

**MINUTES  
OF  
CITY OF WHARTON  
REGULAR CITY COUNCIL MEETING  
AUGUST 23, 2010**

Mayor Domingo Montalvo, Jr. declared a Regular Meeting duly open for the transaction of business at 7:02 P.M. Councilmember Terry David Lynch led the opening devotion and then Mayor Domingo Montalvo, Jr. led the pledge of allegiance.

Councilmember's present were: Mayor Domingo Montalvo, Jr., Councilmembers V. L. Wiley, Jr., Lewis Fortenberry, Jr., Terry David Lynch, Don Mueller, Bryce D. Kocian, and Jeff Gubbels.

Councilmember absent was: None.

Staff members present were: City Manager Andres Garza, Jr., Finance Director Joyce Vasut, Assistant to City Manager Jackie Jansky, City Secretary Lisa Olmeda, Public Works Director Carter Miska, EMS Director John Kowalik, Community Services Director Jo Knezek, and City Attorney Paul Webb.

Visitors present were: Barry Halvorson with Wharton Journal Spectator, David Schroeder with Wharton Economic Development Corporation, Carlos Cotton with Jones & Carter, I. O. Coleman, Jr., Ron Sanders, Jan Dorn, Ron Crabtree, Jim Cockrell, and Joan Andel.

The second item on the agenda was Roll Call and Excused Absences. All members present. No action was taken.

The third item on the agenda was Public Comments. Mr. Jim Cockrell addressed the City Council and requested the City Council reconsider the water, sewer, and garbage rate increase. He stated that he lives on a fixed income. He also requested the City honor a 10% discount for senior citizens.

Mr. I. O. Coleman, Jr. addressed the City Council and stated that he opposed the increase to all tax payers. No action was taken.

The fourth item on the agenda was Wharton Moment. Mayor Domingo Montalvo, Jr. and City Manager Andres Garza, Jr. presented Joyce Vasut with a plaque honoring exemplary service to the City of Wharton for the period January 1999 to August 2010. Mrs. Vasut stated that she appreciated the opportunity to work with the City of Wharton and to be mentored by City Manager Andres Garza, Jr. She then publicly thanked the City Council, Department Heads, and City Staff. No action was taken.

The fifth item on the agenda was to review and consider the City of Wharton financial report for the month of July 2010. Finance Director Joyce Vasut presented the financial report for the month of July 2010, which was at 83% or nine months into the fiscal year. Mrs. Vasut stated that the total ad valorem taxes collected were \$1,832,563 and the sales tax for the month of June 2010 was \$158,485 with \$105,657 to the City and \$52,828 to WEDC. She further stated the TexPool balance for July was \$9,157.50 with an average monthly yield of 0.19335%. The Prosperity Bank balance for July 2010 was \$2,236,752.92 with an average monthly yield of 0.25%. She stated that other investments included \$2,653.08 at TexasGulf Federal Credit Union in the debt fund, \$253,939.42 at Capital One Marketing 2%, and Prosperity Bank \$1,007,479.45, six months at 1.00% interest, and \$251,560.65, one year at 1.25% interest. After some discussion, Councilmember Bryce D. Kocian made a motion to approve the City of Wharton Financial Report for the month of July 2010. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The sixth item on the agenda was Public Hearing on a proposal to increase total tax revenues from properties on the tax roll in the preceding tax year by 3.05 percent for tax year 2010. City Manager Andres Garza, Jr. presented a copy of the Notice of Public Hearing on Tax Increase for the City of Wharton proposed tax increase for year 2010.

Mayor Domingo Montalvo, Jr. opened the Public Hearing at 7:15 p.m. for comments. Mr. Jim Cockrell addressed the City Council and stated that the land values increased 50%. He stated that he spoke with CAD regarding the increase. He said that it was hard for the senior citizens. He said that other agencies were also increasing the tax rate. He stated that the City needed to crunch the numbers. He stated if the City had not approved a sales tax abatement with Buc-ee's, then the City would have extra funds.

There being no more comments.

Mayor Domingo Montalvo, Jr. closed the Public Hearing at 7:18 p.m.

Finance Director Joyce Vasut publicly announced the date, time and location of the final action to adopt the proposed tax rate which will increase total tax revenues from properties on the tax roll in the preceding tax year by 3.05 percent for the tax year 2010 will be held on September 27, 2010 at 7:00 p.m. at City Hall, 120 E. Caney Street, Wharton, TX 77488.

The seventh 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, 2010 to September 30, 2011. City Manager Andres Garza, Jr. stated that under separate cover, a copy of the proposed budget for the City of Wharton fiscal year October 1, 2010 to September 30, 2011 was being presented to City Council. Finance Director Joyce Vasut stated that the budget was balanced in accordance with the budget workshop that included the \$0.48 tax rate, 5% increase for water and sewer. No action was taken.

The eighth item on the agenda was to review and consider the setting a public hearing date for the City of Wharton, Texas, proposed budget for the fiscal year October 1, 2010 to September 30, 2011. 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. He then presented a copy of the City's Charter Section 53 pertaining to the Budget. He said that the City

Staff would publish the Notice of Public Hearing on Wednesday, September 1, 2010 in the Wharton Journal Spectator. He said that he recommended the public hearing be set for the September 13, 2010 regular City Council meeting, which would comply with Section 53 of the Charter. After some discussion, Councilmember Bryce D. Kocian made a motion to set the public hearing date of September 13, 2010 for the City of Wharton, Texas, proposed budget for the fiscal year October 1, 2010 to September 30, 2011. Councilmember Terry David Lynch seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider the request by Mr. Ron Sanders, Executive Director of the Wharton Chamber of Commerce, for City Council consideration to approve the following for the Wine and Arts Fair to be held Saturday, October 9, 2010 from 4:00 p.m. to 9:00 p.m.:

A. Closure of Houston Street, from Milam to Burleson Streets, from 12:00 Noon until 10:00 p.m. on Saturday, October 9, 2010.

B. Authorization to have open containers of alcohol on City property.

City Manager Andres Garza, Jr. presented a copy of the letter dated August 16, 2010 from Mr. Ron Sanders, Executive Director of the Wharton Chamber of Commerce requesting City Council approval of the items. He said that the Chamber of Commerce was planning to hold the Second Annual Monterey Square Wine and Arts Fair in downtown Wharton on Saturday, October 9, 2010 from 4:00 p.m. to 9:00 p.m. and was requesting approval to close Houston Street from Milam to Burleson Streets. He said that Houston Street would be closed from 12:00 Noon to 10:00 p.m. to allow time for setting up and breaking down booths, etc. He said additionally, the Chamber was requesting City Council approval for visitors to stroll from shops along the City's right-of-way with wine cups. Mr. Sanders addressed the City Council and stated that Ms. Jan Dorn was also present for questions. He stated that the Wharton County Commissioners Court approved the event. After some discussion, Councilmember Terry David Lynch made a motion to approve the request by Mr. Ron Sanders, Executive Director of the Wharton Chamber of Commerce, for City Council consideration to approve the Wine and Arts Fair to be held Saturday, October 9, 2010 from 4:00 p.m. to 9:00 p.m. with closure of Houston Street, from Milam to Burleson Streets, from 12:00 Noon until 10:00 p.m. on Saturday, October 9, 2010, and authorization to have open containers of alcohol on City property. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider the City Council authorization to submit formal letters to the Texas Department of Transportation requesting that I-69 be included in the Texas Department of Transportation Statewide Long-Range Transportation 2035 Plan. City Manager Andres Garza, Jr. presented a copy of the letter dated August 18, 2010 from Mr. Gary Bushell, Attorney/Government Consultant for the Alliance for I-69. He said that the Alliance was requesting Directors of the Board, Members and Supporters of the I-69 project to submit letters requesting that the Texas Department of Transportation (TxDOT) include the I-69 Project in its Statewide Long-Range Transportation Plan 2035. He then presented drafts of the proposed letters. He said that City Council approval was needed to submit the letters to be executed by Mayor Domingo Montalvo, Jr. Mayor Domingo Montalvo, Jr. stated that Judge Thompson asked if he would be interested in serving on the alliance, which he accepted; therefore, Wharton would be represented. After some discussion, Councilmember Don Mueller made a motion to authorize the submission of formal letters to the Texas Department of

Transportation requesting that I-69 be included in the Texas Department of Transportation Statewide Long-Range Transportation 2035 Plan. Councilmember Terry David Lynch seconded the motion. All voted in favor.

The eleventh item on the agenda was executive session City Council may adjourn into an Executive Session in accordance with Sections 551.071 and 551.074 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.

A. **Discussion:** Finance Director Position Interview.

B. **Discussion:** Cause No. 4:10-ev-02008; *Haywood Ross, et al. v. State of Texas, et al.*; In the United States District Court for the Southern District of Texas.

Mayor Domingo Montalvo, Jr. adjourned into Executive Session at 7:26 p.m.

Mayor Don Mueller returned to Open Session at 7:48 p.m.

