

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
OCTOBER 24, 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 Tim Barker led the pledge of allegiance.

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

Councilmember absent was: Vincent Huerta.

Staff members present were: City Manager Andres Garza, Jr, Finance Director Joan Andel, City Attorney Paul Webb, City Secretary Paula Favors Public Works Director Wade Wendt, Community Development Coordinator Gwyn Laney, Civic Center Manager Jessica Dunn, Police Chief Terry David Lynch, Emergency Management Coordinator Stephen Johnson, and Assistant to the City Manager Brandi Jimenez.

Visitors present were: Wharton Economic Development Director David Schroeder, Mary A. Barnes, I.O Coleman, Jr., Laura Clemons with CB & I, Wes Birdwell, P.E., with Halff and Associates, Inc., Carlos Cotton, P.E. with Jones and Carter, Inc., Blanche Allen, Janice S. Blair, Mary A. Barnes, Thelma Hayes and Evelyn Carriere with the Wharton Journal Spectator.

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

The third item on the agenda was Public Comments. Ms. Thelma Hayes stated that over the previous weeks the train has been coming through the City at a high rate of speed and with school busses crossing over the tracks several times a day someone could get injured.

The fourth item on the agenda was the Wharton Moment. Councilmember Terry Freese stated that the Wharton Varsity Football team was set to play Aransas Pass on Friday, October 28th which would be a very important game. City Manager Andres Garza, Jr. stated that he was re-elected to the Texas Municipal Leagues Intergovernmental Risk Pool Board of Trustees.

Councilmember Russell Machann congratulated City Manager Garza on re-election and stated that the City was very lucky and proud to have him.

The fifth item on the agenda was to review and consider City of Wharton Financial Report for the month of September 2016. Finance Director Joan Andel presented the financial report for the month of September 2016. Mrs. Andel stated that the TexPool balance for September as \$131,802.92 with an average monthly yield of .38%. She said the Prosperity Bank balance for September 2016 was \$6,378,994.33 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 September 2016. Councilmember Don Mueller seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider a resolution of the Wharton City Council approving the Multi-Jurisdictional Hazard Mitigation Action Plan prepared by the Texas Colorado River Floodplain Coalition. City Manager Andres Garza, Jr. stated that on July 14, 2004, the Texas Colorado River Floodplain Coalition (TCRFC) Hazard Mitigation Action Plan (HMAP) for the Lower Colorado River Basin was approved and the original Hazard Mitigation Plan was effective for a five year period (which expired in July 2009) and steps to update the basin wide action plan in 2008 were taken. City Manager Garza said the TCRFC, in an effort to help reduce costs to entities along the river basin, assisted those entities who were interested in participating in updating the Hazard Mitigation Action Plan in the preparation of the plan. He said since the plan update had begun in 2008, 61 entities participated in providing input in the plan and after a final draft of the updated plan was prepared, the TCRFC submitted the plan to the State of Texas and the Federal Emergency Management Administration (FEMA), for approval. City Manager Garza said that the plan update had been approved, participating entities were eligible for FEMA grant disaster funding. After some discussion, Councilmember Don Mueller moved to approve City of Wharton Resolution No. 2016-70, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2016 -70**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE MULTI-JURISDICTIONAL HAZARD MITIGATION ACTION PLAN PREPARED BY THE TEXAS COLORADO RIVER FLOODPLAIN COALITION.

WHEREAS, Section 322 of the Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5165) requires local governments to develop a hazardous mitigation plan as a condition for receiving certain types of non-emergency disaster assistance, including funding for mitigation projects; and,

WHEREAS, The Code of Federal Regulations (CFR) at Title 44, Chapter 1, part 201, requires the City to prepare and adopt a local mitigation plan every five years; and,

WHEREAS, A steering committee comprised of members of the County, and the City of Wharton, selected and deemed appropriate by the Commissioners Court in his

authority to do so as granted by the people, as well as the City's leadership was convened in order to assess the risks of hazards facing the County and the City, and to make recommendations on actions to be taken to mitigate these hazards; and,

WHEREAS, A request for proposals was issued through the Texas Colorado Regional Floodplain Coalition to hire an experienced consulting firm to work with the County to update a comprehensive hazard mitigation plan for the County and the City of Wharton; and,

WHEREAS, The plan incorporates the comments, ideas and concerns of the community and of the public in general, which this plan is designed to protect, ascertained through a series of public meetings, publication of the draft plan, press releases, and other outreach activities.

