

**MINUTES  
OF  
CITY OF WHARTON  
REGULAR CITY COUNCIL MEETING  
AUGUST 24, 2015**

Mayor Domingo Montalvo, Jr. 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 Domingo Montalvo, Jr. the opening devotion and the pledge of allegiance.

Councilmember's present were: Mayor Domingo Montalvo, Jr. and Councilmembers Tim Barker, Al Bryant, Vincent Huerta, Russell Machann, Don Mueller and Steven Schneider.

Councilmember's absent was: None.

Staff members present were: City Manager Andres Garza, Jr., Finance Director Joan Andel, City Secretary Paula Favors, Assistant to City Manager Brandi Jimenez, Assistant to the Building Official Gwyn Laney, EMS Director John Kowalik, and Police Chief Terry David Lynch.

Visitors present were: Bradley C. Loehr, P.E., with BEFCO Engineering, Inc., David Schroeder, Juanita Cisnado, I.O. Coleman, Jr., Wharton Chamber of Commerce Executive Director Ron Sanders, Carter Miska, P.E., Carlos Cotton, P.E. with Jones and Carter, Inc., Margaret Montgomery and Morgan Taylor with the Wharton Journal Spectator.

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 Manager Andres Garza, Jr. gave condolences to Councilmember Don Mueller for the passing of his sister-in-law.

The fifth item on the agenda item on the agenda was to review and consider City Manager's submission of the City of Wharton, Texas, proposed budget for the fiscal year October 1, 2015 to September 30, 2016. City Manager Andres Garza, Jr. stated that on Monday, August 24, 2015, he filed with City Secretary Paula Favors the City of Wharton Fiscal Year October 1, 2015 to September 30, 2016 Proposed Budget as required by State Law. City Manager Garza presented under separate cover a copy of the Proposed City Budget as required by the City's Charter to the City Council. After some discussion, no action was taken.

The sixth item on the agenda was to review and consider setting a public hearing date for the City of Wharton, Texas, proposed budget for the fiscal year October 1, 2015 to September 30, 2016. City Manager Andres Garza, Jr. stated that under Article VI, Section 53 of the City

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of Wharton Charter the City Council shall set a time and place for a public hearing and if the date was approved by the City Council, the City Staff would publish the Notice of Public Hearing on Wednesday, September 2, 2015 in the Wharton Journal Spectator. City Manager Garza said his recommendation was that the public hearing be set for the September 14, 2015 regular City Council meeting which would comply with Section 53 of the Charter and State law. Councilmember Al Bryant moved to approve setting a public hearing date for the City of Wharton, Texas, proposed budget for the fiscal year October 1, 2015 to September 30, 2016 for September 14, 2015. Councilmember Tim Barker seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider City of Wharton Financial Report for July 2015. Finance Director Joan Andel presented the financial report for the month of July 2015. Mrs. Andel stated that the TexPool balance for July was \$151,408.26 with an average monthly yield of .06%. She said the Prosperity Bank balance for July 2015 was \$7,593,633.85 with an average monthly yield of .15% and the total ad valorem taxes collected as of July 2015 were \$906,029.47 with the sales tax for the month of July 2015 was \$128,125. After some discussion, Councilmember Don Mueller moved to approve the City of Wharton Financial Report for the month of July 2015. Councilmember Russell Machann seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider a request by Mr. Ron Sanders, Executive Director of the Wharton Chamber of Commerce & Agriculture for City of Wharton assistance by approving the following for the Wine and Arts Fair to be held Saturday, October 10, 2015:

- A. Close Fulton Street and Houston Street between Burleson Street and Milam Street from 9 am until midnight Saturday, October 10, 2015.
- B. Provide 6 generator lights for safety for the fair location and Guffey Park parking area.
- C. Turn on lights located on top of all buildings in the downtown area.
- D. Allow "open containers" for the alcohol on city property on the exterior sides of the Monterey Square and approximately one adjoining block to include all participating businesses.
- E. Waive all local permit fees.
- F. Provide the stage and access to power on Houston at Burleson.

City Manager Andres Garza, Jr. presented a copy of a letter dated August 3, 2015 from Mr. Ron Sanders, Executive Director of the Wharton Chamber of Commerce & Agriculture providing his request for the afore-mentioned items. City Manager Garza stated that in the past all items were approved with the exception of Item C. which was an expense of over \$3,000. After some discussion, Councilmember Russell Machann moved to approve afore mentioned items A. B. D. E. and F. Councilmember Tim Barker seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider a resolution providing for the public sale of property acquired by the City of Wharton from delinquent taxes. City Manager Andres Garza, Jr. presented the list of properties the delinquent tax attorneys, McCreary, Velselka, Bragg and Allen, was requesting approval for public sale due to delinquent taxes.