The twelfth item on the agenda was return to open session action on items discussed in Executive Session:

A. **Review & Consider:** Appointment of the City of Wharton Finance Director.

Councilmember Bryce D. Kocian made a motion to appoint Ms. Joan Andel as the City of Wharton Finance Director at pay scale 60-16, with 5% increase after successfully completing probationary period contingent upon passing pre-employment physical and drug requirements. Councilmember Terry David Lynch seconded the motion. All voted in favor.

B. **Review & Consider:** Cause No. 4:10-ev-02008; *Haywood Ross, et al. v. State of Texas, et al.*; In the United States District Court for the Southern District of Texas.

Mayor Domingo Montalvo, Jr. stated that no action would be taken.

The thirteenth item on the agenda was review and consider an ordinance amending the City of Wharton Code of Ordinances, Chapter 86, 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 therein. City Manager Andres Garza, Jr. stated that during the City Council budget workshops, increases in the City's water and sewer rates were discussed. He then presented a draft copy of proposed amendments to the City of Wharton Code of Ordinance, Chapter 86 Utilities and Service that indicated the proposed increases to the rates. He also presented a comparison of water and sewer rates of neighboring cities to the City's proposed rates. He said that the City Council Finance Committee met on August 12, 2010 and voted to recommend the City Council consider approving the ordinance amendments. Finance Director Joyce Vasut stated that a notice of 30 days was required; therefore, the effective date would be October 1, 2010. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve Ordinance No. 2010-09, which read as follows:

**CITY OF WHARTON  
ORDINANCE NO. 2010-09**

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

**BE IT ORDAINED** by the City Council of the City of Wharton, Texas that:

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:

**Article I. In General**

- Sec. 86-1. Definitions.
- Sec 86-2. Purpose and policy.
- Sec. 86-3. General requirements for all users.
- Sec. 86-4. Heavy metals and toxic materials.
- Sec. 86-5 Garbage.
- Sec. 86-6. Stormwater and other unpolluted drainage.
- Sec. 86-7. Temperature.
- Sec. 86-8. Radioactive wastes.
- Sec. 86-9. Impairment of facilities.
- Sec. 86-10. Local limits nondomestic users.
- Sec. 86-11. Local limits for industrial users.
- Sec. 86-12. Hauled or trucked in wastewater.
- Sec. 86-13. Required and approved discharges.
- Sec. 86-14. Connections made by City service applications.
- Sec. 86-15. Water and sewer tap charges, deposits, other charges.
- Sec. 86-16. Water service charges.
- Sec. 86-17. Sewer service charges.
- Sec. 86-18. Billing, collection, etc.
- Sec. 86-19. Water and Sewer service for outside city limits.
- Sec. 86-20. Cleaning compounds.
- Sec. 86-21. Bulk Water Rates.
- Sec. 86-22 Bypass.
- Secs. 86-23 – 86-40 Reserved.

## ARTICLE I. IN GENERAL

### Sec. 86-1. Definitions

**The following words, terms and phrases, when used in this and subsequent articles shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:**

*Analytical Laboratory (or laboratory)* means the independent EPA-approved laboratory specifically contracted by the City to perform required analysis of wastewater discharges subject to the requirements of this Ordinance. Only the laboratory specifically contracted by the City shall be recognized for the analysis of compliance point samples.

*Approving Authority* means the Public Works Director of the City of Wharton or his/her duly authorized representative.

*Authorized Representative of the User* means

- (1) If the user is a corporation:
  - (a) The president, secretary, treasurer, or a vice-president of the corporation in charge of the principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
  - (b) The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
- (2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively;
- (3) The individuals described in paragraphs 1 and 2, above may designate another authorized representative if this authorization is in writing, the authorization **specifies** the individual or position responsible for the overall operation of the facility from which the discharge originates, or specifies the individual having overall responsibility for environmental matters for the company, and this written authorization is submitted to the city.

*Biochemical Oxygen Demand (BOD)* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration [milligrams oxygen utilized per liter of wastewater (mg/l)].

*Building Sewer* means the extension from the building drain to the public sewer or other place of disposal (also called line lateral and line connection).

*Categorical Pretreatment Standard or Categorical Standard* means any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Sections 307(b) and (c) of the Clean Water Act, which applies to an Industrial User.

*City* means the City of Wharton, Texas, or the City Council of Wharton, Texas, and those persons authorized by the City Council to represent the City.

*Chemical Oxygen Demand (COD)* means the measure of the oxygen-consuming capacity of inorganic and organic matter present in the water or wastewater expressed in mg/l as the amount of oxygen consumed from a chemical oxidant in a specific test, but not differentiating between stable and unstable organic matter and thus not necessarily correlating with biochemical oxygen demand.

*Composite Sample* means the sample resulting from the combination of individual discrete wastewater samples taken at selected intervals based on an increment of either flow or time.

*Contact Cooling Water* means water used for cooling which may come into direct contact with any raw material, intermediate product, waste product, or finished product either by deliberate design or by accidental occurrence.

*Control Authority* means the Public Works Director of the City of Wharton or his/her duly authorized representative.

*Control Manhole* means a manhole giving access to building sewer at some point before the building sewer discharge mixes with other discharges into the public sewer.

*Control Point* means a point of access to course of discharge before the discharge mixes with other discharges in the public sewer. For industrial discharges, the control point is also considered the compliance point.

*Compliance Point* means a point of access to a course of discharge from an industrial user at which samples are collected and analyzed for flow and quality. These samples must be representative of the total discharge to the public sewer and must be collected prior to comingling with any other noncontrolled flows. Samples are taken at the compliance point of an industrial user for the purposes of determining the user's compliance with all applicable pretreatment standards and requirements. Samples collected at locations other than at the compliance point are considered for water quality information and background purposes only.

*Director* means the Public Works Director of the City of Wharton, or his/her duly authorized representative.

*Domestic Wastewater* means waterborne waste normally discharged from the sanitary conveniences of dwellings, residences, hotels, apartments, office buildings and factories, free from storm water, ground water, surface water, and industrial waste. Normal domestic wastewater shall mean domestic wastewater that is "normal" sewage for the city.

*Emulsifiers, Surfactants or Lubricants* means those chemical compounds, either naturally-occurring or synthetically-derived, which are added to, or incorporated into, an aqueous stream to chemically alter the properties of that stream to improve solubility, viscosity, lubricity or heat transfer characteristics.

*Excessive Strength Wastewater* means any industrial wastewater in which any of the following concentrations are exceeded:

BOD = 150 milligrams per liter of wastewater

TSS = 200 milligrams per liter of wastewater

Total Oil and Grease = 15 milligrams per liter of wastewater

*Existing Source* means any source of discharge, the construction or operation of which commenced prior to the effective date of this pretreatment Ordinance and prior to the publication date of any EPA proposed Categorical Pretreatment Standards, which would be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Clean Water Act.

*Fats, Oils and Greases* means the liquid, semisolid or solid substances originating from animal or vegetable sources normally encountered in sewer discharges from food production operations. These substances are discernible from petroleum-based oils and greases, which do not originate from animal or vegetable sources.

*Food-Based Oils and Greases* means the liquid, semi-solid or solid substances originating from animal or vegetable sources which are encountered in sewer discharges from food processing activities. These substances are discernible from other types of oils and greases, which are not generated from typical food-processing activities.

*Food-Processing Activities* means those activities specifically involved in the preparation of food items for human consumption. These activities may be conducted at residential, retail, commercial or institutional type facilities.

*Garbage* means animal and vegetable wastes and residue from the preparation, cooking and dispensing of food and from the handling, processing, storage and sale of food products and produce.

*Grab Sample* means a sample, which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.



*Indirect Discharge* means the introduction of pollutants into the public sewer from any nondomestic or industrial source regulated under Section 307(b), (c), or (d) of the Clean Water Act.

*Industrial Oils and Greases* means those oils and greases present in wastes discharged from industrial facilities as a result of industrial activities conducted at those facilities. Industrial oils and greases may be food-based, petroleum-based, synthetic or natural products that are employed in industrial operations or which are an integral part of those operations.

*Industrial User* means any person that discharges industrial wastes to the public sewer system and any other source of "indirect discharge" as defined above. An industrial facility is one that engages in manufacturing, production or processing operations and which has been identified as such by the Standard Industrial Classification Code applicable to that facility.

*Industrial Waste* means water-borne solids, liquids, or gaseous wastes resulting from a discharged, permitted to flow, or escaping from any industrial, manufacturing, or processing operation, or any mixture of these wastes with water or domestic wastewater. This definition does not apply to food preparation or other institutional wastes, which are considered "nondomestic" wastes.

*Industrial Waste Charge* means the charge made on those persons who discharge industrial wastes into the public sewer system.

*Industrial Waste Permit* means the authorization, by way of issuance of a permit, by the Director to an industrial facility to discharge particular waste streams to the public sewer system. The permit describes the wastes and concentrations, which may be discharged by a facility and describes the conditions under which those wastes may be discharged.

*Instantaneous Maximum Allowable Discharge Limit* means the maximum concentration (or loading) of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

*Interference* means a discharge which alone or in conjunction with a discharge or discharges from other sources inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal, and therefore, is a cause of a violation of the City's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Act; the Solid Waste Disposal Act, Resource Conservation and Recovery Act (RCRA); any State regulation contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

*Milligrams per liter (mg/l)* means the same as parts per million and is a weight-to-volume ratio; the milligram-per-liter value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.

