

**MINUTES  
OF  
CITY OF WHARTON  
REGULAR CITY COUNCIL MEETING  
AUGUST 22, 2016**

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. Councilmember Don Mueller led the opening devotion and Mayor Barker led the pledge of allegiance.

Councilmember's present were: Mayor Tim Barker and Councilmembers Al Bryant, Terry Freese, Don Mueller and Steven Schneider.

Councilmembers absent were: Vincent Huerta and Russell Machann.

Staff members present were: City Manager Andres Garza, Jr., Finance Director Joan Anandel, City Secretary Paula Favors, TRMC, Police Chief Terry David Lynch, Assistant to Building Official Gwyn Laney, Emergency Management Coordinator Steve Johnson and City Attorney Paul Webb.

Visitors present were: Mary A. Barnes, Gladys Alas, Walter Alas, Mauricio Castro, Krista Spano, Margaret Flagg, Sherrie Hardin, Sandy Wilkins, Charlotte A. Bess, Cindy Kloesel Eduvina "Winnie" Huerta, David Schroeder, Executive Director with Wharton Economic Development Corporation (WEDCo), I.O. Coleman, Jr., Carlos Cotton, P.E. with Jones and Carter, Inc. and Evelyn Carriere with the Wharton Journal Spectator.

The second item on the agenda was Roll Call and Excuses Absences. After some discussion, Councilmember Al Bryant moved to excuse Councilmember Vincent Huerta and Councilmember Russell Machann. Councilmember Don Mueller seconded the motion.

The third item on the agenda was Public Comments. I.O. Coleman, Jr. stated that the trash and brush pickup on the West Side of Wharton had been collected from the 2016 Floods and thanked the City for their efforts. Mr. Coleman said that mosquitos, numerous cats and dogs running loose and property located at the end of Harris all needed attention on the West Side of Wharton.

The fourth item on the agenda was the Wharton Moment. Mayor Tim Barker stated that the Wharton I.S.D. High School Varsity Football team would play their first game against Sealy on Friday, August 26, 2016. City Manager Andres Garza, Jr. commended Patrol Officer Brandon Godfrey on saving a baby's life which was choking on a bottle cap. City

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Manager Garza congratulated Officer Godfrey on being awarded Officer of the Year from the 100 Club.

The fifth item on the agenda was to review and consider City of Wharton Financial Report for the month of July 2016. Finance Director Joan Anandel presented the financial report for the month of July 2016. Mrs. Anandel stated that the TexPool balance for July as \$131,720.56 with an average monthly yield of .37%. She said the Prosperity Bank balance for July 2016 was \$7,391,707.64 with an average monthly yield of .15%. After some discussion, Councilmember Al Bryant moved to approve the City of Wharton Financial Report for the month of July 2016. Councilmember Don Mueller seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider the City Manager's submission of the City of Wharton, Texas, proposed budget for the fiscal year October 1, 2016 to September 30, 2017. City Manager Andres Garza, Jr. stated that on Tuesday, August 23, 2016, he would file with City Secretary Paula Favors the City of Wharton Fiscal Year October 1, 2016 to September 30, 2017 Proposed Budget as required by State Law. City Manager Garza presented under separate cover, on Monday, August 22, 2016 a copy of the Proposed City Budget as required by the City's Charter. After some discussion, no action was taken.

The seventh 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, 2016 to September 30, 2017. City Manager Andres Garza, Jr. stated that under Article VI, Section 53 of the City of Wharton Charter the City Council shall set a time and place for a public hearing. City Manager Garza said that if the date was approved by the City Council, the City Staff would publish the Notice of Public Hearing on Wednesday, August 31, 2016 in the Wharton Journal Spectator. After some discussion, Councilmember Al Bryant moved to approve setting the public hearing for the September 12, 2016 regular City Council meeting. Councilmember Terry Freese seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider a resolution approving a municipal maintenance agreement dated 8/22/2016, between the State of Texas and the City of Wharton, for the maintenance, control, supervision and regulation of certain state highways and/or portions of state highways in the City of Wharton; and providing for the execution of said agreement; and declaring an emergency. City Manager Andres Garza, Jr. stated that the City of Wharton currently had a maintenance agreement with the State of Texas (TxDOT) for the maintenance of state right-of-ways inside the City limits. City Manager Garza said that the current contract was executed on August 27, 1997 and the State of Texas had requested the contract be updated and submit a new contract. He requested the item be withdrawn and that no action would be taken on the item. After some discussion, no action was taken.

