

**MINUTES  
OF  
CITY OF WHARTON  
REGULAR CITY COUNCIL MEETING  
August 27, 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 Bryant, Jeff Gubbels, Terry David Lynch, Don Mueller, and Karen Schulz.

Councilmembers absent were: Councilmember Russell Machann.

Staff members present were: City Manager Andres Garza, Jr., City Attorney Paul Webb, Finance Director Joan Andel, City Secretary Paula Favors, Building Official Ronnie Bollom, Public Works Director Carter Miska, Emergency Management Coordinator Jim Cooper, and Assistant to City Manager Jackie Jansky.

Visitors present were: Ben Sharp, Wharton Journal Spectator, Tim Muzyka, Brenda Muzyka, Joe Barker, Joyce Barker, Bradley C. Loehr, P.E. of BEFCO Engineering, Johnnie Gonzales, Jerry Maldonado, Joni Maldonado, Joe Rodriquez, I.O. Coleman, Jr., Greg Baines, and Phyllis B. Sliva, Executive Director of the Boys and Girls Club of Wharton.

The second item on the agenda was Roll Call and Excused Absences. After some discussion, Councilmember Don Mueller moved to excuse Councilmember Russell Machann. Councilmember Jeff Gubbels 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 was Wharton Moment. Councilmember Don Mueller commended the Wharton Police Department and the Wharton Volunteer Fire Department for their efforts during a gas leak that took place on Saturday, August 25, 2012.

The fifth item on the agenda was to proclaim, Tuesday, August 28, 2012 as the Wharton Babe Ruth 14 Year Old All Star Team Day in the City of Wharton, Texas. Mayor Domingo Montalvo, Jr. presented the proclamations to the Wharton Babe Ruth 14 year Old All Star Team for winning the East Texas State Championship held in Lake Jackson with a perfect 4-0 record defeating Bay City, West Brazos, Brazoswood, and Nederland. Mayor Montalvo stated the Team also finished third in the Babe Ruth South West Regional Tournament with a 3-2 record held in Mountain Home, Arkansas. The proclamation read as follows:

CITY OF WHARTON  
OFFICE OF THE MAYOR

***PROCLAMATION***

**WHEREAS,** we realize that participation in organized athletics helps to build character and teaches a wholesome sense of fair play and good sportsmanship among our youth; and

**WHEREAS,** to really excel in baseball, a young person must demonstrate, in addition to a great deal of natural ability, an outstanding spirit of dedication, enthusiasm, hard work and team work; and

**WHEREAS,** a striking example of this has been brought to my attention in the achievement of the **2012 Wharton Babe Ruth 14 Year Old All-Star Team** in their accomplishments and who claimed the **East Texas State Championship** held in July 2012 in Lake Jackson, Texas, with a perfect 4-0 record, defeating Bay City, West Brazos, Brazoswood. The team went on to compete in the Babe Ruth South West Regional Tournament held in Mountain Home, Arkansas, ending the tournament with a 3-2 record, finishing in third place and was the last team from Texas to be eliminated from the tournament; and

**WHEREAS,** the **Wharton Babe Ruth 14 Year Old All-Star Team** for the 2012 season includes:

Brandon Barrera, Center & Right Fields	Tayon Priesmeyer, Catcher-2nd Base
Kyle Creamer, Right Field	Jared Rejsek, 1st & 2nd Base
Chis Demny, 2nd Base-Center Field	Kyle Smith, Pitcher-1st Base
Edward Garza, Catcher	Riley Stock, Pitcher-3rd Base
Ryan "Shotgun" Herrera, Short Stop	Jaylon Tolbert, Pitcher-Center Field
Mason Hobizal, Pitcher-3rd Base	PJ Villarreal, Left Field
Coaches Include:	Rafail Hernandez, Roy Mendiola
Josh Janicek, 1st Base	Jake Zurek, Pitcher & 1st Base
Ryan Mendiola, Bat Boy	Matt Hobizal, Grady Smith

**WHEREAS,** The Wharton Babe Ruth 14 Year Old All Star Team consisted of members from Boling, Brazos, East Bernard, El Campo and Wharton.

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**NOW, THEREFORE** I, Domingo Montalvo, Jr., by virtue of the authority vested in me as Mayor of the City of Wharton, Texas, do hereby proclaim the

*Tuesday, August 28, 2012*

*as*

*“Wharton Babe Ruth 14 Year Old All-Stars Day”*

in Wharton, Texas, and encourage all our citizens to join me in honoring these persons for a job well done in representing our community.

**IN WITNESS THEREOF**, I have hereunto set my hand and caused the seal of the City of Wharton to be affixed this 27<sup>th</sup> day of August in the year of our Lord two thousand twelve, A.D.

**CITY OF WHARTON, TEXAS**

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Domingo Montalvo, Jr. Mayor

No action was taken.

The sixth item on the agenda was to review and consider City Manager’s submission of the City of Wharton, Texas, proposed budget for the fiscal year October 1, 2012 to September 30, 2013. City Manager Andres Garza, Jr. presented a copy of the proposed budget for the City of Wharton fiscal year October 1, 2012 to September 30, 2013. After some discussion, Councilmember Jeff Gubbels moved to accept the City Manager’s submission of the City of Wharton, Texas, proposed budget for the fiscal year October 1, 2012 to September 30, 2013. Councilmember Terry David Lynch seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider setting a public hearing date for the City of Wharton, Texas, proposed budget for the fiscal year October 1, 2012 to September 30, 2013. City Manager Andres Garza, Jr. stated that Under Article VI, Section 53 of the City of Wharton Charter the City Council shall set a time and place for a public hearing. City Manager Garza stated the City Council would need to establish the date for the required public hearing. He said the City Staff was recommending the public hearing to be set for September 10, 2012 during the regular City Council meeting. He further stated that once the date was approved, the City Staff would publish the notice in the Wharton Journal Spectator on Wednesday, August 29, 2012. City Manager Garza stated that the date would comply with Section 53 of the Charter. After some discussion, Councilmember Jeff Gubbels moved to set the public hearing for the City of Wharton, Texas, proposed budget for the fiscal year October 1, 2012 to September 30, 2013 on September 10, 2012 at 7 p.m. Councilmember Terry David Lynch seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider reading of the minutes from the regular meetings held July 9, 2012 and July 23, 2012 and the special meeting held July 16, 2012. After some discussion, Councilmember Don Mueller moved to approve the minutes from the regular meetings held July 9, 2012 and July 23, 2012 and the special meeting held July 16, 2012. Councilmember Al Bryant seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider the City of Wharton Financial Report for the month of July 2012. Finance Director Joan Anandel presented the financial report for the month of July 2012. Mrs. Anandel stated that the total ad valorem taxes collected were \$10,288.47 and the sales tax for the month of July 2012 was \$130,104.72. She further stated that the TexPool balance for July was \$164,119.38 with an average monthly yield of 0.13%. She said the Prosperity Bank balance for July 2012 was \$6,319,583.60 with an average monthly yield of 0.15%. Mrs. Anandel further stated that other investments included \$2,683.88 at TexasGulf Federal Credit Union in the debt fund. After some discussion, Councilmember Al Bryant moved to approve the City of Wharton Financial Report for the month of July 2012. Councilmember Don Mueller seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider a request by Timothy & Brenda Muzyka, Property Owners, for City Council to consider abandoning the alley located behind 708 Walnut/508 Avenue A; Barbee, Block 6, Lot 1. City Manager Andres Garza, Jr. stated that during the regular July 23, 2012 Wharton City Council meeting, the City Council considered the request by Timothy and Brenda Muzyka, Property Owners, for City Council to consider abandoning the alley located behind 708 Walnut/508 Avenue A; Barbee, Block 6, Lot 1. City Manager Garza said the City Council tabled action on the request pending additional information being obtained concerning the adjacent property owner's access to his property. City Manager Garza presented a copy of the memorandum dated July 25, 2012 from Building Official Ronnie Bollom to him providing him with the information regarding the property owned by Mr. Joe Rodriguez, 704 Walnut Street that contained photographs of the front property line and the dimensions of the house to each interior property line. City Manager Garza also presented a copy of the email dated July 29, 2012 to the City of Wharton from Mr. Joe Ramirez indicating that he was requesting the City Council to consider denying the request to abandon the alley.

Mrs. Brenda Muzyka addressed the City Council and requested the abandoning the alley behind their property at 708 Walnut/508 Avenue A; Barbee, Block 6, Lot 1 since the majority of the other properties along the alley had already encroached up on the City's easement. Mrs. Muzyka stated that she and her husband would like to be able to use the alleyway behind their property for green space. Mr. Jerry Maldonado spoke on behalf of adjacent property owner, Mr. Joe Rodriguez, and stated that Mr. Rodriguez would lose access to his carport located at the back of his home if the Muzyka's fenced in the alleyway. Mr. W. L. Fraizer stated to the City Council that he owned property behind the Muzyka's and Rodriguez's and if the alleyway was not abandoned by the City then he would like access to the back of his property in which part of it is enclosed by other residents. After some discussion, Councilmember Karen Schulz moved to table the item until further information could be obtained. Councilmember Terry David Lynch seconded the motion. All voted in favor.