*Minor Industrial User* means any nonsignificant industrial user which may discharge "excessive strength wastewater" (as the term is herein defined) to the public sewer system, but that is not a Significant Industrial User.

*National Pollution Discharge Elimination System (NPDES)* means the federal wastewater and storm water permitting program authorizing discharges to waters of the U.S. This permitting program sets out requirements for industrial discharges in addition to State and Local permit programs.

*Natural Outlet* means any outlet into a watercourse, ditch, lake or other body of surface water or groundwater.

*New Source* means

- (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the effective date of this pretreatment Ordinance or after the publication date of any EPA proposed pretreatment standards under Section 3070 of the Clean Water Act which would be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
  - (a) The building, structure, facility, or installation is constructed at a site at which no existing source is located; or
  - (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  - (c) The production or wastewater generated or processed at the building, structure, facility, or installation is substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, will be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1) (b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.

- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
- (a) Begun, or caused to begin as part of a continuous onsite construction program
    - (i) any placement, assembly, or installation of facilities or equipment;  
or
    - (ii) significant site preparation work including clearing, excavation, or removal of existing building structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
  - (b) Entered into a binding contractual obligation for the purchase of facilities or equipment, which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

*Nondomestic User* means any person that discharges nondomestic wastes to the public sewer system that is not considered an industrial waste. Nondomestic sources include those wastes from food preparation and processing, commercial and retail facilities and institutional wastes from hotels, hospitals, schools, criminal justice facilities, nursing homes and other miscellaneous nonindustrial activities.

*Noncontact Cooling Water* means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

*Overload* means the imposition of organic or hydraulic loading on a treatment facility in excess of its engineered design capacity.

*Pass Through* means a discharge which exits the Publicly Owned Treatment Works (POTW) into water of the U.S. in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's NPDES permit (including an increase in the magnitude or duration of a violation).

*Person* means any individual, group of individuals, authorized corporate representatives or corporation which is directly involved in and responsible for the discharge of any wastes to the public sewer system.

*Petroleum - Based Oil and Grease* means those liquid semi-solid or solid wastes originating from petroleum products, including crude and refined oils, distillates, degreasing solvents, lubricating oils and cooling or thermal oils.

*pH* means the reciprocal of the logarithm (base ten) of the hydrogen ion concentration expressed in grams per liter.

*Pollutant* means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural, food-based, synthetic, and petroleum oil or petroleum oil-containing wastes and industrial wastes, and certain characteristics of wastewater [i.e., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor].

*Pretreatment* means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to (or in lieu of) introducing such pollutant into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means. Dilution of an industrial waste stream with other nonpolluted waters or domestic wastes is, not permitted as a form of pretreatment.

*Pretreatment Requirements* means any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

*Pretreatment Standards (or Standards)* shall mean prohibited discharge standards, Categorical Pretreatment Standards, and other Federal, State or local limits set out in, this pretreatment Ordinance.

*Prohibited Discharge Standards (or Prohibited Discharges)* means absolute prohibitions against the discharge of certain substances.

*Publicly Owned Treatment Works (POTW)* means a "treatment works", or combination of all wastewater collection and treatment facilities owned and operated by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to treatment plant. This definition, however, does not include pipes, sewers, other conveyances, or sampling points located exclusively on private property, and that are physically located anterior to the indirect discharge point.

*Sanitary sewer* means a public sewer that conveys domestic wastewater or industrial wastes or a combination of both and into which stormwater, surface water, groundwater and other unpolluted wastes are not intentionally passed.

*Sewage* means the normal mixture of human wastes generated by domestic, residential, institutional, commercial and restaurant facilities. Sewage may include some cleaning compounds such as soaps, detergents or other cleaning products.

*Septic Tank Wastes* means those liquid and solid wastes collected from underground septic systems. Septic systems are those which use biological processes to treat domestic sewage and do not include industrial waste systems.

*Significant Industrial User* means:

- (1) A user subject to any Categorical Pretreatment Standards; or
- (2) A user that:
  - (a) Discharges an average of 25,000 gallons per day (gpd) or more of nondomestic wastewater to the POTW; or
  - (b) Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
  - (c) Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
- (3) Upon finding that a user meeting the criteria in Subsection (2) has no reasonable potential for adversely affecting the POTW's operation, or for violating any pretreatment standard or requirement, the City may, at any time, on its own initiative, or in response to a petition received from a user determine that such use should not be considered a significant industrial user.

*Slug Load (or Slug)* means any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards of this Ordinance.

*Standard Methods* means the examination and analytical procedures set forth in the latest edition, at the time of analysis, of Standard Methods for the Examination of Water and Wastewater, as prepared, approved and published jointly by the American Public Health Association, the American Water Works Association and the Water Environment Federation (WEF).

*Storm Sewer* means a public sewer, which carries stormwaters and surface waters and drainage, and into which domestic wastewater or industrial wastes are not intentionally passed.

*Stormwater* means rainfall or any other forms of precipitation and the natural over land drainage of precipitation.

*Suspended Solids* means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

*To Discharge* means to deposit, conduct, drain, emit, throw, run, allow to seep or otherwise release or dispose of or to allow, permit or suffer any of these acts or omissions.

*Trap or Grease Trap* means a device designed to skim, settle or otherwise remove grease, oil, sand, flammable wastes or other harmful substances.

*Unpolluted Wastewater* means water, which does not contain any:

- (1) Free or emulsified grease or oil;
- (2) Acids or alkalis;
- (3) Phenols or other substances producing taste or odor in the receiving water;
- (4) Toxic or poisonous substances in suspension, colloidal state or solution;
- (5) Noxious or otherwise obnoxious or odorous gases;
- (6) More than ten mg/l each of suspended solids and BOD; and
- (7) Color exceeding 50 units as measured by the platinum-cobalt method of determination as specified in Standard Methods.

*User (Industrial User or Nondomestic User)* means any person who discharges industrial or nondomestic wastewater to the wastewater system, and any other source of indirect discharge as defined herein.

*Waste* means rejected, unutilized or superfluous substances in liquid, gaseous or solid form resulting from domestic, agricultural or industrial activities.

*Wastewater* means liquids and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are discharged into the POTW.

*Wastewater Facilities* includes all facilities for the collection, pumping, treating and disposing of wastewater and industrial wastes.

*Wastewater Service Charge* means the charge on all users of the public sewer system whose wastes do not exceed in strength the concentration values established as representative of normal wastewater.

*Wastewater Treatment Plant or Treatment Plant* means that portion of the POTW, which is designed to provide treatment of sanitary wastewater and industrial waste.

*Watercourse* means a natural or manmade channel in which a flow of water occurs, either continuously or intermittently.

**See 86-2. Purpose and policy**

This article sets-forth uniform requirements to be met by all industrial and nondomestic users utilizing the wastewater collection, transportation and treatment system for the City of

Wharton, Texas. The Ordinance is written to enable the City of Wharton Wastewater Treatment System to comply with and enforce all applicable State and Federal laws pertaining to industrial wastewater quality control.

**Sec. 86-3. General requirements for all users**

- (a) General Prohibitions: No user shall introduce or cause to be introduced into a public sanitary sewer or any other component of the POTW any pollutant or wastewater, which causes pass through or interference. These general prohibitions apply to all industrial and nondomestic users of the POTW whether or not they are subject to Categorical Pretreatment Standards or any other National, State, or local pretreatment standards or requirements.
- (b) No industrial or nondomestic user may discharge to public sewers any waste, which by itself or by interaction with other wastes may:
  - (1) Injure or interfere with wastewater treatment processes or facilities;
  - (2) Constitute a hazard to humans or animals; or
  - (3) Create a hazard in receiving waters or the wastewater treatment plant effluent.
- (c) All discharges shall conform to this Article.
- (d) No industrial or nondomestic discharge to public sewers may contain the following:
  - (1) Gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquids, solids or gases;
  - (2) Strong acid, iron pickling wastes or concentrated plating solutions whether neutralized or not;
  - (3) Substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit (zero and 65 degrees Celsius);
  - (4) Objectionable or toxic substances, exerting an excessive chlorine requirement, to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the approving authority for such materials;
  - (5) Obnoxious, toxic, or poisonous solids, liquids or gases in quantities sufficient to violate this section; or

- (6) Wastewater causing, alone or in conjunction with other sources, the treatment plants effluent to fail a toxicity test.
- (e) No waste, wastewater or other substances may be discharged into public sewers which have a pH lower than 6 or higher than 9 or any other corrosive property capable of causing damage or hazard to structures, equipment and personnel at the wastewater facilities.
- (f) All waste, wastewater or other substance containing phenols, hydrogen sulfide or other taste- and odor-producing substances shall conform to concentration limits established by the approving authority. After treatment of the composite wastewater, concentration limits may not exceed the requirements established by State, Federal or other agencies with jurisdiction over discharges to receiving waters.
- (g) Any wastewater of such character or quantity that unusual attention or expense is required to handle such material at the wastewater treatment plant or in the collection system.
- (h) No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment, to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement.

