

**MINUTES  
OF  
CITY OF WHARTON  
REGULAR CITY COUNCIL MEETING  
SEPTEMBER 27, 2010**

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

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

Councilmember absent was: V. L. Wiley, Jr.

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

Visitors present were: Barry Halvorson with Wharton Journal Spectator, David Schroeder with Wharton Economic Development Corporation, Carlos Cotton with Jones & Carter, Bradley Loehr with BEFCO Engineering, Inc., Ron Sanders with the Chamber of Commerce, and Steven May with Wharton I.S.D.

The second item on the agenda was Roll Call and Excused Absences. Councilmember Lewis Fortenberry, Jr. made a motion to excuse the absence of Councilmember V. L. Wiley, Jr. from the Regular City Council meeting held September 27, 2010. Councilmember Don Mueller seconded the motion. All voted in favor.

The third item on the agenda was Public Comments. No comments were given. No action was taken.

The fourth item on the agenda was Wharton Moment. No comments were given. 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 August 2010. Finance Director Joan Andel presented the financial report for the month of August 2010, which was at 87% or eleven months into the fiscal year. Mrs. Andel stated that the total ad valorem taxes collected were \$1,840,121 and the sales tax for the month of

July 2010 was \$133,217 with \$88,812 to the City and \$44,406 to the Wharton Economic Development Corporation. She further stated the TexPool balance for August was \$9,161.16 with an average monthly yield of 0.2279%. The Prosperity Bank balance for August 2010 was \$2,040,785.03 with an average monthly yield of 0.14%. She stated that other investments included \$2,653.08 at TexasGulf Federal Credit Union in the debt fund, \$254,100.88 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 Don Mueller made a motion to approve the City of Wharton Financial Report for the month of August 2010. Councilmember Bryce D. Kocian seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider an ordinance adopting the fiscal year 2010-2011 annual budget for the City of Wharton, Texas; Appropriating the sums established therein; and directing the City Secretary to file copies as required by law. City Manager Andres Garza, Jr. stated that during the regular August 23, 2010 City Council meeting, a copy of the proposed budget for the City of Wharton, Texas, Fiscal Year October 1, 2010 to September 30, 2011 was presented. He also said that during the regular City Council meeting held September 13, 2010 the City Council held the public hearing to receive public input regarding City of Wharton Annual Budget for fiscal year 2010-2011. He then presented a draft ordinance adopting the Fiscal Year 2010-2011 Annual Budget for the City of Wharton, Texas. After some discussion, Councilmember Don Mueller made a motion to approve Ordinance No. 2010-10, which read as follows:

**CITY OF WHARTON, TEXAS  
ORDINANCE NO. 2010-10**

**AN ORDINANCE ADOPTING THE FISCAL YEAR 2010-2011 ANNUAL BUDGET FOR THE CITY OF WHARTON, TEXAS; APPROPRIATING THE SUMS ESTABLISHED THEREIN; AND DIRECTING THE CITY SECRETARY TO FILE COPIES AS REQUIRED BY LAW.**

**WHEREAS**, the City's budget for the fiscal year ending September 30, 2011, which is attached hereto, was duly submitted to the City Council more than thirty (30) days prior to September 30, 2010.

**WHEREAS**, a public hearing was duly called and held on said budget not less than seven days nor more than fourteen days after date of publication giving notice of such meeting and prior to the time the City Council of the City of Wharton levied taxes for such current fiscal year; and

**WHEREAS**, all parties desiring to participate and be heard at said public hearing having been heard until no more evidence was offered, and such hearing having been concluded, and the City Council of said City having made such changes in such budget as in its judgment the law warrants and the best interest of the taxpayers of the City of Wharton, Texas, demand, said budget with such changes being attached hereto, as aforesaid.

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

- Section 1.** THAT the findings set out in the preamble of this ordinance are true and correct.
- Section 2.** THAT the budget of the City of Wharton, Texas for the fiscal year ending September 30, 2011, be and the same is hereby, in all respects, finally approved and adopted including any changes approved by the City Council; and the same shall be and is hereby filed with the City Secretary of the City.
- Section 3.** THAT the General Fund is hereby established to account for resources associated with traditional government activities, which are not required legally or by sound financial management to be accounted for in another fund. The General Fund is hereby approved with \$4,364,106 estimated revenues and \$4,860,463 in appropriations and with transfers-in approved at \$496,357. The amounts are specified for departmental purposes named in said budget and they are hereby appropriated to and for such purposes at the departmental level.
- Section 4.** THAT the Hotel Motel Fund is created to account for the occupancy tax levied on hotel rooms within the City as adopted by city ordinance and consistently with Chapter 351 of the Texas Tax Code. The Hotel Motel Fund is hereby approved with \$144,100 in estimated revenues and \$53,600 in appropriations and transfers-out approved at \$90,500 with beginning fund balance of approximately \$44,300.
- Section 5.** THAT the Narcotics Seizure Fund is created to account for the resources and uses of assets seized in illegal narcotics activities. The uses are limited to law enforcement activities. The Narcotics Seizure Fund is hereby approved with \$27,000 in estimated revenues, \$7,000 in appropriations and \$20,000 in transfers-out.
- Section 6.** THAT the Debt Service Fund is hereby created to account for the accumulation of resources collected for Interest and Sinking requirements and for the disbursement of those resources for debt requirements. The Debt Service Fund is hereby approved with \$734,250 in estimated revenues and \$721,250 in appropriations. The estimated beginning fund balance is \$371,012.
- Section 7.** THAT the Capital Improvement Fund is created to account for infrastructure improvements authorized by the City Council. The Capital Improvement Fund is approved with \$0 in estimated revenues and appropriations.
- Section 8.** THAT the Water and Sewer Fund is created to account for the resources and uses associated with the delivery of utility services to citizens of Wharton as an enterprise fund. The Water & Sewer Fund is hereby approved with \$2,908,648 in estimated revenues. Water and sewer is approved with \$2,908,648 in appropriations, which includes a franchise fee of 8% of water and sewer sales or approximately \$228,791, and transfers-out approved at \$402,151.

**Section 10.** THAT the Solid Waste Fund is created to account for the financial activities of the City’s solid waste collection contract and delivery to citizens of Wharton as an enterprise fund. The Solid Waste Fund is approved with \$1,313,600 in estimated revenues and \$1,313,600 in appropriations which includes a franchise fee of 6% of solid waste revenues or approximately \$68,000, and transfers-out approved at \$25,000.

**Section 11.** THAT the Emergency Medical Services Fund is created to account for the financial activities of the emergency medical services provided to the city and surrounding areas as an enterprise fund. The Emergency Medical Services Fund is approved with \$1,368,810 in estimated revenues and \$1,319,604 in appropriations and transfers-out at \$49,206.

**Section 12.** THAT the Civic Center Fund is created to account for the financial activities of the Civic Center as an enterprise fund. The Civic Center is approved with \$75,551 in estimated revenues and \$236,782 in appropriations. Transfers-in are approved at \$90,500 with a \$70,731 decrease to fund balance.

**Section 13.** THAT the Airport Fund is created to account for the financial activities of the Wharton Regional Airport as an enterprise fund. The Airport Fund is approved with \$192,080 in estimated revenues and \$237,867 in appropriations. Fund balance is estimated to decrease by \$45,787.

**Section 14.** THAT the City Secretary shall file copies of this Ordinance and of such budget with the County Clerk of Wharton County, Texas.