The eleventh item on the agenda was to review and consider a request by Mr. Johnnie Gonzales, Commander of the American Legion Post 87, for the City Council to consider waiving any and all permit fees associated with the roof replacement of the American Legion Hall located at 400 Croom. City Manager Andres Garza, Jr. presented a copy of the letter the City of Wharton received August 21, 2012 from Mr. Johnnie Gonzales, Commander for the American Legion Rowold-Mays Post 87, requesting City Council approval to waive all fees associated with the proposed re-roofing of the American Legion Hall located at 400 Croom. After some discussion, Councilmember Terry David Lynch moved to approve the request by Mr. Johnnie Gonzales, Commander of the American Legion Post 87, to waive any and all permit fees associated with the roof replacement of the American Legion Hall located at 400 Croom. Councilmember Al Bryant seconded the motion. All voted in favor.

The twelfth item on the agenda was to review and consider a request by Mr. Jeremy L. Curtis, Arkitektion, LLC on behalf of St. James Missionary Church of Jesus Christ, for an Over 50% Variance for a 14'6 1/2" rear property line set back variance from the required 20' rear property line setback requirement to construct a commercial building at Wharton A. Jackson Block, 60A, Lot 10; 818 Mattie Street, Wharton, Texas. Assistant to City Manager Jackie Jansky presented a copy of the City of Wharton City Council Application for Over 50% Variance submitted by Mr. Jeremy L. Curtis, Arkitektion, LLC on behalf of St. James Missionary Church of Jesus Christ, for an Over 50% Variance for a 14'6 1/2" rear property line set back variance from the required 20' rear property line setback requirement to construct a commercial building at Wharton A. Jackson Block, 60A, Lot 1. Mrs. Jansky also presented copies of drawings of the proposed commercial building, "The Retreat." Mr. Greg Baines, Executive Director of Just Do It Now, Inc. and a member of St. James Baptist Church, stated the building would not be used for profit and would be a haven for less fortunate women. After some discussion, Councilmember Al Bryant moved to approve the request by Mr. Jeremy L. Curtis, Arkitektion, LLC on behalf of St. James Missionary Church of Jesus Christ, for an Over 50% Variance for a 14'6 1/2" rear property line set back variance from the required 20' rear property line setback requirement to construct a commercial building at Wharton A. Jackson Block, 60A, Lot 10; 818 Mattie Street, Wharton, Texas. Councilmember Terry David Lynch seconded the motion. All voted in favor.

The thirteenth item on the agenda was to review and consider a request by Ms. Tonya Hill, Property Owner of Barbee, Block 11, Lot 6; 501 Walnut Street, for approval for the temporary placement of a recreational vehicle (RV) or travel trailer to be occupied during the final repairs of the home damaged due to fire. Assistant to City Manager Jackie Jansky stated the Planning Commission met on August 20, 2012 and reviewed the request by Ms. Tonya Hill, Property Owner of Barbee, Block 11, Lot 6; 501 Walnut Street, for approval for the temporary placement of a recreational vehicle (RV) or travel trailer to be occupied during the final repairs of the home that was damaged due to fire. Mrs. Jansky presented a copy of the Planning Commission Application for Variance provided by Ms. Tonya Hill, Property Owner of Barbee, Block 11, Lot 6; 501 Walnut Street, for approval for the temporary placement of a recreational vehicle (RV) or travel trailer to be occupied during the final repairs of the home damaged due to fire. Mrs. Jansky stated that Ms. Hill was planning to have the RV placed for a duration of two to three months and the ordinance allows for only a seven day placement. Mrs. Jansky said Ms. Hill had previously been granted a similar variance on March 12, 2012 by the Wharton City Council. Mrs. Jansky presented a copy of the approval letter dated March 13, 2012 from City Manager

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Andres Garza, Jr. to Ms. Hill and related information. Mrs. Jansky further stated the Planning Commission voted to recommend the City Council consider approving her request. After some discussion, Councilmember Don Mueller moved to approve the request by Ms. Tonya Hill, Property Owner of Barbee, Block 11, Lot 6; 501 Walnut Street, for approval for the temporary placement of a recreational vehicle (RV) or travel trailer to be occupied during the final repairs of the home damaged due to fire for sixty (60) days. Councilmember Karen Schulz seconded the motion. All voted in favor.

The fourteenth item on the agenda was to review and consider a request by Mr. Edwin W. Kostka, Jr. for a preliminary/final plat of the Subdivision of Lot 24M being the subdivision of a 3.021 ac. Tract of Land situated in the Randal Jones ½ League, Abstract No. 36, Wharton County, Texas. Assistant to City Manager Jackie Jansky stated the Planning Commission met on August 20, 2012 and reviewed the request by Mr. Edwin W. Kostka, Jr. for a preliminary/final plat of the Subdivision of Lot 24M being the subdivision of a 3.021 ac. Tract of Land situated in the Randal Jones ½ League, Abstract No. 36, Wharton County, Texas. Mrs. Jansky presented copies of portions of the preliminary/final plat of the Subdivision of Lot 24 M being the subdivision of a 3.021 ac. Tract of Land situated in the Randal Jones ½ League, Abstract No. 36, Wharton County, Texas, which was being sought by Mr. Edwin W. Kostka, Jr. She said that the request was presented to the Planning Commission by Dr. and Mrs. Cody Pohler, who was purchasing the property from Mr. Kostka. She said the replat request should come from the current property owner. After some discussion, Councilmember Don Mueller moved to approve the request by Mr. Edwin W. Kostka, Jr. for a preliminary/final plat of the Subdivision of Lot 24M being the subdivision of a 3.021 ac. Tract of Land situated in the Randal Jones ½ League, Abstract No. 36, Wharton County, Texas. Councilmember Terry David Lynch seconded the motion. All voted in favor.

The fifteenth item on the agenda was to review and consider a resolution of the Wharton City Council approving an amendment to the Land Lease Agreement between the City of Wharton and Wharton Tractor and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. presented a copy of the letter dated July 26, 2012 from Mr. Richard Wozniak, President of Wharton Tractor submitting his request to extend the land lease agreement between the City of Wharton and Wharton Tractor for the property described as a 1.308 acre tract of land in the William Kincheloe League, Abstract 38. City Manager Garza stated that Mr. Wozniak also submitted the required yearly land lease fee in the amount of \$500.00 in accordance with the agreement. He said the original agreement was for a five year period with the option to renew for one additional year, which would extend the lease to November 28, 2013. City Manager Garza presented a copy of his letter dated July 23, 2012 to Mr. Wozniak informing him of the contract requirements and a copy of the original agreement. City Manager Garza stated that the City Council Finance Committee met on August 9, 2012 and voted to recommend the City Council consider approving the one year extension to the contract. After some discussion, Councilmember Karen Schulz moved to approve City of Wharton Resolution No. 2012-30, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2012-30**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN**

**AMENDMENT TO THE LAND LEASE AGREEMENT BEWEEN THE CITY OF WHARTON AND WHARTON TRACTOR AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.**

**WHEREAS,** the City of Wharton conducted the bidding process and on November 16, 2007, the Wharton City Council approved to enter into a land lease agreement between the City of Wharton and Wharton Tractor for the leasing of City of Wharton property described as a 1.308 acre tract located in the William Kincheloe League, Abstract 38 in the City of Wharton, Wharton County, Texas; and

**WHEREAS,** Wharton Tractor wishes to extend said land lease agreement for one additional year as per the requirements set forth in said agreement; and

**WHEREAS,** the City of Wharton wishes to approve the land lease agreement with Wharton Tractor to be extended as per the requirements set forth in said agreement; and

**WHEREAS,** the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute a contract extension for the leasing of the property described as a 1.308 acre tract located in the William Kincheloe League, Abstract 38 in the City of Wharton, Wharton County, Texas , and

**WHEREAS,** this resolution is passed in accordance with said bids.

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

**Section I.** That the City Council hereby approves to extend the land lease agreement for one additional year in accordance with the land lease agreement between the City of Wharton and Wharton Tractor Company for the City of Wharton property described as a 1.308 acre tract located in the William Kincheloe, Abstract 38.

**Section II.** That the City Council of the City of Wharton hereby authorizes the Mayor of the City of Wharton to execute the contract extension of the land lease agreement with Wharton Tractor Company for the lease of City of Wharton property described as a 1.308 acre tract located in the William Kincheloe League, Abstract 38.

**Section III.** That the City of Wharton and Wharton Tractor Company are hereby bound by the conditions set forth in the agreement.