**Sec. 86-4. Heavy metals and toxic material limits**

- (a) No discharges to the public sewers may contain concentrations of heavy metals greater than the amounts specified in (b) below.
- (b) Maximum allowable concentrations of discharges shall be as follows:
  - (1) Quality levels of inland waters. The allowable concentrations of each of the hazardous metals, stated in terms of milligrams per liter (mg/l), for discharge to inland waters are as follows:

*Not to Exceed*

Metal	Average	Daily Composite	Grab Sample
Arsenic	0.1	0.2	0.3
Barium	1.0	2.0	4.0
Cadmium	0.05	0.1	0.2
Chromium	0.5	1.0	5.0
Copper	0.5	1.0	2.0



*Not to Exceed*

Metal	Average	Daily Composite	Grab Sample
Lead	0.5	1.0	1.5
Manganese	1.0	2.0	3.0
Mercury	0.005	0.005	0.01
Nickel	1.0	2.0	3.0
Selenium	0.05	0.1	0.2
Silver	0.05	0.1	0.2
Zinc	1.0	2.0	6.0

(c) No other heavy metals or toxic materials may be discharged into public sewers without a permit from the approving authority specifying conditions of pretreatment, concentrations, volumes and other applicable provisions.

(d) Prohibited heavy metals and toxic materials include, but are not limited to the following:

- (1) Antimony;
- (2) Beryllium;
- (3) Bismuth;
- (4) Cobalt;
- (5) Molybdenum;
- (6) Tin;
- (7) Uranylion;
- (8) Rhenium;
- (9) Strontium;
- (10) Tellurium;
- (11) Herbicides;
- (12) Fungicides; and

- (13) Pesticides.

**Sec. 86-5. Garbage**

- (a) No person may discharge garbage into public sewers unless it is shredded to a degree that all particles can be carried freely under the flow conditions normally prevailing in public sewers. Particles greater than one-half inch in any dimensions are prohibited.
- (b) The approving authority is entitled to review and approve the installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater.

**Sec. 86-6. Stormwater and other unpolluted drainage**

- (a) No person may discharge the following to public sanitary sewers:
- (1) Unpolluted stormwater, surface water, groundwater, roof runoff or subsurface drainage;
  - (2) Unpolluted cooling water;
  - (3) Unpolluted industrial process waters; or
  - (4) Other unpolluted drainage.
- (b) In compliance with the Texas Water Quality Act (V.T.C.A., Water Code ' 26.001 et seq.) and other statutes, the approving authority may designate storm sewers and other watercourses into which unpolluted drainage described in subsection (a) of this section may be discharged.
- (c) Polluted stormwaters and cooling waters may be discharged to the public sewer provided that authorization has been granted by the City for such discharges under the requirements of this Ordinance.

**Sec. 86-7. Temperature**

No person may discharge to the public sewers any liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius) or any substance which causes the temperature of the total wastewater treatment plant influent to increase at a rate of ten degrees Fahrenheit or more per hour or a combined total increase of plant influent temperature to 110 degrees Fahrenheit.

Sec. 86-8. Radioactive wastes

- (a) No person may discharge radioactive wastes or isotopes into public sewers without the permission of the approving authority.
- (b) The approving authority may establish, in compliance with applicable state and federal regulations, regulations for discharge of radioactive wastes into public sewers.

Sec. 86-9. Impairment of facilities

- (a) No person may discharge into public sewers any substance capable of causing:
  - (1) Obstruction to the flow in sewers;
  - (2) Interference with the operation of treatment processes of facilities;
  - (3) Excessive loading of treatment facilities;
  - (4) Discharges prohibited by subsection (a) of this section include but are not limited to materials which exert or cause concentrations of:
    - (1) Inert suspended solids greater than 200 mg/I, including but not limited to:
      - a. Fuller's earth;
      - b. Lime slurries; and
      - c. Lime residues;
    - (2) Dissolved solids greater than 145 mg/I, including but not limited to:
      - a. Sodium chloride; and
      - b. Sodium sulfate.
    - (3) Excessive discoloration, including but not limited to:
      - a. Dye wastes; and
      - b. Vegetable tanning solutions; or
    - (4) BOD, COD or chlorine demand in excess of normal plant capacity.
- (b) No person may discharge into public sewers any substances that may:

- (1) Deposit grease or oil in the sewer lines in such a manner as to clog the sewers;
  - (2) Pass to the receiving waters without being effectively treated by normal wastewater treatment processes due to the nonamenability of the substance to bacterial action; or wastewater treatment processes due to the nonamenability of the substance to bacterial action; or
  - (3) Deleteriously affect the treatment process due to excessive quantities.
- (c) No person may discharge any substance into public sewers which:
- (1) Is not amenable to treatment or reduction by the processes and facilities employed; or
  - (2) Is amenable to treatment only to such a degree that the treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (d) The approving authority shall regulate the flow and concentration of slugs when they may:
- (1) Impair the treatment process;
  - (2) Cause damage to collection facilities;
  - (3) Incur treatment costs exceeding those for normal wastewater; or
  - (4) Render the waste unfit for stream disposal.
- (e) No person may discharge into public sewers solid or viscous substances which may violate subsection (a) of this section if present in sufficient quantity or size, including but not limited to:
- (1) Ashes;
  - (2) Cinders;
  - (3) Sand;
  - (4) Mud;
  - (5) Straw;
  - (6) Shavings;

- (7) Metal;
- (8) Glass;
- (9) Rags;
- (10) Feathers;
- (11) Tar;
- (12) Plastics;
- (13) Wood;
- (14) Unground garbage;
- (15) Whole blood;
- (16) Paunch manure;
- (17) Hair and fleshings;
- (18) Entrails;
- (19) Paper products, either whole or ground by garbage grinders;
- (20) Slop;
- (21) Chemical residues;
- (22) Paint residues; or
- (23) Bulk solids.

**Sec. 86-10. Local limits for nondomestic users**

- (a) Maximum allowable concentrations of discharges for all nondomestic users shall be as follows:

PARAMETER	CONCENTRATION NOT TO EXCEED AT ANY ITME – mg/l
BOD	150
COD	250
TSS	200
Food-Based Oils or Grease	100

Cyanide	1
Chlorides	250
Fluorides	None other than present in the public water supply

- (b) Other specific requirements for nondomestic users shall be as follows:
- (1) Nondomestic users shall provide pretreatment for fats, oils and greases by the use of grease traps. Nondomestic users will be required to maintain these traps in proper working order to maximize oil and grease removal. All traps shall be of adequate capacity, shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature, and shall so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by users at their expense. These traps will be inspected on a semi-annual basis at the discretion of the City.
  - (2) Nondomestic user's wastewater will be sampled on a periodic basis at the Director's discretion. The frequency of sampling and type of testing to be conducted will be based on a particular facility's potential to exceed certain discharge standard or requirements.

**Sec. 86-11. Local limits for industrial users**

Certain local limits apply to industrial users, as specified in Article 11. Industrial Waste Disposal and Pretreatment, Section 86-44.

**Sec. 86-12. Hauled or trucked in wastewater**

- (a) Trucked in wastes to any City treatment facilities are subject to the same pretreatment standards and requirements of this Ordinance. Prior approval must be obtained from the City before any trucked in wastes can be accepted for treatment at any treatment facilities. Industrial users transporting wastes over land for disposal at a POTW must obtain a waste haulers permit from the State regulatory authorities. The City may request information considering the nature of trucked in wastes. This information may include, but is not limited to, Material Safety Data Sheets (MSDS), process information, quantity to be treated and sample results.
- (b) Septic tank waste may be introduced into the POTW only at locations designated by the Director, and at such times as are established by the Director. Such waste shall not violate any standard or requirement of this Ordinance. Wastewater discharge permits for individual vehicle to discharge septic waste may be issued by the Director.

- (c) The Director shall issue wastewater discharge permits to any haulers of industrial waste who discharge any industrial waste or wastewater into a public sewer or any other component of the POTW. The Director may issue wastewater discharge permits to any generators of hauled industrial waste so discharged. The Director may also prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other standards and requirements of this Ordinance unless otherwise authorized by the Director.
- (d) Industrial waste haulers may discharge loads only at locations designated by the Director. No load may be discharged without prior consent of the Director. The Director may collect samples of each hauled load to ensure compliance with applicable standards. The Director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- (e) Industrial waste haulers who discharge any waste or wastewater into a public sewer or any other component of the POTW must provide a waste tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are Resources Conservation and Recovery Act (RCRA) hazardous wastes.

**Sec. 86-13. Required and approved discharges**

- (a) Unless exception is granted by the approving authority, the public sewer system shall be used by all persons discharging:
  - (1) Wastewater;
  - (2) Industrial waste;
  - (3) Polluted liquids; or
  - (4) Certain unpolluted waters or liquids.
- (b) Unless authorized by the state water development board, no person may deposit or discharge any waste included in subsection (a) of this section on public or private property in or adjacent to any:
  - (1) Natural outlet;
  - (2) Watercourse;
  - (3) Storm sewer; or

- (4) Other area within the jurisdiction of the City.
- (c) The approving authority shall verify prior to discharge that wastes authorized to be discharged will receive suitable treatment within the provisions of laws, regulations, Ordinances, rules and Orders of Federal, State and local governments.

