

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
JUNE 11, 2018**

Mayor Tim Barker declared a Regular Meeting duly open for the transaction of business at 7:00 P.M at City Hall 120 E. Caney Street Wharton, TX. Pastor Janice Blair led the opening devotion and Mayor Tim Barker led the pledge of allegiance.

Councilmember's present were: Mayor Tim Barker and Councilmembers Al Bryant, Terry Freese, Alice Heard-Roberts, Don Mueller, Russell Machann and Steve Schneider.

Councilmember absent were: None.

Staff members present were: City Secretary Paula Favors, City Attorney Paul Webb, Public Works Director Wade Wendt, Assistant to City Manager Brandi Jimenez, Police Chief Terry David Lynch and Community Development Coordinator Gwyn Teves.

Visitors present were: Ernest C. Lemons, Blanche Allen, Pastor Janice Blair, Hattie Williams and Wharton Economic Development Corporation (WEDCo) Executive Director, Chad Odom.

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. Mr. Ernest Lemons stated that it was hurricane season, and everyone should prepare. Mr. Lemons said the Federal Government has funds for the City of Wharton storm recovery and as the first black senator to represent Wharton County it would be his mission to see that the City received them.

The fourth item on the agenda was the Wharton Moment. Mayor Tim Barker wished City Manager Andres Garza, Jr. a speedy recovery and looked forward to his quick return.

The fifth item on the agenda was to review and consider the reading of the minutes from the regular meetings held May 14, 2018 and May 29, 2018. After some discussion, Councilmember Russell Machann moved to approve the reading of the minutes from the regular meeting held on May 14, 2018 and May 29, 2018. Councilmember Al Bryant seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider an ordinance amending the City of Wharton Code of Ordinance the City of Wharton Code of Ordinances, Chapter 54 Parks and Recreation; providing for Separability; 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 and setting an effective date. City Secretary Paula Favors presented her memorandum to City Manager Andres

Garza, Jr. regarding the ages of children being dropped off at the pool without parent supervision. Mrs. Favors stated that the current Ordinance stated that a child that was ten (10) years of age and older could be left unsupervised without a parent or guardian and after contacting other area pools the average age to be left unsupervised was thirteen (13). Mrs. Favors said the City Council Parks and Recreation Committee met on Monday, June 11, 2018 and was recommending the City Council consider approving the Ordinance amending the age of an unsupervised child being left at the pool. After some discussion, Councilmember Don Mueller moved to approve City of Wharton Ordinance No. 2018-07, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2018-07**

AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 54 PARKS AND RECREATION; PROVIDING FOR SEPARABILITY; 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 AND SETTING AN EFFECTIVE DATE.

BE IT ORDAINED by the City Council of the City of Wharton, Texas, that Chapter 54 Parks and Recreation be amended to read as follows:

Sec. 54-7 Swimming Pool
(a) General Rules

The City of Wharton provides a Wharton Municipal Swimming Pool located at 2500 Jr. College Blvd.

The Wharton Municipal Swimming Pool Rules shall be posted at the Wharton Municipal Swimming Pool. General rules include, but are not limited to the following: anyone under the age of 13 must be accompanied by a parent/guardian or an adult; no smoking or tobacco products allowed in or about the pool area; eating or drinking is allowed in concession and covered areas only; no glass containers; and no alcoholic beverages allowed in or around pool area.

All attendees must abide by the posted rules and the Lifeguards have the authority to enforce such.

(b) Exclusive Use of the Swimming Pool

1. Persons requesting exclusive use of the swimming pool, during the designated times approved by City Council, shall complete an application form provided by the City Secretary's Office.
2. Group rental must be for non-commercial use only. Family parties, group social functions, non-profit organizations, etc. are acceptable uses. The pool rental is \$100 plus the cost of lifeguards.
3. Two (2) lifeguards will be provided for up to (30) thirty attendees. One additional lifeguard is required for every 15 additional attendees. The applicant shall be required to pay for additional lifeguards on duty at the rate approved by

City Council at the time the base fee is paid. Lifeguards will be provided by the City and all members of the groups are subject to all pool rules as enforced by the lifeguards.