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

**Passed, Approved, and Adopted** this 27<sup>th</sup> of August 2012.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

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

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

The sixteenth item on the agenda was to review and consider a resolution of the Wharton City Council approving a contract amendment to the Fixed Based Operators Hangar Lease Agreement between the City of Wharton and The Dynasty Group (Dynasty Aviation) and authorizing the Mayor of the City of Wharton to execute the contract amendment. City Manager Andres Garza, Jr. presented a copy of the letter dated July 24, 2012 from Mr. Gerry Shore, owner of The Dynasty Group (Dynasty Aviation) requesting a reduction in the monthly lease amount from \$2,500 per month to \$1,500 per month throughout the remainder of this lease year. City Manager Garza stated the Wharton Regional Airport Board met on August 7, 2012 and voted to recommend the City Council consider approving the contract be reduced to \$1,500 for six months or to the end of his contract, and then renegotiate the lease terms with Mr. Shore. After some discussion, Councilmember Jeff Gubbels moved to approve, with the stipulation that the Wharton Regional Airport Board consider bringing the other hangar rental amounts up to standard, City of Wharton Resolution No. 2012-31, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2012-31**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A CONTRACT AMENDMENT TO THE FIXED BASE OPERATOR HANGAR LEASE AGREEMENT BETWEEN THE CITY OF WHARTON AND THE DYNASTY GROUP (DYNASTY AVIATION) AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE CONTRACT AGREEMENT.**

**WHEREAS,** On January 11, 2010, the Wharton City Council approved the City of Wharton to enter into a Fixed Base Operator Hangar Lease Agreement with The Dynasty Group (Dynasty Aviation); and

**WHEREAS,** the Wharton City Council wishes to amend said lease agreement to amend the rates as set forth in the contract amendment; and

**WHEREAS,** the City of Wharton and The Dynasty Group (Dynasty Aviation) wishes to be 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 contract agreement.

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

**Section I.** That the Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute a contract amendment to the Fixed Base Operator Hangar Lease Agreement for the large commercial hangar located at the Wharton Regional Airport between the City of Wharton and The Dynasty Group (Dynasty Aviation).

**Section II.** That the City of Wharton and The Dynasty Group (Dynasty Aviation) are hereby bound by the conditions as set forth in the contract amendment.

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

**Passed, Approved, and Adopted** this 27<sup>th</sup> day of August 2012.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

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

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

The seventeenth item on the agenda was to review and consider the City of Wharton Sidewalk Accessibility and Historic Streetscape Project, Texas Department of Transportation Contract CSJ # 0913-09-049:

A. Bid Tabulation.

B. **Resolution:** A resolution of the Wharton City Council rejecting the bids received for the City of Wharton Sidewalk Accessibility and Historic Streetscape Project, Texas Department of Transportation Contract CSJ # 0913-09-049.

City Manager Andres Garza, Jr. presented a copy of the letter dated August 27, 2012 from Mr. Bradley C. Loehrer, P.E., of BEFCO Engineering, providing a copy of the bid tabulation from the bid opening held August 14, 2012 for the project listed above. City Manager Andres Garza, Jr. stated that the bids that were received came in above budget; therefore, the recommendation for consideration by City Council was to reject the bids received and to rebid the project. Mr. Loehrer stated the bids were close to \$100,000 over the budget for the total project. After some

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discussion, Councilmember Jeff Gubbels moved to approve City of Wharton Resolution No. 2012-32, which reads as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2012-32**

**A RESOLUTION OF THE WHARTON CITY COUNCIL REJECTING THE BIDS RECEIVED FOR THE CITY OF WHARTON SIDEWALK ACCESSIBILITY AND HISTORIC STREETScape PROJECT, TEXAS DEPARTMENT OF TRANSPORTATION CONTRACT CSJ # 0913-09-049.**

**WHEREAS,** On August 14, 2012, the City of Wharton received bids for the City of Wharton Sidewalk Accessibility and Historic Streetscape Project, Texas Department of Transportation Contract CSJ # 0913-09-049; and

**WHEREAS,** the bids received were above funding available for said project; and

**WHEREAS,** the Wharton City Council wishes to reject all bids received.

**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 rejects all bids received on August 14, 2012 for the City of Wharton Sidewalk Accessibility and Historic Streetscape Project, Texas Department of Transportation Contract CSJ # 0913-09-049.

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

**Passed, Approved, and Adopted** this 27<sup>th</sup> day of August 2012.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

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

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

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The eighteenth item on the agenda was to review and consider the City of Wharton Grant Application to the Criminal Justice Division for Houston-Galveston Area Council for funding for the SMART Moves Program:

- A. **Resolution:** A resolution of the Wharton City Council rescinding Resolution No. 2012-08.
- B. **Resolution:** A resolution of the Wharton City Council ratifying the submission of an application to the Criminal Justice Division of the Governor's Office for funding.

City Manager Andres Garza, Jr. presented a copy of the email dated August 22, 2012 from Mr. Lance White from the CJD, requesting that the resolution be amended to remove the language regarding Boys and Girls Club. City Manager Garza stated that the City of Wharton was the entity applying for the grant and should reflect only the City. City Manager Garza said the City Staff was requesting the City Council consider approving the afore-mentioned resolutions. After some discussion, Councilmember Don Mueller moved to approve City of Wharton Resolution No. 2012-33, which reads as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2012-33**

**A RESOLUTION OF THE WHARTON CITY COUNCIL RESCINDING THE CITY OF WHARTON RESOLUTION NO. 2012-08.**

**WHEREAS,** The Wharton City Council wishes to rescind the City of Wharton Resolution No. 2012-08 that approved the submission of an application submitted by the Boys & Girls Club of Wharton to the Houston-Galveston Area Council; 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 1.** The Wharton City Council hereby rescinds the City of Wharton Resolution No. 2012-08 that approved the submission of an application submitted by the Boys & Girls Club of Wharton to the Houston-Galveston Area Council for funding for the Wharton Boys & Girls Club SMART Moves Program in the amount of \$51,030.00.

**Section 2.** That this resolution shall become effective immediately upon its passage.

**Passed, Approved and Adopted** this 27<sup>th</sup> day of August 2012.

**CITY OF WHARTON, TEXAS**

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

**MAYOR**

**ATTEST:**

**BY:** \_\_\_\_\_  
**PAULA FAVORS**  
**CITY SECRETARY**

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

City Manager Garza stated that the City of Wharton was the entity applying for the grant and should reflect only the City. City Manager Garza said the City staff was recommending ratifying the submission of the application to the Criminal Justice Division (CJD) of the Governor's office for funding. After some discussion, Councilmember Terry David Lynch moved to approve City of Wharton Resolution 2012-34, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2012-34**

**A RESOLUTION OF THE WHARTON CITY COUNCIL RATIFYING THE SUBMISSION OF AN APPLICATION TO THE CRIMINAL JUSTICE DIVISION (CJD) OF THE GOVERNOR'S OFFICE FOR FUNDING:**

**WHEREAS**, The Wharton City Council wishes to ratify the submission of an application to CJD for funding of a diversion program using an external contractor; and

**WHEREAS**, the application would be for funding a diversion program administered by an external contractor for the City of Wharton in the amount of \$51,030.00; and

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

**WHEREAS**, the Wharton City Council designates Domingo Montalvo, Jr., Mayor, as the grantee's authorized official. The authorized official is given the power to apply for, accept, reject, alter or terminate the grant on behalf of the applicant agency.

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

**Section 1.** The Wharton City Council hereby ratifies the submission of an application to CJD for funding a diversion program in the amount of \$51,030.00.

**Section 2.** That this resolution shall become effective immediately upon its passage.

**Passed, Approved and Adopted** this 27<sup>th</sup> day of August 2012.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

**BY:** \_\_\_\_\_  
**PAULA FAVORS**  
**CITY SECRETARY**

Grant number 2611601

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

The nineteenth item on the agenda was to review and consider the City of Wharton West Nile Virus Aerial Spraying:

- A. **Resolution:** A resolution of the Wharton City Council authorizing the Mayor of the City of Wharton, as the Emergency Management Director for the City of Wharton, to authorize aerial spraying for mosquitoes to protect the health of the citizens of Wharton.
- B. **Resolution:** A resolution of the Wharton City Council authorizing the Mayor of the City of Wharton to execute an agreement with Farm and Ranch Aerial Services, Inc. for Mosquito Control Services.

City Manager Andres Garza, Jr. stated that the West Nile Virus (WNV) had become prevalent in Texas and had begun to show signs of becoming a health hazard in Wharton County. City Manager Garza said that the City Staff was requesting the City Council to authorize the Mayor of the City of Wharton, as the City's Emergency Management Director, to authorize aerial spraying for mosquitoes as needed, to protect the health of the citizens of Wharton. After some discussion, Councilmember Jeff Gubbels moved to approve City of Wharton Resolution No. 2012-35, which read as follows:

**CITY OF WHARTON**  
**RESOLUTION NO. 2012-35**

**A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE MAYOR OF THE CITY OF WHARTON, AS THE EMERGENCY MANAGEMENT DIRECTOR FOR THE CITY OF WHARTON, TO AUTHORIZE AERIAL SPRAYING FOR MOSQUITOES TO PROTECT THE HEALTH OF THE CITIZENS OF WHARTON.**

**WHEREAS,** in accordance with State law, the Mayor of cities shall act as the cities Emergency Management Director; and

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**WHEREAS,** The West Nile Virus has become prevalent in the State of Texas and in the Wharton County area, which threatens the health of area residents; and

**WHEREAS,** the Wharton City Council wishes to authorize the Mayor of the City of Wharton, the City's Emergency Management Director, to authorize aerial spraying for mosquitoes, as needed, to protect the health of the citizens of Wharton.