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

SECTION I. The Wharton City Council hereby approves the 2016 Wharton County, Texas Hazard Mitigation Plan.

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

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

PASSED, APPROVED, and ADOPTED this 24th day of October 2016.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The seventh item on the agenda was to review and consider a resolution of the Wharton City Council approving the submittal to the Texas Division of Emergency Management (TDEM) for Hazard Mitigation Grant Program three (3) grant applications for funding and authorizing the Mayor of the City of Wharton to execute all documents relating to said grants. City Manager Andres Garza, Jr. stated that on October 19, 2016, the City Council Finance Committee met with Ms. Laura Clemons from CBI and received information on the Hazard

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Mitigation Grants that was due on October 31, 2016. City Manager Garza said that there were three grant applications for consideration to be submitted. They were as follows:

1. Sewer Infrastructure Mitigation
2. Warning System-Siren Mitigation
3. Residential Mitigation

City Manager Garza said that the Committee voted to recommend the submittal of the Hazard Mitigation Grants to the Texas Division of Emergency Management (TDEM). Ms. Clemons briefed the City Council on the grant process used by the Texas Department of Emergency Management. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Resolution No. 2016-71, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2016 –71**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE SUBMITTAL TO THE TEXAS DIVISION OF EMERGENCY MANAGEMENT (TDEM) FOR THE HAZARD MITIGATION GRANT PROGRAM THREE (3) GRANT APPLICATIONS FOR FUNDING AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID GRANTS.

WHEREAS, The City of Wharton City Council wishes to submit applications to the Texas Division of Emergency Management (TDEM) for the Hazard Mitigation Grant Program under the direction of the CBI ; and,

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

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 applications to the Texas Division of Emergency Management (TDEM) for the Hazard Mitigation Grant program for the following:

1. Sewer Infrastructure Mitigation
2. Warning System-Siren Mitigation
3. Residential Mitigation

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

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

PASSED, APPROVED, and ADOPTED this 24th day of October 2016.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS

City Secretary

Councilmember Terry Freese 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 contract for Grant Administration Services for TxCDBG Contract No. 7216489 for The Community Development Fund (Alabama Street Sewer Project) and authorizing the Mayor of the City of Wharton to execute all documents related to said contract. City Manager Andres Garza, Jr. stated that on September 26, 2016, the City Council approved a contract with the Texas Department of Agriculture for Community Development Funds for the Alabama Street Sewer Line Project. City Manager Garza said the grant contained funding for a consultant to assist the City in administering the grant program and the City Council had authorized the procurement of those administration services and had established a Consultant Selection Committee to make a recommendation to the City Council. City Manager Garza said that three proposals were received on October 17, 2016 and were given to the Consultant Selection Committee for review. The proposals received were:

1. Langford Community Management Services
2. Grantworks
3. Public Management, Inc.

City Manager Garza stated that the Consultant Selection Committee had reviewed and scored the proposals and was recommending to the City Council to award a contract for those administration services to Grantworks. After some discussion, Councilmember Russell Machann moved to approve City of Wharton Resolution No. 2016-72, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2016 -72**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A CONTRACT FOR GRANT ADMINISTRATION SERVICES FOR TXCDBG CONTRACT NO. 7216489 FOR THE COMMUNITY DEVELOPMENT FUND (ALABAMA STREET SEWER PROJECT) AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID CONTRACT.

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WHEREAS, The City of Wharton received proposals for grant administration services for the TxCDBG Contract No 7216489 for the Community Development Fund (Alabama Street Sewer Project); and,

WHEREAS, The City of Wharton Consultant Selection Committee ranked the proposals for and negotiated a contract with Grantworks; and,

WHEREAS, The Wharton City Council wishes to approve an agreement between the City of Wharton and Grantworks for the services outlined in the agreement; and,

WHEREAS, The City of Wharton and Grantworks wishes to be bound the conditions outlined in the contract; 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 THAT:

Section I: The Wharton City Council hereby approves an agreement between the City of Wharton and Grantworks for grant administration services for TxCDBG Contract No 7216489 for the Community Development Fund (Alabama Street Sewer Project).

Section II: The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute the agreement.

Section III: This resolution will become effective immediately upon its passage.

Passed, Approved, and Adopted this 24th day of October 2016.

