

**MINUTES  
OF  
CITY OF WHARTON  
REGULAR CITY COUNCIL MEETING  
March 12, 2012**

Mayor Domingo Montalvo, Jr., declared a Regular Meeting duly open for the transaction of business at 7:00 P.M. Mayor Domingo Montalvo, Jr. led the opening devotion and led the pledge of allegiance.

Councilmember's present were: Mayor Domingo Montalvo, Jr., Councilmembers Al Russell Machann, Don Mueller, and Karen Schulz.

Councilmember absent was: Jeff Gubbels and Terry David Lynch.

Staff members present were: City Manager Andres Garza, Jr., Finance Director Joan Anandel, City Secretary Paula Favors, Assistant to City Manager Jackie Jansky, City Attorney Paul Webb, Building Official Ronald Bollom, and Public Works Director Carter Miska, P.E.

Visitors present were: David Schroeder, Executive Director, Wharton Economic Development Corporation, I.O. Coleman, Jr., Tonya Hill and Keith Magee, Wharton Journal Spectator.

The second item on the agenda was Roll Call and Excuses Absences. After some discussion, Councilmember Al Bryant moved to excuse Councilmembers Terry David Lynch and Jeff Gubbels. Councilmember Don Mueller seconded the motion. All voted in favor.

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

The fourth item on the agenda item was the Wharton Moment. Councilmember Don Mueller stated that former Wharton County Precinct 1 Commissioner Mickey Reynolds was in the hospital. Councilmember Mueller stated to keep Mr. Reynolds and his family in their prayers.

The fifth item on the agenda was to review and consider the reading of the minutes from the regular meetings held February 13, 2012 and February 27, 2012 and the special meetings held February 6, 2012 and February 11, 2012. After some discussion, Councilmember Karen Schulz moved to approve the minutes from the regular meetings February 13, 2012 and February 27, 2012 and the special meetings held February 6, 2012 and February 11, 2012. Councilmember Russell Machann seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider an ordinance declaring the unopposed candidate for Mayor at Large, Councilmember District No. 2, Councilmember District No. 4, and Councilmember At Large Place No. 6 as elected to office; Providing that the General Election held on May 12, 2012 for Mayor at Large, Councilmember District No. 2, Councilmember District

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No. 4, and Councilmember At Large Place No. 6 shall be canceled; Providing that this ordinance shall be cumulative of all ordinances; Providing for severability; repealing all ordinances or parts of ordinances inconsistent or in conflict herewith and providing an effective date.

Una ordenanza declarando el candidato sin oposición para Alcalde de forma irrestricta, Concejal para el Distrito No. 2, Concejal para el Distrito No. 4, y el Concejal de forma irrestricta para la Posición No. 6 según elegido a su puesto; disponiendo que se cancele la Elección General programada para el 12 de mayo 2012 para Alcalde de forma irrestricta, Concejal para el Distrito No. 2, Concejal para el Distrito No. 4, y el Concejal de forma irrestricta para la Posición No. 6; disponiendo que esta ordenanza sea cumulativa para todas las ordenanzas; disponiendo la divisibilidad; revocando todas las ordenanzas o parte de ellas que sean inconsistentes o en conflicto con la presente y disponiendo una fecha vigente.

City Manager Andres Garza, Jr. stated that the deadline to file for positions on the City of Wharton Election Ballot was Monday, March 5, 2012 at 5:00 p.m. and at that time, Mayor Domingo Montalvo, Jr. and Councilmembers Karen Schulz - District 2, Don Mueller – District 4 and Jeff Gubbels – Place 6 At Large, had filed to run for their respective positions. City Secretary Paula Favors stated that since the positions were not contested and there were no write in candidates, the City Council could cancel the City of Wharton General Election that was for May 12, 2012. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Ordinance No. 2012-08, which read as follows:

**CITY OF WHARTON, TEXAS  
ORDINANCE NO. 2012-08**

**AN ORDINANCE DECLARING THE UNOPPOSED CANDIDATE FOR MAYOR AT LARGE, COUNCILMEMBER DISTRICT NO. 2, COUNCILMEMBER DISTRICT NO. 4, AND COUNCILMEMBER AT LARGE PLACE NO. 6 AS ELECTED TO OFFICE; PROVIDING THAT THE GENERAL ELECTION HELD ON MAY 12, 2012 FOR MAYOR AT LARGE, COUNCILMEMBER DISTRICT NO. 2, COUNCILMEMBER DISTRICT NO. 4, AND COUNCILMEMBER AT LARGE PLACE NO. 6 SHALL BE CANCELLED; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Wharton, Texas is a home rule municipality located in Wharton County, created in accordance with the provisions of Title 1 Chapter 9 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