**Sec. 86-14. Connections made by City; Service Applications.**

- (a) All connections or taps to the City’s water and sewer systems shall be made by employees of the City under the direction and supervision of the water superintendent. A work order shall be prepared and completed for all connections and taps to the City systems. Customer must pay the tap charges prior to installation of the taps as noted in Section 86-15 (1) and (2).
- (b) Each house or premise must have a separate meter and connection.
- (c) New customers are required to present a United States photo identification card and complete an application for utility services including a confidentiality notice at the time that the service is requested. If the owner is the applicant, proof of ownership is required. If the renter is the applicant, a lease agreement or owner authorization is required. Customers are also required to pay a deposit as noted in Section 86-15(3).
- (d) All utility service customers are required to certify that any city ordinances regarding utility services will be complied with as amended from time to time by the City Council. This certification is included in the service application referred to in subsection (b) of this section.

**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:

	<i>Size of Tap</i>	<i>Cost for Service</i>
a.	¾- inch T-off	\$ 175.00
b.	¾-inch	\$ 350.00
c.	1-inch	\$ 460.00 + cost of meter
d.	1½-inch	\$ 690.00 + cost of meter
e.	2-inch	\$ 920.00 + cost of meter

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:

- (a) 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 a written agreement between the City and the customer.
  - (b) 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 extension 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.
  - (c) Customer 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:*

	<i>Size of Tap</i>	<i>Cost of Service</i>
a.	4-inch	\$ 350.00
b.	6-inch	\$ 575.00

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:

- (a) 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 a written agreement between the City and the customer.
- (b) 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 extension 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.

- (c) 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 customers	\$75.00
	Residential - Senior citizens	\$40.00 (60 Years or Over)
	Commercial customer's	Based on estimated bill
		\$75.00 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.

- (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 twelve (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
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- (5) Other charges include the following:

- (a) Late charges

If payment is not received by the 15<sup>th</sup> of each month, a penalty will be assessed on the 16<sup>th</sup> of each month at the rate noted below:

Late Charges	5% of balance due
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- (b) After Hours Charge

An after hours charge will be assessed for a reconnection due to non-payment 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, § 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 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 15 mg/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                      \$50.00 per 1,000 gallons

**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)	\$ 12.97
Next 2,000 gallons	\$ 2.45 per 1,000
Next 3,000 gallons	\$ 2.54 per 1,000
Next 4,000 gallons	\$ 2.65 per 1,000
Next 4,000 gallons	\$ 2.81 per 1,000
Next 35,000 gallons	\$ 2.98 per 1,000

Next 50,000 gallons	\$ 3.09 per 1,000
Next 50,000 gallons	\$ 3.31 per 1,000
Next 50,000 gallons	\$ 3.53 per 1,000

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

**Volume Charges**

First 8,000 gallons	\$ 30.00 for 7 days
Over 8,000 gallons	\$ 2.73 per 1,000

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)	\$13.94
Next 2,000 gallons	\$2.15 per 1,000
Next 3,000 gallons	\$2.65 per 1,000
Next 4,000 gallons	\$2.92 per 1,000
Next 4,000 gallons	\$3.15 per 1,000
Next 35,000 gallons	\$3.41 per 1,000
Next 50,000 gallons	\$3.70 per 1,000
Next 50,000 gallons	\$3.92 per 1,000
Next 50,000 gallons	\$4.20 per 1,000

- (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. 86-18. Billing, Collection, etc.**

- (a) Meters shall be read approximately every thirty days. Utility bills will be processed and mailed by the 1<sup>st</sup> day of each month.
- (b) All monthly bills for services rendered by the water and sewer systems are due upon issuance by the City of Wharton and are payable by the due date noted on the bill.
- (c) A delinquent charge (penalty) will be assessed to each account if not paid by the due date. Delinquent notices will be mailed on the next working day of the month following the due date as stated on the bill. In addition to delinquent notices, the City may use other forms of notification on delinquent accounts.
- (d) The City may discontinue service if payment is not received in full by 5:00 p.m. on the 5<sup>th</sup> business day after the issuance of delinquent notices. The City is not responsible for delays in the mail.
- (e) In the event of discontinuation of service, all amounts due the City including any penalties and charges are required to be paid in full before reconnection to the system. If the account is not paid in full by the 10<sup>th</sup> of the following month the account will be finalized and the deposit will be applied to the balance.
- (f) Customers may appeal incorrect or improper billings with the supervisor of the utility administration department within fifteen (15) days of issuance of the monthly bills. The customer service division shall investigate the validity of customer complaints and provide a report on their findings within three (3) days of such filing. No late charges shall be applied to any account with an appeal pending. The failure of any customer to receive a bill or the subsequent reminder notice shall not be grounds for appeal. If, in the sole opinion of the supervisor of the department, the investigation supports the appeal, the account may be adjusted, as appropriate.
- (g) All checks issued for payment of water and/or sewer service returned unpaid shall incur a processing fee equal to the maximum amount allowed by law.
- (h) Deposits: If any person attempts to pay a required deposit by check or similar instrument and such instrument is dishonored, the service for which such deposit was made shall be subject to disconnection without notice. A processing fee as prescribed in section 86-5(g) and an administrative penalty in accordance with the schedule set out in section 86-15(4) will be charged.
- (i) Account payment. If any person attempts to pay an account bill by check or similar instrument and such instrument is dishonored, then the person obligated on the corresponding account shall be notified by letter sent by the United States first class mail that if he does not pay the bill, plus a processing fee as prescribed in section 86-5(g), in full, by cash or money order, within five (5) business days, the service for which such bill was prepared shall be discontinued and corresponding account

will be charged an administrative penalty in accordance with the schedule set out in section 86-15(4). A certificate of mailing by the United States Postal Service shall be prima facie evidence of delivery of such notice. The payment on account by dishonored check or similar instrument shall constitute nonpayment and shall be subject to penalties therefor.

- (j) Payment by cash, cashier's check or money order. The City may refuse to accept payment by check or similar instrument from any person who has had three (3) or more payments to the City made by check or similar instrument dishonored. The City shall notify the person in writing that only cash, cashier's check, or money order will be accepted from that person for one year. After one year, the customer may pay by check or similar instrument.
- (k) A customer who deems his account to have had an extraordinary increase in consumption may appeal to the utility billing department for a credit adjustment. Consideration may be given for unavoidable leaks and unexplainable consumption which amounts to one hundred twenty-five (125) percent or more of the normal consumption for that account with normal consumption defined as the consumption of the same account for the same month in the prior year or the average consumption for the account for the past twelve (12) months, whichever is greater. The credit adjustment will be limited to two months and limited to 1/2 of the amount determined to be over the normal consumption.
  - (l) Utility customers may have their service temporarily disconnected for a period of not less than thirty (30) days" by notification to the Utility Department. The account is said to be on-hold which means the service is disconnected by City Employees and no charges are billed to the customer during that time. The City retains the deposit in order for the account to remain on-hold status. The account may remain "on-hold" status for a period not to exceed six months from the date the "on-hold" status began. Once the six month period has lapsed, the account will become active. The account must have an active status for at least six months before the account may be put back "on-hold" status. However, all meters are checked on a monthly basis. Therefore, if there is any usage on the meter during the time the account is on vacation, the account will become active and all charges for water, sewer and garbage shall be billed to the customer.
  - (m) Final bill. Upon termination of utility services, a final bill will be calculated based on the customer's usage. The billed amount will also be prorated based on the date of the request to terminate services.

#### **Sec 86-19. Water and Sewer Service for Outside City Limits**

- (a) The City council may approve water and sewer service for customers outside the City limits.
- (b) Charges for water and/or sewer service usage for customers outside the City limits shall be in accordance with Sections 86-16 and 86-17.

**Sec 86-20. Cleaning compounds.**

- (a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Cleaning compound* means a cleaning compound in liquid, bar, spray, tablet, flake, powder or other form used for cleaning purposes. The term "cleaning compound" shall not mean:

- (1) A metal cleaner, degreasing compound, commercial cleaner, industrial cleaner, or other substance that is intended to be used for industrial cleaning purposes.
- (2) A phosphorus acid product, including a sanitizer, brightener, acid cleaner or metal conditioner.
- (3) A detergent manufactured, stored or distributed for use or sale outside the City limits.

*Phosphorus* means elemental phosphorus.

- (b) Restrictions.

- (1) It shall be unlawful for any person to sell, offer or expose for sale, give or furnish any cleaning compound containing more than 0.5 percent phosphorus by weight except that dish washing formulations may contain up to 8.70 percent phosphorus by weight within the City from and after October 1, 1992.
  - (2) The concentration of phosphorus by weight, expressed, as elemental phosphorus in any synthetic detergent or detergent shall be determined by the current applicable method prescribed by the American Society for Testing and Materials (A.S.T.M.).
- (c) Voluntary limits. The City will try to operate its wastewater treatment system so that the amount of phosphorus discharged from the system is less than 2.5 milligrams per liter (2.5 mg/l) on a daily average. Samples will be taken and tested at the same time other samples are taken for regulatory purposes.