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 an ordinance amending the City of Wharton Code of Ordinances Chapter 2, Article VI Civic Center; providing that a violation of the Ordinance or any part of the Code as adopted hereby shall constitute a penalty upon

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	Nonprofit	e	Fee*		Nonprofit		Fee*
Meeting A, Meeting B, Duncan Auditorium	\$20.00 per hour	\$25.00 per hour	\$80.00 / \$100.00		Meeting A, Meeting B, Duncan Auditorium	\$30.00 per hour	\$35.00 per hour / \$120.00 / \$140.00
Pre-Function, O'Quinn Room	\$25.00 per hour	\$30.00 per hour	\$100.00 / \$120.00		Pre-Function, O'Quinn Room	\$35.00 per hour	\$40.00 per hour / \$140.00 / \$160.00
Main Hall Day of Event (includes kitchen)	\$700.00 for up to 12 hours. (over 12 hours \$75.00/hour)	\$800.00 for up to 12 hours. (over 12 hours \$100.00/hour)	\$700.00 / \$800.00		Main Hall Day of Event (includes kitchen)	\$900.00 for up to 12 hours. (over 12 hours \$75.00/hour)	\$1000.00 for up to 12 hours. (over 12 hours \$100.00/hour) / \$900.00 / \$1000.00
Main Hall Set-up Day before Event	8 a.m. to 4 p.m. - no charge 4 p.m. to 12 a.m. - \$75.00/hour	8 a.m. to 4 p.m. - \$75.00/hour 4 p.m. to 1 a.m. - \$100.00/hour	N/A		Main Hall Set-up Day before Event	8 a.m. to 4 p.m. - no charge 4 p.m. to 1 a.m. - \$75.00/hour	8 a.m. to 4 p.m. - \$75.00/hour 4 p.m. to 1 a.m. - \$100.00/hour / N/A

* Minimum fee is quoted for nonprofit minimum and commercial/private minimum.

TABLE INSET:

Tablecloth and skirting rental. All persons contracting with the City regarding use of the civic center who wish to use tablecloths provided by the center shall pay an additional fee of \$7.00 per cloth per table per day. This fee covers the cost of laundering, placing and removing table coverings from the tables.

The Wharton Civic Center, upon approval of the current City Council, can Sponsor or partner with a local Organization or business for an event. Each event would need to have City Council approval regarding rental rates and/or income and expense allocations.

Secs. 2-172--2-190. Reserved.

DIVISION 2. RENTAL POLICIES

Sec. 2-191. Scope.

All persons contracting with the City regarding the use of the civic center shall be governed and shall abide by the rules and guidelines set forth in this division of the City of Wharton Code of Ordinances.

Sec. 2-192. Making reservations.

All reservations for the civic center must be made through the main office of the Civic Center at 1924 N. Fulton between the hours of 8:00 a.m. and 12:00 noon and 1:00 p.m. and 5:00 p.m., Monday through Friday except Holidays. Reservations cannot be confirmed until the rental application and the letter of acceptance of the Civic Center City Ordinance are signed and the security deposit is received by the office of the Civic Center. No oral agreements will be valid.

Sec. 2-193. Familiarity with facility and equipment.

Applicants for use of the civic center shall familiarize themselves with the facility and available equipment before making application. Applicants should be aware of the fact that the civic center is a multi-use facility where several events may be scheduled simultaneously.

Sec. 2-194. Age of applicants; transferability of reservations.

- (a) Applicants for use of the civic center must be 21 years of age or older.
- (b) Reservations for use of the civic center are nontransferable.

Sec. 2-195. Priority of City programs; cancellation of reservations by City.

- (a) Programs conducted by the City at the civic center will be given priority at all times.
- (b) The City Council reserves the right to cancel any reservation for use of the civic center due to a national or natural disaster or emergency need.

Sec. 2-196. Reservation policy; security deposits.

- (a) Reservations for use of the civic center are on a first come, first served basis.
- (b) All rental applications must be accompanied by a security deposit as stipulated in section 2-171. Reservations will not be considered confirmed until the appropriate security deposit, rental application and letter of acceptance of the Civic Center City Ordinance have been signed by the applicant and received by the City.

Sec. 2-197. Fee payment date.

- (a) Rental fees for use of the civic center Main Hall are due 60 days prior to the event. If the event is scheduled within 60 days of the event, the rental fees are due with the application and security deposit.
- (b) Rental fees for use of rooms other than the Main Hall are due 30 days prior to the event. If the event is scheduled within 30 days of the event, the rental fees are due with the application and security deposit.

Sec. 2-198. Cancellations.