**PASSED AND APPROVED** by a favorable majority of the members of the City Council of the City of Wharton, Texas, in council meeting, this 27<sup>th</sup> day of September 2010 duly assembled in accordance with Article VI of the Charter of the City of Wharton, Texas, by the following vote:

Domingo Montalvo, Jr., Mayor	Voted	Yes
V. L. Wiley, Jr., Councilmember District 1	Voted	Absent
Lewis Fortenberry, Jr., Councilmember District 2	Voted	Yes
Terry Lynch, Councilmember District 3	Voted	Yes
Donald Mueller, Councilmember District 4	Voted	Yes
Bryce Kocian, Councilmember at Large Place 5	Voted	Yes
Jeff Gubbels, Councilmember at Large Place 6	Voted	Yes

**Severability**

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

**CITY OF WHARTON**

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

Domingo Montalvo, Jr., Mayor

**ATTEST:**

**APPROVED FOR ADMINISTRATION:**

\_\_\_\_\_  
Lisa Olmeda, City Secretary

\_\_\_\_\_  
Andres Garza, Jr., City Manager

**APPROVED AS TO FORM:**

**APPROVED FOR FUNDING:**

\_\_\_\_\_  
Paul Webb, City Attorney

\_\_\_\_\_  
Joan Andel, Finance Director

Councilmember Bryce D. Kocian seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider an ordinance levying a Tax Rate for the City of Wharton, Texas, for the Tax Year 2010; directing the Tax Assessor-Collector to assess, account for and distribute the taxes as herein levied; and providing repealing and severability clauses. City Manager Andres Garza, Jr. stated that during the regular August 23, 2010 and September 13, 2010 City Council meetings, the two required public hearings were held to receive public input regarding 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. He then presented a draft ordinance levying a tax rate for the City of Wharton, Texas, for the tax year 2010; directing the tax assessor-collector to assess, account for and distribute the taxes as herein levied; and providing repealing and severability clauses. He said that the City Councilmember's motion shall contain the required wording. After some discussion, Councilmember Jeff Gubbels moved that the property tax rate be increased by the adoption of a tax rate of \$0.48/\$100, which is effectively a 3.05% increase in the tax rate and approve the ordinance No. 2010-11 as presented, which read as follows:

**CITY OF WHARTON, TEXAS  
ORDINANCE NO. 2010-11**

**AN ORDINANCE LEVYING A TAX RATE FOR THE CITY OF WHARTON, TEXAS, FOR THE TAX YEAR 2010; DIRECTING THE TAX ASSESSOR-COLLECTOR TO ASSESS, ACCOUNT FOR AND DISTRIBUTE THE TAXES AS HEREIN LEVIED; AND PROVIDING REPEALING AND SEVERABILITY CLAUSES.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS:**

**Section 1.** THAT there be and is hereby levied for the year 2010 on all real and personal property within and all real and personal property and mineral royalties owned within the city limits of the City of Wharton, Texas for the year 2010, except so

much thereof as may be exempt by the constitution and of the State of Texas and of the United States, the following:

General Fund Operations	.30414/\$100 valuation
For Debt Service Requirements	.17586/\$100 valuation
Total Tax Rate	.48000/\$100 valuation

**Section 2. THAT THE PROPERTY TAX RATE HEREBY SET IN SECTION 1 IS A 3.05 PERCENT INCREASE OVER THE EFFECTIVE TAX RATE.**

**Section 3. THAT THE TAX RATE LEVIED IN SECTION 1 WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE.**

**Section 4. THAT THE TAX RATE FOR MAINTENANCE AND OPERATIONS WILL EFFECTIVELY BE RAISED BY 6.94 PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$14.19.**

**Section 5. THAT the Tax Assessor-Collector and/or Finance Director is hereby directed to assess, extend and enter upon the certified tax rolls of the City of Wharton, Texas, for the current taxable year, as provided by the Wharton County Appraisal District, the amounts and rates as herein levied, to keep correct amount of same, and when collected, to be distributed in accordance with this ordinance.**

**Passage and Approval**

**PASSED AND APPROVED** by a favorable majority of the members of the City Council of the City of Wharton, Texas, in a council meeting, this 27<sup>th</sup> day of September, 2010, duly assembled in accordance with Article VI of the Charter of the City of Wharton, Texas, by the following vote:

Domingo Montalvo, Jr., Mayor	Voted	Yes
V. L. Wiley, Jr., Councilmember District 1	Voted	Absent
Lewis Fortenberry, Jr., Councilmember District 2	Voted	Yes
Terry Lynch, Councilmember District 3	Voted	Yes
Donald Mueller, Councilmember District 4	Voted	Yes

Bryce D. Kocian., Councilmember at Large Place 5	Voted	Yes
Jeff Gubbels, Councilmember at Large Place 6	Voted	Yes

**Severability**

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

**CITY OF WHARTON**

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

**ATTEST:**

\_\_\_\_\_  
Lisa Olmeda, City Secretary

**APPROVED FOR ADMINISTRATION:**

\_\_\_\_\_  
Andres Garza, Jr., City Manager

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Paul Webb, City Attorney  
Councilmember Don Mueller seconded the motion. All voted in favor.

**APPROVED FOR FUNDING:**

\_\_\_\_\_  
Joan Anandel, Finance Director

The eighth item on the agenda was to review and consider the request by Mr. Steven May, Principal, Wharton High School for City Council approval for the following:

- A. Approval to hold the Wharton High School Homecoming Pep Rally on Friday, October 1, 2010 from 2:15 – 3:00 p.m.
- B. City of Wharton assistance in blocking Houston Street between Burleson and Milam Streets in front of the Plaza Theatre.

City Manager Andres Garza, Jr. presented a copy of the letter dated August 18, 2010 from Wharton High School Principal Steven May requesting the Wharton City Council to consider approving the Homecoming Pep Rally event to be held on October 1, 2010 on the downtown square on Houston Street. He said that Mr. May was also requesting that Houston Street, between Burleson and Milam Streets, be closed beginning at 2:15 p.m. to 3:00 p.m. He said that the Pep Rally would be held in front of the Plaza Theatre. Mr. May stated that holding the Pep Rally downtown could build community pride. He stated that he met with some of the merchants, which were pleased to have the event held. After some discussion, Councilmember Terry David Lynch made a motion for approval to hold the Wharton High School Homecoming Pep Rally on Friday, October 1, 2010 from 2:15 – 3:00 p.m., and the City of Wharton assistance in blocking Houston Street between Burleson and Milam Streets in front of the Plaza Theatre. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider the request by Mr. Jim Faetche to address the Wharton City Council regarding covering the Wharton Municipal Pool. City Manager Andres Garza, Jr. presented a copy of the letter dated September 20, 2010 from Mr. Jim Faetche requesting to address the City Council regarding covering the Wharton Municipal Pool. Mr. Jim Faetche was not present for the meeting. No action was taken.

The tenth item on the agenda was to review and consider a resolution of the Wharton City Council approving a contract between the City of Wharton and the Wharton Chamber of Commerce and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. presented a copy of the draft contract between the City of Wharton and the Chamber of Commerce & Agriculture for fiscal year beginning October 1, 2010 and ending September 30, 2011. He also presented a draft copy of the resolution approving the agreement. He said that during the City Council budget workshops, the City Council approved the Chamber of Commerce request for funding in the amount of \$47,966.00 for the fiscal year. Councilmember Terry David Lynch stated that the amount was decreased from fiscal year 2009-2010 in the amount of \$8,278.00. After some discussion, Councilmember Don Mueller made a motion to approve Resolution No. 2010-70, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2010-70**

**A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF WHARTON, WHARTON COUNTY, TEXAS, TO EXECUTE AN AGREEMENT WITH THE CHAMBER OF COMMERCE AND AGRICULTURE FOR VISITOR AND CONVENTION BUREAU SERVICES FOR OCTOBER 1, 2010 TO SEPTEMBER 30, 2011 FISCAL YEAR.**

**WHEREAS,** the Wharton City Council hereby authorizes Mayor Domingo Montalvo, Jr. to execute an agreement with the Wharton Chamber of Commerce and Agriculture for visitor and convention bureau services; and,

**WHEREAS,** the City of Wharton and the Wharton Chamber of Commerce and Agriculture hereby agrees 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.** That the Wharton City Council hereby authorizes the Mayor Domingo Montalvo, Jr. of the City of Wharton to execute an agreement with the Wharton Chamber of Commerce and Agriculture for Visitor and Convention Bureau Services for the October 1, 2010 to September 30, 2011 fiscal year.

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

**Passed, Approved, and Adopted** this 27<sup>th</sup> day of September 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 eleventh item on the agenda was to review and consider an ordinance amending the City of Wharton Code of Ordinances, Chapter 42, Occupational Licenses, Taxes and Regulations, Article IV. Peddlers, Itinerant Merchants, Solicitors by adding Division 4 Mobile Food Vendors and Temporary Food Vendors; 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 for severability and setting an effective date. City Manager Andres Garza, Jr. stated that the City Council Public Health Committee met Monday, September 27, 2010 at 12:00 Noon and discussed the proposed amendments to the City of Wharton Code of Ordinances, Chapter 42, Occupational Licenses, Taxes and Regulations, Article IV. Peddlers, Itinerant Merchants, Solicitors by adding Division 4 Mobile Food Vendors and Temporary Food Vendors. He then presented a copy of the memorandum dated September 27, 2010 from the City Council Public Health Committee recommending the City Council consider approving the amendment to the ordinance. Building Official Ronnie Bollom stated that the ordinance would regulate the businesses to ensure compliance with State regulations. He stated that the vendors participating in festivals would be exempt. He said that they would be conduction business under the auspice of that event. He stated that inspections would be conducted by the state; however, the City would obtain copies of the State permits, sales tax and other related documents. After some discussion, Councilmember Jeff Gubbels made a motion to approve Ordinance No. 2010-12, which read as follows:

**CITY OF WHARTON  
ORDINANCE NO. 2010-12**

**AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 42, OCCUPATIONAL LICENSES, TAXES AND REGULATIONS, ARTICLE IV. PEDDLERS, ITINERANT MERCHANTS, SOLICITORS BY ADDING DIVISION 4, MOBILE FOOD VENDORS AND TEMPORARY FOOD VENDORS; 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 FOR SEVERABILITY AND SETTING AN EFFECTIVE DATE.**

**THEREFORE, BE IT ORDAINED** by the City Council of the City of Wharton, Texas, that Chapter 42, Occupational Licenses, Taxes and Regulations, Article IV Peddlers, Solicitors and Vendors, be amended by adding the following:

## **DIVISION 4. MOBILE FOOD VENDORS AND TEMPORARY FOOD VENDORS.**

### **Sec. 42.220 Definitions.**

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

*Location* means the same parcel of property.