4. Reservations shall be made at least seven (7) days in advance of the date requested. The base fee must be paid at the time of reservation and an estimate of the total number in the group must be provided. The base fee may be refunded if cancellation of use is made no later than 48-hours prior to reservation date. In case of total rain out, the pool manager or designated personnel will determine if the base fee will be refunded.
5. "All in and all out policy" is in effect for private usage. The group must remain in the pool area for the duration of use. Open door use of the area is not permitted. The private party will not be permitted to enter until all general public users have left the facility.
6. The group is expected to leave the facility in the same condition as it was upon entry. Trash must be picked up and deposited in the trash cans provided. The individual, in whose name the registration is made, is responsible for all damages incurred.
7. Lifeguards will be provided by the City and all members of the groups are subject to all pool rules as enforced by the lifeguards.

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 to be a separate, distinct, and independent provision, and any such ruling shall not affect the validity of the remaining portions hereof.

Effective Date

This Ordinance shall become effective at 12:01 a.m. on the 1st day of July 2018.

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, on the 11th day June 2018.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS

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City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

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

The seventh item on the agenda was to review and consider 2017-2018 Street Improvement Project for City of Wharton:

A. Change Order No. 1-James Construction Group LLC/Primoris.

City Secretary Paula Favors presented in the packet Change Order No. 1 from James Construction Group LLC/Primoris for the 2017-2018 Street Improvement Project. Public Works Director Wade Wendt stated the Change Order was in the amount of \$58,165, for the work on Alabama Street from Richmond Road to Fulton Street. After some discussion, Don Mueller moved to approve Change Order No. 1- James Construction Group LLC/Primoris in the amount of \$58,165. Councilmember Al Bryant seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider a resolution of the Wharton City Council approving a VOCA Grant-Victim's Assistance Officer for the Wharton Police Department-80/20 match for three (3) years and authorizing the Mayor of the City of Wharton to execute all documents related to said grant. City Secretary Paula Favors presented a memorandum from Chief Terry Lynch to City Manager Andres Garza, Jr. regarding the VOCA Grant-Victim's Assistance Officer for the Wharton Police Department. Chief Lynch stated the City had applied for the Victim's Assistance Officer position through the H-GAC Governor's VA Grant program and was approved last year for the position that was currently operational, having appointed Officer Melissa Huggins in that position. He said that hundreds of victims have been helped since the position become operational and the department would like to continue. After some discussion, Councilmember Russell Machann moved to approve City of Wharton Resolution NO. 2018-42, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2018-42**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A VOCA GRANT- VICTIM'S ASSISTANCE OFFICER FOR THE WHARTON POLICE DEPARTMENT- 80/20 MATCH FOR THREE (3) YEARS AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID GRANT.

WHEREAS, The City of Wharton finds it in the best interest of the citizens of the City of Wharton, that the Victim Assistance Officer be operated for the FY2019 year; and,

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WHEREAS, The Wharton City Council agrees to provide applicable matching funds for the said project as required by the Victims of Crime Act Formula Grant Program grant application; and,

WHEREAS, The Wharton City Council agrees that in the event of loss or misuse of the Office of the Governor funds, the Wharton City Council assures that the funds will be returned to the Office of the Governor in full; and,

WHEREAS, The Wharton City Council designates Mayor Tim Barker as the grantee's authorized official. The authorized official is given the power to apply for, accept, reject, alter or terminate the grant on behalf of the applicant agency.

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

Section I. That the Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute, on behalf of the City of Wharton, all documents related to said grant.

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

Passed, Approved, and Adopted this 11th day of June 2018.

CITY OF WHARTON, TEXAS

By:

TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The ninth item on the agenda was to review and consider a resolution of the Wharton City Council approving an agreement with the United States Department of Agriculture, Natural Resources Conservation Service (NRCS), to provide technical and financial assistance to the City of Wharton, for EWP Project # 5103 in Wharton County, TX and authorizing the Mayor to execute all documents relating to said agreement. City Secretary Paula Favors a copy of the agreement the City received from NRCS informing the City that it had been awarded assistance in the amount of \$338,623.84 (\$307,167.84 @ 90% federal cost share & \$31,456 @ 10% local cost share). Community Development Coordinator Gwyn Teves stated the assistance would be used towards the repairs of the Alabama Road Outfall and the channel bank damaged during

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Hurricane Harvey. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Resolution No. 2018-43, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2018-43**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN AGREEMENT WITH THE UNITED STATES DEPARTMENT OF AGRICULTURE, NATRURAL RESOURCES CONSERVATION SERVICE (NRCS), TO PROVIDE TECHNICAL AND FINANCIAL ASSISTANCE TO THE CITY OF WHARTON FOR EWP PROJECT # 5103 IN WHARTON COUNTY, TX AND AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS RELATING TO SAID AGREEMENT.