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After some discussion, Councilmember Tim Barker moved to approve City of Wharton Resolution No. 2015-64, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2015-64**

**STATE OF TEXAS  
COUNTY OF WHARTON**

**RESOLUTION PROVIDING FOR THE PUBLIC SALE  
OF PROPERTY ACQUIRED BY THE CITY OF WHARTON  
FROM DELINQUENT TAXES**

**WHEREAS**, the following described properties were offered for sale by the Sheriff of Wharton County, Texas at a public auction pursuant to a judgment of foreclosure for delinquent taxes by the District Courts of Wharton County; and

**WHEREAS**, the following described properties did not receive sufficient bids as set by law and were struck off to the County of Wharton and later conveyed to the City of Wharton, Texas as Trustee, for the use and benefit of itself and the other taxing units for which levied taxes on the properties, pursuant to TEX. PROP. TAX CODE § 34.01 (j); and

**WHEREAS**, TEX. PROP. TAX CODE § 34.05 (c) and (d) provide that a taxing unit may request that the Sheriff sell the property at a public sale to the highest bidder with no minimum bid required,

**THEREFORE, BE IT HEREBY RESOLVED** that the City of Wharton, Texas, does hereby request the Sheriff of Wharton County, Texas to conduct a public sale in the manner prescribed by the Texas Rules of Civil Procedure and § 34.05 (c) and (d) of the Texas Tax Code and sell the following described properties to the highest bidder for cash.

<b>CAUSE #</b>	<b>SUIT STYLING</b>	<b>ACCOUNT #</b>	<b>LEGAL DESCRIPTION ALL PROPERTIES LOCATED IN WHARTON COUNTY, TEXAS UNLESS OTHERWISE NOTED</b>	<b>DEED REFERENCE (Volume/Page, Official Public or Deed Records of Wharton County, Texas)</b>	<b>ORIGINAL SALE DATE</b>
7900	WHARTON COUNTY, ET AL VS. RAY	R012799	LOT 17-A IN BLOCK 1 OF THE CLINE ADDITION, CITY OF WHARTON, WHARTON COUNTY, TEXAS ACCORDING TO	735/406	2/5/2008

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	MOORE, ET AL		THE MAP OR PLAT THEREOF RECORDED IN VOLUME 163, PAGE 3 OF THE DEED RECORDS OF WHARTON COUNTY, TEXAS		
7962	WHARTO N COUNTY, ET AL VS. LULA SANCHEZ	R012786	LOT 3 IN BLOCK 1 OF THE R.A. CLINE ADDITION, CITY OF WHARTON, WHARTON COUNTY, TEXAS, SAID LOT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS IN DEED DATED MAY 2, 1929 FROM ROMB ROBERSON TO LULA SANCHEZ, RECORDED IN VOLUME 86, PAGE 40, DEED RECORDS OF WHARTON COUNTY, TEXAS (TAX ACCOUNT NUMBER: 10240-001-003-00)	763/350	10/7/2008
8367	WHARTO N COUNTY, ET AL VS. UNKNOW N HEIRS TO THE ESTATE OF THELMA JEAN JOHNICAN N/K/A THELMA JEAN BROWN A/K/A THELMA JOHNICAN BROWN, ET AL	R026730	TRACT 1: LOT 20A, BLOCK 61, CITY OF WHARTON, WHARTON COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN COLUME 163, PAGE 3, DEED RECORDS OF WHARTON COUNTY, TEXAS. (TAX ACCOUNT NUMBER: 11445-061-201-00)	774/495	2/3/2009

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8540	WHARTON COUNTY, ET AL VS. WILLIE MAE JACKSON	R016029	30.00 FEET BY 50.00 FEET, CONTAINING 0.0344 ACRE, MORE OR LESS, BEING THE NORTHERLY 30.00 FEET OF LOT 6, BLOCK 2, HARRISON ADDITION, AN ADDITION TO THE CITY OF WHARTON COUNTY, TEXAS, AS DESCRIBED IN DEED DATED JULY 27, 1950, FROM WILLIAM A. KLINE TO WILLIE MAY JACKSON, IN VOLUME 228, PAGE 469, DEED RECORDS OF WHARTON COUNTY, TEXAS	896/259	8/7/2012
8591	CITY OF WHARTON, ET AL VS. ELENORA KELLY ROGERS	R016025	THE SOUTH 70.00 FEET OF LOT 4, BLOCK 2, HARRISON ADDITION, AN ADDITION TO THE CITY OF WHARTON, WHARTON COUNTY, TEXAS, AS DESCRIBED IN VOLUME 159, PAGE 605, OFFICIAL PUBLIC RECORDS OF WHARTON COUNTY, TEXAS	853/231	5/3/2011
8595	WHARTON COUNTY, ET AL VS. UNKNOWN HEIRS TO ESTATE OF, GENARO CARRASCO, A/K/A GENERO LEYVA CARRASCO, DECEASED	R025545	TRACT 1: 36.47 FEET OF THE SOUTH SIDE OF LOT 9, BLOCK 4, WASHINGTON HOME ADDITION, AN ADDITION TO THE CITY OF WHARTON, WHARTON COUNTY, TEXAS, ACCORDING TO THE TO MAP OR PLAT THEREOF, RECORDED IN VOLUME 187, PAGE 287, DEED RECORDS OF WHARTON COUNTY, TEXAS	853/233	5/3/2011