*Mobile Food Vendor* means a vendor who operates or sells food for human consumption, from a cart, trailer or kitchen mounted on chassis, with an engine for propulsion or that remains connected to a vehicle with an engine for propulsion and is licensed as a mobile food vendor and/or Roadside Food Vendor by the Texas Department of State Health Services.

*Temporary Food Vendor* means a vendor who operates or sells food for human consumption, from a stationary stand, cart, trailer or kitchen mounted on chassis, without an engine for propulsion, that is not connected to a motorized vehicle, or that does not have a foundation or is otherwise a temporary structure and is licensed by the Texas Department of State Health Services.

### **Sec. 42-221 Registration-Required; application; issuance of city permit.**

- (a) It shall be unlawful for any mobile food or temporary food vendor to make any sales or to conduct any business as a food vendor in the city without having first registered at the office of the Code Enforcement Department and without carrying a registration card, issued by the Code Enforcement Department while engaged in such activities as a mobile food vendor or temporary food vendor. The application to the Code Enforcement Department for a registration card shall show:
- (1) The name and address of the applicant;
  - (2) The name and address of the owner of the property upon which the applicant will be engaged in such activities;
  - (3) The name, address and the Texas Sales Tax and Use permit number of the person, if any, that he represents;
  - (4) The period of time such applicant wishes to sell or operate in the city as a food vendor;
  - (5) Provide a copy of the State Mobile Food Vendor License and Certified Food Manager Certificate; and
  - (6) Certificate of Insurance.
- (b) Any person applying for a Temporary Food Vendor registration permit must furnish to the Code Enforcement Department evidence of written permission from the owner of the property for the applicant to conduct such activities on the property.
- (c) Any person applying for a registration card must submit to a background check of that person's criminal record by the police department.

- (d) Any person who has been convicted of a felony or a misdemeanor involving moral turpitude within the three-year period immediately preceding the date of that person's application for a registration card shall be ineligible to receive a registration card. In these circumstances, the Code Enforcement Department shall reject the application and shall not issue a registration card to that person.
- (e) If application is rejected for any reason, the applicant must wait twelve (12) months from date of denial before a subsequent application can be filed.

**Sec. 42-222 Exceptions.**

Notwithstanding any term contained in this division to the contrary, this division shall not apply to the following:

- (a) A non-profit organization, as defined by the Texas Department of State Health Services.
- (b) Vendors under the auspice of a festival/event sponsor.

**Sec. 42-223 Mobile Food Vendors.**

It shall be unlawful for Mobile Food Vendors to operate within the city limits of the City of Wharton, without having first applied for and obtained a permit form the City Code Enforcement Department as provided for in this section. It shall be unlawful for a mobile food vendor permit holder to fail to comply with any condition of such permit.

- (A) Permit Requirements. To receive and hold a permit for a Mobile Food Vendor operation, the applicant/permittee must meet each of following minimum requirements.
  - (1) Meet all requirements set forth by Section 42-221 of this code.
  - (2) Possess a current Mobile Food Vendor License and/or Roadside Food Vendor License required by Texas Department of State Health Services.
  - (3) In addition where not in conflict with the Texas Department of State Health Services, comply with the following:
    - (a) The Mobile Food Vendor must operate out of a Texas Department of State Health Services permitted vehicle or unit;
    - (b) The Mobile Food Vendors unit or vehicle must be equipped with the following:
      - 1. Self-contained pressurized (by pump) hot and cold potable water system.
      - 2. Covered trash receptacles for customers.
    - (c) All employees must have a valid Food Handler's Training Certificate.
    - (d) All Mobile Food Vendors must provide the city with a copy of Texas Sales Tax and Use Permit.
    - (e) All Mobile Food Vendors may only operate from 6:00 a.m. to thirty (30) minutes past dusk.
  - (4) Display the City of Wharton Permit Number in a location visible before vehicle is put into the operation under any permit.

(5) The issuance of a city permit does not give permittee authorization to enter private property or to locate on public property.

(B) Permit Revocation.

- (1) If the permittee fails to comply, then the mobile food vendor permit may be revoked.
- (2) If a mobile food vendor permit is revoked, any fees paid to the City will be forfeited.
- (3) The former permittee may appeal the revocation of a mobile food vendor permit by submitting a written request for appeal to the Code Enforcement Department within ten (10) days of receiving the notice of revocation. The City Manager will hold a hearing within a reasonable time of receipt of the appeal, but no later than thirty (30) days after receipt, at which the former permittee will have an opportunity to explain why the permit should not be revoked. The City Manager shall render a decision within thirty (30) days of the date of the hearing. The City Manager's decision shall be final.

(C) Permit Renewal and Fees.

- (1) Mobile Food Vendor Permits expire at the end of one year from the date of issuance. A permittee's violation of this code shall be grounds for denial or revocation of the permit. Denial of a permit may be appealed pursuant to the procedure for appealing revocation of permits.
- (2) Fees for the Mobile Food Vendor shall be \$150 per year and payable upon issuance. Permit fees will not be prorated.

**Sec. 42-224 Temporary Food Vendors.**

It shall be unlawful for Temporary Food Vendors to operate within the city limits of the City of Wharton, without having first applied for and obtained a permit from the City Code Enforcement Department as provided for in this section. It shall be unlawful for a temporary food vendor permit holder to fail to comply with any condition of such permit.

(A) Permit Requirements. To receive and hold a permit for a Temporary Food Vendor operation, the applicant/permittee must meet each of the following minimum requirements:

- (1) Meet all requirements set for by Section 42-221 of this code.
- (2) Possess a current Temporary Food Vendor License as required by Texas Department of State Health Services.
- (3) In addition, where not in conflict with the Food Establishment Rules, comply with the following:
- (4) Trash receptacles for customers.
- (5) Temporary connections to utilities such as potable water, city sewer, or electricity are not allowed. Water shall be from an internal tank. Waste-water shall be handled with an internal tank which may not be emptied into city sewer system unless at an approved/authorized disposal location. Electricity shall be from a generator that meets the conformity of the City Electrical Code.

- (6) The Temporary Food Vendor is located no closer than fifty (50) feet from major thoroughfares.
  - (7) A drive through is not utilized in conjunction with the Temporary Food Vendor.
  - (8) Temporary Food Vendors may not be located within one hundred fifty (150) feet of another Temporary Food Vendor on the same lot, except that two Temporary Food Vendors may cluster (be within one hundred fifty (150) feet of each other on the same lot) but the buffer then becomes three hundred (300) feet for any other Temporary Food Vendors;
  - (9) The Temporary Food Vendor operates no closer than one hundred fifty (150) feet from property used for residential purposes:
  - (10) A Temporary Food Vendor may not remain on a particular property for a period of time of no more than three (3) consecutive days in a workweek.
  - (11) The Temporary Food Vendor may not use amplifiers, loudspeakers, or devices for the production of sound.
  - (12) No tables, chairs, ice chests or equipment are allowed outside the stationary cart or trailer, except for use by Temporary Food Vendor Employees;
  - (13) Every Temporary Food Vendor must visibly display the approved permit issued by the City.
  - (14) No signage is allowed other than what is permitted by the City Code Enforcement Department and permanently installed on the stationary cart or trailer itself except for one (1) sandwich board which may be placed during business hours, but must be removed daily.
  - (15) Temporary Food Vendors must submit with the permit application written authorization or other suitable documentation showing that the owner of the property consents to the Temporary Food Vendor operating on said property.
  - (16) A Temporary Food Vendor shall submit a site map depicting the location of the Temporary Food Vendor on the property, shall secure a health permit from the state, and a permit from Code Enforcement Department prior to the operation of such use.
  - (17) The operator of the Temporary Food Vendor operation shall possess a valid Texas Sales and Use Tax Permit.
- (B) Permit Revocation.
- (1) Compliance with Subsection (A) shall be a condition of the temporary food vendor permit. If the permittee fails to comply with Subsection (A), then the temporary food vendor permit may be revoked.
  - (2) If a temporary food vendor permit is revoked, any fees paid to the City will be forfeited.
  - (3) The former permittee may appeal the revocation of a temporary food vendor permit by submitting a written request for appeal to the Code Enforcement Department within ten (10) days of receiving the notice of revocation. The City Manager will hold a hearing within a reasonable time of receipt of the appeal, but no later than thirty (30) days after receipt, at which the former permittee will have an opportunity to explain why the permit should not be revoked. The

City Manager shall render a decision within thirty (30) days of the date of the hearing. The City Manager's decision shall be final.