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

**Section 1.** The Wharton City Council hereby authorizes the Mayor of the City of Wharton, the City's Emergency Management Director, to authorize aerial spraying for mosquitoes, as needed, to protect the health of the citizens of Wharton.

**Section 2.** That this resolution shall become effective immediately upon its passage.

**Passed, Approved and Adopted** this 27<sup>th</sup> day of August 2012.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

**BY:** \_\_\_\_\_  
**PAULA FAVORS**  
**CITY SECRETARY**

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

City Manager Andres Garza, Jr. stated that steps had been taken by Mayor Domingo Montalvo, Jr. and the City Staff to begin the process of contracting with Farm and Ranch Aerial Services, Inc. to spray for mosquitoes in the City of Wharton area. City Manager Garza presented a draft contract between the City and the aerial spraying company to conduct those services. After some discussion, Councilmember Jeff Gubbels moved to approve City of Wharton Resolution No. 2012-36, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2012-36**

**A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE AN AGREEMENT WITH FARM AND RANCH AERIAL SERVICES, INC. FOR MOSQUITO CONTROL SERVICES.**

**WHEREAS,** the West Nile Virus has become a public health issue in Wharton County;  
and

**WHEREAS,** the Wharton City Council wishes to engage the services of Farm and Ranch Aerial Spraying, Inc. to provide Mosquito Control Services to protect the health of the citizens of the City of Wharton; and

**WHEREAS,** the City of Wharton and Farm and Ranch Aerial Spraying, Inc. wishes to be bound by the conditions set forth in said contract; and

**WHEREAS,** the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute the agreement; 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 1.** The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute a Mosquito Control Services Contract with Farm and Ranch Aerial Services, Inc. to conduct aerial spraying services in the City of Wharton area.

**Section 2.** The City of Wharton and Farm and Ranch Aerial Services are hereby bound by the conditions set forth in the agreement.

**Section 3.** That this resolution shall become effective immediately upon its passage.

**Passed, Approved and Adopted** this 27<sup>th</sup> day of August 2012.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

**BY:** \_\_\_\_\_  
**PAULA FAVORS**  
**CITY SECRETARY**

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

The twentieth item on the agenda was to review and consider a resolution of the Wharton City Council of the City of Wharton, Texas, establishing guidelines and criteria for granting tax abatement in a Reinvestment Zone created in the City of Wharton, Texas. City Manager Andres Garza, Jr. stated that during the City Council Finance Committee meeting held on April 9, 2012,

the Committee Members reviewed the tax abatement policy that was effective during that time. City Manager Garza said the Committee Members did not take action and the application and guidelines and criteria for granting tax abatements in the City of Wharton, had expired on March 8, 2012. City Manager Garza stated that in accordance with State law, the tax abatement policies must be adopted for a two year period and then must be re-adopted. City Manager Garza said the Finance Committee met with Mr. David Schroeder during its meeting held August 9, 2012 and discussed proposed changes to the tax abatement policy. City Manager Garza presented a copy of the Committee Members recommendation to the City Council for the Council's consideration to approve adopting an amended version of the policy pending review of the proposed changes by City Attorney Paul Webb. City Manager Garza stated that the City of Wharton had two requests for tax abatement that had been submitted for consideration and a policy needed to be in place prior to their consideration. After some discussion, Councilmember Jeff Gubbels moved to approve City of Wharton Resolution No. 2012-37, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2012 -37**

**A RESOLUTION OF THE WHARTON CITY COUNCIL OF THE CITY OF WHARTON, TEXAS, ESTABLISHING GUIDELINES AND CRITERIA FOR GRANTING TAX ABATEMENT IN A REINVESTMENT ZONE CREATED IN THE CITY OF WHARTON, TEXAS.**

**WHEREAS,** Texas law requires an eligible taxing jurisdiction to establish Guidelines and Criteria as to eligibility for tax abatement agreements; and

**WHEREAS,** heretofore previously, the City Council of the City of Wharton did provide certain rules, regulations, and procedures for tax abatement within the City of Wharton; and

**WHEREAS,** such adopted guidelines and criteria for granting tax abatement must be re-adopted or adopted, if modified, every two years in order for the City of Wharton to be able to grant tax abatements; and

**WHEREAS,** over two years have transpired since the adoption or re-adoption of such guidelines and criteria; and

**WHEREAS,** the City Council of the City of Wharton now finds and determines that it is in the best interest of the economic development of the City of Wharton that certain tax abatement guidelines and criteria now be adopted.

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

Section I: The Guidelines and Criteria for Granting Tax Abatements as herein contained and titled on Attachment "A" hereby adopted.



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Section II: The effective date of these Guidelines and Criteria for Granting Tax Abatements shall be August 27, 2012.

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

**Passed, Approved and Adopted this 27<sup>th</sup> day of August 2012.**

**CITY OF WHARTON, TEXAS**

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

Attest:

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

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

The twenty-first item on the agenda was to review and consider a resolution of the Wharton City Council approving and ratifying the City Manager's execution of an interlocal agreement with the Texas Municipal League – Intergovernmental Employee Benefits Pool (TML-IEBP) for medical, long-term disability, life, accidental death and dismemberment; and Assurant Employee Benefits for voluntary dental coverage for City employees. City Manager Andres Garza, Jr. presented the renewal information the City of Wharton received from the Texas Municipal League (TML) – Intergovernmental Employee Benefits Pool (IEBP) for the City of Wharton employee health coverage and a copy of the memorandum dated August 6, 2012 from City Secretary Paula Favors to him indicating the cost of the proposed health coverage for City employees for fiscal year 2012-2013 as compared to the fiscal year 2011-2012 rates. City Manager Garza stated that there was a difference of a 16% increase in the proposed rates from the current rates for health coverage, no change in the rates for the Life, AD&D and Long Term Disability, and a 3.5% increase in the Assurant Dental coverage. City Manager Garza said the City Staff recommended the City Council Finance Committee, during its meeting held August 9<sup>th</sup>, consider recommending to the City Council approving a resolution accepting the proposed rates for coverage and enter into an agreement with TML-IEBP for said coverage. After some discussion, Councilmember Karen Schulz moved to approve City of Wharton Resolution No. 2012-38, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2012-38**

**A RESOLUTION OF THE WHARTON CITY COUNCIL RATIFYING AND APPROVING AN INTERLOCAL AGREEMENT WITH THE TEXAS MUNICIPAL LEAGUE - INTERGOVERNMENTAL EMPLOYEE BENEFITS POOL (TML-IEBP) FOR MEDICAL,**

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**LONG-TERM DISABILITY, LIFE, ACCIDENTAL DEATH & DISMEMBERMENT; AND ASSURANT EMPLOYEE BENEFITS FOR DENTAL COVERAGE FOR CITY EMPLOYEES; AUTHORIZING THE CITY MANAGER OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID CONTRACTS.**

**WHEREAS**, the City of Wharton received the renewal rate for medial, long-term disability, life, accidental death & dismemberment, and dental coverage for city employees; and

**WHEREAS**, the City of Wharton medical plan with Texas Municipal League - Intergovernmental Employee Benefits Pool would be renewed with a 16% increase; and

**WHEREAS**, the City of Wharton would provide to each full time employee a \$500 yearly contribution to the employee flex plan; and

**WHEREAS**, the city employees could receive coverage with Assurant Employee Benefits for dental coverage if elected by the employee at the employee's expense.

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

- Section I. That the Wharton City Council hereby ratifies and approves an interlocal contract with the Texas Municipal League - Intergovernmental Employee Benefits Pool for medical, long-term disability, life and accidental death & dismemberment coverage.
- Section II. That Wharton City Council hereby approves Assurant Employee Benefits for voluntary dental coverage for City Employees.
- Section III. That the City Manager 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 August 2012

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

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

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

The twenty-second item on the agenda was to review and consider an ordinance amending the City of Wharton Code of Ordinances, Chapter 86, Utilities and Services, Article I in General;

Providing that a violation of the ordinance or any part of the Code as adopted hereby shall constitute a penalty upon conviction of a fine; Providing a savings clause and revoking all ordinances or parts of ordinances in conflict herewith only to the extent same are in conflict herewith otherwise provided herein. City Manager Andres Garza, Jr. presented a copy of the memorandum dated August 23, 2012 from Finance Director Joan Anandel to him regarding the proposed increase in utility rates and increase in deposit for utility customers to be effective October 1, 2012. Finance Director Joan Anandel stated the 5% increase would be for all water and sewer related services. Mrs. Anandel stated the increase in water deposits would help decrease the amount of bad debt after accounts were closed. After some discussion, Councilmember Jeff Gubbels moved to approve City of Wharton Ordinance No. 2012-10, which read as follows:

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

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

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

Section I. Amendment

The Code of Ordinances of the City of Wharton, Texas, Chapter 86 Utilities and Services is hereby amended to be enforced by the City of Wharton as follows:

**Article I. In General**

- Sec. 86-1. Definitions.
- Sec. 86-2. Purpose and policy.
- Sec. 86-3. General requirements for all users.
- Sec. 86-4. Heavy metals and toxic materials.
- Sec. 86-5. Garbage.
- Sec. 86-6. Stormwater and other unpolluted drainage.
- Sec. 86-7. Temperature.
- Sec. 86-8. Radioactive wastes.
- Sec. 86-9. Impairment of facilities.
- Sec. 86-10. Local limits nondomestic users.
- Sec. 86-11. Local limits for industrial users.
- Sec. 86-12. Hauled or trucked in wastewater.
- Sec. 86-13. Required and approved discharges.
- Sec. 86-14. Connections made by City service applications.