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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. stated that Ms. Leslie Hilliard with McCreary Veselka Bragg & Allen PC Attorneys at Law was requesting that the described properties that were offered for sale by the Sheriff of Wharton County, Texas at a public auction prior to a judgment of foreclosure for delinquent taxes by the District Courts of Wharton County. City Manager Garza said that the 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 and now they would be up for sale at no minimum bid. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Resolution No. 2016-48, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2016-48**

**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.

Cause #	Suit Styling	Legal Description, Deed Reference, Account #, Bid in Trust Date & Judgment Year (all properties located in Wharton County, Texas unless otherwise noted)
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T07945	The County of Wharton, Texas v Maria De Jesus Perez	Lot 17 and 18 in Block 1 of Mt Carmel Addition, City of Wharton, Wharton County, Texas (Volume 210, Page 1, Deed Records of Wharton County, Texas), MURPHY AVE Account #R020840 Bid in Trust 7/7/2015 Judgment Through Tax Year: 2014
T08326	Wharton County, et al v Unknown Heirs to the Estate of Albert Wyatt, deceased, et al	Lot 11, Block 2, Harrison Addition, an addition to the City of Wharton, Wharton County, Texas (according to the map or plat thereof, Volume 13, Page 178, Deed Records of Wharton County, Texas) Account #R016040 Bid in Trust 8/2/2011 Judgment Through Tax Year: 2010
T08330	Wharton County, et al v Unknown Heirs to the Estate of Comella Muellens, A/K/A Comella Mullins Prince, deceased, et al	Lot 2, Block 7, Washington Home Addition, an addition to the City of Wharton, Wharton County, Texas, (according to the map or plat thereof, Volume 35, Page 87, Deed Records of Wharton County, Texas) Account #R025577 Bid in Trust 11/3/2009 Judgment Through Tax Year: 2008
T08413	Wharton County, et al v Delores H. Aubrey, NKA Delois Hughes Lee	Tract 1: lot 20a, Block 1, Cline Addition, an addition to the City of Wharton, Wharton County, Texas, (according to the map or plat thereof, recorded in Volume 163, Page 3, Deed Records of Wharton County, Texas) Account #R012802 Bid in Trust 10/7/2008 Judgment Through Tax Year: 2007
T08433	Wharton County, et al v Eddie Jackson, A/K/A Eddie J. Jackson A/K/A Eddie Joe Jackson, et al	Lot 2, Block 2, Harrison Addition, an addition to the City of Wharton, Wharton County, Texas, (according to the map or plat thereof, recorded in Volume 163, Page 3, Deed Records of Wharton County, Texas; SAVE & EXCEPT however, the north 45 feet by 50 feet of said Lot 2, Block 2, Harrison Addition, as described in Volume 624, Page 46, Deed Records of Wharton County, Texas) Account #R016023 Bid in Trust 10/6/2009 Judgment Through Tax Year: 2008
T08534	Wharton County, et al v William Harris, Jr.	Lot 3, Block 4, Cline Addition, an addition to the City of Wharton, Wharton County, Texas, (according to the map or plat thereof, recorded in Volume 163, Page 3, Map Records of Wharton County, Texas) Account #10240-004-003-00 / R012835 Bid in Trust 7/7/2009 Judgment Through Tax Year: 2007
T08550	Wharton County et al v William Burris	Lot 216, Block 63, being Original Lot 60, Block 63, City of Wharton, Wharton County, Texas (as described in Volume 534, Page 184, Deed Records of Wharton County, Texas), 114 S FORD Account #R018601 Bid in Trust 11/2/2010 Judgment Through Tax Year: 2009
T08695	Wharton County, et al v Vernon Knight, A/K/A Vernon Joseph Knight, et al	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) Account #R016065 Bid in Trust 2/2/2010 Judgment Through Tax Year: 2008
T08951	The County of Wharton, Texas v Unknown Heirs to the Estate of Mary Ella Heard, deceased, et al	Lot 4A, Block 2, Harrison Addition to the City of Wharton, Wharton County, Texas (as described in Volume 615, Page 695 of the Deed Records, Wharton County, Texas), 1216 W CANEY Account #R016026 Bid in Trust 3/3/2015 Judgment Through Tax Year: 2013
T09836	The County of Wharton, Texas v Alice Salinas et al	Lot 3, Block 3, River Road Addition to the City of Wharton, Wharton County, Texas (as described in Volume 422, Page 597, Deed Records of Wharton County, Texas), 809 David Account #R022715 Bid in Trust 10/6/2015 Judgment Through Tax Year: 2014