(C) Permit Renewal and Fees.

- (1) Temporary Food Vendor Permits expire at the end of the month in which they were issued and must be renewed every calendar month. A permittee's violation of this code shall be grounds for denial or revocation of the permit. Denial of a permit may be appealed pursuant to the procedure for appealing revocation of permits.
- (2) A permittee may not hold a Temporary Food Vendor Permit for more than nine (9) consecutive months, nor more than nine (9) months total in any given year.
- (3) Fees for the Temporary Food Vendor shall be \$20 per application or renewal and payable upon issuance. Permit fees will not be prorated.

**Sec. 42-225 Exemptions for Temporary Food Vendors.**

- (1) Non-profit organizations are exempt from permit requirements
- (2) Vendors under the auspices of a festival/event sponsor.

**Sec. 42-226 Authority to enforce.**

The Code Enforcement Department shall have authority to enforce the provisions of this article, and to enlist the assistance of all appropriate agencies in the enforcement effort.

**Sec. 42-227 Permit and License Revocation.**

Nothing in this article shall prevent the Code Enforcement Department, from immediately revoking a Mobile Food or Temporary Food Vendor's permit should such vendor be in violation of this or any other city code of ordinance.

**Sec. 42-228 All Codes and Ordinances Effective.**

In addition to the provision of this article, all other applicable city codes and ordinances shall apply to the operation of any itinerant and/or temporary vendor, and shall be in full force and effect. This policy shall be effective even if the vendor has applied for and obtained a valid license and permit to operate, should the violations occur either prior or subsequent to obtaining such permit.

**Fine and Penalty for Violations**

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

**Severability**

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

**Effective Date**

This Ordinance shall become effective on the 8<sup>th</sup> day of October 2010 at 12:01 a.m.

**Passage and Approval**

**PASSED AND APPROVED** by the City Council of the City of Wharton, Texas, on the 27<sup>th</sup> day of September 2010.

CITY OF WHARTON, TEXAS

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

**ATTEST:**

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

Published in the Wharton Journal Spectator on Wednesday, September 29, 2010 and Wednesday, October 6, 2010.

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

The twelfth item on the agenda was to review and consider a resolution of the Wharton City Council approving an interlocal agreement for Emergency Medical Services between the Wharton County Emergency Services District No. 3 and the City of Wharton and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. stated that the Wharton County Emergency Services District No. 3 (ESD 3) Board met on Thursday, September 23, 2010 and voted to approve an interlocal agreement for Emergency Medical Services (EMS) between the ESD 3 and the City of Wharton. He then presented a draft resolution approving the interlocal agreement and a copy of the agreement that had been executed by the ESD No. 3. He stated that an automatic renewal clause was added to the agreement for a term of twenty years; however, the ESD No. 3 Board would have to approve the disbursements to the City's budget on an annual basis. He said that amendments to the original agreement would be made for the changes in the disbursements. After some discussion, Councilmember Bryce D. Kocian made a motion to approve Resolution No. 2010-71, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2010 - 71**

**A RESOLUTION APPROVING AN INTERLOCAL AGREEMENT FOR EMERGENCY MEDICAL SERVICES BETWEEN THE WHARTON COUNTY EMERGENCY SERVICES DISTRICT (ESD) NO. 3 AND THE CITY OF WHARTON EMERGENCY**

**MEDICAL SERVICES DEPARTMENT.**

**WHEREAS,** the Wharton County Emergency Services District (ESD) No. 3 Board hereby authorized the President to execute an agreement with the City of Wharton for emergency medical services; and,

**WHEREAS,** the City of Wharton hereby wishes to enter into an interlocal agreement with the Wharton County Emergency Services District (ESD) No. 3 to provide Emergency Medical Services (EMS); and

**WHEREAS,** the ESD No. 3 and the City of Wharton wishes to bound by the conditions as set forth in the agreement; and

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

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

**Section I.** That the Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute an interlocal agreement between the City of Wharton and the ESD No. 3 for emergency medical services.

**Section II.** That the City of Wharton and the ESD No. 3 shall hereby be 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 27<sup>th</sup> day of September 2010.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

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

City Secretary

Councilmember Jeff Gubbels seconded the motion. All voted in favor.

The thirteenth item on the agenda was to review and consider the City Council acceptance of a grant in the amount of \$50,000 from the M.G. and Lillie A. Johnson Foundation, Inc. for the purchase of an ambulance for the City of Wharton Emergency Medical Service (EMS) Department. City Manager Andres Garza, Jr. presented a copy of the letter dated September 8,



2010 from Mr. Robert Halepeska, Executive Vice President of the M.G. and Lillie A. Johnson Foundation, Inc. providing the City of Wharton EMS Department with a grant award in the amount of \$50,000 to be used toward the purchase of a new ambulance. He said that City Council acceptance of the grant award was required. EMS Director John Kowalik stated that the City of Wharton was in receipt of the check in the amount of \$50,000 from the M.G. and Lillie A. Johnson Foundation, Inc. and recommended approval. After some discussion, Councilmember Terry David Lynch made a motion to accept the grant in the amount of \$50,000 from the M.G. and Lillie A. Johnson Foundation, Inc. for the purchase of an ambulance for the City of Wharton Emergency Medical Service (EMS) Department. Councilmember Jeff Gubbels seconded the motion. All voted in favor.

The fourteenth item on the agenda was to review and consider the City of Wharton EKG Monitors:

A. Bid Tabulation.

B. Resolution: A resolution of the Wharton City Council awarding the bid to Physio-Control for the City of Wharton EMS EKG Monitors and authorizing the Mayor of the City of Wharton to execute the agreement.

City Manager Andres Garza, Jr. stated that on September 13, 2010, the City of Wharton received bids for the EMS Department four (4) EKG Monitors. He then presented a copy of the bid tabulation and a copy of the memorandum dated September 16, 2010 from EMS Director John Kowalik providing his recommendation for the City Council to consider awarding the bid to Physio-Control in the amount of \$118,666.81. He said that two bids were received for the EKG Monitors, one from BoundTree Medical in the amount of \$79,379 and the second from Physio-Control in the amount of \$118,666.81. He said that even though BoundTree Medical was the lowest bidder, the company did not meet the bid specifications; therefore, Mr. Kowalik was recommending the bid be awarded to Physio-Control. He then presented a copy of the bids and a draft resolution awarding the bid. EMS Director John Kowalik stated that Bound Tree Medical did not meet the bid specifications for the 360 joules and other items. After some discussion, Councilmember Jeff Gubbels made a motion to approve Resolution No. 2010-72, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2010-72**

**A RESOLUTION OF THE WHARTON CITY COUNCIL AWARDING THE  
BID TO PHYSIO-CONTROL FOR THE CITY OF WHARTON EMS EKG  
MONITORS AND AUTHORIZING THE MAYOR OF THE CITY OF  
WHARTON TO EXECUTE THE AGREEMENT.**

**WHEREAS**, competitive, sealed bids were received on September 13, 2010 for the City of Wharton EMS EKG Monitors; and

**WHEREAS**, Physio-Control was deemed to be the best qualified bidder as per bid specifications in the amount of \$118,666.81; and

**WHEREAS**, the Wharton City Council wishes to award the contract to Physio-Control;  
and

**WHEREAS**, the City of Wharton and Physio-Control wishes to be bound by the conditions set forth in the agreement; and

**WHEREAS**, this resolution is passed in accordance with this bid.

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

**Section I.** That Physio-Control is hereby awarded the bid for City of Wharton EMS EKG Monitors in the amount of \$118,666.81 in accordance with the bid specifications.