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8695	WHARTON COUNTY, ET AL VS. VERNON KNIGHT, AKA VERNON JOSEPH KNIGHT, ET AL	R016065	LOT 1, BLOCK 6, HARRISON ADDITION, AN ADDITION TO THE TOWN OF WHARTON, WHARTON COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 13, PAGE 178, DEED RECORDS OF WHARTON COUNTY, TEXAS	810/47	2/2/2010
8816	WHARTON COUNTY, ET AL VS. MARY SAMPLES A/K/A MARY POLK SAMPLES, ET AL	R018271	81 FEET BY 48 FEET, CONTAINING 0.0892 ACRE, OUT OF THE NORTHEAST CORNER OF A CERTAIN 1/2 ACRE TRACT, SITUATED IN THE ALEXANDER JACKSON LEAGUE, WHARTON COUNTY, TEXAS, SAID 81 FEET BY 48 FEET BEING CALLED LOT 31A, BLOCK 60A, CITY OF WHARTON, WHARTON COUNTY, TEXAS AS DESCRIBED IN DEED DATED FEBRUARY 23, 1981 FROM ELIZABETH P. SIMS TO MARY SAMPLES, IN VOLUME 559, PAGE 137, DEED RECORDS OF WHARTON COUNTY, TEXAS	882/801	3/6/2012
8893	WHARTON COUNTY, ET AL VS. STATE STREET BANK AND TRUST COMPANY AS TRUSTEE OF THE	R012833	THE NORTH 56.75 FEET OF LOTS 1 AND 2, BLOCK 4, CLINE ADDITION, AND ADDITION TO THE CITY OF WHARTON, WHARTON COUNTY, TEXAS	844/228	3/1/2011

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	CONSUME R OBLIGATI ON STRUCTU RED TRUST 1993-1				
8918	WHARTO N COUNTY, ET AL VS. UNKNOW N HEIRS TO THE ESTATE OF CLEO HEARSE TAYLOR, DECEASE D, ET AL	R016017	25.00 FEET BY 145.00 FEET, CONTAINING 0.0832 ACRE, MORE OR LESS, BEING THE EAST 1/2 OF LOT 11, BLOCK 1, HARRISON ADDITION, AN ADDITION TO THE CITY OF WHARTON, WHARTON COUNTY, TEXAS	896/265	8/7/2012
9206	WHARTO N COUNTY, ET AL VS. ISIAH MOORE, ET AL	R018509	LOT 22, BLOCK 64, CITY OF WHARTON, BEING LOT 136-C, CITY OF WHARTON, WHARTON COUNTY, TEXAS	886/850	5/1/2012
9428	WHARTO N COUNTY, ET AL VS. MELVIN C. HILL A/K/A MELVIN CLAY HILL	R026589	LOT 6, BLOCK 59, CITY OF WHARTON, WHARTON COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 163, PAGE	899/942	9/4/2012

**THEREFORE, BE IT HEREBY RESOLVED** that the City of Wharton, Texas, does hereby request the Sheriff of Wharton County, Texas to conduct a public sale in the manner prescribed by the Texas Rules of Civil Procedure and § 34.05 (c) and (d) of the Texas Tax Code and sell the following described properties to the highest bidder for cash.

**THEREFORE, BE IT HEREBY RESOLVED** that the City of Wharton, Texas hereby directs the Sheriff of Wharton County, Texas to conduct a sale on the first Tuesday in

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October, 2015, in the manner prescribed by the Texas Rules of Civil Procedure and TEX. PROP. TAX CODE § 34.05 (c) and (d).

**THIS RESOLUTION WAS PASSED, APPROVED AND ADOPTED** this the 24<sup>th</sup> day of August, 2015.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

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

Councilmember Don Muller 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 authorizing the City Manager of the City of Wharton to execute a Performance Agreement with Wharton Economic Development Corporation regarding funding for the Mowing and Landscape Maintenance Agreement with Texas Department of Transportation of approximately 89 acres of land along Highway US 59 at its intersection with FM 102 and Highway 60. City Manager Andres Garza, Jr. presented a letter from Wharton Economic Development Corporation Executive Director David Schroeder regarding the Municipal Maintenance Performance agreement that would fund the City's agreement with TxDOT for the Landscape and Maintenance Agreement the City had approved. City Manager Garza then presented the Wharton Economic Development Corporation agreement along with a resolution that would authorize him to execute the agreement on behalf of the City. After some discussion, Councilmember Tim Barker moved to approve City of Wharton Resolution No. 2015-65, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2015 - 65**