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- Sec. 86-15. Water and sewer tap charges, deposits, other charges.
- Sec. 86-16. Water service charges.
- Sec. 86-17. Sewer service charges.
- Sec. 86-18. Billing, collection, etc.
- Sec. 86-19. Water and Sewer service for outside city limits.
- Sec. 86-20. Cleaning compounds.
- Sec. 86-21. Bulk Water Rates.
- Sec. 86-22 Bypass.
- Secs. 86-23 – 86-40 Reserved.

## ARTICLE I. IN GENERAL

### Sec. 86-1. Definitions

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

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

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

*Authorized Representative of the User* means

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BOD = 150 milligrams per liter of wastewater

TSS = 200 milligrams per liter of wastewater

Total Oil and Grease = 15 milligrams per liter of wastewater

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

*New Source* means

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

- (ii) significant site preparation work including clearing, excavation, or removal of existing building structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
- (b) Entered into a binding contractual obligation for the purchase of facilities or equipment, which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*Significant Industrial User* means:

- (1) A user subject to any Categorical Pretreatment Standards; or
- (2) A user that:
  - (a) Discharges an average of 25,000 gallons per day (gpd) or more of nondomestic wastewater to the POTW; or

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

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

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

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

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

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

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

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

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

- (1) Free or emulsified grease or oil;
- (2) Acids or alkalis;
- (3) Phenols or other substances producing taste or odor in the receiving water;
- (4) Toxic or poisonous substances in suspension, colloidal state or solution;

- (5) Noxious or otherwise obnoxious or odorous gases;
- (6) More than ten mg/l each of suspended solids and BOD; and
- (7) Color exceeding 50 units as measured by the platinum-cobalt method of determination as specified in Standard Methods.

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

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

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

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

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

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

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

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

This article sets-forth uniform requirements to be met by all industrial and nondomestic users utilizing the wastewater collection, transportation and treatment system for the City of Wharton, Texas. The Ordinance is written to enable the City of Wharton Wastewater Treatment System to comply with and enforce all applicable State and Federal laws pertaining to industrial wastewater quality control.

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

- (a) General Prohibitions: No user shall introduce or cause to be introduced into a public sanitary sewer or any other component of the POTW any pollutant or wastewater, which causes pass through or interference. These general prohibitions apply to all industrial and nondomestic users of the POTW whether

or not they are subject to Categorical Pretreatment Standards or any other National, State, or local pretreatment standards or requirements.

- (b) No industrial or nondomestic user may discharge to public sewers any waste, which by itself or by interaction with other wastes may:
  - (1) Injure or interfere with wastewater treatment processes or facilities;
  - (2) Constitute a hazard to humans or animals; or
  - (3) Create a hazard in receiving waters or the wastewater treatment plant effluent.
- (c) All discharges shall conform to this Article.
- (d) No industrial or nondomestic discharge to public sewers may contain the following:
  - (1) Gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquids, solids or gases;
  - (2) Strong acid, iron pickling wastes or concentrated plating solutions whether neutralized or not;
  - (3) Substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit (zero and 65 degrees Celsius);
  - (4) Objectionable or toxic substances, exerting an excessive chlorine requirement, to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the approving authority for such materials;
  - (5) Obnoxious, toxic, or poisonous solids, liquids or gases in quantities sufficient to violate this section; or
  - (6) Wastewater causing, alone or in conjunction with other sources, the treatment plants effluent to fail a toxicity test.
- (e) No waste, wastewater or other substances may be discharged into public sewers which have a pH lower than 6 or higher than 9 or any other corrosive property capable of causing damage or hazard to structures, equipment and personnel at the wastewater facilities.
- (f) All waste, wastewater or other substance containing phenols, hydrogen sulfide or other taste- and odor-producing substances shall conform to concentration limits established by the approving authority. After treatment of the composite wastewater, concentration limits may not exceed the requirements established by

State, Federal or other agencies with jurisdiction over discharges to receiving waters.

- (g) Any wastewater of such character or quantity that unusual attention or expense is required to handle such material at the wastewater treatment plant or in the collection system.
- (h) No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment, to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement.

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

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

*Not to Exceed*

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

*Not to Exceed*

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

- (c) No other heavy metals or toxic materials may be discharged into public sewers without a permit from the approving authority specifying conditions of pretreatment, concentrations, volumes and other applicable provisions.
- (d) Prohibited heavy metals and toxic materials include, but are not limited to the following:
  - (1) Antimony;
  - (2) Beryllium;
  - (3) Bismuth;
  - (4) Cobalt;
  - (5) Molybdenum;
  - (6) Tin;
  - (7) Uranylion;
  - (8) Rhenium;
  - (9) Strontium;
  - (10) Tellurium;
  - (11) Herbicides;
  - (12) Fungicides; and
  - (13) Pesticides.

**Sec. 86-5. Garbage**

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

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



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

#### Sec. 86-7. Temperature

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

#### Sec. 86-8. Radioactive wastes

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

#### Sec. 86-9. Impairment of facilities

- (a) No person may discharge into public sewers any substance capable of causing:
  - (1) Obstruction to the flow in sewers;
  - (2) Interference with the operation of treatment processes of facilities;

- (3) Excessive loading of treatment facilities;
- (4) Discharges prohibited by subsection (a) of this section include but are not limited to materials which exert or cause concentrations of:
  - (1) Inert suspended solids greater than 200 mg/I, including but not limited to:
    - a. Fuller's earth;
    - b. Lime slurries; and
    - c. Lime residues;
  - (2) Dissolved solids greater than 145 mg/I, including but not limited to:
    - a. Sodium chloride; and
    - b. Sodium sulfate.
  - (3) Excessive discoloration, including but not limited to:
    - a. Dye wastes; and
    - b. Vegetable tanning solutions; or
  - (4) BOD, COD or chlorine demand in excess of normal plant capacity.
- (b) No person may discharge into public sewers any substances that may:
  - (1) Deposit grease or oil in the sewer lines in such a manner as to clog the sewers;
  - (2) Pass to the receiving waters without being effectively treated by normal wastewater treatment processes due to the nonamenability of the substance to bacterial action; or wastewater treatment processes due to the nonamenability of the substance to bacterial action; or
  - (3) Deleteriously affect the treatment process due to excessive quantities.
- (c) No person may discharge any substance into public sewers which:
  - (1) Is not amenable to treatment or reduction by the processes and facilities employed; or
  - (2) Is amenable to treatment only to such a degree that the treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

- (d) The approving authority shall regulate the flow and concentration of slugs when they may:
  - (1) Impair the treatment process;
  - (2) Cause damage to collection facilities;
  - (3) Incur treatment costs exceeding those for normal wastewater; or
  - (4) Render the waste unfit for stream disposal.
  
- (e) No person may discharge into public sewers solid or viscous substances which may violate subsection (a) of this section if present in sufficient quantity or size, including but not limited to:
  - (1) Ashes;
  - (2) Cinders;
  - (3) Sand;
  - (4) Mud;
  - (5) Straw;
  - (6) Shavings;
  - (7) Metal;
  - (8) Glass;
  - (9) Rags;
  - (10) Feathers;
  - (11) Tar;
  - (12) Plastics;
  - (13) Wood;
  - (14) Unground garbage;
  - (15) Whole blood;
  - (16) Paunch manure;

- (17) Hair and fleshings;
- (18) Entrails;
- (19) Paper products, either whole or ground by garbage grinders;
- (20) Slop;
- (21) Chemical residues;
- (22) Paint residues; or
- (23) Bulk solids.

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

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

PARAMETER	<b>CONCENTRATION NOT TO EXCEED AT ANY ITME – mg/l</b>
BOD	150
COD	250
TSS	200
Food-Based Oils or Grease	100
Cyanide	1
Chlorides	250
Fluorides	None other than present in the public water supply

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

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

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

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

- (a) Trucked in wastes to any City treatment facilities are subject to the same pretreatment standards and requirements of this Ordinance. Prior approval must be obtained from the City before any trucked in wastes can be accepted for treatment at any treatment facilities. Industrial users transporting wastes over land for disposal at a POTW must obtain a waste haulers permit from the State regulatory authorities. The City may request information considering the nature of trucked in wastes. This information may include, but is not limited to, Material Safety Data Sheets (MSDS), process information, quantity to be treated and sample results.
- (b) Septic tank waste may be introduced into the POTW only at locations designated by the Director, and at such times as are established by the Director. Such waste shall not violate any standard or requirement of this Ordinance. Wastewater discharge permits for individual vehicle to discharge septic waste may be issued by the Director.
- (c) The Director shall issue wastewater discharge permits to any haulers of industrial waste who discharge any industrial waste or wastewater into a public sewer or any other component of the POTW. The Director may issue wastewater discharge permits to any generators of hauled industrial waste so discharged. The Director may also prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other standards and requirements of this Ordinance unless otherwise authorized by the Director.
- (d) Industrial waste haulers may discharge loads only at locations designated by the Director. No load may be discharged without prior consent of the Director. The Director may collect samples of each hauled load to ensure compliance with applicable standards. The Director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- (e) Industrial waste haulers who discharge any waste or wastewater into a public sewer or any other component of the POTW must provide a waste tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are Resources Conservation and Recovery Act (RCRA) hazardous wastes.