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**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 October, 2016, 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 22nd day of August, 2016.

**CITY OF WHARTON, TEXAS**

**BY:** \_\_\_\_\_  
**TIM BARKER**  
Mayor

**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 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 17, 2016 from Finance Director Joan Andel to him regarding the proposed increase in utility rates for customers to be effective October 1, 2016. City Manager Garza stated that as discussed in the City Council Budget Workshop on August 9, 2016, the proposed budget included a 10% increase in water and sewer rates. After some discussion, Councilmember Steve Schneider moved to approve City of Wharton Ordinance 2016-06, which read as follows:

**CITY OF WHARTON  
ORDINANCE NO. 2016-06**

**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**

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**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.**

Water and sewer tap charges, deposits, administrative penalties and other charges shall be as follows:

(1) *Water*. Standard water tap fees for customers inside the city limits and outside the city limits are as follows:

	Size of Tap	Cost of Service
a.	¾-inch T-off	\$202.13
b.	¾-inch	\$404.25
c.	1-inch	\$531.30 + cost of meter
d.	1½-inch	\$796.95 + cost of meter

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e.	2-inch	\$1062.60 + cost of meter
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Customers must pay for the cost of the meter for taps one inch and larger. Tap fees for taps larger than two inches shall be determined and based on the cost to install plus cost of water meter.

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

(2) *Sewer*. Standard sewer tap fees for customers inside the city limits and outside the city limits are as follows:

	Size of Tap	Cost of Service
a.	4-inch	\$404.25
b.	6-inch	\$664.13

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.

Residential and commercial customers are required to put a sewer clean out at the property line where the city's line ties into the customer's line.

(3) *Deposits.* As a condition of receiving water, sewer and garbage service, the following deposits shall be charged:

a. Deposit amount:

Residential customer.....\$100.00

Residential—Senior citizens.....\$50.00 (60 years or over)

Commercial customer's.....Based on estimated bill \$100.00 minimum

The deposit for all commercial customers including businesses, industrial users, multi-residential units and all others will be based on the estimated water, sewer and garbage charges for one month. If the customer has consumption history, the estimate will be based on a 12-month average. If the customer is a new customer with no consumption history, the estimate will be based on usage of a similar customer and consider the type of garbage service requested. Current deposit amounts will remain for commercial customers until there is a change in ownership or account status.

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- b. Deposits will not be required for public schools, counties, and other governmental entities.
- c. Customers may transfer their deposits from one account to another account if they move from one address to another. The account must have a zero balance or the current balance will be transferred with the deposit and the new service enacted.
- d. Customers transferring from one address to another must have paid the maximum deposit or must pay the difference between the deposit paid and the maximum deposit before the deposit can be transferred and the new service enacted.
- e. Residential customers' deposits will be refunded by crediting the deposit amount to the customer's account after the customer has completed 24 months with no delinquent payments or no dishonored payments. If the customer has additional active accounts without deposits that have delinquent payments, the deposit will be transferred to one of the other accounts. A new deposit will be required if a customer appears on the cut-off list after the original deposit has been returned.
- f. Customers must terminate utility services by providing written authorization signed or emailed by the customer whose name is on the account. In the event that the account is established under more than one name, any one person may authorize the disconnection of service.
- g. Customers' deposits will be refunded by crediting the deposit amount to the customer's account when the account is finalized. Any remaining deposit will be mailed to the forwarding address provided by the customer. If the customer has additional active accounts without deposits, the deposit will be transferred to one of the other accounts.
- h. Letters of credit are not acceptable in lieu of cash for payment of deposits as required in this section.
- i. In the event a current utility service customer requests service at an additional address, the deposit may be waived if the customer has had no