**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, non-refundable 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 \$50.00 per month for the first 1,000 gallons of water dispensed, or any fraction thereof. \$20.00 per month per 1,000 gallons dispensed, or any fraction thereof, beyond the initial 1,000 gallons dispensed; and
  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 \$50.00 for the first 1,000 gallons of water dispensed, or any fraction thereof. \$20.00 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 subparagraph 9B 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 not 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 (4) four hours advanced scheduling of prospective water withdrawals which shall 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).

**Sec. 86-22. Bypass.**

- (a) For the purposes of this section:
  - (1) *Bypass* means the intentional diversion of waste streams from any portion of a user's treatment facility.
  - (2) *Severe property damage* means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (b) A user may allow a bypass to occur which does not cause pretreatment standards or requirements only if it is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (c) and (d) of this section.
- (c)
  - (1) If a user knows in advance of the need for a bypass it shall submit it prior notice to the Control Authority, at least ten (10) working days before the date of the bypass, if possible.
  - (2) A user shall submit oral notice to the Control Authority of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) working days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Control Authority may waive the written report on a case by case basis if the oral report has been received within twenty-four (24) hours.
- (d)
  - (1) Bypass is prohibited, and the Control Authority may take an enforcement action against a user for a bypass unless:

- (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, pump and truck, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed during normal periods of equipment downtime or as preventive maintenance in the exercise of reasonable engineering judgment or prevent a bypass;
  - (c) The user submitted notices as required under paragraph (c) of this section.
- (2) The Control Authority may approve an anticipated bypass, after considering its adverse effects, if the Control Authority determines that it will meet the three conditions listed in paragraph (d) of this section.

**Secs. 86-23 – 98-40 Reserved.**

#### Section II. 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.

#### Section III. 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.

#### Section IV. Effective Date

This ordinance shall be effective on the 1<sup>st</sup> day of October 2010 at 12:01 a.m.

#### Section V. Passage and Approval

**PASSED AND APPROVED** by the City Council of the City of Wharton, Texas, this 23<sup>rd</sup> day of August 2010.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

\_\_\_\_\_  
**LISA OLMEDA**  
City Secretary

**APPROVED AS:**

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

Councilmember Lewis Fortenberry, Jr. seconded the motion. Councilmembers V. L. Wiley, Jr., Lewis Fortenberry, Jr., Don Mueller, Bryce D. Kocian, and Jeff Gubbels voted for the motion. Councilmember Terry David Lynch voted against the motion. The motion carried.

The fourteenth item on the agenda was to review and consider the City of Wharton EMS Department request for City Council approval of the following:

- A. **Resolution:** A resolution of the Wharton City Council authorizing the purchase of an ambulance from Frazier, Ltd. through the Houston-Galveston Area Council Cooperative Purchasing Program and authorizing the Mayor of the City of Wharton to execute any documents related to said purchase.
- B. **Resolution:** A resolution of the Wharton City Council authorizing the purchase of an EMS vehicle from Holiday Chevrolet through the Houston-Galveston Area Council and authorizing the Mayor of the City of Wharton to execute any documents related to said purchase.
- C. Authorization to solicit bids for four (4) EKG Monitors for use by the City of Wharton EMS Department.

City Manager Andres Garza, Jr. stated that during the City Council budget workshop meetings, the City Council discussed the purchase of the items. He also said that during the City Council Finance Committee meeting held August 12, 2010, the City Council Finance Committee voted to recommend the City Council consider the purchase of the ambulance, EMS vehicle, and four (4) EKG Monitors. He said that the ambulance would be purchased from Frazier, Inc. in the amount of \$119,900. He said that the EMS Department had secured a grant from the Johnson Foundation in the amount of \$50,000 that would be allocated toward the ambulance purchase. He said that the remaining \$69,900 would be funded through a proposed lease purchase agreement. EMS Director John Kowalik stated that the estimated cost to purchase four (4) EKG monitors was approximately \$115,358, which the EKG monitors would be partially funded utilizing the \$15,000 grant from the Department of State Health Services and the remaining costs would be funded through a proposed lease purchase agreement. EMS Director John Kowalik stated that the monitors would allow the EMS Department to provide service at a higher level, which would benefit the patients. Mr. Garza said that the EMS vehicle cost from Holiday Chevrolet was \$26,265.75, which would be funded through the proposed lease purchase agreement. EMS Director John Kowalik stated that the purchases were included in Wharton County Emergency

Services District (ESD) No. 3 budget. After some discussion, Councilmember Lewis Fortenberry, Jr. made a motion to approve Resolutions No. 2010-56 and 2010-57, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2010-56**

**A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE PURCHASE OF AN AMBULANCE FROM FRAZIER THROUGH THE HOUSTON-GALVESTON AREA COUNCIL COOPERATIVE PURCHASING PROGRAM AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ANY DOCUMENTS RELATED TO SAID PURCHASE.**

**WHEREAS,** the Wharton City Council determined it was in the best interest of the citizens of the City of Wharton to purchase a new ambulance for the City of Wharton EMS Department; and

**WHEREAS,** The Wharton City Council wishes to purchase said ambulance from Frazier, Ltd. through the Houston-Galveston Area Council Cooperative Purchasing Program in the amount of \$119,900; and

**WHEREAS,** The City of Wharton and Frazier, Ltd. wishes to be bound by the conditions set forth in the agreement; and

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

**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 approves the purchase of an ambulance from Frazier, Ltd. in the amount of \$119,900.

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

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

**Passed, Approved, and Adopted** this the 23<sup>rd</sup> day of August 2010.

**CITY OF WHARTON**

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

**ATTEST:**

\_\_\_\_\_

**LISA OLMEDA**  
City Secretary

**CITY OF WHARTON  
RESOLUTION NO. 2010-57**

**A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE PURCHASE OF AN EMS VEHICLE FROM HOLIDAY CHEVROLET THROUGH THE HOUSTON-GALVESTON AREA COUNCIL COOPERATIVE PURCHASING PROGRAM AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ANY DOCUMENTS RELATED TO SAID PURCHASE.**

**WHEREAS,** the Wharton City Council determined it was in the best interest of the citizens of the City of Wharton to purchase an EMS vehicle for use by the City of Wharton EMS Department; and

**WHEREAS,** The Wharton City Council wishes to purchase said EMS vehicle from Holiday Chevrolet through the Houston-Galveston Area Council Cooperative Purchasing Program in the amount of \$26,265.75; and

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

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

**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 approves the purchase of an EMS vehicle from Holiday Chevrolet in the amount of \$26,265.75.

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

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

**Passed, Approved, and Adopted** this the 23<sup>rd</sup> day of August 2010.

**CITY OF WHARTON**

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

**ATTEST:**

\_\_\_\_\_  
**LISA OLMEDA**

City Secretary

Councilmember Terry David Lynch seconded the motion. All voted in favor.

The fifteenth item discussed on the agenda was to review and consider the City of Wharton Ahldag Addition Sanitary Sewer System Improvement Project, TxCDBG Contract No. R729710:  
A. Bid Tabulation.

**B. Resolution:** A resolution of the Wharton City Council approving a construction agreement for the City of Wharton Ahldag Addition Sanitary Sewer System Improvement Project, TxCDBG Contract No. 729710 and authorizing the Mayor of the City of Wharton to execute the agreement.

City Manager Andres Garza, Jr. stated that the bid opening for the City of Wharton Ahldag Addition Sanitary Sewer System Improvement Project, TxCDBG Contract No. R729710 was held on Tuesday, August 17, 2010. He then presented a copy of the bid tabulation, and a copy of the letter dated August 18, 2010 from Mr. Carlos Cotton, P.E. of Jones & Carter, Inc. providing his recommendation. He said that after reviewing the bids, Mr. Cotton was recommending the City Council consider awarding the project to AR TurnKee Construction Co., Inc. in the amount of \$367,847.50. He then presented a draft resolution to award the construction contract. Mr. Cotton stated two bids were received and recommended AR TurnKee Construction, Co. Mr. Cotton stated that the company did good work. He stated that Jones & Carter, Inc. contacted 15 contractors for the project. After some discussion, Councilmember Lewis Fortenberry, Jr. made a motion to approve Resolution No. 2010-58, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2010-58**

**A RESOLUTION OF THE WHARTON CITY COUNCIL AWARDING THE BID FOR THE AHLDAG ADDITION SANITARY SEWER SYSTEM IMPROVEMENT PROJECT TxCDBG CONTRACT NO. R729710 AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.**

**WHEREAS,** the Texas Department of Rural Affairs awarded the City of Wharton the Texas Community Development Block Grant Contract No. R729710 for the City of Wharton Ahldag Addition Sanitary Sewer Improvement Project; and

**WHEREAS,** on August 17, 2010, the City of Wharton received bids for the Texas Community Development Office of Rural Community Affairs Block Grant Contract No. 728459 for the construction of the City of Wharton Ahldag Addition Sanitary Sewer Improvement Project; and

**WHEREAS,** the Wharton City Council wishes to award the bid to AR TurnKee Construction Co. Inc. in the amount of \$367,847.50 as per bid specifications; and

**WHEREAS,** the City of Wharton and AR TurnKee Construction Co., Inc. wishes to be bound by the conditions as set forth in the contract; and

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

**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 approves a construction agreement between the City of Wharton and AR TurnKee Construction Co., Inc. for the Ahldag Addition Sanitary Sewer Improvement Project, Texas Community Development Block Grant Contract No. R729710.

