

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
MAY 13, 2013**

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

Councilmember's present were: Mayor Domingo Montalvo, Jr., Councilmembers Al Bryant, Terry David Lynch, Jeff Gubbels, Don Mueller and Karen Schulz.

Councilmembers absent was: Russell Machann.

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

Visitors present were: Carlos Cotton, P.E. of Jones & Carter, Inc., David Schroeder, Executive Director, Wharton Economic Development Corporation, and Ben Sharp with Wharton Journal Spectator.

The second item on the agenda was Roll Call and Excuses Absences. Councilmember Terry David Lynch moved to excuse Councilmember Russell Machann. Councilmember Al Bryant 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 the Wharton Moment. No comments were given.

The fifth item on the agenda was a proclamation declaring June 15, 2013 as Dr. Charles W. Edwards, Jr. Day in the City of Wharton, Texas. Mayor Domingo Montalvo, Jr. presented the proclamation declaring June 15, 2013 as Dr. Charles W. Edwards, Jr. Day in the City of Wharton, the proclamation read as follows:

WHEREAS, Dr. Charles W. Edwards, Jr. was born on December 2, 1943 in Wharton, Texas, and married Felisha L. Pulliam on October 12, 1968; and

WHEREAS, Charles earned his undergraduate degrees at Texas institutions; and a Master's Degree from Christian Theological Seminary in Indianapolis,

Indiana; and a Doctorate's Degree from Austin Presbyterian Theological Seminary in Austin, Texas; and

WHEREAS, For the past twenty-five (25) years Dr. Edwards has served as a congregational minister in various churches in Texas, Illinois, and Indiana; and

WHEREAS, Dr. Edwards has served as Chaplain in various military backgrounds including: Texas Army National Guard, South Texas Veterans Health Care System, Federal Bureau of Investigation in San Antonio, and San Antonio Police Department; and

WHEREAS, Dr. Edwards continues his ministry and scholarly efforts as the Founder and Chief Executive Officer of Edwards Ministerial Association, Incorporated; and

WHEREAS, Dr. Edwards has continued to provide scholarship opportunities with the Annual Image Award Scholarship Banquet to disabled veterans, economically underprivileged citizens, and seminary students.

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

June 15, 2013 as "Dr. Charles W. Edwards Jr. Day"

and deem it an honor and a privilege to extend on behalf of the citizens of the City of Wharton, best wishes to Dr. Edwards in his future endeavors. And, on behalf of the citizens of Wharton, I wish him continued success and happiness.

IN WITNESS THEREOF, I have set my hand and caused the seal of the City of Wharton to be affixed this 15th day of June, in the year of our Lord two thousand thirteen A.D.

Domingo Montalvo, Jr.
Mayor City of Wharton

Alfred Bryant
City Councilmember

No action was taken.

The sixth item on the agenda was to review and consider reading of the minutes from the regular meeting held April 8, 2013 and the regular meeting held April 22, 2013. After some discussion,

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Councilmember Al Bryant moved to approve the minutes from the regular meeting held April 8, 2013 and the regular meeting held April 22, 2013. Councilmember Don Mueller seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider a resolution of the Wharton City Council approving a contract between the City of Wharton and U.S. Capital Advisors for financial advisory services and authorizing the Mayor of the City of Wharton to execute the agreement. After some discussion, Councilmember Terry David Lynch moved to approve City of Wharton Resolution No. 2013-27, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2013-27**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A CONTRACT BETWEEN THE CITY OF WHARTON AND U.S. CAPITAL ADVISORS FOR FINANCIAL ADVISORY SERVICES AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, the Wharton City Council has determined there is a need for continued financial advisory services for the City of Wharton; and

WHEREAS, the Wharton City Council wishes to engage the services of U.S. Capital Advisors for financial advisory services; and

WHEREAS, the City of Wharton and U.S. Capital Advisors wishes to be bound by the conditions as set forth in the contract; and

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

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

Section I. That the Wharton City Council hereby approves the contract for financial advisory with U.S. Capital Advisors and authorizes the Mayor of the City of Wharton, Texas to execute all documents related to said contract.

