drainage Review Authority”:	City Engineer
“County Engineer”:	City Engineer

Variances to the Wharton County Drainage Criteria Manual may be granted by the City of Wharton’s Engineer.

Effective Date

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This Ordinance shall become effective on the 21st day of June 2013 at 12:01 a.m.

Passage and Approval

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, on the 10th day of June 2013.

CITY OF WHARTON, TEXAS

By: _____
DONALD MUELLER
Mayor Pro-Tem

ATTEST:

PAULA FAVORS
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

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

The seventh item on the agenda was to review and consider an ordinance amending the City of Wharton Code of Ordinances, Fire Prevention and Protection Chapter 30, Article IV- Section 30-132, Prohibited Acts; 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 for severability; and establishing an effective date. City Manager Andres Garza, Jr. presented a draft copy of the ordinance amending the City of Wharton Code of Ordinances, Fire Prevention and Protection Chapter 30, Article IV- Section 30-132, Prohibited Acts. City Manager Garza stated that at the previous City Council meeting on May 28, 2013, Council approved to amend the ordinance from 5,000 feet to 4,000 feet for a period of five (5) years ending June 1, 2018 and the amended ordinance would implement the City Council action taken at the meeting. After some discussion, Councilmember Russell Machann moved to approve City of Wharton Ordinance No. 2013-13, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2013-13**

AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES, FIRE PREVENTION AND PROTECTION CHAPTER 30, ARTICLE IV - SECTION 30-132, PROHIBITED ACTS; 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 FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ORDAINED by the City Council of the City of Wharton, Texas, that the City of Wharton Code of Ordinances, Fire Prevention and Protection Chapter 30, Article IV – Section 30-132, Prohibited Acts be amended as follows:

Sec. 30-132. Prohibited acts.

A person may not:

- (1) Sell or offer for sale fireworks to the public or any person, at wholesale or retail, within the city limits or outside the city limits for a distance of 4,000 feet.
- (2) Possess fireworks in the city or outside the city limits for a distance of 4,000 feet with the intention of selling or offering to sell the fireworks within the city limits or outside 4,000 feet.
- (3) Possess, use, manufacture or explode fireworks within the city limits or outside the city limits for a distance of 4,000 feet.
- (4) Beginning June 1, 2018 sell or offer for sale fireworks to the public or any person, at wholesale or retail, within the city limits or outside the city limits for a distance of 5,000 feet.
- (5) Beginning June 1, 2018 possess fireworks in the city or outside the city limits for a distance of 5,000 feet with the intention of selling or offering to sell the fireworks within the city limits or outside 5,000 feet.
- (6) Beginning June 1, 2018 possess, use, manufacture or explode fireworks within the city limits or outside the city limits for a distance of 5,000-feet.

Effective Date

This Ordinance shall become effective on the 21st day of June 2013 at 12:01 a.m.

Passage and Approval

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PASSED AND APPROVED by the City Council of the City of Wharton, Texas, on the 10th day of June 2013.

CITY OF WHARTON, TEXAS

By: _____
DONALD MUELLER
Mayor Pro-Tem

ATTEST:

PAULA FAVORS
City Secretary

APPROVED AS TO FORM

PAUL WEBB
City Attorney

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

The eighth item on the agenda was to review and consider a request by Mr. John Huddleston, representing Carol's Machine and Fabrication for a variance to the City of Wharton Code of Ordinances, Chapter 18 Building and Construction, Article III Construction Codes, Section 18-78 Exterior (Façade) Building Design Standards. City Manager Andres Garza, Jr. presented a copy of the Planning Commission Application for Variance submitted by Mr. John Huddleston, representing Carol's Machine and Fabrication for a variance to the City of Wharton Code of Ordinances, Chapter 18 Building and Construction, Article III Construction Codes, Section 18-78 Exterior (Façade) Building Design Standards. Building Official Ronnie Bollom stated that the existing building currently had a metal façade and Carol's Machine and Fabrication wanted the new building to have similar architectural design and materials. Mr. Bollom said Mr. Huddleston was requesting the City Council consider approving the variance to allow the exterior front wall of the new building to be constructed of all metal material. He stated that the Planning Commission had met on June 3, 2013 and voted to recommend the City Council approve the request. After some discussion, Councilmember Karen Schulz moved to approve the request by Mr. John Huddleston, representing Carol's Machine and Fabrication for a variance to the City of Wharton Code of Ordinances, Chapter 18 Building and Construction, Article III Construction Codes, Section 18-78 Exterior (Façade) Building Design Standards. Councilmember Al Bryant seconded the motion. All voted in favor.

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

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- A. Wharton Regional Airport Board.
- B. Beautification Commission.
- C. Building Standards Commission.
- D. Electrical Board.
- E. Holiday Light Decorating Chairman.
- F. Mayor's Committee on People with Disabilities.
- G. Planning Commission.
- H. Plumbing and Mechanical Board.
- I. Wharton Economic Development Corporation Board of Directors.
- J. Youth Advisory Commission.
- K. Municipal Court Judge.
- L. Health Officer.
- M. Veterinarian.

City Manager Andres Garza, Jr. presented a list of all of the City of Wharton City Council Boards, Commissions, and Committees, including City Council Committees. City Manager Garza stated that the City Staff had contacted all Board and Committee Members that were up for reappointment and all members were willing to continue serving on their respective boards and committees. Councilmember Jeff Gubbels moved to reappoint all members to their respective boards and committees. Councilmember Karen Schulz seconded the motion. All voted in favor.

City Manager Andres Garza, Jr. stated that the following vacancies still remained:

1. Two (2) vacancies on the Beautification Commission
2. One (1) vacancy on the Electrical Board (Councilmember)
3. One (1) Holiday Light Decorating Chairman

After some discussion, Councilmember Jeff Gubbels moved to appoint Councilmember Al Bryant to the Electrical Board. Councilmember Karen Schulz seconded the motion. All voted in favor.

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

- A. Planning Commission Meeting held June 3, 2013.

After some discussion, no action was taken.

The eleventh item on the agenda was adjournment. There being no further discussion, Councilmember Russell Machann moved to adjourn. Councilmember Karen Schultz seconded the motion. All voted in favor.

The meeting adjourned at 7:13 p.m.

CITY OF WHARTON, TEXAS

By: _____
Don Mueller

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Mayor Pro-Tem

ATTEST:

Paula Favors
City Secretary