more than two delinquent payments on the existing account for the previous 12 months prior to the date of the request. In the event that either the initial account or any additional accounts appear on the cut-off list, an additional deposit will be required for each account.

(4) *Administrative penalty.* If payment is not received on a delinquent account and is placed on the cut-off list and water is due to be or is disconnected, an administrative penalty will be assessed as follows:

Administrative penalty.....\$25.00

(5) *Other charges* include the following:

a. *Late charges.* If payment is not received by the 15th of each month, a penalty will be assessed on the 16th of each month at the rate noted below:

Late charges.....5% of balance due

b. *After hours charge.* An afterhours charge will be assessed for a reconnection due to nonpayment requested by the customer that is not between the hours of 8:00 a.m. and 5:00 p.m. on Monday through Friday. Services requested on holidays will also be charged an after hour charge.

After hours charge.....\$30.00

c. *Charges of damages.* Charges shall also be made for damages to equipment, such as meters, cutoff valves and locks. These charges shall be based on the actual cost of replacement, including labor, where applicable.

d. *Industrial users.* Industrial users may be subject to additional charges and fees, relating to permitting and noncompliance issues, as outlined in article II, Industrial Waste Disposal and Pretreatment, section 86-41 through 86-78.

e. *Restaurants, food preparation facilities and other commercial users.* Restaurants, food preparation facilities, institutional facilities and other commercial type facilities utilizing grease traps will be subject to a \$100.00 fee for each exceedance of the local oil and grease limit of 100 mg/l.

This fee is not a surcharge. The payment of this fee does not authorize the discharge of wastes containing oil and grease in concentrations greater than 100 mg/l. This limit applies only to food grade oils of animal or vegetable origin. The concentration of petroleum-based oil and grease is limited to 15mg/l. The oil and grease exceedance fee will be assessed for each sample result, which indicates an excess oil and grease concentration in sewer discharges from the facility. The city will be responsible for collecting and analyzing all oil and grease samples from grease traps. Oil and grease trap sampling will be conducted on a periodic basis at the city's discretion.

f. Septic *tank waste* hauled or trucked into wastewater treatment plant as outlined in article II, section 86-54 will be billed at the following rate:

Fees for hauling waste, per 1,000 gallons.....\$52.50

**Sec. 86-16. - Water service charges.**

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

Volume Charges

First 2,000 gallons (minimum)..... \$18.35  
Next 2,000 gallons, per 1,000..... \$3.48  
Next 3,000 gallons, per 1,000..... \$3.60  
Next 4,000 gallons, per 1,000..... \$3.74  
Next 4,000 gallons, per 1,000..... \$3.98  
Next 35,000 gallons, per 1,000..... \$4.22  
Next 50,000 gallons, per 1,000..... \$4.38  
Next 50,000 gallons, per 1,000..... \$4.70  
Next 50,000 gallons, per 1,000..... \$4.99

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

Volume Charges

First 8,000 gallons for seven days..... \$42.41  
Over 8,000 gallons, per 1,000..... \$3.87

The temporary water rate is intended as a temporary service for water only and will not be extended for more than 14 consecutive days without a deposit or connection fee being made in accordance with section 86-2, subsections (4) and (5). The base rate must be paid at the time the service is requested. Additional gallons will be billed after the temporary service is disconnected.