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

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

**Passed, Approved, and Adopted** this 27<sup>th</sup> day of September 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 fifteenth item on the agenda was to review and consider a resolution of the City Council of the City of Wharton, Texas, authorizing the submission of a Texas Community Development Program application to the Texas Department of Rural Affairs for the Texas Community Development fund; and authorizing the Mayor to act as the City's Chief Executive Officer and authorized representative in all matters pertaining to the City's participation in the Community Development Program. City Manager Andres Garza, Jr. presented a copy of two (2) drawings that indicated the proposed locations of the improvements to be included in the City's Texas Community Development Program application to the Texas Department of Rural Affairs for the Texas Community Development Fund. Public Works Director Carter Miska presented maps that indicated the proposed locations of the improvements to be included in the City's Texas Community Development Program application that included areas of E. Emily, Abell and Ahldag, Azalea, Columbine, Caney, and Hughes. After some discussion, Councilmember Bryce D. Kocian made a motion to approve Resolution No. 2010-73, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2010-73**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS, AUTHORIZING THE SUBMISSION OF A TEXAS COMMUNITY DEVELOPMENT PROGRAM APPLICATION TO THE TEXAS DEPARTMENT OF RURAL AFFAIRS FOR THE TEXAS COMMUNITY DEVELOPMENT FUND; AND AUTHORIZING THE MAYOR TO ACT AS THE CITY'S CHIEF EXECUTIVE OFFICER AND AUTHORIZED REPRESENTATIVE IN ALL MATTERS PERTAINING TO THE CITY'S PARTICIPATION IN THE COMMUNITY DEVELOPMENT PROGRAM.**

**WHEREAS,** the City Council of the City of Wharton desires to develop a viable urban community, including decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low/moderate income; and

**WHEREAS,** certain conditions exist which represent a threat to the public health and safety; and **WHEREAS,** it is necessary and in the best interests of the City of Wharton to apply for funding under the 2011/2012 Texas Community Development Block Grant Program;

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

**Section I.** That a Texas Community Development Program application for the Community Development Fund is hereby authorized to be filed on behalf of the City with the Texas Department of Rural Affairs.

**Section II.** That the City's application be placed in consideration for funding under the Community Development Fund.

**Section III.** That the application be for **\$350,000.00** of grants funds to carry out sewer system improvements.

**Section IV.** That the City Council directs and designates the Mayor as the City's Chief Executive Officer and Authorized Representative to act in all matters in connection with this application and the City's participation in the Texas Community Development Program.

**Section V.** That it further be stated that the City of Wharton is committing **\$70,000.00** from its Water and Sewer Fund as a cash contribution toward the construction activities of the sewer system improvements, engineering and general administration.

**Section VI.** This resolution shall become effective immediately upon its passage.

**Passed, Approved, and Adopted** this 27<sup>th</sup> day of September 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 sixteenth item on the agenda was to review and consider the City of Wharton Signatories:

- A. Resolution: A resolution authorizing signators on the City's bank depository contract with Prosperity Bank.
- B. Resolution: A resolution authorizing signators on the City's Texas Local Government Investment Pool (TEXPOOL) accounts.
- C. Resolution: A resolution of the Wharton City Council appointing the depository/authorized signatories for the City of Wharton Ahldag Addition Sanitary Sewer Improvement Project, Texas Department of Rural Affairs Contract No. 728459.
- D. Resolution: A resolution of the Wharton City Council appointing the depository/authorized signatories for the City of Wharton Ahldag Addition Sanitary Sewer Improvement Project, Texas Department of Rural Affairs Contract No. R729710.

City Manager Andres Garza, Jr. presented copies of draft resolutions adding Ms. Joan Andel, the City's new Finance Director, as an authorized signatory on the City of Wharton accounts. After some discussion, Councilmember Bryce D. Kocian made a motion to approve Resolution No. 2010-74, 2010-75, 2010-76, and 2010-77, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2010-74**

**Resolved** that the City Council of the City of Wharton, Texas hereby authorizes the following officers of the City of Wharton to the City's bank depository contract with Prosperity Bank:

1. Andres Garza, Jr., City Manager

\_\_\_\_\_  
Signature

2. Joan Andel, Finance Director

\_\_\_\_\_  
Signature

3. Domingo Montalvo, Jr., Mayor

\_\_\_\_\_  
Signature

Each disbursement of funds from any City of Wharton account with Prosperity Bank shall require any two original signatures.

That effective October 1, 2010, the above listed City officials are the authorized signators to the City of Wharton's accounts.

That this resolution shall become effective September 27, 2010.

**PASSED AND APPROVED** by the City Council of the City of Wharton, Texas this 27<sup>th</sup> day of September 2010.

**CITY OF WHARTON**

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

**ATTEST:**

\_\_\_\_\_  
Lisa Olmeda  
City Secretary

**CITY OF WHARTON  
RESOLUTION NO. 2010-75**

**WHEREAS**, the City Council of the City of Wharton, Texas (the "Participant") is a local government of the State of Texas and is empowered to delegate to a public funds investments pool the authority to invest funds, to act as a custodian of investments purchased with local investment funds; and

**WHEREAS**, it is in the best interest of the Participant to invest local funds in investments that provide for the preservation and safety of principal, liquidity, and yield consistent with the Public Funds Investment Act; and

**WHEREAS**, the Texas Local Government Investment Pool ("TEXPOOL"), a public funds investment pool, was created on behalf of entities whose investment objective in order of priority are preservation and safety of principal, liquidity, and yield consistent with the Public Funds Investment Act.

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

Section I. The individuals, whose signatures appear below, are authorized representative of the Participant and are each hereby authorized to transmit funds for investment in TexPool and are each further authorized to withdraw funds from time to time, to issue letters of instruction, and to take all other actions deemed necessary or appropriate for the investment of local funds.

List of the authorized representatives of the Participant. These individuals will be issued P.I.N. numbers.

1. Name: **Domingo Montalvo, Jr.** Title: **Mayor**  
Signature \_\_\_\_\_
2. Name: **Andres Garza, Jr.** Title: **City Manager**  
Signature \_\_\_\_\_
3. Name: **Joan Andel** Title: **Finance Director**  
Signature \_\_\_\_\_

List the name of the Authorized Representative listed above that will have primary responsibility for performing transactions and receiving confirmations and monthly statements under the Participation Agreement.

Name: Joan Andel

Section II. That this resolution shall hereby become effective October 1, 2010 and its authorization shall continue in full force and effect until amended or revoked by the Participant, and until TexPool receives a copy of any such amendments or revocation.

**Passed, Approved, and Adopted** this 27<sup>th</sup> day of September 2010.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

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

**CITY OF WHARTON  
RESOLUTION NO. 2010 - 76**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPOINTING THE  
DEPOSITORY/AUTHORIZED SIGNATORIES FOR THE CITY OF WHARTON**

**AHLDAG ADDITION SANITARY SEWER IMPROVEMENT PROJECT, TEXAS  
DEPARTMENT OF RURAL AFFAIRS CONTRACT NO. 728459.**

**WHEREAS,** the Texas Department of Rural Affairs, Texas Community Development Program requires that the recipient organization shall provide authorized Signatories for the Depository/Authorized Signatories Designation Form; and

**WHEREAS,** the recipient organization being the City of Wharton, Texas, has met this Requirement by the City Council passing a Resolution delegating the Persons listed below with the authority to sign the Depository/Authorized Form for the City of Wharton Ahldag Addition Sanitary Sewer Improvement Project, Texas Department of Rural Affairs, Texas Community Development Program Contract No. 728459.

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

**Section I.** The City Council of the City of Wharton, Texas, hereby authorizes the Following signatories:

Domingo Montalvo, Jr.  
Mayor

\_\_\_\_\_  
Signature

Andres Garza, Jr.  
City Manager

\_\_\_\_\_  
Signature

Joan Andel  
Finance Director

\_\_\_\_\_  
Signature

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

**Passed, Approved, and Adopted** this 27<sup>th</sup> day of September 2010.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

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

**CITY OF WHARTON  
RESOLUTION NO. 2010 – 77**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPOINTING THE DEPOSITORY/AUTHORIZED SIGNATORIES FOR THE CITY OF WHARTON AHLDAG ADDITION SANITARY SEWER IMPROVEMENT PROJECT, TEXAS DEPARTMENT OF RURAL AFFAIRS CONTRACT NO. R729710.**

**WHEREAS**, the Texas Department of Rural Affairs, Texas Community Development Program requires that the recipient organization shall provide authorized Signatories for the Depository/Authorized Signatories Designation Form; and

**WHEREAS**, the recipient organization being the City of Wharton, Texas, has met this Requirement by the City Council passing a Resolution delegating the Persons listed below with the authority to sign the Depository/Authorized Form for the City of Wharton Ahldag Addition Sanitary Sewer Improvement Project, Texas Department of Rural Affairs, Texas Community Development Program Contract No. R729710.