**A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE CITY MANAGER OF THE CITY OF WHARTON TO EXECUTE A PERFORMANCE AGREEMENT WITH WHARTON ECONOMIC DEVELOPMENT CORPORATION REGARDING FUNDING FOR THE MOWING AND LANDSCAPE MAINTENANCE AGREEMENT WITH TEXAS DEPARTMENT OF TRANSPORTATION OF APPROXIMATELY 89 ACRES OF LAND ALONG HIGHWAY 59 AT ITS INTERSECTION WITH FM 102 AND HIGHWAY 60.**



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**WHEREAS,** the Wharton City Council wishes to authorize a Municipal Maintenance Performance Agreement with the Wharton Economic Development Corporation for the maintenance of approximately 89 acres along US Highway 59 at its intersection with FM 102 and Highway 60; and,

**WHEREAS,** the City of Wharton and Wharton Economic Development Corporation wishes to be bound by the conditions set forth in said contract; and

**WHEREAS,** the Wharton City Council wishes to authorize the City Manager of the City of Wharton to execute the agreement; 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, THAT:**

**Section 1.** The Wharton City Council hereby authorizes the City Manager of the City of Wharton to execute a Municipal Maintenance Performance Agreement with Wharton Economic Development Corporation.

**Section 2.** The City of Wharton and Wharton Economic Development Corporation are hereby bound by the conditions set forth in the agreement.

**Section 3.** That this resolution shall become effective immediately upon its passage.

**PASSED, APPROVED and ADOPTED** this 24<sup>th</sup> day of August 2015.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

**BY:** \_\_\_\_\_  
**PAULA FAVORS**  
City Secretary

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

The eleventh item on the agenda was to review and consider a resolution of the Wharton City Council awarding a contract for the repairs at WWTP #2 Out Flow Piping and authorizing the Mayor of the City of Wharton to execute all documents relating to said contract. City Manager Andres Garza, Jr. presented a memo from Interim Public Works Director Phil Bush recommending to award a contract to Mercer Construction-Alternate A1 for the repairs at

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WWTP #2. Mr. Bradley C. Loehr, P.E., with BEFCO Engineering, Inc. stated that he also recommended City Council considering awarding a contract to Mercer Construction-Alternate A1. After some discussion, Councilmember Don Mueller moved to approve City of Wharton Resolution No. 2015-66, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2015-66**

**A RESOLUTION OF THE WHARTON CITY COUNCIL AWARDING A CONTRACT FOR THE REPAIRS AT WWTP #2 OUT FLOW PIPING AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID CONTRACT.**

**WHEREAS,** proposals were received for the City of Wharton WWTP #2; and,

**WHEREAS,** Mercer Construction, was deemed the best lowest qualified bidder in the amount of \$18,910.00 (Alternate A1); and,

**WHEREAS,** the Wharton City Council wishes to award a contract to Mercer Construction for the repairs at the WWTP #2 in the amount of \$18,910.00 (Alternate A1); and,

**WHEREAS,** the City of Wharton and Mercer Construction wish 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.** The Wharton City Council hereby authorizes the Mayor of the City of Wharton, Texas, to execute a contract for the WWTP #2 to Mercer Construction in the amount of \$18,910.00 (Alternate A1).

**Section II.** The City of Wharton and Mercer Construction 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 24th day of August 2015.

**CITY OF WHARTON, TEXAS**

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

Mayor

**ATTEST:**

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**PAULA FAVORS**

City Secretary

Councilmember Russell Machann 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 requesting funding from TxDOT for the FM 1301 Extension Projects and authorizing the Mayor to submit the funding request on behalf of the City of Wharton. City Manager stated that Councilmember Tim Barker requested that the City Council consider a resolution to be submitted to TxDOT for the FM 1301 Extension and Railroad Overpass Project. After some discussion, Councilmember Tim Barker moved to approve City of Wharton Resolution No. 2015-67, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2015-67**

**A RESOLUTION OF THE WHARTON CITY COUNCIL REQUESTING FUNDING FROM TXDOT FOR THE FM 1301 EXTENSION PROJECTS AND AUTHORIZING THE MAYOR TO SUBMIT THE FUNDING REQUEST ON BEHALF OF THE CITY OF WHARTON.**

**WHEREAS,** The City of Wharton has prepared and approved a Transportation Plan to guide the future growth of the City; and,

**WHEREAS,** The Texas Department of Transportation (TxDOT) and the City of Wharton have entered into an Advanced Funding Agreement (AFA) for the construction of the FM 1301 Extension and Railroad Overpass Project; and,

**WHEREAS,** The City of Wharton has prepared and submitted to TxDOT environmental documents continuing for (4) phases to be environmentally cleared for construction; and,

**WHEREAS,** The City of Wharton City Council wishes to and does hereby designate the extension of FM 1301 to Highway 59 as its number one (1) priority for construction, however additional funding is required; and,

**WHEREAS,** The City of Wharton City Council through this resolution is formally requesting additional funding from TxDOT to construct the FM 1301 extension to Highway 59 along with the necessary frontage road along Highway 59; and,

**WHEREAS,** The Wharton City Council authorizes the Mayor of the City of Wharton to submit the funding requests to the Texas Department of Transportation.