Section. II. That U.S. Capital Advisors and the City of Wharton are hereby bound by the conditions as set forth in the contract.

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

Passed, Approved, and Adopted this the 13th day of May 2013.

CITY OF WHARTON

By: _____

DOMINGO MONTALVO, JR.
Mayor

ATTEST:

PAULA FAVORS
City Secretary

Councilmember Karen Schulz seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider a resolution of the Wharton City Council adopting the City of Wharton Investment Policy. After some discussion, Councilmember Terry David Lynch moved to approve City of Wharton Resolution No. 2013-38, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2013-28**

A RESOLUTION OF THE WHARTON CITY COUNCIL ADOPTING THE CITY OF WHARTON INVESTMENT POLICY.

WHEREAS, the Public Funds Investment Act, requires the City Council to review and adopt, by resolution, the investment policies and strategies for the City of Wharton on an annual basis; and

WHEREAS, the City of Wharton designates the City Manager and the Finance Director as investment officers; and

WHEREAS, the City of Wharton approves the training courses sponsored or endorsed by the Texas Municipal League, the Government Finance Officers Association of Texas, the Government Treasurers Organization of Texas, or the North Central Texas Council of Governments as adequate to meet the investment training requirements; and

WHEREAS, the attached investment policy complies with the Public Funds Investment Act and authorizes the investment of City funds in safe and prudent investments.

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

Section I. The City of Wharton has complied with the requirements of the Public Funds Investment Act and the Investment Policy attached hereto as "Exhibit A" is hereby adopted as the Investment Policy of the City of Wharton effective May 13, 2013.

Section II: That this resolution shall be come effective immediately upon its passage.

Passed, Approved, and Adopted this 13th day of May 2013.

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 ninth item on the agenda was to review and consider a request by Schulz Insurance Agency, for an Over 50% Variance for a Zero setback from the rear property line for the placement of a 29' x 37' modular building to be located at Wm.Kincheloe, Block 66, Lot 8,9; 1327 N. Alabama Road, Wharton, Texas. City Manager Andres Garza, Jr. stated that Schulz Insurance Agency was requesting a Zero setback variance for placement of a 29' x 37' modular building. Building Official Ronnie Bollom stated that City of Wharton Ordinance Sec. 18-77 stated: "Minimum rear building line setback: Ten feet, except where abutting existing or proposed residential uses, in which event the rear building line setback shall be 20'." Mr. Bollom said this would result in a Zero rear building line setback from the existing property line and the rear property line was separated from the residential use lots by a 20' easement and the building would be placed behind an existing business located at 1327 N. Alabama Road. After some discussion, Councilmember Don Mueller moved to approve the request by Schulz Insurance Agency, for an Over 50% Variance for a Zero setback from the rear property line for the placement of a 29' x 37' modular building to be located at Wm.Kincheloe, Block 66, Lot 8,9; 1327 N. Alabama Road, Wharton, Texas. Councilmember Al Bryant seconded the motion. Councilmembers Al Bryant, Terry David Lynch, Jeff Gubbels, and Don Mueller voted in favor. Councilmember Karen Schulz abstained. The motion carried.

The tenth item on the agenda was to review and consider an Ambulance Provider Permit Application submitted by EMCORPS. City Manager Andres Garza, Jr. presented a copy of the Ambulance Provider Permit Application submitted by EMCORPS a copy of the letter from City Attorney Paul Webb providing his comments regarding the application. City Manager Garza further presented a memorandum from EMS Director John Kowalik providing his recommendation for approval of the application. Mr. Webb stated that EMCORPS should update their address with the Secretary of State as a condition of approval of the application. After some discussion, Councilmember Don Mueller moved to approve the Ambulance Provider Permit Application submitted by EMCORPS with the provision that their address be corrected

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with the Secretary of State. Councilmember Terry David Lynch seconded the approval. All voted in favor.