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

**Section I.** The City Council of the City of Wharton, Texas, hereby authorizes the Following signatories:

Domingo Montalvo, Jr.  
Mayor

\_\_\_\_\_  
Signature

Andres Garza, Jr.  
City Manager

\_\_\_\_\_  
Signature

Joan Anadel  
Finance Director

\_\_\_\_\_  
Signature

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

**Passed, Approved, and Adopted** this 27<sup>th</sup> day of September 2010.

**CITY OF WHARTON, TEXAS**

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

**DOMINGO MONTALVO, JR.**  
Mayor

**ATTEST:**

\_\_\_\_\_



**LISA OLMEDA**

City Secretary

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

The seventeenth item on the agenda was to review and consider the City of Wharton Ahldag Addition Sanitary Sewer Improvement Project:

A. Belle Avenue & Extra Services on Dahlgren & Fulton Streets – Supak Construction, Inc.:

1. Change Order No. 2.

City Manager Andres Garza, Jr. presented a copy of the letter dated September 14, 2010 from Mr. Bradley C. Loehr, P.E. providing the Change Order No. 2 submitted by Supak Construction, Inc. for the City of Wharton Ahldag Addition Sanitary Sewer System Improvement Project – Belle Avenue & Extra Services on Dahlgren & Fulton Streets. He said that the change order increased the contract \$555.00 from \$39,618 to \$40,173.

2. Second (2<sup>nd</sup>) and Final Pay Request.

City Manager Andres Garza, Jr. presented a copy of the letter dated September 23, 2010 from Mr. Bradley C. Loehr, P.E. providing the Second and Final Pay Request submitted by Supak Construction, Inc. in the amount of \$4,557.30. He said that with the payment of this request, it would complete the project. After some discussion, Councilmember Don Mueller made a motion to approve the City of Wharton Ahldag Addition Sanitary Sewer Improvement Project, Belle Avenue & Extra Services on Dahlgren & Fulton Streets – Supak Construction, Inc., Change Order No. 2, and Second (2<sup>nd</sup>) and Final Pay Request. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

B. Belle Avenue & Extra Services on Dahlgren & Fulton Streets – Supak Construction, Inc. – Additional Work.

City Manager Andres Garza, Jr. stated that the City Staff met with Mr. Bradley Loehr of BEFCO Engineering and the City Council Public Works Committee on Wednesday, September 22, 2010 regarding the City of Wharton Ahldag Addition Sanitary Sewer System Improvement Project - Belle Avenue and extra long and short services along Dahlgren and Fulton Streets. He said that Supak Construction was awarded the project in the amount of \$32,238.00. He said that the original budget was \$40,000; however, with the approval of the two change orders the project cost was increased to \$40,173.00. He said that after the preconstruction meeting, the City conducted a video survey to determine the number and location of all short/long services. He said that after the survey was conducted, the contractor installed a total of 12 short and 13 long services on Dahlgren and Fulton Streets, which resulted in an additional cost of \$11,909.00 without authorization from the City. He then presented a copy of the recommendation dated September 22, 2010 from City Council Public Works Committee recommending that the invoice be presented as an independent invoice from the contract for City Council consideration. He also presented a copy of the letter dated September 23, 2010 providing the final invoice in the amount of \$11,909.00 from Supak Construction, Inc. for the additional work. After some discussion, Councilmember Don Mueller made a motion to approve the City of Wharton Ahldag Addition Sanitary Sewer Improvement Project, Belle Avenue & Extra Services on Dahlgren & Fulton Streets – Supak Construction, Inc. – Additional Work. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

C. TxCDBG Contract No. 728459 – Supak Construction, Inc.:

1. Change Order No. 3.

City Manager Andres Garza, Jr. presented a copy of the letter dated September 23, 2010 from Mr. Bradley C. Loehr, P.E. providing the Change Order No. 3 submitted by Supak Construction, Inc. for the original Ahldag Addition Sanitary Sewer System Improvement Project, TxCDBG Contract No. 728459. He said that this change order would decrease the contract \$138.00 from the \$309,965 to \$309,827.

2. Eighth (8<sup>th</sup>) and Final Pay Request.

City Manager Andres Garza, Jr. presented a copy of the letter dated September 23, 2010 from Mr. Bradley C. Loehr, P.E. of BEFCO Engineering providing a copy of the Eighth (8<sup>th</sup>) and Final Pay Request for the original Ahldag Addition Sanitary Sewer System Improvement Project, TxCDBG Contract No. 728459. He said that the pay request was in the amount of \$34,330.70 and included the retainage. He said with the payment of the invoice, it would complete the project. After some discussion, Councilmember Terry David Lynch made a motion to approve the City of Wharton Ahldag Addition Sanitary Sewer Improvement Project, TxCDBG Contract No. 728459 – Supak Construction, Inc., Change Order No. 3, and Eighth (8<sup>th</sup>) and Final Pay Request. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The eighteenth item on the agenda was to review and consider the City of Wharton Chemicals:

A. Bid Tabulation.

B. Resolution: A resolution awarding a bid for ton chlorine gas cylinder, 150 lbs. chlorine gas cylinder, granular calcium hypochlorite, sodium bisulfite solution (pound), sodium hypochlorite liquid bleach 10%, muratic acid 55 gallon drum, and fluoride; authorizing the Mayor of the City of Wharton to execute all documents relating to said contracts.

City Manager Andres Garza, Jr. stated that on September 2, 2010, the bid opening was held for the City of Wharton Chemicals. He then presented a copy of the bid tabulation, and a copy of the memorandum dated September 15, 2010 from Public Works Director Carter Miska and Facilities Maintenance Director Bob Baker providing their recommendation to award the bids. He said that Mr. Miska and Mr. Baker were recommending the City Council to consider awarding the bids to AOC for ton Chlorine gas cylinder in the amount of \$649.00, 150 lbs chlorine gas cylinder in the amount of \$89.00 per cylinder, and granular calcium hypochlorite in the amount of \$140.00 for 100 lbs. He said that they are also recommending that the City Council consider awarding NAPCO Chemical Company, Inc. be awarded the bid for sodium bisulfite hypochlorite in the amount of \$0.135 per gallon, sodium hypochlorite liquid bleach 10% in the amount of \$1.10 per gallon, muratic acid 55 gallon drum in the amount of \$350.00 per drum and fluoride in the amount of \$5.75 per gallon. He then presented a draft resolution awarding the bid. Public Works Director Carter Miska stated that Mr. Bob Baker and himself reviewed the bids received. After some discussion, Councilmember Bryce D. Kocian made a motion to approve Resolution No. 2010-78, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2010-78**

**A RESOLUTION AWARDING A BID FOR TON CHLORINE GAS CYLINDER, 150 LBS. CHLORINE GAS CYLINDER, GRANULAR CALCIUM HYPOCHLORITE, SODIUM BISULFITE SOLUTION (POUND), SODIUM HYPOCHLORITE LIQUID BLEACH 10%, MURATIC ACID 55 GALLON DRUM, AND FLUORIDE;**

**AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID CONTRACTS.**

**WHEREAS**, competitive, sealed bids were received on September 2, 2010 for the City of Wharton Chemicals; and

**WHEREAS**, AOC was deemed to be the best and lowest qualified bidder as per bid specifications for ton chlorine gas cylinder for the amount of \$649.00, 150 lbs. chlorine gas cylinder for the amount of \$89.00 per cylinder, granular calcium hypochlorite from the amount of \$140.00 for 100 pounds; and

**WHEREAS**, NAPCO Chemical Company, Inc. was deemed to be the best and lowest qualified bidder as per bid specifications for sodium bisulfite hypochlorite for the amount of \$0.135 per gallon, sodium hypochlorite liquid bleach 10% for the amount of \$1.10 per gallon, muratic acid 55 gallon drum in the amount of \$350.00 per drum, and fluoride for the amount of \$5.75 per gallon; and

**WHEREAS**, the City of Wharton and AOC and NAPCO Chemical Company, Inc wishes to be bound by the conditions set forth in the agreement; and

**WHEREAS**, this resolution is passed in accordance with this bid.

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

**Section I.** That AOC and NAPCO Chemical Company, Inc are hereby awarded the bids for City of Wharton Chemicals in accordance with the bid sheet.

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

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

**Passed, Approved, and Adopted** this 27<sup>th</sup> day of September 2010.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

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

City Secretary

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

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

A. Bid Tabulation.

B. Resolution: A resolution awarding a bid for fuel and authorizing the Mayor of the City of Wharton to execute all documents relating to said contract.