- (a) Cancellations may be made for the Main Hall up to 60 days prior to the event. . Cancellations made in the Main Hall less than 60 days prior to the event, shall be as follows:
31 – 60 days prior to the event – forfeit deposit.
Less than 30 days prior to the event – forfeit deposit and forfeit 50% of the rental fee.

(b) Cancellations made in any room other than the Main Hall within 30 days of the event will forfeit their security deposit.

Sec. 2-199. Applicant's responsibility during hours of use.

Requested hours for use of the civic center must include the time it will take to set up, hold the function and clean up. Applicants are solely liable for the building and must secure the building and its equipment at all times during the reserved time. All property missing during this time will be charged against the reserving party.

Sec. 2-200. Limitation on hours.

Applicants renting the civic center facility are limited to the hours specified on their applications. Additional hours will be billed an hourly rate as stated in the fee schedule in section 2-171.

Sec. 2-201. Closing hours.

No reservation for use of the civic center will continue later than 12:00 a.m., Monday through Thursday, or 1:00 a.m. Friday through Sunday. The building and parking area must be cleaned and completely vacated no later than this time. Vehicles (occupied or unoccupied) shall not be left in the parking area for overnight parking. Tenants of the Civic Center shall be exempt from the overnight parking restriction. Failure to leave the premises will be grounds for refusal of future rentals of the facility.

Sec. 2-202. Furnishing equipment or supplies.

The City provides only the equipment that is listed on the application for use of the civic center. The applicant must furnish any other equipment or supplies. The civic center does not provide any supplies such as: scissors, staplers, scotch tape, extension cords, paper plates, forks, knives, napkins and cups. The City will not be responsible for any personal equipment during reserved usage.

Sec. 2-203. Storing equipment or supplies; lost or stolen articles.

(a) Applicants are not allowed to store equipment or supplies at the civic center other than during the hours that are specified on the application. If applicant receives prior approval from the civic center manager to store items overnight the day before and/or the day after a scheduled event, the applicant agrees to hold harmless the City and civic center management and personnel for any losses or damages that may occur during the period of time applicant leaves any equipment or supplies unattended in the civic center.

(b) The City is not responsible for lost or stolen articles. Lost and found articles are kept for one week only.

Sec. 2-204. Decorations; use of rice, confetti, birdseed or flammable materials; red dye.

(a) No decorations of any kind are allowed to be nailed, taped or tacked to any part of the civic center.

(b) The use of rice, confetti, birdseed or any flammable material is prohibited inside the civic center. The throwing of birdseed is allowed, but must be restricted to the outside areas only.

(c) No crepe paper may be used to decorate tables and only "dripless" candles on nonflammable trays or in nonflammable containers may be used.

(d) Any kind of beverages containing red dye are not allowed in the civic center.

Sec. 2-205. Cleanliness of premises.

(a) An applicant for use of the civic center agrees to leave the premises in as good as or better condition than that which existed prior to their usage. The user must:

- (1) Clear tables of any debris or food.
- (2) Remove all decorations and personal belongings.
- (3) Clean up all obvious spills on tables, chairs and floor.
- (4) Pick up garbage and trash in the parking lot.

(b) If extra clean up is required by civic center staff, applicants will be billed at a rate of \$100.00 per hour; or the charges for clean up will be deducted from the deposit.

Sec. 2-206. Damage to property; insurance.

Applicants for use of the civic center assume liability for the cost of repairing damage to property or equipment. The City reserves the right to require applicants, when it is deemed necessary, to provide public liability and/or property damage insurance policies and any other coverage to protect the property of the City.

Sec. 2-207. City staff present for emergencies.

City staff will be in the facility at all times during the rental and will be available should an emergency occur during the use of the civic center facility (e.g., plumbing problems, and nonfunctioning equipment).

Sec. 2-208. Billing for additional services.

If someone other than a staff employee is needed for an emergency in the civic center that is not the fault of the City, the applicant will be billed a minimum of \$50.00 for the first hour, with a rate of \$20.00 per hour thereafter if a City maintenance employee is able to correct the problem. If outside professionals (e.g., state-qualified electrician, audio and/or video technologist) are required to repair the facility/equipment, applicants will be charged the actual cost of repair.

Sec. 2-209. Exits and doorways.

In accordance with City fire codes, all exits and doorways of the civic center must remain clear and unlocked during functions.

Sec. 2-210. Smoking.

Smoking is prohibited inside the civic center. Smoking outside the building shall occur at a distance of 20 feet from entrances, exits, windows, and ventilation intakes.

Sec. 2-211. Persons under influence; gambling.