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

- Section I.** The Wharton City Council hereby formally request additional funding from the Texas Department of Transportation for the construction of the FM 1301 Extension and Railroad Overpass Project.
- Section II.** The Wharton City Council funding request is for the City's number one (1) priority the FM 1301 Extension and Railroad Overpass Project to be constructed to Highway 59 along with the necessary frontage road improvements.
- Section III.** The Wharton City Council hereby authorizes the Mayor of the City of Wharton to submit on behalf of the City of Wharton the funding request to the Texas Department of Transportation.
- Section IV:** That this resolution shall be come effective immediately upon its passage.

**Passed, Approved, and Adopted** this 24<sup>th</sup> day of August 2015.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

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

Councilmember Al Bryant seconded the motion. Councilmember Don Mueller voted against the motion. Councilmember Steve Schneider, Councilmember Vincent Huerta and Councilmember Russell Machann voted for the motion. The motion carried.

The thirteenth item on the agenda was to review and consider Ahldag Addition Sanitary Sewer System Improvement Project. - TXCDBG Contract No. 713510

A. Request Payment No. 2 from Supak Construction Inc.

City Manager Andres Garza, Jr. presented a pay request No.2 from Supak Construction Inc. for the Ahldag Addition Sanitary Sewer System Improvement Project. Mr. Bradley Loehr, P.E. with BEFCO Engineering, Inc. requested the City Council consider approving Request

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Payment No. 2 from Supak Construction Inc. After some discussion, Councilmember Al Bryant moved to approve the Ahldag Addition Sanitary Sewer System Improvement Project. - TXCDBG Contract No. 713510 Request Payment No. 2 from Supak Construction, Inc. Councilmember Don Mueller seconded the motion. All voted in favor.

The fourteenth item on the agenda was to review and consider an ordinance amending the City of Wharton Code of Ordinances, Chapter 86, Sections 86-15, 86-16, 86-17 and 86-21, Utilities and Services, Article I in General; Providing that a violation of the ordinance or any part of the Code as adopted hereby shall constitute a penalty upon conviction of a fine; Providing a savings clause and revoking all ordinances or parts of ordinances in conflict herewith only to the extent same are in conflict herewith otherwise provided herein. City Manager Andres Garza, Jr. presented a copy of the memorandum dated August 20, 2015 from Finance Director Joan Andel to him regarding the proposed increase in utility rates for customers to be effective October 1, 2015. City Manager Garza stated that as discussed in the City Council Budget Workshop on August 11, 2015, the proposed budget included a 10% increase in water and sewer rates. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Ordinance No. 2015-10, which read as follows:

**CITY OF WHARTON  
ORDINANCE NO. 2015-10**

**AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 86, SECTIONS 86-15, 86-16, 86-17 AND 86-21, UTILITIES AND SERVICES, ARTICLE I IN GENERAL; PROVIDING THAT A VIOLATION OF THE ORDINANCE OR ANY PART OF THE CODE AS ADOPTED HEREBY SHALL CONSTITUTE A PENALTY UPON CONVICTION OF A FINE; PROVIDING A SAVINGS CLAUSE AND REVOKING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH ONLY TO THE EXTENT SAME ARE IN CONFLICT HEREWITH OTHERWISE PROVIDED HEREIN.**

**BE IT ORDAINED** by the City Council of the City of Wharton, Texas that Chapter 86, Utilities and Services, Article I in General; Sections 86-15, 86-16, 86-17 and 86-21 be amended by the following:

**Section I. Amendment**

The Code of Ordinances of the City of Wharton, Texas, Chapter 86 Utilities and Services is hereby amended to be enforced by the City of Wharton as follows:

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

1. Customers are responsible for the actual cost for main line extensions, boring under a street or pre-existing utility line, or any other additional costs necessary to install a water tap. All main line extensions will require the extension to be

extended the width of the property to the next adjacent property line unless a variance is issued. All main line extensions will require a written agreement between the city and the customer.

2. Residential customers inside the city limits that qualify for a homestead exemption prior to applying for a building permit will receive up to 200 feet of line extension at no charge for the cost of materials and installation. Residential homestead customers in the city limits will be charged for any borings associated with the installation of the first 200 feet of line extension and will be charged for any main line extensions in excess of 200 feet. Residential customers outside the city limits will be charged for the first 200 feet as well as for any boring associated with the first 200 feet and for any main line extensions in excess of 200 feet.
3. Customers will be required to pay the city in advance for any additional costs associated with connecting to the city's main line based on the city's engineer's estimate for projected engineer and construction costs. Once the project is complete, the customer will either be billed or refunded the difference between the estimate and the actual cost.