**Sec. 86-17. - Sewer service charges.**

(a) The monthly charges for sanitary sewer services rendered by the city shall be as follows:

Volume Charges

First 2,000 gallons (minimum).....	\$19.71
Next 2,000 gallons, per 1,000.....	\$3.06
Next 3,000 gallons, per 1,000.....	\$3.74
Next 4,000 gallons, per 1,000.....	\$4.15
Next 4,000 gallons, per 1,000.....	\$4.46
Next 35,000 gallons, per 1,000.....	\$4.83
Next 50,000 gallons, per 1,000.....	\$5.25
Next 50,000 gallons, per 1,000.....	\$5.56
Next 50,000 gallons, per 1,000.....	\$5.95

(b) Residential customers. Monthly service charges for sewer service are based on the average water consumption for three winter months (December, January and February). The winter averaging is calculated in March and is reflected in the April 1st bill. New residential customers with no historical usage shall be billed for sewer usage based on the average residential customers' usage based on the most current winter averaging.

(c) Regular commercial customers. Monthly service charge for sewer service shall be based on the monthly-metered water usage at the rates set forth above.

**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) Advance, nonrefundable payment of \$50.00 to the City of Wharton at City Hall for setting the meter connection at the fire hydrant or other appropriate locations as the city may determine; and
- (2) Payment of bulk sales rate of \$70.69 per month for the first 1,000 gallons of water dispensed, or any fraction thereof; \$28.27 per month per 1,000 gallons dispensed, or any fraction thereof, beyond the initial 1,000 gallons dispensed; and

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- (3) Advance, refundable fire hydrant meter deposit payment of \$200.00 to the City of Wharton at City Hall.
- (b) Bulk sales through permanently installed water meter dispensation point at the Wharton Volunteer Fire Department on Fulton Street will require the following:
- (1) No requirement for payment of meter setting fee; and
  - (2) Payment of bulk sales rate of \$70.69 for the first 1,000 gallons of water dispensed, or any fraction thereof; \$28.27 per 1,000 gallons dispensed, or any fraction thereof, beyond the initial 1,000 gallons dispensed; and
  - (3) No requirement for payment of the \$200.00 fire hydrant meter deposit, however each water dispensation transaction authorized under this section must be prepaid to the City of Wharton at City Hall where a one-day dispensation voucher will be issued for presentation to the water plant operator to authorize a one-day dispensation of a not to exceed amount of water in gallons. The one-day dispensation voucher identifying the cumulative number of gallons purchased will allow for scheduled multiple withdrawals of water, but only during the same City of Wharton working day upon which initial dispensation commences.

Bulk sales water service customers must provide a suitable mobile water containment vessel of sound quality for receiving and hauling water for use or consumption at any location within the Wharton water system.

Public or private volunteer fire fighting organizations that procure water only for fire prevention and control purposes and do no resell such water for other purposes, are exempt from this classification, rates and fees schedule. Contractors constructing City of Wharton Public Works projects requiring potable water for dust control and construction operations shall also be exempt from this classification, rates and fees schedule.

Any \$200.00 refundable fire hydrant meter deposit paid to the City of Wharton may be applied by the City of Wharton to the payment of any bulk sales customer unpaid bills, and when so partially consumed through past-due account application, shall be restored by the bulk sales customer to the original \$200.00 amount.

Bulk sales water service dispensation to consumers having only an occasional need for such water service are encouraged to utilize the permanently installed water meter dispensation point at the Wharton Volunteer Fire Department located on Fulton Street.

**Use of the Fulton Street permanently installed water meter dispensation point requires advanced payment by check or cash to the City of Wharton at City Hall and at least four hours advanced scheduling of prospective water withdrawals which shall**

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**also only occur during the following city working hours Monday—Friday 9:00 a.m.—12:00 p.m. and 1:00 p.m.—4:00 p.m. (Saturday, Sunday and city holidays excluded).**

**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 2016 at 12:01 a.m.

**Passage and Approval**

**PASSED AND APPROVED** by the City Council of the City of Wharton, Texas, this 22<sup>nd</sup> day of August 2016.

**CITY OF WHARTON, TEXAS**

By: \_\_\_\_\_

**TIM BARKER**

Mayor

**ATTEST:**

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

**APPROVED AS:**

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

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

The eleventh item on the agenda was to review and consider City of Wharton Bank Depository Bid:

A. Bid Tabulation.

B. **Resolution:** A resolution of the Wharton City Council awarding the bid for the City of Wharton Bank Depository Services and authorizing the Mayor of the City of Wharton to execute the agreement.