(a) Persons under the influence of drugs or alcohol will be asked to leave the civic center premises or surrounding areas.

(b) Illegal gambling is strictly prohibited.

Sec. 2-212. Alcoholic beverages.

See ordinance No. 2011-14

Sec. 2-213. Security Officers

See ordinance No. 2011-14

Sec. 2-214. Youth functions.

Youth functions, defined as a function attended by persons 18 years of age or younger, at the civic center must have at least one adult chaperon for each ten guests. Chaperons must be present throughout the duration of the function, setup and cleanup time included. Names and telephone numbers of the designated chaperons must be provided with the rental application.

Sec. 2-215. Refusal of use.

The City has full authority to refuse the civic center to any person, group or organization who, in their opinion, will or has previously misused or damaged the facility; refused to cooperate; or otherwise violated the center rules and policies.

Sec. 2-216. Nonprofit organizations--Qualifying for rates.

Nonprofit organizations using the civic center are required to show their previous year's 990 IRS form or 501(c)3 designation by the IRS in order to qualify for the nonprofit rental rate or to be exempt from the security deposit.

Sec. 2-217. Non-profit organization--Damages and extra fees.

A nonprofit organization will be invoiced for any damages or extra cleanup fees within ten (10) working days of the function. A nonprofit organization that fails to pay for damaged equipment or furniture will forfeit the right to further use the facility.

Sec. 2-218. Dates closed.

No rooms in the civic center will be available for rental for any reasons on the following days.

- (a) New Year's Day.
- (b) Martin Luther King, Jr. Day.
- (c) Easter Weekend (including Good Friday).
- (d) Memorial Day.
- (e) Independence Day.
- (f) Labor Day.
- (g) Thanksgiving and Thanksgiving weekend (including Thursday, Friday, Saturday and Sunday).
- (h) Christmas Eve.
- (i) Christmas Day.

Sec. 2-219. Return/forfeit of deposit.

- (a) The security deposit will be returned to the applicant within fourteen (14) days of the event if the applicant complies with all policies as stated above, no damages are noted and all fees are paid in full.
- (b) The security deposit may be forfeited or only partially refunded for the following reasons:

- (1) The applicant cancels the event as noted in section 2-198.
- (2) The premises are not cleaned as noted in section 2-205.
- (3) There are damages found to the property after the event.
- (4) The applicant required additional services or equipment during the event.
- (5) The applicant used the civic center for more hours than originally agreed upon.
- (6) The total fees for the event have not been paid in full including additional items that may have been added at the time of the event.
- (7) Alcohol was found during the event and was not noted in the application.
- (8) The applicant materially misstates the number of people as determined by the security officers present during the event and additional security officers were called.

Sec. 2-220. Compliance by applicant.

An applicant using the civic center will comply with all City ordinances and federal and state laws.

Sec. 2-221. Exceptions to rental policy.

Any exception to policy stated in section 2-171, Fee Schedule, must be approved by vote of City Council at its regularly scheduled meeting time.

Sec. 2-222. Right to change, alter, amend or cancel the regulations.

The Wharton City Council reserves the right to change, alter, amend or cancel any or all of the regulations and rental rates contained herein at any time.

Fine and Penalty for Violations

Sec. 18-145. Penalties. Any person violating any of the terms or provisions of this article shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than \$100.00 nor more than the maximum provided in section 1-5 for each offense. If the terms or provisions of this article are violated by any corporation or firm, the officers and agents actively in charge of the business of such corporation or firm and the person actually performing the work for such corporation or firm shall be subject to the penalties provided in this section.

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 15th day of November 2016.

Passage and Approval

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, on the 24th day October 2016.

CITY OF WHARTON, TEXAS

By: _____
TIMOTHY BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

Councilmember Steve Schneider 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 ratifying the contract with Layne Christensen Company for the repairs at Water Well No. 3 and declaring said repairs as an emergency and authorizing the City Manager of the City of Wharton to execute all documents related to said contract. City Manager Andres Garza, Jr. stated that the City's Water Well No. #3 located on Alabama Road had experienced some problems and had decreased in production. City Manager Garza said the pump had been pulled and was being inspected. He said the City Staff had made presentations to the City Council Finance Committee and the City Council Public Works Committee on the status of the repairs and estimated cost and the Committee's recommend to the City Council to ratify the contract with Layne Christensen Company for the repairs at Water Well No. 3. City Manager Garza said the total estimated cost of the repairs is \$154,660.00 and on October 10, 2016, he signed the agreements to move the repairs along as soon as possible. Public Works Director Wade Wendt stated that the well is structural sound but there are some additional improvements need to be made to increase production. After some discussion, Councilmember Russell Machann moved to approve City of Wharton Resolution No. 2016-73, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2016 -73**

A RESOLUTION OF THE WHARTON CITY COUNCIL RATIFYING THE CONTRACT WITH LAYNE CHRISTENSEN COMPANY FOR THE REPAIRS AT WATER WELL NO 3 AND DECLARING SAID REPAIRS AS AN EMERGENCY AND AUTHORIZING THE CITY MANAGER OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID CONTRACT.