City Manager Andres Garza, Jr. stated that on September 2, 2010, the bid opening was held for the City of Wharton Fuel. He then presented a copy of the bid tabulation, and a copy of the memorandum dated September 13, 2010 from Public Works Director Carter Miska providing his recommendation to award the bid. He said that Mr. Miska was recommending the City Council consider awarding the bid for fuel to Oil Patch Brazos Valley for regular unleaded gasoline with a minimum octane rating of 87 and 2-D diesel fuel, low sulfur, clear (undyed) with a minimum cetane rating of 42. He then presented a draft resolution awarding the bid. Public Works Director Carter Miska stated that he had reviewed the bids. He stated that Ryley Fuels sold to the company Oil Patch Brazos Valley. Councilmember Bryce D. Kocian asked about Bar F Fuels. Mr. Garza stated that the bid specifications required the Victoria rack price; however, Bar F Fuels was a local price. After some discussion, Councilmember Lewis Fortenberry, Jr. made a motion to approve Resolution No. 2010-79, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2010-79**

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

**WHEREAS**, competitive, sealed bids were received on September 2, 2010 for the City of Wharton Fuel; and

**WHEREAS**, Oil Patch Brazos Valley was deemed to be the lowest and best qualified bidder as per bid specifications; and

**WHEREAS**, the Wharton City Council wishes to award the contract to Oil Patch Brazos Valley; and

**WHEREAS**, the City of Wharton and Oil Patch Brazos Valley wishes to be bound by the conditions set forth in the agreement; and

**WHEREAS**, this resolution is passed in accordance with this bid.

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

**Section I.** That Oil Patch Brazos Valley is hereby awarded the bid for City of Wharton Fuel in accordance with the bid sheet.

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

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

**Passed, Approved, and Adopted** this 27<sup>th</sup> day of September 2010.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

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

City Secretary

Councilmember Jeff Gubbels seconded the motion. All voted in favor.

The twentieth item on the agenda was to review and consider the City of Wharton Road Materials:

A. Bid Tabulation.

B. Resolution: A resolution awarding a bid for limestone, hot mix cold laid asphalt concrete, pre-coated aggregate, aggregate, dense-graded hot mix asphalt pavement, flexible base and lime slurry; authorizing the Mayor of the City of Wharton to execute all documents relating to said contracts.

Councilmember Don Mueller abstained from discussion. City Manager Andres Garza, Jr. stated that on September 2, 2010, the bid opening was held for the City of Wharton Road Materials. He then presented a copy of the bid tabulation and a copy of the memorandum dated September 21, 2010 from Public Works Director Carter Miska providing his recommendation to award the bids. He said that Mr. Miska was recommending the City Council consider awarding the bids as follows: Zbranek Bros. for limestone base material in the amount of \$19.75 per ton delivered and \$19.75 for pick-up; Quality Hot Mix, Inc. for Hot mix cold laid asphalt concrete pavement in the amount of \$66.00 delivered and \$63.00 for pickup, Pre-coated aggregate in the amount of \$43.00 delivered and \$41.00 for pickup, Aggregate in the amount of \$25.00 delivered and \$27.50 for pickup, and dense-graded hot-mix asphalt pavement in the amount of \$56.00 delivered and \$53.00 for pickup; Prihoda Gravel Com for flexible base material in the amount of \$11.75 per ton delivered and \$3.75 for pickup; Lhoist North America for lime slurry in the amount of \$145.00 per ton delivered with an eight (8) ton minimum. He then presented a copy of the draft resolution awarding the bids. After some discussion, Councilmember Terry David Lynch made a motion to approve Resolution No. 2010-80, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2010-80**

**A RESOLUTION AWARDED A BID FOR LIMESTONE, HOT MIX COLD LAID ASPHALT CONCRETE, PRE-COATED AGGREGATE, AGGREGATE, DENSE-**

**GRADED HOT MIX ASPHALT PAVEMENT, FLEXIBLE BASE, AND LIME SLURRY;  
AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL  
DOCUMENTS RELATING TO SAID CONTRACTS.**

**WHEREAS**, competitive, sealed bids were received on September 2, 2010 for the City of Wharton Road Materials; and

**WHEREAS**, Zbranek Brothers was deemed to be the best and lowest qualified bidder as per bid specifications for limestone base material for the amount of \$19.75 per ton delivered, and for the amount of \$19.75 per ton picked up; and

**WHEREAS**, Quality Hot Mix, Inc. Materials for hot mix cold laid asphalt concrete pavement for the amount of \$66.00 per ton delivered and \$63.00 per ton picked up, pre-coated aggregate for the amount of \$43.00 per ton delivered and \$41.00 per ton picked up, aggregate for the amount of \$25.00 per ton delivered and \$27.50 per ton picked up, and dense-graded hot-mix asphalt pavement for the amount of \$56.00 per ton delivered and \$53.00 per ton picked up.

**WHEREAS**, Prihoda Gravel Co. was deemed to be the best and lowest qualified bidder as per bid specifications for flexible base material for the amount of \$11.75 per ton delivered, and for the amount of \$3.75 per ton picked up; and

**WHEREAS**, Lhoist North America was deemed to be the best and lowest qualified bidder as per bid specifications for lime slurry for the amount of \$145.00 per ton delivered with a 8 ton minimum; and

**WHEREAS**, the Wharton City Council wishes to award the contract to Zbranek Brothers, Quality Hot Mix, Inc., Prihoda Gravel Co., and Lhoist North America; and

**WHEREAS**, the City of Wharton and Zbranek Brothers, Quality Hot Mix, Inc., Prihoda Gravel Co., and Lhoist North America wishes to be bound by the conditions set forth in the agreements; and

**WHEREAS**, this resolution is passed in accordance with this bid.

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

**Section I.** That Zbranek Brothers, Quality Hot Mix, Inc., Prihoda Gravel Co., and Lhoist North America are hereby awarded the bid for City of Wharton Road Materials in accordance with the bid sheets.

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

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

**Passed, Approved, and Adopted** this 27<sup>th</sup> day of September 2010.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

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

City Secretary

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

The twenty-first item on the agenda was to review and consider the City of Wharton Sale of Surplus Real Property:

A. Bid Tabulation.

B. Resolution: A resolution of the Wharton City Council authorizing the sale of certain City of Wharton Properties as Surplus Properties and authorizing the Mayor of the City of Wharton to execute all necessary documents associated with said sale of those certain properties. City Manager Andres Garza, Jr. stated that on September 21, 2010, the bid opening was held for the City of Wharton Sale of Surplus Real Properties. He then presented a copy of the bid tabulation, and a draft resolution awarding the bids. He said that the properties that were listed for sale were as follows:

Parcel No. 1 - 110 N. Richmond Road; Block 11, Lot 2B, 3B (R26064) - \$13,604.00

Parcel No. 2 - 1704 Azalea Drive; Smith Garden Spot, Block 1, Lot 15, 16, 17, 18 (R23662) - \$6,313.00

Parcel No. 3 - 1512-A Harris; Outlar, Lot 5A-1 (R21311) - \$605.00

Parcel No. 4 - 1520 Goode; Eliz. Branch, Lot 19 (R11837) \$1,354.00

Parcel No. 5 - 500 N. Richmond; Wharton, Block 29, Lot 7A, 7B, 7F, 8A (R26319) - \$33,603.00

He said that bids were received for Parcel No. 2 in the amount of 6,400.00; No. 3 in the amount of \$700.00, and No. 4 in the amount of \$1,450.00 by Ms. Shirley Ephram-Neal. He said that the total amount received from the bids was \$8,550.00, which was \$278.00 more than the total minimum bid for the three properties at \$8,272.00. He said that the City Staff was recommending the City Council award Ms. Neal the bids for the purchase of the three properties. He said that upon City Council approval, City Attorney Paul Webb would begin the necessary steps to conclude the sale of the three City properties. After some discussion, Councilmember Bryce D. Kocian made a motion to approve Resolution No. 2010-81, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2010-81**

**A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE SALE OF CERTAIN CITY OF WHARTON PROPERTIES AS SURPLUS PROPERTIES AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL NECESSARY DOCUMENTS ASSOCIATED WITH SAID SALE OF THOSE CERTAIN PROPERTIES.**

**WHEREAS**, competitive, sealed bids were received on September 21, 2010 for Sale of certain City of Wharton Properties as Surplus Properties; and

**WHEREAS**, Shirley Ephram-Neal was deemed to be the lowest and best qualified bidder as per bid specifications for the following:

- A. Parcel No. 2, 1704 Azalea Drive, Smith Garden Spot, Block 1, Lots 15, 16, 17, 18, R23662 in the amount of \$6,400.00; and
- B. Parcel No. 3, 1512-A Harris, Outlar, Lot 5A-1, R21311 in the amount of \$700.00; and
- C. Parcel No. 4, 1520 Goode, Elizabeth Branch, Lot 19, R11837 in the amount of \$1,450.00; and

**WHEREAS**, the Wharton City Council wishes to sale the afore-mentioned properties to Shirley Ephram-Neal; and

**WHEREAS**, the City of Wharton and Shirley Ephram-Neal wishes to be bound by the conditions set forth in the contracts; and

**WHEREAS**, this resolution is passed in accordance with this bid.

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

**Section I.** That Shirley Ephram-Neal is hereby awarded the bids for the purchase of the afore-mentioned certain City of Wharton Surplus Real Properties.