**Section II.** The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute all documents related to the contract.

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

**Passed, Approved, and Adopted** this 23<sup>rd</sup> of August 2010.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

\_\_\_\_\_  
**LISA OLMEDA**

City Secretary

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

The sixteenth item on the agenda was to review and consider a resolution of the Wharton City Council approving a lease purchase agreement with Houston Community Bank for the City of Wharton EMS Department ambulance, vehicle and four (4) EKG monitors and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. stated that with the City Council's approval, the City Staff was requesting City Council approval of a lease purchase agreement for the purchase of the ambulance, EMS vehicle, and four (4) EKG monitors. He then presented a draft copy of the lease purchase agreement and a draft resolution approving the agreement. He said that the amount requested in the agreement was approximately \$198,300. He said that the City Council Finance Committee met on August 12, 2010 and voted to recommend the City Council consider approving the lease purchase agreement. Finance Director Joyce Vasut stated that the lease purchase would be a 4.36% rate and was included in Wharton County Emergency Services District (ESD) No. 3 budget. After some discussion, Councilmember Terry David Lynch made a motion to approve Resolution No. 2010-59, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2010-59**



**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A LEASE PURCHASE AGREEMENT WITH HOUSTON COMMUNITY BANK FOR THE CITY OF WHARTON EMS DEPARTMENT AMBULANCE, VEHICLE AND FOUR (4) EKG MONITORS AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.**

**WHEREAS,** The Wharton City Council wishes to purchase an ambulance for the City of Wharton EMS Department from Frazier, Ltd. through the Houston-Galveston Area Council Cooperative Purchasing Program; and

**WHEREAS,** The Wharton City Council wishes to purchase a EMS Department vehicle from Holiday Chevrolet through the Houston-Galveston Area Council Cooperative Purchasing Program; and

**WHEREAS,** The Wharton City Council wishes to purchase four (4) EKG monitors for use by the City of Wharton EMS Department; and

**WHEREAS,** The Wharton City Council wishes to finance the afore-mentioned items through a lease purchase agreement with Houston Community Bank; and

**WHEREAS,** The Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute all documents related to 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 authorizes the Mayor of the City of Wharton to execute a lease purchase agreement with Houston Community Bank to finance the purchase of an ambulance, vehicle and four (4) EKG monitors for use by the EMS Department.

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

**Passed, Approved, and Adopted** this the 23<sup>rd</sup> day of August 2010.

**CITY OF WHARTON**

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

**ATTEST:**

\_\_\_\_\_  
**LISA OLMEDA**

City Secretary

Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The seventeenth item on the agenda was to review and consider the City of Wharton Alabama Water Well Rework Project – Layne Christensen Company – Change Order No. 3.

City Manager Andres Garza, Jr. presented a copy of the email dated August 18, 2010 from Mr. Tommy Vance, P.E. of Jones & Carter, Inc. providing the Change Order No. 3 for the City of Wharton Alabama Water Well Rework Project being conducted by Layne Christensen Company. He said that the reason for the change order was that the eight (8) inch check valve was leaking and allowed water to leak from the G.S. T. back into the well; therefore, the check valve needed to be replaced. He also said that the Contractor Period of Performance was being increased by twenty (21) days for the delay in the delivery of the control panel and the installation of the check valve. He said that the contract would be increased \$2,585.00 bringing the total contract cost to \$201,494.00. After some discussion, Councilmember Don Mueller made a motion to approve the City of Wharton Alabama Water Well Rework Project – Layne Christensen Company – Change Order No. 3. Councilmember Jeff Gubbels seconded the motion. All voted in favor.

The eighteenth item on the agenda was to review and consider a resolution of the Wharton City Council approving an Egress/Ingress easement agreement with Donald E Mueller et ux Betty J for the property located at A20036 Abst. 36; Tract 29A and authorizing the Mayor of the City of Wharton to execute the agreement. City Attorney Paul Webb requested no action to be taken.

The nineteenth item on the agenda was to review and consider the City of Wharton Employee Uniforms:

A. Bid Tabulation.

B. **Resolution:** A resolution awarding a contract for the City of Wharton employee uniforms and authorizing the Mayor of the City of Wharton to execute the agreement.

City Manager Andres Garza, Jr. stated that on August 2, 2010, bids were received for the City of Wharton Employee Uniforms. He then presented a copy of the bid tabulation and the memorandum dated August 19, 2010 from Public Works Director Carter Miska and Police Chief Tim Guin providing their recommendation to award the bid. He also presented a draft copy of a resolution awarding the bid to G & K Services. After some discussion, Councilmember Terry David Lynch made a motion to approve Resolution No. 2010-60, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2010-60**

**A RESOLUTION AWARDING A BID TO G & K SERVICES FOR EMPLOYEE UNIFORMS FOR THE CITY OF WHARTON; AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID CONTRACTS.**

**WHEREAS,** the City Council of the City of Wharton recognizes that there is a need for the City to provide employee uniforms; and

**WHEREAS,** competitive, sealed bids were received on August 2, 2010, for employee uniforms; and

**WHEREAS,** G & K Services was deemed to be the best and lowest qualified bidder as per bid specifications for employee uniforms; and

**WHEREAS,** the City Council of the City of Wharton has determined that is in the best interest of the City of Wharton to enter into such an agreement.

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

Section I. That G & K Services is hereby awarded the bid for employee uniforms for the City of Wharton in accordance with the bid specifications.

Section II. That the City of Wharton Mayor is hereby authorized to sign any documents relating to the aforementioned contracts.

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

**Passed, Approved, and Adopted** this 23<sup>rd</sup> day of August, 2010.

**CITY OF WHARTON, TEXAS**

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

**DOMINGO MONTALVO, JR.**

Mayor

**ATTEST:**

\_\_\_\_\_  
**LISA OLMEDA**

City Secretary

Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The twentieth item on the agenda was to review and consider the Texas Municipal League Intergovernmental Risk Pool Board of Trustees Election – Official Ballot. City Manager Andres Garza, Jr. presented a copy of the Official Ballot for the Texas Municipal League Intergovernmental Risk Pool. He said that he recommended the City Council vote for all of the incumbents. He said that the deadline to submit the ballot was September 30, 2010. After some discussion, Councilmember Lewis Fortenberry, Jr. made a motion to vote for the following:

Mary Gauer, Place 6

Kevin Caddell, Place 7

Larry Melton, Place 8

Andres Garza, Jr., Place 9

Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The twenty-first item on the agenda was to review and consider Wharton Fire Department:

A. Estimated Operating Costs for proposed Fire Station Addition.

City Manager Andres Garza, Jr. presented a copy of the letter dated August 11, 2010 from Fire Chief Bobby Barnett providing the estimated operating costs that would be associated with the proposed Fire Station Addition. He stated that the operational cost would be \$102.00 monthly.

B. Acceptance of Wharton Fire Department property described as Lots Eight, Nine, and Ten, Block E, Hawes Addition in the City of Wharton.

City Manager Andres Garza, Jr. presented a copy of the Correction Deed Without Warranty for the property that Wharton Volunteer Fire Department would be required to donate the property to the City of Wharton since the City was proposing to construct a new building on the property. He also presented a copy of the resolution from the Wharton Volunteer Fire Association authorizing the transfer of the property to the City. City Attorney Paul Webb provided the Deed of Gift for review. After some discussion, Councilmember Don Mueller made a motion to accept the Wharton Fire Department property described as Lots Eight, Nine, and Ten, Block E, Hawes Addition in the City of Wharton. Councilmember Terry David Lynch seconded the motion. All voted in favor.

C. **Resolution:** A resolution of the Wharton City Council approving an agreement between the City of Wharton and KSA Engineers for professional engineering services for the Wharton Fire Station New Building Project and authorizing the Mayor of the City of Wharton to execute the agreement.

City Manager Andres Garza, Jr. presented a copy of a draft agreement submitted by KSA Engineers, Inc. to prepare the engineering design of the new building to be located at the Wharton Fire Department. He said that KSA was proposing to conduct the professional engineering services at a lump sum cost of \$24,700. He then presented a draft resolution approving the agreement. After some discussion, Councilmember Terry David Lynch made a motion to approve Resolution No. 2010-61, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2010-61**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF WHARTON AND KSA ENGINEERS, INC. FOR PROFESSIONAL ENGINEERING SERVICES FOR THE WHARTON FIRE STATION NEW BUILDING PROJECT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID CONTRACT.**

**WHEREAS,** the Wharton City Council wishes to move forward with the construction of a new fire station facility to be located at the Wharton Fire Department; and

**WHEREAS,** the City of Wharton and KSA Engineers, Inc. wishes to enter into a professional engineering services agreement for the development of the plans and specifications for said facility; and

**WHEREAS,** the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute a professional engineering services agreement between the City of Wharton

and KSA Engineers, Inc. for the new building to be located at the Wharton Fire Department; and

**WHEREAS,** the City of Wharton and KSA Engineers, Inc. wishes to be bound by the conditions as set forth in the agreement.