WHEREAS, The City of Wharton received quotes for the repairs of Water Well No. 3; and,

WHEREAS, The City Manager of the City of Wharton has executed on behalf of the City said agreement.

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

Section I. That the Wharton City Council hereby ratifies the contract with Layne Christensen Company for the repairs at Water Well No 3 signed by the City Manager and declaring said repairs as an emergency.

Section II. That the City Manager of the City of Wharton is hereby authorized to sign any additional documents relating to the aforementioned agreements.

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

Passed, Approved, and Adopted this 24th day of October 2016.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST: _____
PAULA FAVORS
City Secretary

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

The eleventh item on the agenda was to review and consider Texas Department of Public Safety Public Assistance Grants:

- A. **Resolution:** A resolution of the Wharton City Council approving a Public Assistance Grant from the Department of Public Safety FEMA Project Number: PA-06-TX-4269-PW-00085 for debris removal from the April storms and authorizing the Mayor of the City of Wharton to execute all documents related to said agreement.
- B. **Resolution:** A resolution of the Wharton City Council approving a Public Assistance Grant from the Texas Department of Public Safety FEMA Project Number: PA-06-TX-4269-PW-00017 for roadway repairs to Azalea Drive from the April storms and authorizing the Mayor of the City of Wharton to execute all documents to said agreement.

City Manager Andres Garza, Jr. stated that the City of Wharton was awarded a grant for public assistance for the debris removal and roadway repairs to Azalea Drive from the April 2016 Flood Event. City Manager Garza said the City Staff was requesting City Council approval for the acceptance of the grants. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Resolutions No. 2016-74 and No. 2016-75, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2016 -74**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A PUBLIC ASSISTANCE GRANT FROM THE TEXAS DEPARTMENT OF PUBLIC SAFETY FEMA PROJECT NUMBER: PA-06-TX-4269-PW-00017 FOR REPAIRS TO AZALEA DRIVE FROM THE APRIL STORMS AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID AGREEMENT.

WHEREAS, The City of Wharton City Council wishes to accept a grant for public assistance for repairs to Azalea Drive; and,

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

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

SECTION I. The Wharton City Council hereby approves the Public Assistance Grant from the Department of Public Safety for Azalea Drive.

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

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

PASSED, APPROVED, and ADOPTED this 24th day of October 2016.

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CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

**CITY OF WHARTON
RESOLUTION NO. 2016 -75**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A PUBLIC ASSISTANCE GRANT FROM THE TEXAS DEPARTMENT OF PUBLIC SAFETY FEMA PROJECT NUMBER: PA-06-TX-4269-PW-00085 FOR DEBRIS REMOVAL FROM THE APRIL STORMS AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID AGREEMENT.

WHEREAS, The City of Wharton City Council wishes to accept a grant for public assistance for debris removal; and,

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

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

SECTION I. The Wharton City Council hereby approves the Public Assistance Grant from the Department of Public Safety for debris removal.

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

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

PASSED, APPROVED, and ADOPTED this 24th day of October 2016.

CITY OF WHARTON, TEXAS

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 of the Wharton City Council authorizing the purchase of equipment and vehicles from the different vendors through a lease/purchase agreement with Independent Bank and authorizing the City Manager to execute all documents related to said agreement from said vendors. City Manager Andres Garza, Jr. stated that the City's 2016-2017 budget included the purchase equipment and vehicles through a lease/purchase agreement. City Manager Garza said that in the past and currently Independent Bank had handled those lease purchase agreements for the City. He said the items to be purchased were as listed:

1. Police Department
 - A. Ticket Writers
 - B. Radars
2. Streets Department
 - A. Street Sweeper
 - B. Pneumatic Roller
3. Water/Sewer Department
 - A. 1 ton Truck service bed
 - B. Jet Machine
4. Civic Center
 - A. Audio Upgrade
5. Central Services
 - A. Phone System

City Manager Andres Garza, Jr. requested to change the pneumatic roller purchase to another company at a later date. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Resolution No. 2016-76, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2016 -76**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE PURCHASE OF EQUIPMENT AND VEHICLES FROM THE DIFFERENT VENDORS THROUGH A LEASE/PURCHASE PROGRAM AGREEMENT WITH INDEPENDENT BANK AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS REALTING TO SUCH PURCHASES FROM SAID VENDORS.