City Manager Andres Garza, Jr. stated that on August 10, 2016, the City of Wharton received bids for the City of Wharton Bank Depository Services. City Manager Garza said that the City Staff sent the bid package to six (6) different banks and only Prosperity Bank submitted a bid. He presented a copy of the bid tabulation and list of banks that received the bid package and a copy of the memorandum dated August 17, 2016 from Finance Director Joan Andel recommending the City Council consider awarding the bid to Prosperity Bank. After some discussion, Councilmember Don Mueller moved to approve City of Wharton Resolution No. 2016-49, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2016-49**

**A RESOLUTION OF THE WHARTON CITY COUNCIL AWARDING THE BID FOR THE CITY OF WHARTON BANK DEPOSITORY SERVICES AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID CONTRACT.**

**WHEREAS,** On August 10, 2016, the City of Wharton received bids for the City of Wharton Bank Depository Services; and,

**WHEREAS,** The Wharton City Council wishes award the bid to Prosperity Bank in accordance with said bid specifications; and,

**WHEREAS,** The City of Wharton and Prosperity Bank wishes to be bound by the conditions as set forth in the agreement; and,

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

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

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**Section I.** That the Wharton City Council hereby approves the Bank Depository Services Agreement between the City of Wharton and Prosperity Bank

**Section II.** That the Wharton City Council wishes to authorize the Mayor of the City of Wharton, Texas to execute all documents related to said contract.

**Section III.** That Prosperity Bank and the City of Wharton are hereby bound by the conditions as set forth in the agreement.

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

**Passed, Approved, and Adopted** this the 22<sup>nd</sup> day of August 2016.

**CITY OF WHARTON**

By: \_\_\_\_\_  
**TIM BARKER**  
Mayor

**ATTEST:**

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

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

The twelfth item on the agenda was to review and consider a resolution approving the emergency callback system (RAVE) between the City of Wharton and RAVE Mobile Safety and authorizing the Mayor of the City of Wharton to execute all documents relating to said agreement. City Manager Andres Garza, Jr. stated that the City of Wharton utilized Blackboard Connect-CTY for the emergency or non-emergency outreach system. City Manager Garza said the City Staff had undertaken the task of evaluating other outreach system to provide better service for the City. Emergency Management Coordinator Steve Johnson stated that the RAVE Mobile Safety System offers several additional features that the current service did not and was lower in cost. City Attorney Paul Webb stated that he reviewed the contract and recommended the City Council consider approving the item. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Resolution No. 2016-50, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2016-50**

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**A RESOLUTION APPROVING THE EMERGENCY CALLBACK SYSTEM (RAVE) BETWEEN THE CITY OF WHARTON AND RAVE MOBILE SAFETY AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID AGREEMENT.**

**WHEREAS,** the Wharton City Council wishes to improve communication between the City of Wharton and the Wharton community during emergency related events; and,

**WHEREAS,** the Wharton City Council wishes to approve the Emergency Callback System (RAVE) agreement between the City of Wharton and Rave Mobile Safety; and,

**WHEREAS,** the City of Wharton and Rave Mobile Safety wishes to be bound by the conditions as set forth in the agreement; and,

**WHEREAS,** the Wharton City Council wishes to authorize the City Manager of the City of Wharton to send notice to terminate the current contract with Connect-CTY Services; and,

**WHEREAS,** the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute all documents relating to said agreement.

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

**Section I.** That the City Council of the City of Wharton hereby approves the agreement between the City of Wharton and Rave Mobile Safety.

**Section II.** That the City Council of the City of Wharton hereby authorizes the Mayor of the City of Wharton to execute all documents relating to said agreement.