**WHEREAS**, pursuant to the City of Wharton, Ordinance No. 2012-07, passed and approved February 13, 2012, a general election was ordered to be held on May 12, 2012 for the purpose of electing Mayor at Large, Councilmember District No. 2, Councilmember District No. 4, and Councilmember At Large Place No. 6 to serve on the City of Wharton City Council; and

**WHEREAS**, pursuant to Section 2.052, Texas Election Code, the deadline for filing for a place on the City's General Election was expired on March 5, 2012, at 5:00 P.M.; and

**WHEREAS**, the City Secretary, in accordance with Section 2.052 Texas Election Code, has certified to the City Council in writing that Domingo Montalvo, Jr. is unopposed for election to the office of Mayor At Large, Karen Schulz is unopposed for election to the office of Councilmember District No. 2, Don Mueller is unopposed for election to the office of Councilmember District No. 4; and Jeff Gubbels is unopposed for election to the office of Councilmember At Large Place No. 6.

**WHEREAS**, the City Council hereby finds and determines that the candidate for Mayor at Large, Councilmember District No. 2, Councilmember District No. 4, and Councilmember At Large Place No. 6 whose name is to appear on the ballot in said election is unopposed, and there are no declared write-ins.

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

**SECTION 1.**

In accordance with Section 2.053(a) Texas Election Code, the following candidate, who is unopposed in the May 12, 2012, general election, is hereby declared duly elected to the respective offices.

Mayor - at Large – Domingo Montalvo, Jr.  
Councilmember –District No. 2 – Karen Schulz  
Councilmember – District No. 4 – Don Mueller  
Councilmember at Large - Place No. 6 – Jeff Gubbels

**SECTION 2.**

Pursuant to Section 2.053 (b) Texas Election Code, the General Election for Mayor at Large, Councilmember District No. 2, Councilmember District No. 4, and Councilmember At Large Place No. 6 heretofore called and ordered by the City of Wharton by Ordinance No. 2012-07 for the 12th day of May 2012, shall not be held and is hereby canceled.

**SECTION 3.**

The City Secretary is hereby directed to post a copy of this Ordinance at the designated polling place on election day, same being May 12, 2012.

**SECTION 4.**

This ordinance shall be cumulative of all provisions of ordinances of the City of Wharton, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

**SECTION 5.**

It is hereby declared to the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the city council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION 6.**

This ordinance shall be in full force and effect from and after its passage, and it is so ordained.

**PASSED AND APPROVED** by the City Council of the City of Wharton, Texas, on this **12<sup>th</sup> day of March 2012.**

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

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

**APPROVED AS:**

\_\_\_\_\_  
**Paul Webb**  
City Attorney

**CIUDAD DE WHARTON, TEXAS**  
**ORDENANZA N° 2012-08**

**UNA ORDENANZA DECLARANDO EL CANDIDATO SIN OPOSICIÓN PARA ALCALDE DE FORMA IRRESTRICTA, CONCEJAL PARA EL DISTRITO NO. 2, CONCEJAL PARA EL DISTRITO NO. 4, Y EL CONCEJAL DE FORMA IRRESTRICTA PARA LA POSICIÓN NO. 6 SEGÚN ELEGIDO A SU PUESTO; DISPONIENDO QUE SE CANCELE LA ELECCIÓN GENERAL PROGRAMADA PARA EL 12 DE MAYO 2012 PARA ALCALDE DE FORMA IRRESTRICTA, CONCEJAL PARA EL DISTRITO NO. 2, CONCEJAL PARA EL DISTRITO NO. 4,**

**Y EL CONCEJAL DE FORMA IRRESTRICTA PARA LA POSICIÓN NO. 6; DISPONIENDO QUE ESTA ORDENANZA SEA CUMULATIVA PARA TODAS LAS ORDENANZAS; DISPONIENDO LA DIVISIBILIDAD; REVOCANDO TODAS LAS ORDENANZAS O PARTE DE ELLAS QUE SEAN INCONSISTENTES O EN CONFLICTO CON LA PRESENTE Y DISPONIENDO UNA FECHA VIGENTE.**