WHEREAS, The City of Wharton submitted to NRCS for financial assistance to repair and protect eroded areas around the concrete outfall structure from Kinkaid Ave. to Alabama Rd. and Alabama Rd. to East Ave. with rock rip rap and shape and vegetate approximately 875 linear feet of channel bank with re-established 5 pipe drop side inlet structures to provide erosion control and stabilization of drainage ditch; and,

WHEREAS, NRCS approved the request in the amount of \$338,623.84 (\$307,167.84 @ 90% federal cost share & \$31,456 @ 10% local cost share); and,

WHEREAS, The Wharton City Council wishes to accept the agreement with NRCS and comply with the requirements of the agreement.

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

Section I: The Wharton City Council hereby accepts the agreement with the NRCS in the amount of \$338,623.84 (\$307,167.84 @ 90% federal cost share & \$31,456 @ 10% local cost share).

Section II: The Wharton City Council hereby authorizes the Mayor to execute all documents relating to the agreement.

Section III: That this resolution shall take effect immediately upon its passage.

PASSED, APPROVED AND ADOPTED this 11th day of June 2018.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

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ATTEST:

PAULA FAVORS

City Secretary

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

The tenth item on the agenda was to review and consider a resolution of the Wharton City Council authorizing the submission of an application to the Center for Disaster Philanthropy (CDP) and the Rebuild Texas Fund for the Harvey Preparedness Grant Round and authorizing the Mayor to execute all documents relating to said agreement. City Secretary Paula Favors presented information on the Harvey Preparedness Grant from the Center for Philanthropy (CDP) and the Rebuild Texas Fund. Community Development Coordinator Gwyn Teves stated the CDP and Rebuild Texas Fund were teaming up to help local communities prepare for future storms or other natural disasters and they were dedicating \$1,000,000 to preparedness projects. After some discussion, Councilmember Steve Schneider moved to approve City of Wharton No. 2018-44, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2018 - 44**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE CENTER FOR DISASTER PHILANTHROPY (CDP) AND THE REBUILD TEXAS FUND FOR THE HARVEY PREPAREDNESS GRANT ROUND AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID SUBMISSION.

WHEREAS, The City of Wharton City Council wishes to submit an application to the Center for Disaster Philanthropy (CDP) and the Rebuild Texas Fund for the Harvey Preparedness Grant Round; and,

WHEREAS, The Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute all documents relating to said grant application.

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

SECTION I. The Wharton City Council hereby approves the submittal of the application to the Center for Disaster Philanthropy (CDP) and the Rebuild Texas Fund for the Harvey Preparedness Grant Round.

SECTION II. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute all documents related to said grant application.

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

PASSED, APPROVED, and ADOPTED this 11th day of June 2018.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The eleventh item on the agenda was the Wharton Economic Development Corporation Fiscal Year 2017-2018 Budget Amendment. City Secretary Paula Favors presented the Wharton Economic Development Corporation Fiscal Year 2017-2018 Budget Amendment. Mr. Chad Odom stated the amendment was due to unforeseen expenses due to Hurricane Harvey as well as legal fees. After some discussion, Councilmember Al Bryant moved to approve the Wharton Economic Development Corporation Fiscal Year 2017-2018 Budget Amendment. Councilmember Russell Machann seconded the motion. All voted in favor.

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

- A. Beautification Commission.
- B. Building Standards Commission.
- C. Plumbing and Mechanical Board.

After some discussion, Councilmember Al Bryant moved accept the resignation of Ms. Helen Fojtik from the Beautification Commission. Councilmember Russell Machann seconded the motion. All voted in favor.

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

- A. Finance Committee/Consultant Selection Committee meeting held on May 28, 2018.
- B. Parks and Recreation Committee meeting held on May 28, 2018.

After some discussion, no action was taken.

The fourteenth item on the agenda was adjournment. There being no further discussion, Councilmember Don Mueller moved to adjourn. Councilmember Al Bryant seconded the motion. All voted in favor.

The meeting adjourned at 7:26 p.m.

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By: _____
Tim Barker
Mayor

ATTEST:

Paula Favors
City Secretary