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

- (a) Unless exception is granted by the approving authority, the public sewer system shall be used by all persons discharging:
  - (1) Wastewater;
  - (2) Industrial waste;
  - (3) Polluted liquids; or
  - (4) Certain unpolluted waters or liquids.
  
- (b) Unless authorized by the state water development board, no person may deposit or discharge any waste included in subsection (a) of this section on public or private property in or adjacent to any:
  - (1) Natural outlet;
  - (2) Watercourse;
  - (3) Storm sewer; or
  - (4) Other area within the jurisdiction of the City.
  
- (c) The approving authority shall verify prior to discharge that wastes authorized to be discharged will receive suitable treatment within the provisions of laws, regulations, Ordinances, rules and Orders of Federal, State and local governments.

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

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

Council. This certification is included in the service application referred to in subsection (b) of this section.

**Sec. 86-15. Water and Sewer Tap Charges, Deposits, Administrative Penalties and Other Charges**

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

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

	<i>Size of Tap</i>	<i>Cost for Service</i>
a.	¾- inch T-off	\$ 183.75
b.	¾-inch	\$ 367.50
c.	1-inch	\$ 483.00+ cost of meter
d.	1½-inch	\$ 724.50+ cost of meter
e.	2-inch	\$ 966.00+ cost of meter

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

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

- (a) Customers are responsible for the actual cost for main line extensions, boring under a street or pre-existing utility line, or any other additional costs necessary to install a water tap. All main line extensions will require a written agreement between the City and the customer.
- (b) Residential customers inside the City limits that qualify for a homestead exemption prior to applying for a building permit will receive up to 200 feet of line extension at no charge for the cost of materials and installation. Residential homestead customers in the City limits will be charged for any borings associated with the installation of the first 200 feet of line extension and will be charged for any main line extension in excess of 200 feet. Residential customers outside the City limits will be charged for the first 200 feet as well as for any boring associated with the first 200 feet and for any main line extensions in excess of 200 feet.
- (c) Customer will be required to pay the City in advance for any additional costs associated with connecting to the City's main line based on the City's Engineer's estimate for projected engineer and construction costs. Once the project is complete, the customer will either be billed or refunded the difference between the estimate and the actual cost.

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

	<i>Size of Tap</i>	<i>Cost of Service</i>
a.	4-inch	\$ 367.50
b.	6-inch	\$ 603.75

In addition to the standard sewer tap fee, customers must also pay the City for any and all additional costs associated with installing a sewer tap:

- (a) Customers are responsible for the actual cost for main line extensions, boring under a street or pre-existing utility line, or any other additional costs necessary to install a sewer tap. All main line extensions will require a written agreement between the City and the customer.
- (b) Residential customers inside the City limits that qualify for a homestead exemption prior to applying for a building permit will receive up to 200 feet of line extension at no charge for the cost of materials and installation. Residential homestead customers in the City limits will be charged for any borings associated with the installation of the first 200 feet of line extension and will be charged for any main line extension in excess of 200 feet. Residential customers outside the City limits will be charged for the first 200 feet as well as for any boring associated with the first 200 feet and for any main line extensions in excess of 200 feet.
- (c) Customers will be required to pay the City in advance for any additional cost associated with connecting to the City's main line based on the City's Engineer's estimate for projected engineer and construction costs. Once the project is complete, the customer will either be billed or refunded the difference between the estimate and the actual cost.

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

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

(a)	Deposit Amount	
	Residential customers	\$100.00
	Residential - Senior citizens	\$ 50.00 (60 Years or Over)
	Commercial customer's	Based on estimated bill
		\$100.00minimum

The deposit for all commercial customers including businesses, industrial users, multi-residential units and all others will be based on the estimated water, sewer and garbage charges for one month. If the customer has



consumption history, the estimate will be based on a 12 month average. If the customer is a new customer with no consumption history, the estimate will be based on usage of a similar customer and consider the type of garbage service requested. Current deposit amounts will remain for commercial customers until there is a change in ownership or account status.

- (b) Deposits will not be required for public schools, counties, and other governmental entities.
- (c) Customers may transfer their deposits from one account to another account if they move from one address to another. The account must have a zero balance or the current balance will be transferred with the deposit and the new service enacted.
- (d) Customers transferring from one address to another must have paid the maximum deposit or must pay the difference between the deposit paid and the maximum deposit before the deposit can be transferred and the new service enacted.
  - (e) Residential customers' deposits will be refunded by crediting the deposit amount to the customer's account after the customer has completed 24 months with no delinquent payments or no dishonored payments. If the customer has additional active accounts without deposits that have delinquent payments, the deposit will be transferred to one of the other accounts. A new deposit will be required if a customer appears on the cut-off list after the original deposit has been returned.
  - (f) Customers must terminate utility services by providing written authorization signed or emailed by the customer whose name is on the account. In the event that the account is established under more than one name, any one person may authorize the disconnection of service.
  - (g) Customers' deposits will be refunded by crediting the deposit amount to the customer's account when the account is finalized. Any remaining deposit will be mailed to the forwarding address provided by the customer. If the customer has additional active accounts without deposits, the deposit will be transferred to one of the other accounts.
- (h) Letters of Credit are not acceptable in lieu of cash for payment of deposits as required in this section.
- (i) In the event a current utility service customer requests service at an additional address, the deposit may be waived if the customer has had no more than two delinquent payments on the existing account for the previous twelve (12) months prior to the date of the request. In the event that either the initial account or any additional accounts appear on the cut-off list, an additional deposit will be required for each account.

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

Administrative Penalty                      \$25.00

- (5) Other charges include the following:

- (a) Late charges

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

Late Charges                                      5% of balance due

- (b) After Hours Charge

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

After Hours Charge                              \$30.00

- (c) Charges of Damages

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

- (d) Industrial Users

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

- (e) Restaurants, Food Preparation Facilities and Other Commercial Users

Restaurants, food preparation facilities, institutional facilities and other commercial type facilities utilizing grease traps will be subject to a \$100 fee for each exceedance of the local oil and grease limit of 100 mg/l. This fee is not a surcharge. The payment of this fee does not authorize the discharge of wastes containing oil and grease in concentrations greater than 100 mg/l. This limit applies only to food grade oils of animal or vegetable origin. The concentration of petroleum-based oil and grease is limited to 15 mg/l. The oil and grease exceedance fee will be assessed for each sample result, which indicates an excess oil and grease concentration in sewer discharges from the facility. The City will be responsible for collecting

and analyzing all oil and grease samples from grease traps. Oil and grease trap sampling will be conducted on a periodic basis at the city's discretion.

- (f) Septic tank waste hauled or trucked into Wastewater Treatment Plant as outlined in Article II, Section 86-54 will be billed at the following rate:

Fees for Hauling Waste            \$52.50per 1,000 gallons

**Sec. 86-16. Water Service Charges.**

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

	Volume	Charges	
2,000 gallons	First 2,000 gallons (minimum)	\$13.62	Next
	\$ 2.57per 1,000		
	Next 3,000 gallons	\$ 2.67per 1,000	
	Next 4,000 gallons	\$ 2.78per 1,000	
	Next 4,000 gallons	\$ 2.95per 1,000	
	Next 35,000 gallons	\$ 3.13per 1,000	
	Next 50,000 gallons	\$ 3.24 per 1,000	
	Next 50,000 gallons	\$ 3.48per 1,000	
	Next 50,000 gallons	\$ 3.71per 1,000	

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

**Volume Charges**  
 First 8,000 gallons  
 \$ 31.50for 7 days  
 Over 8,000 gallons  
 \$ 2.87per 1,000

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

**Sec. 86-17. Sewer Service Charges.**

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

**Volume Charges**

First 2,000 gallons (minimum)            \$14.64

Next 2,000 gallons	\$2.26per 1,000
Next 3,000 gallons	\$2.78per 1,000
Next 4,000 gallons	\$3.07per 1,000
Next 4,000 gallons	\$3.31per 1,000
Next 35,000 gallons	\$3.58per 1,000
Next 50,000 gallons	\$3.89per 1,000
Next 50,000 gallons	\$4.12per 1,000
Next 50,000 gallons	\$4.41per 1,000

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

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

- (a) Meters shall be read approximately every thirty days. Utility bills will be processed and mailed by the 1<sup>st</sup> day of each month.
- (b) All monthly bills for services rendered by the water and sewer systems are due upon issuance by the City of Wharton and are payable by the due date noted on the bill.
- (c) A delinquent charge (penalty) will be assessed to each account if not paid by the due date. Delinquent notices will be mailed on the next working day of the month following the due date as stated on the bill. In addition to delinquent notices, the City may use other forms of notification on delinquent accounts.
- (d) The City may discontinue service if payment is not received in full by 5:00 p.m. on the 5<sup>th</sup> business day after the issuance of delinquent notices. The City is not responsible for delays in the mail.
- (e) In the event of discontinuation of service, all amounts due the City including any penalties and charges are required to be paid in full before reconnection to the system. If the account is not paid in full by the 10<sup>th</sup> of the following month the account will be finalized and the deposit will be applied to the balance.
- (f) Customers may appeal incorrect or improper billings with the supervisor of the utility administration department within fifteen (15) days of issuance of the monthly bills. The customer service division shall investigate the validity of customer complaints and provide a report on their findings within three (3) days of such filing. No late charges shall be applied to any account with an appeal pending. The failure

of any customer to receive a bill or the subsequent reminder notice shall not be grounds for appeal. If, in the sole opinion of the supervisor of the department, the investigation supports the appeal, the account may be adjusted, as appropriate.