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

**Section I.** The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute a professional engineering services agreement between the City of Wharton and KSA Engineers, Inc. for the new building to be located at the Wharton Fire Department.

**Section II.** The City of Wharton and KSA Engineers, Inc. are hereby bound by the conditions as set forth in the agreement.

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

**Passed, Approved, and Adopted** this 23<sup>rd</sup> day of August 2010.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

\_\_\_\_\_  
**LISA OLMEDA**

City Secretary

Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The twenty-second item on the agenda was to review and consider the appointments to the City of Wharton City Council Boards, Commissions, and Committees:

- A. Beautification Commission.
- B. Building Standards Commission.
- C. Holiday Light Decorating Chairman.
- D. Mayor's Committee on People with Disabilities.

No action was taken.

The twenty-third item on the agenda was to review and consider the update on the City of Wharton On-going Projects. City Manager Andres Garza, Jr. presented a copy of the memorandum dated August 26, 2010 providing an update on the City of Wharton on-going projects, which read as follows:

**FLOOD REDUCTION (LEVEE) PROJECT**

The U.S. Army Corp of Engineers Lower Colorado River Phase I Report - City of Wharton Flood Prevention Project and Recommended report was 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.swf.usace.army.mil/pubdata/notices/LowerColorado/>.

The project was continuing to move forward. In regards to the pre-construction, engineering and design (PED) aspect of the project, the LCRA Board had approved their continuing as sponsor of the PED. On September 28, 2009, the Wharton City Council approved to amend the agreement between the City of Wharton and the Lower Colorado River Authority (LCRA) for the Lower Colorado River Basin Phase I – Texas, City of Wharton Flood Damage Reduction Project by amending the project scope to reflect the partial development of the project design and to increase the project cost by \$37,000. The USACE had awarded Halff & Associates the engineering agreement for project design.

#### **DRAINAGE:**

1. Santa Fe Outfall Channel.

City employees and Wharton County Precinct 1 resumed excavation on August 9, 2010. Currently, crews were excavating approximately 800' downstream of Hodges Ln. Excavation would continue weather permitting.

2. Highway 60 & Old Lane City Road Drainage Improvements

Jones & Carter, Inc. continued to collect topographic data and prepare preliminary engineering plans for re-grading and providing positive drainage along Old Lane City Road, Highway 60 and the Mahan addition. The outfall for these improvements would be the Santa Fe Outfall Channel.

3. Richmond Rd., Fulton St., and Armstrong St. Drainage Improvements

Jones & Carter, Inc. continued to collect topographic data and prepare preliminary engineering plans for re-routing a section of Caney Creek to provide drainage relief to Richmond Road, Fulton St. and Armstrong St. area. This month City Staff and Jones & Carter, Inc. met to discuss potential problems and possible solutions for the project.

4. Croom Park Drainage Improvements

Improvements were made in the area of Croom Park. Public Works crews installed new culverts and re-graded the park area to drain into the Santa Fe Channel. This effort would provide relief for the Circle Dr, West St., Old Lane City Road, and Croom Dr drainage areas. In addition, the project had significantly reduced ponding; thereby, reducing the possibility for mosquito production. All work was being conducted by the Public Works Department. Several acres had been re-routed to the Santa Fe Channel as a result of this work. Centerpoint Energy lowered gas lines the week of August 16, 2010 so that Public Works staff could continue to excavate along Old Lane City Road.

#### **WATER/SEWER IMPROVEMENTS:**

1. Ahldag Addition Sanitary Sewer Project - TxCDBG Contract No. 728459.

Supak Construction completed work on Dahlgren and Fulton to replace service connections that were not replaced when the main line was replaced in the 1990s. The original contract still had approximately \$25,000 remaining. BEFCO Engineering, Inc. would complete surveying and engineering for the replacement of an additional line on Texas Street from Wayside Avenue to the Ahldag Outfall Channel. Currently, Supak Construction was completing the work, which was near completion. Estimated completion date was early September.

2. Ahldag Addition Sanitary Sewer Project – TxCDBG Contract No. R729710.

Bids for the Sewer Rehab project were opened by Jones & Carter, Inc. and City Staff on August 17, 2010. Two bids were received, one from D.L. Elliot Enterprises, Inc. in the amount of \$439,223.85, the other from AR Turnkey Construction Company Inc. in the amount of \$367,847.50. Jones & Carter, Inc. would check references prior to selecting the contractor. Work should begin within the next 30 days.

3. Vahalla Water Well.

The Public Works Department placed the Vahalla water well back on line the week of April 27, 2009. The Public Works Department discontinued the injection of Polyphosphates into the water system at the end of January, 2010. As of February 18, 2010 no problems or red water calls had been reported. The well remains in good condition and was operating efficiently.

4. Water Storage Tank Maintenance Program.

City Staff met with the Finance Committee on June 22, 2010 to review the proposed water tank maintenance program contract between the City of Wharton and Utility Service Company. City Staff had also forwarded the contract to Utility Service Company for review. The City was waiting on a reply from Utility Service Company.

5. Alabama Water Well Rework

The contractor had installed a new liner and screen. The well was televised and the installation went as planned. Currently the contractor was in the process of installing a check valve on Well No. 1. Work on Well No. 1 which, was nearing completion and work on Well No. 3 should begin in September.

According to Jones and Carter, Inc. the well was approaching the end of its useful life and should not be reworked in the future. Its life was estimated at five to ten additional years.

6. Quick Connect/Transfer Switch Project

Jones & Carter, Inc. had complete electrical engineering designs for all city lift stations, city water plants, City Hall, the Fire Station, EMS Headquarters, WWTP #1, and WWTP#2. The designs were for the installation of quick connects and transfer switches on all the above mentioned facilities. This would allow city staff to operate these facilities via generator in the event of a power failure. The Police Chief, Public Works Director, and Jones & Carter, Inc. met on July 23, 2010 to discuss the plans. After the meeting, Jones & Carter finalized the plans. A pre-bid meeting was scheduled for August 31, 2010 at 2:00 P.M. at the offices of Jones & Carter, Inc.

7. Pressure Switches at City Water Plants

Construction began May 24<sup>th</sup> and was completed on August 17, 2010. These controls would help the City regulate pumping times at the plant. Currently Public Works Staff was tweaking the controls. It may take several weeks of trial and error to get the system just right.

#### 8. Energy Efficiency Audit

The Public Works Director, Water & Sewer Superintendent and WWTP operators met with Siemens Industry, Inc. on July 14, 2010. The group toured, inspected and gathered data necessary to perform a preliminary energy audit of the City's two wastewater treatment plants.

### **STREET IMPROVEMENTS**

#### 1. Road Extension Project between FM 1301 and County Road 235/FM102.

The City was preparing the US DOT TIGER II Grant application to request funding for the project. In addition, several discussions with TxDOT have occurred over the past month concerning funding contributions by the City and TxDOT. A Phase I Environmental Assessment had been completed. Surveying and Right-of-Way acquisition is currently underway.

#### 2. 2010 Street Improvement Program

As of August 18, 2010 all street were primed and ready for completion. Faltisek Paving Partnership, LTD would complete the work. On August 20, 2010 crews would spread approximated 60 tons of hot mix on Old Lane City Road in preparation for the one course seal coat. Construction on the J-M Eagle frontage road was on hold. TxDOT was currently having discussion in Yoakum to determine how they want to rebuild the road. All streets were estimated to be completed prior to the end September.

No action was taken.

The twenty-fourth item on the agenda was to review and consider the City Council Committees, Boards and Commission's Reports:

- A. City Council Public Health Committee meeting held August 10, 2010.
  - B. City Council Finance Committee meetings held August 12, 2010 and August 19, 2010.
- City Manager Andres Garza, Jr. presented the report to the City Council. No action was taken.

The twenty-fifth item on the agenda was City Manager's Reports:

- |  |                               |
|--|-------------------------------|
| A. City Secretary/Personnel.                       | H. Legal Department.          |
| B. Code Enforcement.                               | I. Municipal Court.           |
| C. Community Services Department/<br>Civic Center. | J. Police Department.         |
| D. E.M.S. Department.                              | K. Public Works Department.   |
| E. Engineer/Planning Department.                   | L. Water/Sewer Department.    |
| F. Facilities Maintenance Department.              | M. Weedy Lots/Sign Ordinance. |
| G. Fire Department Incidents/Inspections.          | N. Wharton Municipal Pool.    |
|  | O. Wharton Regional Airport.  |

City Manager Andres Garza, Jr. presented the report to the City Council. No action was taken.




City of Wharton  
Regular City Council Meeting  
August 23, 2010


The twenty-sixth item on the agenda was adjournment. After some discussion, Councilmember Don Mueller made a motion to adjourn. Councilmember Jeff Gubbels seconded the motion. All voted in favor.

The meeting adjourned at 8:18 p.m.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

  
**LISA OLMEDA**  
**City Secretary**