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

1. Customers are responsible for the actual cost for main line extensions, boring under a street or pre-existing utility line, or any other additional costs necessary to install a sewer tap. All main line extensions will require the extension to be extended to the width of the property to the next adjacent property line unless a variance is issued. All main line extensions will require a written agreement between the city and the customer.
2. Residential customers inside the city limits that qualify for a homestead exemption prior to applying for a building permit will receive up to 200 feet of line extension at no charge for the cost of materials and installation. Residential homestead customers in the city limits will be charged for any borings associated with the installation of the first 200 feet of line extension and will be charged for any main line extensions in excess of 200 feet. Residential customers outside the city limits will be charged for the first 200 feet as well as for any boring associated with the first 200 feet and for any main line extensions in excess of 200 feet.
3. Customers will be required to pay the city in advance for any additional cost associated with connecting to the city's main line based on the city's engineer's estimate for projected engineer and construction costs. Once the project is complete,

the customer will either be billed or refunded the difference between the estimate and the actual cost.

**Sec. 86-16. Water Service Charges.**

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

<b>Volume</b>	<b>Charges</b>
First 2,000 gallons (minimum)	\$16.68
Next 2,000 gallons	\$3.16 per 1,000
Next 3,000 gallons	\$3.27 per 1,000
Next 4,000 gallons	\$3.40 per 1,000
Next 4,000 gallons	\$3.62 per 1,000
Next 35,000 gallons	\$3.84 per 1,000
Next 50,000 gallons	\$3.98 per 1,000
Next 50,000 gallons	\$4.27 per 1,000
Next 50,000 gallons	\$4.54 per 1,000

- (b) Customers requesting temporary water services (7 day increments) can apply for a temporary water rate based on the following:

<b>Volume Charges</b>
First 8,000 gallons \$38.55 for 7 days
Over 8,000 gallons \$3.52 per 1,000

**Sec. 86-17. Sewer Service Charges.**

The monthly charges for sanitary sewer services rendered by the City shall be as follows:

**Volume Charges**

First 2,000 gallons (minimum)	\$17.92
Next 2,000 gallons	\$2.78 per 1,000
Next 3,000 gallons	\$3.40 per 1,000
Next 4,000 gallons	\$3.77 per 1,000
Next 4,000 gallons	\$4.05 per 1,000
Next 35,000 gallons	\$4.39 per 1,000
Next 50,000 gallons	\$4.77 per 1,000
Next 50,000 gallons	\$5.05 per 1,000
Next 50,000 gallons	\$5.41 per 1,000

**Sec 86-21. Bulk Water Rates**

- (a) Bulk Sales through fire hydrant water meters temporarily installed at locations remote from the Wharton Volunteer Fire Department on Fulton Street will require the following:
  - 1. Payment of Bulk Sales Rate of \$64.26 per month for the first 1,000 gallons of water dispensed, or any fraction thereof. \$25.70 per month per 1,000 gallons dispensed, or any fraction thereof, beyond the initial 1,000 gallons dispensed; and
  
- (b) Bulk Sales through permanently installed water meter dispensation point at the Wharton Volunteer Fire Department on Fulton Street will require the following:
  - 1. Payment of Bulk Sales Rate of \$64.26 for the first 1,000 gallons of water dispensed, or any fraction thereof. \$25.70 per 1,000 gallons dispensed, or any fraction thereof, beyond the initial 1,000 gallons dispensed; and

#### **Severability**

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

#### **Penalties and Fines**

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

#### **Effective Date**

This ordinance shall be effective on the 1<sup>st</sup> day of October 2015 at 12:01 a.m.

#### **Passage and Approval**

**PASSED AND APPROVED** by the City Council of the City of Wharton, Texas, this 24<sup>th</sup> day of August 2015.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**



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**PAULA FAVORS**

City Secretary

**APPROVED AS:**

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**PAUL WEBB**

City Attorney

Councilmember Tim Barker seconded the motion. All voted in favor.

The fifteenth item on the agenda was to review and consider a recommendation from the Planning Commission regarding a request for the Preliminary/Final Re-Plat by Mr. King (James) Ooi for a Subdivision of 19.91 acres of land in the City of Wharton, WM. Kincheloe League, A-38 for RV Park. City Manager Andres Garza, Jr. presented a request from the Planning Commission regarding a request for the Preliminary/Final Re-Plat by Mr. King (James) Ooi for a Subdivision of 19.91 acres of land in the City of Wharton, WM. Kincheloe League, A-38 for RV Park. Assistant to the Building Official Gwyn Laney stated that the Planning Commission was recommending City Council consider approving the request for the Preliminary/Final Re-Plat by Mr. King (James) Ooi for a Subdivision of 19.91 acres of land in the City of Wharton, WM. Kincheloe League, A-38 for RV Park. After some discussion, Councilmember Al Bryant moved to approve the Preliminary/Final Re-Plat by Mr. King (James) Ooi for a Subdivision of 19.91 acres of land in the City of Wharton, WM. Kincheloe League, A-38 for RV Park. Councilmember Vincent Huerta seconded the motion. All voted in favor.