WHEREAS, The Wharton City Council wishes to authorize the purchase of different equipment and vehicles from the vendor listed below; and,

WHEREAS, The Wharton City Council wishes to authorize the City Manager to purchase subject to the banks approval on behalf of the City of Wharton said equipment and vehicles through a lease/purchase agreement with Independent Bank; and,

WHEREAS, The Wharton City Council wishes to make this resolution effective immediately after its passage.

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

Section I. That the Wharton City Council hereby authorizes the purchase of the following equipment and vehicle from the following vendors:

Fiscal Year 2016-2017 Capital Needs	Est. Cost	Vendor	Cooperative Program
Lease Purchase			
Police Department			
Ticket Writers	\$10,000	Tyler Technology	None
Radars	\$10,000	Applied Concepts	HGAC
Street Department			
Street Sweeper	\$200,000	ASCO	HGAC
Pneumatic roller	\$50,000	TBD	TBD
Water/Sewer Department			
1 ton Truck servcie bed, heavy crane	\$55,000	Caldwell Country Ford	Buy Board
Jet Machine	\$60,000	Sewer Equip Co of America	HGAC
Civic Center			
Audio Upgrades	\$6,000	Tec-Tronics Systems	None
Central Services			
Phone System	\$60,000	Att	None

Section II. That the Wharton City Council hereby authorizes the City Manager to make said purchase for the above mention vendors on behalf of the City of Wharton through the lease/purchase agreement with Independent Bank.

Section III. That the Wharton City Council authorizes the City Manager to execute any and all documents related to said purchase.

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

Passed, Approved, and Adopted this 24th day of October 2016.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST: _____
PAULA FAVORS
City Secretary

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

The thirteenth item on the agenda was to review and consider a resolution of the Wharton City Council approving a lease/purchase agreement with Independent Bank for the purchase of certain equipment and vehicles and authorizing the Mayor of the City of Wharton to execute all documents related to said agreement. City Manager Andres Garza, Jr. presented an email from Ms. Christina Vasquez-Senior Lending Assistant with Independent Bank corresponding with Finance Director Joan Andel regarding the lease/purchase agreement. City Manager Garza stated that the City Staff anticipated that the loan would be approved and the City Staff was requesting approval for the Mayor to execute the lease/purchase agreement with Independent Bank subject to final approval by City Attorney Paul Webb. After some discussion, Councilmember Russell Machann moved to approve City of Wharton Resolution No. 2016-77, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2016 -77**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A LEASE/PURCHASE AGREEMENT WITH INDEPENDENT BANK FOR THE PURCHASE OF CERTAIN EQUIPMENT AND VEHICLES AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID AGREEMENT.

WHEREAS, The Wharton City Council wishes to approve an agreement between the City of Wharton and Independent Bank for the services outlined in the agreement; and,

WHEREAS, The City of Wharton and Independent Bank wishes to be bound the conditions outlined in the contract; and,

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

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

Section I: The Wharton City Council hereby approves an agreement between the City of Wharton and Independent Bank.

Section II: The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute the agreement.

Section III: This resolution will become effective immediately upon its passage.

Passed, Approved, and Adopted this 24th day of October 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 fourteenth item on the agenda was to review and consider River Front Park Bank Stabilization Project. City Manager Andres Garza, Jr. stated that during the April/May 2016 flood event the City's River Front Park received damages to the river bank. City Manager Garza said the City Staff had been meeting with FEMA Officials on the estimated cost of the repairs and had also explored the need to mitigate those damages. He said the City Staff updated the City Council Finance Committee of the estimated cost for the repairs. Ms. Laura Clemons with CB & I stated that the costs from FEMA do not align with the project cost developed by their company. After some discussion, no action was taken.

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

A. Request Payment No. 11 from B-5 Construction.

City Manager Andres Garza, Jr. presented pay request No. 11 in the amount of \$166,696.02 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 the project was almost complete. After some discussion, Councilmember Al Bryant moved to approve pay request No. 11 in the

amount of \$166,696.02 from B-5 Construction for the Wastewater Treatment Plant No. 1. Councilmember Russell Machann seconded the motion. All voted in favor.