The eleventh item on the agenda was to review and consider a request by Mr. Ron Sanders, Executive Director of the Wharton Chamber of Commerce to hold the annual City-Wide Garage Sale in Guffey Park, Riverfront Park and the City of Wharton parking lot at the corner of Fulton and Caney Streets on Friday, June 14, 2013 through Saturday, June 15, 2013. Mayor Domingo Montalvo, Jr. stated that Mr. Sanders requested the item be pulled from the agenda.

The twelfth item on the agenda was to review and consider a resolution of the Wharton City Council approving an Interlocal Agreement between the City of Wharton and the Houston-Galveston Area Council for E 9-1-1 Public Safety Answering Point Services and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. presented a memo from Police Chief Tim Guin regarding the submission of an Interlocal Agreement for E 9-1-1 Public Safety Answering Point Services between the City and Houston-Galveston Area Council. City Manager Garza stated that this was a biannual agreement that was necessary for the Police Department to operate the Public Safety Answering Point for 911. City Manager Garza further presented the draft Interlocal Agreement for E 9-1-1 Public Safety Answering Point Services and a draft Resolution authorizing the Mayor of the City of Wharton to execute the agreement on behalf of the City. After some discussion, Councilmember Karen Schulz moved to approve City of Wharton Resolution No. 2013-29, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2013-29**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF WHARTON AND THE HOUSTON-GALVESTON AREA COUNCIL FOR E 9-1-1 PUBLIC SAFETY ANSWERING POINT SERVICES AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, the City of Wharton is a local government that operates a Public Safety Answering Point (PSAP) Service and;

WHEREAS, the Interlocal Agreement for E 9-1-1 Public Safety Answering Point Services would be effective September 1, 2013 to August 1, 2015 and;

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute an Interlocal Agreement between the City of Wharton and the Houston-Galveston Area Council for E 9-1-1 Public Safety Answering Point Services.

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

Section I. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute an Interlocal Agreement between the City of Wharton and the Houston-Galveston Area Council for E 9-1-1 Public Safety Answering Point Services.

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

Passed, Approved, and Adopted this 13th day of May 2013.

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 thirteenth item on the agenda was to review and consider a resolution of the Wharton City Council amending Resolution 2013-24 awarding a contract for the extension of the sanitary sewer line on Stadium Road to Mercer Construction and authorizing the City Manager of the City of Wharton to execute all documents relating to said contract. City Manager Andres Garza, Jr. presented a draft resolution amending Wharton City Council Resolution 2013-24 regarding the contract between the City of Wharton and Mercer Construction for the extension of the sanitary sewer line on Stadium Road. City Manager Garza further presented Mercer Construction's cost estimate for an eight (8) inch Sanitary Sewer Line in the amount of \$20,945.00 as opposed to the six (6) inch line in the amount of \$19,570.00 that was approved at the City Council meeting held April 22, 2013. City Manager Garza stated that the City Staff had submitted the six (6) inch cost estimate instead of an eight (8) inch cost estimate to the City Council and the cost of the eight (8) inch sewer line was still within the amount paid by the developer. After some discussion, Councilmember Don Mueller moved to approve City of Wharton Resolution No. 2013-30, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2013-30**

A RESOLUTION OF THE WHARTON CITY COUNCIL AMENDING RESOLUTION 2013-24 AWARDING A CONTRACT FOR THE EXTENSION OF THE SANITARY SEWER LINE ON STADIUM ROAD TO MERCER CONSTRUCTION AND AUTHORIZING THE CITY MANAGER OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID CONTRACT.

WHEREAS, The Wharton City Council wishes to amend City of Wharton Resolution No. 2013-24;
and

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WHEREAS, The Wharton City Council wishes to amend a contract with Mercer Construction in the amount of \$20,945.00, and;

WHEREAS, the City of Wharton and Mercer Construction wishes to be bound by the conditions set forth in the agreement and within the terms of the quote; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor to execute all documents related to said project.

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

Section I. The Wharton City Council hereby awards a contract to Mercer Construction in the amount of \$20,945.00 for the Extension of a Sanitary Sewer Line on Stadium Road for the Home Run Zone/Moonwalks-N-More Project.