The sixteenth item on the agenda was to review and consider a recommendation from the Planning Commission regarding the request by Ms. Juanita Cisnado for 2' Building Line Setback Variance at 520 E. Milam St., Wharton, Block 55, Lot 8 to construct a water heater enclosure to make more interior counter space. City Manager Andres Garza, Jr. presented a request from the Planning Commission regarding a request by Ms. Juanita Cisnado for 2' Building Line Setback Variance at 520 E. Milam St., Wharton, Block 55, Lot 8 to construct a water heater enclosure to make more interior counter space. Assistant to the Building Official Gwyn Laney stated the Planning Commission approved the request by Ms. Juanita Cisnado for 2' Building Line Setback Variance at 520 E. Milam St., Wharton, Block 55, Lot 8 to construct a water heater enclosure to make more interior counter space. After some discussion, Councilmember Tim Barker moved to approve the request by Ms. Juanita Cisnado for 2' Building Line Setback Variance at 520 E. Milam St., Wharton, Block 55, Lot 8 to construct a water heater enclosure to make more interior counter space. Councilmember Russell Machann seconded the motion. All voted in favor.

The seventeenth item on the agenda was to review and consider Wharton EMS-Request for purchase of Power Pro Stretcher. City Manager Andres Garza, Jr. presented a memorandum dated August 18, 2015, from EMS Director John Kowalik in regards to the purchase of a Power Pro Stretcher. Mr. Kowalik stated that the requested stretcher would be used to equip

a much needed fifth ambulance. After some discussion, Councilmember Al Bryant moved to approve the purchase of a Power Pro Stretcher for Wharton EMS. Councilmember Tim Barker seconded the motion. All voted in favor.

The eighteen item on the agenda was to review and consider City of Wharton Park Improvements – Acquisition of Playground Equipment and construction of Pavilion. City Manager Andres Garza, Jr. presented Facilities Maintenance Director Bob Baker’s memorandum to him regarding the acquisition of playground equipment and construction of pavilions. City Manager Garza stated that the improvements would be funded through the WEDCo allocation of funding for the October 1, 2014-September 30, 2015 fiscal year. After some discussion, Councilmember Al Bryant moved to approve the City of Wharton Park Improvements – Acquisition of Playground Equipment and construction of pavilions. Councilmember Russell Machann seconded the motion. All voted in favor.

The nineteenth item on the agenda was to review and consider the update of City of Wharton on-going Projects. City Manager Andres Garza, Jr. presented a copy of the memorandum dated August 17, 2015 providing an update on the City of Wharton current projects.

## **FLOOD REDUCTION (LEVEE) PROJECT**

The U.S. Army Corp of Engineers (USACE) Lower Colorado River Phase I Report - City of Wharton Flood Prevention Project and Recommended report is located at the Wharton County Library and the office of the City of Wharton City Secretary for viewing or the report may be viewed on line at <http://www.cityofwharton.com/information-a-notices/lcrb-feasibility-study>.

Mayor Domingo Montalvo, Jr. and I met with U.S. Corp of Engineer representatives (Elston Eckhardt, P.E. & Nova Robbins) on July 2, 2015 in their Ft. Worth District office to discuss the funding on the project. The City Staff has initiated a meeting with Halff and Associates from the Ft. Worth Office, the engineering firm who designed the Project, to develop a construction plan on some of the components of the designed work. The U.S. Corps of Engineers representatives stated that with an approach like that it could possibly allow them to allocate funding. They emphasized the importance of the City pursuing the acquisition of the necessary property for the project.

The City Staff has scheduled a meeting with Andrew Ickert P.E.-Halff and Associates on September 4, 2015 to discuss the City Staff’s proposed approach to the project. Also, to discuss other funding alternatives that could be available.

## **DRAINAGE:**

### **1. Santa Fe Outfall Channel.**

The Public Works Department has finished excavation of the channel. During the month of February, routine maintenance was done on the Channel. The channel is slowly increasing in grass cover which is allowing several eroded areas to heal themselves over

time. The Public Works Department has installed grade stabilization structures to eliminate erosion thereby reducing or eliminating the need to reshape the channel areas with active erosion. The Public Works Department will be installing 3 additional six grade stabilization structures or pipe drops along the channel. These structures are part of the original engineering design and not only control erosion but are helping to improve drainage in the city by serving as the outfall for water that has been redirected to the Santa Fe Channel. Work on property owners land is now complete.