- (g) All checks issued for payment of water and/or sewer service returned unpaid shall incur a processing fee equal to the maximum amount allowed by law.
- (h) Deposits: If any person attempts to pay a required deposit by check or similar instrument and such instrument is dishonored, the service for which such deposit was made shall be subject to disconnection without notice. A processing fee as prescribed in section 86-5(g) and an administrative penalty in accordance with the schedule set out in section 86-15(4) will be charged.
- (i) Account payment. If any person attempts to pay an account bill by check or similar instrument and such instrument is dishonored, then the person obligated on the corresponding account shall be notified by letter sent by the United States first class mail that if he does not pay the bill, plus a processing fee as prescribed in section 86-5(g), in full, by cash or money order, within five (5) business days, the service for which such bill was prepared shall be discontinued and corresponding account will be charged an administrative penalty in accordance with the schedule set out in section 86-15(4). A certificate of mailing by the United States Postal Service shall be prima facie evidence of delivery of such notice. The payment on account by dishonored check or similar instrument shall constitute nonpayment and shall be subject to penalties therefor.
- (j) Payment by cash, cashier's check or money order. The City may refuse to accept payment by check or similar instrument from any person who has had three (3) or more payments to the City made by check or similar instrument dishonored. The City shall notify the person in writing that only cash, cashier's check, or money order will be accepted from that person for one year. After one year, the customer may pay by check or similar instrument.
- (k) A customer who deems his account to have had an extraordinary increase in consumption may appeal to the utility billing department for a credit adjustment. Consideration may be given for unavoidable leaks and unexplainable consumption which amounts to one hundred twenty-five (125) percent or more of the normal consumption for that account with normal consumption defined as the consumption of the same account for the same month in the prior year or the average consumption for the account for the past twelve (12) months, whichever is greater. The credit adjustment will be limited to two months and limited to 1/2 of the amount determined to be over the normal consumption.
  - (l) Utility customers may have their service temporarily disconnected for a period of not less than thirty (30) days" by notification to the Utility Department. The account is said to be on-hold which means the service is disconnected by City Employees and no charges are billed to the customer during that time. The City retains the deposit in order for the account to remain on-hold status. The account may remain "on-hold" status for a period not to exceed six months from the date the "on-hold" status began. Once the six month period has lapsed, the account will become active. The account

must have an active status for at least six months before the account may be put back “on-hold” status. However, all meters are checked on a monthly basis. Therefore, if there is any usage on the meter during the time the account is on vacation, the account will become active and all charges for water, sewer and garbage shall be billed to the customer.

- (m) Final bill. Upon termination of utility services, a final bill will be calculated based on the customer’s usage. The billed amount will also be prorated based on the date of the request to terminate services.

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

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

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

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

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

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

*Phosphorus* means elemental phosphorus.

- (b) Restrictions.
  - (1) It shall be unlawful for any person to sell, offer or expose for sale, give or furnish any cleaning compound containing more than 0.5 percent phosphorus by weight except that dish washing formulations may contain up to 8.70 percent phosphorus by weight within the City from and after October 1, 1992.

(2) The concentration of phosphorus by weight, expressed, as elemental phosphorus in any synthetic detergent or detergent shall be determined by the current applicable method prescribed by the American Society for Testing and Materials (A.S.T.M.).

- (c) Voluntary limits. The City will try to operate its wastewater treatment system so that the amount of phosphorus discharged from the system is less than 2.5 milligrams per liter (2.5 mg/l) on a daily average. Samples will be taken and tested at the same time other samples are taken for regulatory purposes.

Sec 86-21. Bulk Water Rates

- (a) Bulk Sales through fire hydrant water meters temporarily installed at locations remote from the Wharton Volunteer Fire Department on Fulton Street will require the following:
  - 1. Advance, non-refundable payment of \$50.00 to the City of Wharton at City Hall for setting the meter connection at the fire hydrant or other appropriate locations as the City may determine; and
  - 2. Payment of Bulk Sales Rate of \$52.50 per month for the first 1,000 gallons of water dispensed, or any fraction thereof. \$21.00 per month per 1,000 gallons dispensed, or any fraction thereof, beyond the initial 1,000 gallons dispensed; and
  - 3. Advance, refundable fire hydrant meter deposit payment of \$200.00 to the City of Wharton at City Hall.
- (b) Bulk Sales through permanently installed water meter dispensation point at the Wharton Volunteer Fire Department on Fulton Street will require the following:
  - 1. No requirement for payment of meter setting fee; and
  - 2. Payment of Bulk Sales Rate of \$52.50 for the first 1,000 gallons of water dispensed, or any fraction thereof. \$21.00 per 1,000 gallons dispensed, or any fraction thereof, beyond the initial 1,000 gallons dispensed; and
  - 3. No requirement for payment of the \$200.00 fire hydrant meter deposit, however each water dispensation transaction authorized under subparagraph 9B must be prepaid to the City of Wharton at City Hall where a one-day dispensation voucher will be issued for presentation to the Water Plant Operator to authorize a one-day dispensation of a not to exceed amount of water in gallons. The one-day dispensation voucher identifying the cumulative number of gallons purchased will allow for scheduled multiple withdrawals of water, but only during the same City of Wharton working day upon which initial dispensation commences.

Bulk Sales Water Service customers must provide a suitable mobile water containment vessel of sound quality for receiving and hauling water for use or consumption at any location within the Wharton Water System.

Public or private volunteer fire fighting organizations that procure water only for fire prevention and control purposes and do not resell such water for other purposes, are exempt from this Classification, Rates and Fees Schedule. Contractors constructing City of Wharton Public Works projects requiring potable water for dust control and construction operations shall also be exempt from this Classification, Rates and Fees Schedule.

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

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

Use of the Fulton Street permanently installed water meter dispensation point requires advanced payment by check or cash to the City of Wharton at City Hall and at least (4) four hours advanced scheduling of prospective water withdrawals which shall also only occur during the following City working hours Monday – Friday 9:00 A.M. – 12:00 P.M. and 1:00 P.M. – 4:00 P.M. (Saturday, Sunday and city Holidays excluded).

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

- (a) For the purposes of this section:
  - (1) *Bypass* means the intentional diversion of waste streams from any portion of a user's treatment facility.
  - (2) *Severe property damage* means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (b) A user may allow a bypass to occur which does not cause pretreatment standards or requirements only if it is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (c) and (d) of this section.



- (c) (1) If a user knows in advance of the need for a bypass it shall submit it prior notice to the Control Authority, at least ten (10) working days before the date of the bypass, if possible.
- (2) A user shall submit oral notice to the Control Authority of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) working days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Control Authority may waive the written report on a case by case basis if the oral report has been received within twenty-four (24) hours.
- (d) (1) Bypass is prohibited, and the Control Authority may take an enforcement action against a user for a bypass unless:
  - (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, pump and truck, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed during normal periods of equipment downtime or as preventive maintenance in the exercise of reasonable engineering judgment or prevent a bypass;
  - (c) The user submitted notices as required under paragraph (c) of this section.
- (2) The Control Authority may approve an anticipated bypass, after considering its adverse effects, if the Control Authority determines that it will meet the three conditions listed in paragraph (d) of this section.

**Secs. 86-23 – 98-40 Reserved.**

## Section II. Severability

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

Any person knowingly or recklessly found violating and are convicted of a violation of this ordinance shall be fined in an amount not to exceed \$2,000.00. Each day or fraction of a day during which this ordinance or any part thereof is violated shall be deemed a separate offense and punishable as such.

Section IV. Effective Date

This ordinance shall be effective on the 1<sup>st</sup> day of October 2012 at 12:01 a.m.

Section V. Passage and Approval

**PASSED AND APPROVED** by the City Council of the City of Wharton, Texas, this 27th day of August 2012.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

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

**APPROVED AS:**

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

Councilmember Al Bryant seconded the motion. Councilmembers Jeff Gubbels, Al Bryant, Karen Schulz, and Don Mueller voted for the motion. Councilmember Terry David Lynch voted against the motion. The motion was approved.