**POR CUANTO**, la Ciudad de Wharton, Texas es una municipalidad de gobierno autónomo ubicada en el condado de Wharton, creada de acuerdo con las disposiciones del Título 1, Capítulo 9 del Código de Gobierno Local y opera de acuerdo con la legislación habilitante de Texas; y

**POR CUANTO**, de acuerdo con la Ordenanza No. 2012-07 de la Ciudad de Wharton, pasada y aprobada el 13 de febrero de 2012, se ordenó una elección a realizarse el 12 de mayo de 2012, con el propósito de elegir Alcalde de forma irrestricta, Concejal del Distrito No. 2, Concejal del Distrito No. 4, y Concejal de forma irrestricta para la Posición No. 6 para desempeñarse en el Consejo Municipal de la Ciudad de Wharton; y

**POR CUANTO**, de acuerdo con la Sección 2.052 del Código de Elecciones de Texas, el plazo límite para solicitar un puesto en la elección general de la Ciudad venció el 5 de marzo de 2012, a las 5:00 de la tarde; y

**POR CUANTO**, la Secretaria Municipal, de acuerdo con la Sección 2.052 del Código de Elecciones de Texas, ha certificado por escrito al Consejo Municipal que Domingo Montalvo, Jr. es el candidato único para la elección para el puesto de Alcalde de forma irrestricta, Karen Schulz es la candidata única para el puesto de Concejal del Distrito No. 2, Don Mueller es el candidato único para el puesto de Concejal del Distrito No. 4, y Jeff Gubbels es el candidato único para la elección al puesto de Concejal para la Posición No. 6 de forma irrestricta.

**POR CUANTO**, el Consejo Municipal por el presente encuentra y determina que el candidato para Alcalde de forma irrestricta, Concejal del Distrito No. 2, Concejal del Distrito No. 4 y Concejal para la Posición No. 6 de forma irrestricta cuyo nombre ha de aparecer en la balota de dicha elección es candidato único, y no hay ningún candidato declarado para anotarse.

**AHORA, POR LO TANTO, EL CONSEJO MUNICIPAL DE LA CIUDAD DE WHARTON, TEXAS ORDENA QUE:**

#### **SECCION 1.**

De acuerdo con la Sección 2.053 (a) del Código de Elecciones de Texas, el siguiente candidato único en la elección general del 12 de mayo de 2012, por la presente queda declarado debidamente elegido a los respectivos puestos

Alcalde de forma irrestricta -- Domingo Montalvo, Jr.

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Concejal -- Distrito No. 2 -- Karen Schulz,  
Concejal -- Distrito No. 4 -- Don Mueller  
Concejal de forma irrestricta -- Posición No. 6 -- Jeff Gubbels

## **SECCION 2.**

De acuerdo con la Sección 2.053 (b) del Código de Elecciones de Texas, la Elección General para alcalde de forma irrestricta, Concejal del Distrito No. 2, Concejal del Distrito No. 4, y Concejal de forma irrestricta de la Posición No. 6 antes convocada y ordenada por el Consejo Municipal de la Ciudad de Wharton por medio de la Ordenanza No. 2012-07 para el 12 de mayo de 2012, no se celebrará y queda cancelada por medio del presente.

## **SECCION 3.**

Por medio del presente se ordena que la Secretaria Municipal anuncie una copia de esta ordenanza en el lugar de votación designado el día de la elección, que es el 12 de mayo de 2012.

## **SECCION 4.**

Esta ordenanza será cumulativa de todas las disposiciones de las ordenanzas de la Ciudad de Wharton, Texas, excepto donde las disposiciones de esta ordenanza estén en conflicto directo con las disposiciones de tales ordenanzas, en cuyo caso las disposiciones en conflicto de esas ordenanzas quedan revocadas por medio del presente.

## **SECCION 5.**

Por medio del presente se declara que la intención del Consejo Municipal es que las frases, cláusulas, oraciones, párrafos, y secciones de esta ordenanza sean divisibles, y que si cualquier frase, cláusula, oración, párrafo o sección de esta ordenanza es declarada inconstitucional mediante un fallo o decreto válido de cualquier corte de jurisdicción competente, dicha inconstitucionalidad no afectará a ninguna de las frases, cláusulas, oraciones, párrafos, y secciones de esta ordenanza, puesto que la misma habría sido promulgada por el consejo municipal sin incorporar en esta ordenanza dicha frase, cláusula, oración, párrafo o sección.

## **SECCION 6.**

Esta ordenanza será vigente y aplicable desde su aprobación y a partir de entonces.