**2. Stavena Addition Drainage Project.**

The design and construction plans are complete. The challenge on this project is to find locations to place approximately 35,000 cubic yards of soil.

**3. Ahldag Ditch Improvement.**

The project was approved in the 2013 Bond Program. Public Works Director is currently working out the details.

**4. On-going Drainage and Maintenance Program.**

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

**WATER/SEWER IMPROVEMENTS:**

**1. On-going Water and Sewer Maintenance Program.**

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

The Public Works and Code Enforcement Departments have begun the implementation of the Grease Ordinance. The Code Enforcement Department has contacted all business' affected by the ordinance and is assisting them with compliance.

**2. Alabama Street Sewer Line Project.**

After the bid was rejected as a combined project, the City Staff proposed to submit to the Texas Department of Agriculture for the 2015-2016 Texas Community Development Block Grant for funding of the Rust 2, 3 and 4 Addition sewer lines along with lateral lines.

The application was submitted prior to the application deadline. The City Staff is waiting for a decision on this application. An announcement is expected by late summer.

**3. Kelving Way and Croom/Price Waterline Project.**

This project will be funded from the 2015 Bond Program. As soon as the bond is funded the project will be advertised for bid.

**4. Wastewater Treatment Plant No. 1 Improvement Project.**

The project has been awarded to B-5 Construction, the Notice to Proceed has been submitted to the Contractor. The contractor has begun filing their submittals to Jones & Carter the engineers on the job.

**5. Ahldag Additional Sanitary Sewer System Improvement Project TxCDBG No. 713510.**

Supak Construction has mobilized and is approximately 75% complete. Projected completion of project as September 30, 2015.

**STREET IMPROVEMENTS**

**1. FM 1301 Extension and Overpass Project Progress Report.**

IDC Inc. has submitted to TxDOT Yoakum District Office all required plans for the project. The City Staff continues to coordinate with TxDOT to ensure the project continues to move forward.

The City Staff is awaiting Environmental Clearance from the Federal Highway Administration (FHWA). Once received the City will begin to move toward the acquisition of property for this project.

**2. I-69 Project.**

The City Council authorized the submission of comments proposed improvements previously submitted by the City to TxDOT.

**3. NanYa Exit Ramp Project.**

The City has submitted its request with TxDOT on proceeding with the changes to the NanYa exit ramp that would accommodate the turn around that Buc-ees has agreed in principle to contribute to see the project materialize.

**4. 2015 City Street Improvements.**

The City Council has approved the 2015 Street Improvement Plan, the City staff is moving forward with the program.

**5. Wharton Sidewalk Accessibility and Historic Streetscape Project.**

Phase II - Plans are 100% complete and have been submitted by CivilCorp to TxDOT to review. The bidding documents have been reviewed by the City's legal department. City Staff met with CivilCorp and CenterPoint representatives on June 9, 2015 to discuss lighting options and funding for this phase of the project. The project is scheduled to bid in late September or early October.

**6. Kansas City Southern Railroad Quiet Zone.**

On June 22, 2015 the City received notice that the zone establishment was approved by the Federal Railroad Administration (FRA) pending the City of Wharton's action. The City approved the Quiet Zone implementation for October 1, 2015. The Public Works Department has begun installing the necessary materials for the Quiet Zone. The effective date for the zone is October 1, 2015.

**WHARTON REGIONAL AIRPORT**

**1. Hangar Construction Project.**

The project is moving forward. Bids were received on July 2, 2015 and are being evaluated by the TxDOT Aviation Division, City representatives and Strand Engineering will form a recommendation to the City Council.

After some discussion, no action was taken.

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

- A. Electrical Board.
- B. Holiday Light Decorating Chairman.
- C. Beautification Commission.
- D. Planning Commission.
- E. Building Standards Commission.

After some discussion, no action was taken.

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

- A. Finance Committee meeting held on August 10, 2015.
- B. Planning Commission meeting held on August 18, 2015.

After some discussion, no action was taken.

The twenty-two item on the agenda was to review and consider City Manager's Reports:

- A. City Secretary/Personnel.
- H. Fire Marshall.

City of Wharton  
Regular Council Meeting  
August 24, 2015

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| B. | Code Enforcement.  | I. | Legal Department.            |
| C. | Community Services Department /<br>Civic Center.               | J. | Municipal Court.             |
| D. | Emergency Management.  | K. | Police Department.           |
| E. | E.M.S. Department.   | L. | Public Works Department.     |
| F. | Facilities Maintenance Department /<br>Wharton Municipal Pool. | M. | Water / Sewer Department.    |
| G. | Fire Department.   | N. | Weedy Lots / Sign Ordinance. |
|    |  | O. | Wharton Regional Airport.    |

After some discussion, no action was taken.

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

The meeting adjourned at 7:38p.m.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

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