The twenty-third item on the agenda was City of Wharton City Council Boards, Commissions, and Committees:

- A. Beautification Commission.
- B. Holiday Light Decorating Chairman.
- C. Wharton Economic Development Corporation (WEDC) Board of Directors.

City Manager Andres Garza, Jr. presented a copy of the current list of the members of the City of Wharton City Council Boards, Commissions, and Committees. City Manager Garza stated that vacancies existed on the Beautification Commission and the Holiday Light Decorating Chairman Position. He also said the City of Wharton was currently seeking applications to be considered for the expiring terms on the WEDC Board of Directors. He said the terms would expire on September 30, 2012. City Manager Garza stated that those applications would be considered by the City Council WEDC Board of Directors Selection Committee in September 2012. After some discussion, no action was taken.

The twenty-fourth item on the agenda was to review and consider in Executive Session: City Council may adjourn into an Executive Session in accordance with Section 551.074 of the Government Code, Revised Civil Statutes of Texas. Final action, decision or vote, if any with regard to any matter considered in Executive Session shall be made in Open Meeting.

**A. Discussion:** City Manager's Performance Evaluation.

Mayor Domingo Montalvo, Jr. adjourned into executive session at 8:13 p.m.

The twenty-fifth item on the agenda was to return to open session. Action on items discussed in Executive Session:

**B. Review & Consider:** City Manager's Performance Evaluation.

Mayor Domingo Montalvo, Jr. returned to open session at 8:37 p.m.

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

The twenty-sixth item on the agenda was City Council Committees, Boards and Commission's Reports:

- A. Wharton Economic Development Corporation meeting held July 16 and August 20, 2012.
- B. Wharton Regional Airport Board meeting held August 7, 2012.
- C. Beautification Commission meeting held August 8, 2012.
- D. City Council Finance Committee meeting held August 9, 2012.
- E. Building Standards Commission meeting held August 16, 2012.

After some discussion, no action was taken.

The twenty-seventh item on the agenda was Status Report on City of Wharton Projects. City Manager Andres Garza, Jr. presented a copy of his memorandum dated August 27, 2012 providing a status report on the City of Wharton 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 is located at the Wharton County

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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 City Staff continues to work with the USACE and Halff Associates in obtaining the required ROE agreements and engineering data. The agreement for the Third and Restated Agreement between the City of Wharton and the Lower Colorado River Authority (LCRA) has been executed. The amendment incorporates Segment 1(a) into the project, which is the extension of the levee along FM 102.

City Staff continues to work with Halff Associates, Inc. to complete the 65% design. This design is for the first phase of levee construction only.

### **DRAINAGE:**

#### 1. Santa Fe Outfall Channel.

The Public Works Department has finished excavation up to Alabama Road. The Public Works Department will now focus on installing grade stabilization structures and installing other best management practices needed to control erosion. The City Staff has met with property owners to discuss work that needs to be performed by the City in accordance with the agreements. Recent rains have limited the amount of work that could be performed and have increased erosion activity in some areas.

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

Centerpoint Energy completed relocation of the power poles along Highway 60 at the end of June. AT&T Tx Mid/Gulf Cablevision completed relocation of their utilities along Highway 60 in June as well.

The construction plans call for the installation of two 30 inch culverts underneath Highway 60. The culvert installation will be completed by an outside contractor. City Staff has obtained quotes for this portion of the project which is estimated at \$40,000.00. Other culvert installations will be completed by the City and TxDOT. Work will need to be coordinated with the local TxDOT office. TxDOT will provide a Gradall and operator for excavation and the Public Works Department will provide dump trucks and operators to haul the spoil. Staff planned to have construction underway by the summer of 2012. The amount of rainfall the City has received this summer will most likely push back the start date.

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

#### 1. 2012 -2013 Water Storage Tank Maintenance Program

The City Staff, with the assistance of Jones & Carter, is re-examining the decision to demolish the Cloud Street elevated storage tank (EST). Removal of the EST may require additional work that could be costly. Further inspection of the tank is required before a final decision can be made. The City Council will be considering a recommendation by the City Council Public Works Committee.

In addition to the Cloud Street EST there are two ground storage tanks at the Alabama Water Plant in need of rehabilitation.

## 2. Pressure Switches at City Water Plants

Jones & Carter replaced the faulty pressure control switches with new control switches earlier this month. Jones & Carter paid for the switches and the installation. City Staff is closely monitoring the performance of the new switches. The new switches are functioning as designed. Staff will continue to monitor and tweak the switches for optimum performance. These switches are designed to minimize and equalize pumping times, thereby extending the life of the water plants.

## 3. Energy Efficiency Audit

City Council voted in favor of closing out the State Energy Conservation Office-Energy Efficiency Conservation Grant Program. In addition, Council voted in favor of terminating the letter of intent between the City of Wharton and Siemens Industry, Inc. These actions taking by City Council mark the end of this project.

## 4. Wastewater Treatment Plant No. 1 Rehabilitation Proposal

City Staff is currently exploring various avenues to fund the rehabilitation of WWTP No. 1. The top priority is the WWTP's clarifier.

## 5. On-going Water and Sewer Maintenance Program

Soil moisture has remained fairly constant in August reducing the shrink-swell of the soil. This has decreased the number of water leaks and sanitary sewer backups experienced compared to last year's drought. The sanitary sewer line between Texas St and Koehl St is currently being replaced by Public Works. Recent rains and employee turnover have again slowed down progress. Work should be completed by the end of the summer, weather permitting. As a result of the recent fire hydrant testing program, the Fire Department identified a few fire hydrants in need of repair. Public Works is repairing these hydrants as time permits. Due to the age of the City's lift stations, maintenance is becoming a daily issue, specifically with pump failures. Public Works is working to fix or replace all failing lift station components and has recently initiated a more stringent preventive maintenance program.

## **STREET IMPROVEMENTS**

### 1. FM 102 Relocation and/or FM 1301

#### A. Progress Report on Project.

IDC Inc. continues to work with City Staff in an effort to develop preliminary engineering for the project. The City Staff has obtained the necessary rights of entry agreements for the project. City Staff worked to gather data for the environmental, archaeological, and historical portions of the project this month.

B. Update on status of Advance Funding Agreement (AFA) between the City of Wharton and the Texas Department of Transportation (TxDOT).

TxDOT has agreed to amend the AFA with an increase of \$200,000 making the States total support toward the project \$3,700,000 for construction. City Council passed a resolution accepting this amendment to the AFA. City Council passed a resolution approving Modification No. 3 to the professional engineering services contract between the City of Wharton and IDC Inc. to provide additional environmental services for the Identification and Evaluation of Archaeological Resources and Historic Age Buildings for the extension of FM 1301 from SH 60 to US Hwy 59 and Overpass Project. These adopted resolutions will allow City Staff to have better control over the environmental portion of the project and result in a more timely completion of the final engineering plans.

2. 2012 Street Improvement Program

Public Works Staff began making street improvements the week of May 21, 2012. Staff is repairing the streets approved by City Council for the 2012 Program.

The Interlocal Cooperation Agreement between the City of Wharton and the City of El Campo for use of equipment was renewed on July 9, 2012. This agreement allows both cities to complete street improvements at a reduced cost through the sharing of construction equipment.

Recent rains have slowed progress. The project is approximately 85% complete. This project should be complete by the end of the summer, weather permitting.

3. Wharton Sidewalk Accessibility and Historic Streetscape Project

Bids were publicly opened at City Hall on August 14, 2012 at 2:00 pm. Two bids were submitted for the project. City Staff will be working with the City Council to determine what action to take concerning the bids received on August 14.

4. On-going Street and Drainage Maintenance Program

During August the City received limited rainfall. Drier weather has allowed the Public Works Department to begin cleaning some residential drainage ditches that have been experiencing poor drainage. The Public Works Department has several more residential ditch cleaning projects planned. Public Works Staff has completed elevation surveys and developed drainage profiles for over twenty ditch re-grading projects throughout the City.

## **WHARTON REGIONAL AIRPORT**

1. Capital Improvement Drainage Project.

Blue Bay Construction and Public Works began construction in mid June. The project is approximately 40% complete.

## **OTHER PROJECTS**

1. Fire Hydrant Testing Program

The Fire Department with the assistance of the Public Works Department has begun an annual hydrant testing program. The Fire Department has completed testing on all the City's hydrants. The majority of the hydrants were in good working condition. Those that need attention are being repaired by Public Works Staff. This program will help to improve the City's ISO insurance rating.

2. Wharton County Web Map Project

Public Works Staff met with Halff Associates on August 23, 2012 to discuss the preliminary design for the Web based GIS mapping tool. This tool will help City Staff and City Officials make daily decisions by allowing them to view GIS data files via the Internet. This project is still in the preliminary phase.

After some discussion, no action was taken.

The twenty-eighth item on the agenda was Status Report on City of Wharton Projects.

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

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

The twenty-ninth on the agenda was adjournment. After some discussion, Councilmember Don Mueller made the motion to adjourn. Councilmember Karen Schulz seconded the motion. All voted in favor.

The meeting adjourned at 8:38 p.m.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

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