**PASADO Y APROBADO** por El Consejo Municipal de la Ciudad de Wharton, Texas  
este día 12 de marzo de 2012.

CIUDAD DE WHARTON, TEXAS

Por: \_\_\_\_\_

**Domingo Montalvo, Jr**  
**Alcalde**

**ATESTIGUACIÓN:**

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**Paula Favors**  
**Secretaria Municipal**

**APROBADO:**

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**Paul Webb**  
**Abogado Municipal**

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

The seventh item on the agenda was to review and consider a request by Ms. Tonya Hill for a variance from the City of Wharton Code of Ordinances, Chapter 38 Manufactured Housing, Mobile Homes, and Travel Trailers, Article II, Section 38-119 Recreation Vehicles Outside Parks for the temporary placement of a recreational vehicle (RV) or travel trailer at 501 Walnut; Barbee, Block 11, Lot 6 during the residential construction repairs. City Manager Andres Garza, Jr. stated that the Planning Commission met on March 5, 2012 and reviewed the request by Ms. Tonya Hill for a variance from the City of Wharton Code of Ordinances, Chapter 38 Manufactured Housing, Mobile Homes, and Travel Trailers, Article II, Section 38-119 Recreation Vehicles Outside Parks for the temporary placement of a recreational vehicle (RV) or travel trailer at 501 Walnut; Barbee, Block 11, Lot 6 during the residential construction repairs. City Manager Garza presented a copy of the Planning Commission Communications from the meeting. Assistant to City Manager Jackie Jansky stated that Ms. Hill's home had suffered damage from a fire and Ms. Hill was requesting the variance to allow the placement of the travel trailer in the back yard to be used as living quarters for the construction workers conducting repairs on her home. Mrs. Jansky further stated that the Planning Commission Members voted to recommend the City Council consider approving her request for a variance from the City of Wharton Code of Ordinances, Chapter 38 Manufactured Housing, Mobile Homes, and Travel Trailers, Article II, Section 38-119 Recreation Vehicles Outside Parks for the temporary placement of a recreational vehicle (RV) or travel trailer to be used as living quarters during the construction repairs being conducted at 510 Walnut; Barbee Block 11, contingent upon the following:

1. Ms. Tonya Hill receiving all City of Wharton or other permits required to conduct said repairs; and
2. The variance be approved for a period of three (3) months beginning the date said permits are issued.

City Manager Garza presented a copy of the memorandum dated March 5, 2012 from Planning Commission Chairman A. J. Rath providing the Planning Commission recommendation. After some discussion, Councilmember Al Bryant moved to approve the request by Ms. Tonya Hill for a variance from the City of Wharton Code of Ordinances, Chapter 38 Manufactured Housing, Mobile Homes, and Travel Trailers, Article II, Section 38-119 Recreation Vehicles Outside Parks for the temporary placement of a recreational vehicle (RV) or travel trailer at 501 Walnut; Barbee, Block 11, Lot 6 during the residential construction repairs. Councilmember Russell Machann seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider a request by Ms. Juana D. Castro, Property Owner, for City of Wharton Water Utility Service at 314 Maude Street - Outside City Limits. City Manager Andres Garza, Jr. presented a copy of the City of Wharton Application for Utility Service (water) submitted by Ms. Juana D. Castro, property owner of 314 Maude; Peach Acres, Block 7, Lot 14 and a copy of a drawing that indicated the location of the existing City of Wharton water service lines and the location of Ms. Castro's residence. City Manager Garza stated that City Council approval of her request for water utility service outside the City limits was required. After some discussion, Councilmember Don Mueller moved to approve the request by Ms. Juana D. Castro, Property Owner, for City of Wharton Water Utility Service at 314 Maude Street - Outside City Limits. Councilmember Al Bryant seconded the motion. All voted in favor.