The sixteenth item on the agenda was to review and consider City Manager and Travel Reimbursement. City Manager Andres Garza, Jr. presented his request for travel reimbursement. After some discussion, Councilmember Russell Machann moved to approve the City Manager Travel Reimbursement. Councilmember Al Bryant 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 his memorandum dated September 30, 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 September.

2. Alabama Street Sewer Line Project.

Contracts from TDA have been executed by the City and returned to the state. The City will begin engaging a consultant to assist the City in grant administration.

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.

1.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.

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 street reconstruction phase has been completed by the City's Public Works Department. Also, the City Staff will be advertising for the Old Lane City Road overlay in October.

5. Wharton Sidewalk Accessibility and Historic Streetscape Project.

M.C. Fonseca Construction has begun the project. Civil Corp submitted the information to TxDOT on the additional work and it has been approved. The sidewalk construction is moving forward.

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. The City's Public Works Department has begun the foundation ground work.

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.

City Manager Andres Garza, Jr. stated that Ms. Gloria Montoya submitted her resignation from the Mayor's Committee on People with Disabilities. After some discussion, Councilmember Russell Machann moved to accept the resignation of Ms. Gloria Montoya from the Mayor's Committee on People with Disabilities. Councilmember Terry Freese seconded the motion. All voted in favor.

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

- A. Beautification Commission meeting held October 12, 2016.
- B. Public Works Committee meeting held October 10, 2016.
- C. Finance Committee meeting held October 19, 2016.

After some discussion, no action was taken.

The twentieth item on the agenda was to review and consider City Manager's Reports.

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| A. City Secretary/Personnel. | H. Fire Marshall. |
| B. Code Enforcement. | I. Legal Department. |
| C. Community Services Department / Civic Center. | J. Municipal Court. |
| D. Emergency Management. | K. Police Department. |
| E. E.M.S. Department. | L. Public Works Department. |
| F. Facilities Maintenance Department / 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 to review and consider Ms. Mary Barnes' request to discuss the 25% match from applicants on the HMGP Project. City Manager Andres Garza, Jr. presented an email from Ms. Mary Barnes to him requesting to discuss the 25% match from the applicants on the HMGP Project. Ms. Barnes stated that she did not feel that residents should be responsible for the 25% match and the City should make sure the cost is not left to the responsibility of the homeowners. City Manager Andres Garza, Jr. stated that the City was looking into several agencies that offer grants that might be able to assist in the matching funds. City Manager Garza said the Wharton County Commissioner's Court received a grant of \$50,000 from the South East Texas Housing Corporation that could be used to help citizens who received flood water damage. After some discussion, no action was taken.

The twenty-second item on the agenda was to review and consider Wharton Economic Development Corporation 2015-2016 Annual Report. City Manager Andres Garza, Jr. presented a copy of the Wharton Economic Development Corporation fiscal year 2015-2016 Annual Report. Mr. David Schroeder, Executive Director presented the Wharton Economic Development Corporation 2015-2016 Annual Report. After some discussion, Councilmember Russell Machann moved to approve the Wharton Economic Development Corporation 2015-2016 Annual Report. Councilmember Al Bryant seconded the motion. All voted in favor.

The twenty-third item on the agenda was to review and consider **Executive Session:** City Council may adjourn into an Executive Session in accordance with Section 551.071 of the Government Code, Revised Civil Statutes of Texas. Final action, decision or vote, if any with regard to any matter considered in Executive Session shall be made in Open Meeting:

Discussion: Cause No. CV49184 Pedro Flores Individually and a/n/f Mariyah Flores vs. Jeffrey Ryan Robles and City of Wharton.

Mayor Tim Barker moved the meeting into closed session at 8:07 p.m.

The twenty-fourth item on the agenda was to review and consider **Return to Open Session:**

Action on items discussed in Executive Session:

A. **Review & Consider:** Cause No. CV49184 Pedro Flores Individually and a/n/f Mariyah Flores vs. Jeffrey Ryan Robles and City of Wharton.

Mayor Tim Barker returned to open session at 8:13 p.m. Mayor Barker stated that only information was received.

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

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The meeting adjourned at 8:14 p.m.

CITY OF WHARTON, TEXAS

By: _____
Tim Barker
Mayor

ATTEST:

Paula Favors
City Secretary