**Section III.** That the City Council of the City of Wharton hereby authorizes the City Manager of the City of Wharton to send notice to terminate the current contract with Connect-CTY services.

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

**Passed, Approved, and Adopted** this 22<sup>th</sup> day of August 2016.

**CITY OF WHARTON, TEXAS**

City of Wharton  
Regular Council Meeting  
August 22, 2016

By: \_\_\_\_\_  
**TIM BARKER**  
Mayor

**ATTEST:**

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

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

The thirteenth item on the agenda was to review and consider an application submitted by Mrs. Gladys Alas and Mr. Walter Alas Lopez owners of Alas Tire Service, 1902 N. Richmond Rd., Sols Addition, Block 4, Lots 1A & 2B-1 for setback variances after constructing a nonconforming canopy 14' from the front property line and 7' from side property line. The current setback requirement for commercial property is a minimum front street setback of 35' and a minimum interior side setback of 10' per our ordinance. Resulting in a 21' setback variance on the front street setback and a 3' setback variance on the interior side setback. City Manager Andres Garza, Jr. presented an application submitted by Mrs. Gladys Alas and Mr. Walter Alas Lopez owners of Alas Tire Service, 1902 N. Richmond Rd., Sols Addition, Block 4, Lots 1A & 2B-1 for setback variances after constructing an illegal nonconforming canopy 14' from the front property line and 7' from side property line. Assistant to the Building Official Mrs. Gwyn Laney stated that the current setback requirement for commercial property was a minimum front street setback of 35' and a minimum interior side setback of 10' per our ordinance which resulted in a 21' setback variance on the front street setback and a 3' setback variance on the interior side setback. After some discussion, Councilmember Al Bryant moved to approve the application submitted by Mrs. Gladys Alas and Mr. Walter Alas Lopez owners of Alas Tire Service, 1902 N. Richmond Rd., Sols Addition, Block 4, Lots 1A & 2B-1 for setback variances after constructing a nonconforming canopy 14' from the front property line and 7' from side property line. Councilmember Terry Freese seconded the motion. All voted in favor.

The fourteenth item on the agenda was to review and consider a request by Mrs. Margaret I. Flagg for approval of a Preliminary/Final Re-Plat of 420 Boling Green Dr., Lake Nett, Lot 52 & 53 due to subdivision of lots for sale. City Manager Andres Garza, Jr. presented a request by Mrs. Margaret I. Flagg for approval of a Preliminary/Final Re-Plat of 420 Boling Green Dr., Lake Nett, Lot 52 & 53 due to subdivision of lots for sale. After some discussion, Councilmember Steve Schneider moved to approve the request by Mrs. Margaret I. Flagg for approval of a Preliminary/Final Re-Plat of 420 Boling Green Dr., Lake Nett, Lot 52 & 53 due to subdivision of lots for sale. Councilmember Don Mueller seconded the motion. All voted in favor.

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The fifteenth item on the agenda was to review and consider a request from the Mayor's Committee on People with Disabilities for consideration on painting the curbs in the downtown area for higher visibility. City Manager Andres Garza, Jr. presented a request by the Mayor's Committee on People with Disabilities for consideration on painting the curbs in the downtown area for higher visibility. Members of the Committee Ms. Cindy Kloesel and Ms. Krista Spano presented the City Council with paint color samples and explained the need for better navigation and mobility on the curbs around the Wharton County Courthouse square. Ms. Kloesel stated that the Committee was requesting the City paint a 2" strip on the top plate of the top step to help with visibility of the steps and that the paint would possibly need to have grit for added safety. She then presented the Committee's first choice of paint color which was Antique Brick Red. Ms. Kloesel said the Committee would also like the City Council to consider approving power washing some of the sidewalks where the color differentiation of the bricks would help solve the issue of discoloration. After some discussion, Councilmember Terry Freese moved to approve the request from the Mayor's Committee on People with Disabilities for painting the curbs in the downtown area for higher visibility with the City painting a 2" strip on the top plate of the top step with grit in the paint for added safety with the paint color Antique Brick Red. Councilmember Al Bryant seconded the motion. Councilmembers Steven Schneider, Al Bryant and Terry Freese voted for the motion. Councilmember Don Mueller voted against the motion. The motion carried.