The ninth item on the agenda was a resolution of the Wharton City Council rescinding Resolution No. 2010-55 and authorizing the City Manager to submit a formal letter to the Federal Aviation Administration (FAA) providing the City of Wharton's intent to withdraw its request to decommission the Non Directional Beacon located at the Wharton Regional Airport. City Manager Andres Garza, Jr. presented a copy of the City of Wharton Resolution No. 2010-55 approved by the Wharton City Council during the regular August 9, 2010 Wharton City Council meeting. City Manager Garza stated that at that time, the Airport Board recommended the City Council approve the decommissioning of the non-directional beacon (NDB) since the GPS Approach was made available at the airport and at the request of SkyTrails, LLC, the company that built the powered parachutes that occupied hangars 30 and 31. City Manager Garza further stated that since that time, SkyTrails had left the airport and there were pilots who preferred the use of the NDB over the GPS approach and have requested that the City's request to the FAA to decommission the NDB be withdrawn. City Manager Garza said the Wharton Regional Airport Board met on Tuesday, March 6, 2012 and voted to recommend the City Council consider withdrawing its request to the FAA to decommission the NDB. City Manager Garza also said the NDB was technically still in service even though a Notice to Airman (NOTAM) had been issued that the NDB was unavailable (turned off). City Manager Garza stated that the last recorded FAA inspection of the NDB was September 10, 2010. City Manager Garza said that before the NDB could be placed back in service, the facility must have a ground inspection and if necessary, a flight inspection and the City must keep the NOTAM in place that shows the NDB was out of service until the FAA completes the inspections. City Manager Garza presented a copy of the email dated March 7, 2012 to him from Ms. Natasha Jones of the FAA providing her comments regarding the NDB. City Manager Garza stated that Ms. Jones indicated that she had placed the NDB decommissioning on hold until the City Council made a final decision. Councilmember Karen Schulz moved to approve authorizing the City Manager to

submit a formal letter to the Federal Aviation Administration providing the City of Wharton's intent to withdraw its request to decommission the Non Directional Beacon located at the Wharton Regional Airport and City of Wharton Resolution No. 2012-10, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2012-10**

**A RESOLUTION OF THE WHARTON CITY COUNCIL RESCINDING RESOLUTION NO. 2010-55 AND AUTHORIZING THE CITY MANAGER OF THE CITY OF WHARTON TO SUBMIT A FORMAL LETTER TO THE FEDERAL AVIATION ADMINISTRATION PROVIDING THE CITY OF WHARTON'S INTENT TO WITHDRAW ITS REQUEST TO DECOMMISSION THE NON DIRECTIONAL BEACON LOCATED AT THE WHARTON REGIONAL AIRPORT.**

**WHEREAS,** on August 9, 2010, the Wharton City Council approved Resolution No. 2010-55 authorizing the City Manager of the City of Wharton to submit a formal letter to the Federal Aviation Administration (FAA) requesting the decommissioning of the non-directional beacon (NDB) located at Wharton Regional Airport; and

**WHEREAS,** on March 6, 2011, the Wharton Regional Airport Board recommended the City Council consider withdrawing its request to the FAA to decommission the NDB; and

**WHEREAS,** the Wharton City Council hereby wishes to rescind the City of Wharton Resolution No. 2010-55; and

**WHEREAS,** the Wharton City Council hereby wishes to authorize the City Manager of the City of Wharton to submit a formal letter to the FAA providing its intent to withdraw its request to the FAA to decommission the NDB; and

**WHEREAS,** the Wharton City Council wishes to keep the Notice to Airman (NOTAM) in place that shows the NDB is out of service until the FAA completes any and all required inspections of the NDB prior it being placed back into service; and

**WHEREAS,** the Wharton City Council wishes this resolution to become effective immediately upon its passage.

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

**Section I.** The Wharton City Council hereby rescinds Resolution No. 2010-55 authorizing the City Manager of the City of Wharton to submit a formal letter to the Federal Aviation Administration (FAA) requesting the decommissioning of the non-directional beacon (NDB) located at Wharton Regional Airport

**Section II.** The Wharton City Council hereby authorizes the City Manager of the City of Wharton to submit a formal letter to the FAA providing its intent to withdraw its request to the FAA to decommission the NDB.

**Section III.** The Wharton City Council wishes to keep the Notice to Airman (NOTAM) in place that shows the NDB is out of service until the FAA completes any and all required inspections of the NDB prior it being placed back into service.

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

**Passed, Approved, and Adopted** this 12<sup>th</sup> day of March 2012.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

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**PAULA FAVORS**  
City Secretary

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

The tenth item on the agenda was to review and consider 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.

City Manager Andres Garza, Jr. presented a copy of the report to the City Council. City Manager Andres Garza, Jr. stated that an announcement was published in the Wharton Journal Spectator regarding the vacancies on the afore mentioned boards. After some discussion, no action was taken.

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

- A. Planning Commission meeting
- B. Wharton Regional Airport Board meeting held March 6, 2012.

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

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

The meeting adjourned at 7:13 p.m.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

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