**Section II.** That the Mayor of the City of Wharton is hereby authorized to sign any documents relating to the afore-mentioned contracts.

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

**Passed, Approved, and Adopted** this 27<sup>th</sup> day of September 2010.

**CITY OF WHARTON, TEXAS**

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

**DOMINGO MONTALVO, JR.**

Mayor

**ATTEST:**



**LISA OLMEDA**

City Secretary

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

The twenty-second item on the agenda was to review and consider the City of Wharton Cloud Street Water Plant Control Modifications Project – Neil Technical Services, Corp. – Pay Request No. 1. City Manager Andres Garza, Jr. presented a copy of the letter dated September 20, 2010 from Mr. Tommy L. Vance, P.E., Construction Services Department Manager of Jones & Carter, Inc. providing the Pay Request No. 1 from Neil Technical Services, Corp. in the amount of \$18,335.00 for the City’s Cloud Street Water Plant Control Modifications Project. Mr. Carlos Cotton, P.E. of Jones & Carter stated that the project was 100% completed and Public Works Director Carter Miska and Utilities Superintendent Harold Matula were satisfied with the work. After some discussion, Councilmember Bryce D. Kocian made a motion to approve the City of Wharton Cloud Street Water Plant Control Modifications Project – Neil Technical Services, Corp. – Pay Request No. 1 in the amount of \$18,335.00. Councilmember Terry David Lynch seconded the motion. All voted in favor.

The twenty-third item on the agenda was to review and consider the City of Wharton Water Plant Control Modifications Project – Industrial Control Manufacturing – First and Final Pay Request. City Manager Andres Garza, Jr. presented a copy of the letter dated August 26, 2010 from Mr. Tommy L. Vance, P.E., Construction Services Department Manager of Jones & Carter, Inc. providing the First and Final Pay Request. Mr. Carlos Cotton, P.E. of Jones & Carter stated that the project was operational and completed, which the City Staff was satisfied. He stated that the project allowed adjustments via radio system. After some discussion, Councilmember Don Mueller made a motion to approve the City of Wharton Water Plant Control Modifications Project – Industrial Control Manufacturing – First and Final Pay Request. Councilmember Bryce D. Kocian seconded the motion. All voted in favor.

The twenty-fourth item on the agenda was to review and consider the request by the City of Wharton Fire Department for a six feet variance from the required ten feet interior side yard set back requirement for the construction of a new building four feet from the property line located at Hawes Block E, Lots 8, 9, 10; 319 North Fulton Street. Assistant to City Manager Jackie Jansky presented a copy of Application for an Over 50% Variance submitted by the City of Wharton Fire Department requesting a six feet variance from the required ten feet interior side yard set back requirement for the construction of a new building four feet from the property line located at Hawes Block E, Lots 8, 9, 10; 319 North Fulton Street. She also presented a copy of a drawing indicating the location of the existing Fire Department Building and the proposed new building site. She stated that KSA Engineers was completing the design phase for the new building. She said that the variance was being requested because of the location of the existing fire station building. She said that the variance would allow the new building to be constructed in line with the existing building. She said that the existing building was five feet from the property line and the new building would also be constructed with the outer wall five feet from the property line; however, there would be a one foot roof overhang, which would end four feet from the property line. She said that a six feet variance from the ten feet requirement was being

requested. She then presented a copy of a drawing that indicated the location of the property line and the existing and proposed buildings. After some discussion, Councilmember Terry David Lynch made a motion to approve the request by the City of Wharton Fire Department for a six feet variance from the required ten feet interior side yard set back requirement for the construction of a new building four feet from the property line located at Hawes Block E, Lots 8, 9, 10; 319 North Fulton Street. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

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

- A. Beautification Commission.
- B. Planning Commission.
- C. Holiday Lighting Chairman.
- D. Wharton Economic Development Corporation Board of Directors.

City Manager Andres Garza, Jr. stated that vacancies remained on the Boards, Commissions and Committees. He said that the City Council may make recommendations to fill the vacant positions. He then presented a current list of the Boards, Commissions and Committee members and vacancies. After some discussion, no action was taken.

The twenty-sixth item on the agenda was to review and consider the status report on City of Wharton Projects. City Manager Andres Garza, Jr. presented a copy of the memorandum dated September 27, 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 (USACE) 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. Halff Associates, the engineering firm hired to assist with design, would meet with City staff in October 2010. This meeting would be to determine properties requiring right of entry for survey and design of the flood reduction project. Public Works and Code Enforcement would be at this meeting.

On October 6, 2010 City staff would attend a meeting in Austin with the USACE concerning this project.

#### **DRAINAGE:**

1. Santa Fe Outfall Channel.

City employees and Wharton County Precinct 1 resumed excavation on August 9, 2010. Currently, crews were excavating approximately 600' downstream of Hodges Ln. The Public Works Department was in the process of purchasing two drop structures to assist in controlling

erosion between Hwy 60 and FM 1299. The Department intended to have these installed within the next couple of months weather permitting. Excavation would continue weather permitting.

**2. Highway 60 & Old Lane City Road Drainage Improvements**

City Staff met with Jones & Carter, Inc. and TxDOT on September 20, 2010 to discuss and review the preliminary design. In addition, City Staff made a request to TxDOT for assistance on the purchase of materials, installation, traffic control, and excavation. TxDOT's Wharton Area Engineer would meet with the Yoakum office to discuss TxDOT's assistance.

**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. On September 20, 2010 City Staff and Jones & Carter, Inc. met to discuss preliminary plans for the project.

**4. Croom Park Drainage Improvements**

Minor touch ups were still needed. These would be made as soon as weather permits.

**WATER/SEWER IMPROVEMENTS:**

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

This project was nearing completion. On September 22, 2010 City staff met with BEFCO Engineering, Inc. and Supak Construction to develop a punch list. The list would be formalized by BEFCO and submitted to Supak Construction for completion. The project was a great success. In all, the City was able to replace 5,933' of six inch, eight inch, and ten inch sanitary sewer lines. In addition, new manholes and service leads were installed along the entire length. The City also replaced twenty-seven sewer leads along Dahlgren and Fulton streets.

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

AR Turnke Construction Company Inc. was selected as the contractor for this project. A pre-construction meeting was set for September 29, 2010 at City Hall.

**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 remained in good condition and was operating efficiently.

**4. Water Storage Tank Maintenance Program.**

City staff met with Utility Service Company (USC) on September 22, 2010 to review the proposed water tank maintenance program in an effort to finalize a contract between the City and USC.

**5. Alabama Water Well Rework**

The majority of the work on Water Well No. 1 had been completed. The contractor super-chlorinated the well and was waiting on laboratory samples to be processed prior to putting the well back on-line.

Work on Water Well No. 3 was scheduled to begin as soon as Water Well No. 1 goes back on-line.

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. A bid opening was held on September 7, 2010. Electrical Automation Controls was the low bidder. Construction was scheduled to begin within the next thirty (30) days.

7. Pressure Switches at City Water Plants

Construction began May 24<sup>th</sup> and was completed on August 17, 2010. City Staff discovered a problem with the switches and new ones were currently being installed. Installation should be completed by September 24, 2010. City Staff would then tweak the switches in an effort to equalize pumping time at all of the wells.

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 has submitted the US DOT TIGER II Grant application to request funding for the project and was awaiting a response. In addition, several discussions with TxDOT had occurred over the past month concerning funding contributions by the City and TxDOT. A Phase I Environmental Assessment had been completed.

2. 2010 Street Improvement Program

As of September 1, 2010 all city streets approved for rework by the City Council were completed. Construction on the J-M Eagle frontage road was underway and should be completed by October 1, 2010.

The street crew was also nearing completion on the new parking lot at the airport. In addition, the crew would be building Benedict Hundl a private drive at the end of Wisteria as specified in his contract with City concerning the Santa Fe Channel.

No action was taken.

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

A. City Council Public Health Committee meeting held September 17, 2010.

B. Wharton Economic Development Corporation meeting held September 20, 2010.

C. City Council Public Works Committee meeting held September 22, 2010.

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

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

City of Wharton  
Regular City Council Meeting  
September 27, 2010

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

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

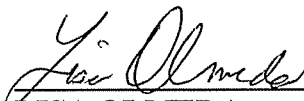
The twenty-ninth item on the agenda was adjournment. After some discussion, Councilmember Don Mueller made a motion to adjourn. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

The meeting adjourned at 7:50 p.m.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

  
**LISA OLMEDA**  
City Secretary