The sixteenth item on the agenda was to review and consider Wastewater Treatment Plant No. 1 Improvements for the City of Wharton:

A. Request Payment No. 10 from B-5 Construction.

City Manager Andres Garza, Jr. presented pay request No. 10 in the amount of \$198,413.01 from B-5 Construction for the Wastewater Treatment Plant No. 1 Improvement Project. Mr. Carlos Cotton, P.E. with Jones and Carter, Inc. stated that it was his recommendation that the City Council consider approving pay request No. 10 in the amount of \$198,413.01 from B-5 Construction for the Wastewater Treatment Plant No. 1. After some discussion, Councilmember Al Bryant moved to approve pay request No. 10 in the amount of \$198,413.01 from B-5 Construction for the Wastewater Treatment Plant No. 1 Improvement Project. Councilmember Steve Schneider seconded the motion. All voted in favor.

The seventeenth item on the agenda was to review and consider update of City of Wharton on-going projects. City Manager Andres Garza, Jr. presented a copy of the memorandum dated July 31, 2016 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>.

The City Council authorized the submission of a Clean Water Project Information Form (CWPIF) to the Texas Water Development Board for some possible funding for the Levee Project. The City has received notice that the City's Project Information had been listed as accepted for the Draft SFY17CWSRF Intended use Plan, however an application cannot be submitted until the City's status has changed to invited.

#### **DRAINAGE:**

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

The Public Works Department has finished excavation of the channel. The Public Works Department will be installing additional 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 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.

##### **5. Pecan Acres (Mahann, Kinkaid, Delmas) Drainage Project.**

The project area has been surveyed and an improvement plan has been developed by Schibe

Engineering. The City Staff will be contacting property owners for the necessary easements needed to install the drainage pipes.

#### **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.

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

An application was submitted to the Texas Department of Agriculture (TDA) under TxCDBG. The City has been informed that the City will be receiving funding for this project. The City staff is awaiting the necessary contracts.

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

The project is moving forward. Updates are being provided by Jones & Carter on a monthly basis when pay request are sent.

**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.

**2. I-69 Project.**

TxDOT will hold a public hearing in the next few months regarding the environmental requirements for the project in Wharton County. The City Council Public Works Committee attended the TxDOT Transportation Improvement Plan (TIP) Public Meeting in El Campo on May 5, 2016.

**3. NanYa Exit Ramp Project.**

The City has submitted its request to 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. The City is awaiting TxDOT's response.

**4. 2016 City Street Improvements.**

The City Staff has begun the 2016 Street Improvement Program. The street reconstruction phase has been completed. The level up phase will begin soon. Also, the City Staff will be advertising for the Old Lane City Road overlay in early September.

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

M.C. Fonseca Construction has begun the project. Civil Corp has submitted the information to TxDOT on the additional work.

**WHARTON REGIONAL AIRPORT**

**1. Hangar Construction Project.**

The City Staff is working with Strand Engineering on the construction of the City hangar. This project is moving forward.

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After some discussion, no action was taken.

The eighteenth 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. Mayor's Committee on People with Disabilities.

After some discussion, no action was taken.

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

- A. Beautification Commission meeting held August 10, 2016.
- B. Airport Board meeting held August 15, 2016.
- C. Planning Commission meeting held on August 15, 2016.
- D. Mayors Committee on People with Disabilities meeting held on August 17, 2016.

After some discussion, no action was taken.

The twentieth item on the agenda was City Manager's Reports:

- |   |                                 |
|---|---------------------------------|
| A. City Secretary/Personnel.                                      | H. Fire Marshall.               |
| 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-first 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 7:33 p.m.

City of Wharton  
Regular Council Meeting  
August 22, 2016

By: \_\_\_\_\_

**Tim Barker**  
**Mayor**

**ATTEST:**

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