Section II. The Wharton City Council hereby authorizes the City Manager to execute any and all documents related to said project.

Section III. The City of Wharton and Mercer Construction are hereby bound by the conditions as set forth in the contract agreement.

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

Passed, Approved, and Adopted this 13th day of May 2013.

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 fourteenth item on the agenda was to review and consider the approval of a revision to the City of Wharton Application and Agreement for Utility Services. City Manager Andres Garza, Jr. presented a memo from Finance Director Joan Andel outlining the addition of a Retail Service Agreement that would be added to the City of Wharton Application and Agreement for Utility Service. Finance Director Joan Andel stated that the Public Works Department had indicated that the Texas Commission on Environmental Quality (TCEQ) required this information be present on any utility service application. Mrs. Andel presented the City of Wharton Application and Agreement for Utility Service with the Retail Service Agreement on Page 3. City Manager Garza stated that the City Council Finance Committee had met and

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recommended City Council consider approval the revision to the City of Wharton Application and Agreement for Utility Services. After some discussion, Councilmember Al Bryant moved to approve the revision to the City of Wharton Application and Agreement for Utility Services as required by the Texas Commission on Environmental Quality (TCEQ). Councilmember Karen Schulz 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 a Fixed Base Operator Hangar Lease agreement between the City of Wharton and Larry David and authorizing the Mayor of the City of Wharton to execute the agreement on behalf of the City. City Manager Andres Garza, Jr. presented a letter to him from Charlie McBride who was operating Charlie's Flying Service at Wharton Regional Airport. City Manager Garza stated that Mr. McBride was ready to retire and wished to transfer his current lease over to Larry David. City Manager Garza presented the Fixed Base Operator Hangar Lease agreement that the City had with Charlie McBride, a draft Fixed Base Operator Hangar Lease agreement with the City and Larry David and a draft Resolution authorizing the Mayor of the City of Wharton to execute the agreement on behalf of the City. After some discussion, Councilmember Jeff Gubbels moved to approve City of Wharton Resolution No. 2013-31, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2013-31**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A FIXED BASE OPERATOR HANGAR LEASE AGREEMENT BETWEEN THE CITY OF WHARTON AND LARRY DAVID, DBA AIRCRAFT MAINTENANCE SERVICES AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY.

WHEREAS, The City of Wharton City Council wishes to enter into an agreement with Larry David, dba Aircraft Maintenance Services for the leasing of Hangar Building G; and

WHEREAS, The City of Wharton and Larry David 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 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 Fixed Base Operator Hangar Lease Agreement for Hangar Building G located at the Wharton Regional Airport between the City of Wharton and Larry David dba Aircraft Maintenance Services.

Section II. That the City of Wharton and Larry David are hereby bound by the conditions as set forth in the agreement.

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

Passed, Approved, and Adopted this 13th day of May 2013.

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

A. Discussion: Claim – Jeffrey Alan Richie v. City of Wharton, et al.
Mayor Domingo Montalvo, Jr. moved the meeting into closed session at 7:17 p.m.

The seventeenth item on the agenda was action on items discussed in Executive Session:

Review and Consider: Claim – Jeffrey Alan Richie v. City of Wharton, et al.

Mayor Domingo Montalvo, Jr. returned to open session at 7:21 p.m. Mayor Montalvo stated that no action was taken.

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

- A. Appointments:
 - 1. Wharton Regional Airport Board
- B. Vacancies:
 - 1. Holiday Light Decoration Chairman
 - 2. Mayor's Committee on People with Disabilities
 - 3. Beautification Commission

City Manager Andres Garza, Jr. presented a memo from Airport Manager David Allen stating Mr. Eugene Shanks wished to serve on the Wharton Regional Airport Board. After some discussion, Councilmember Don Mueller moved to appoint Eugene Shanks to the Wharton Regional Airport Board. Councilmember Terry David Lynch seconded the motion. All voted in favor.

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The nineteenth item on the agenda was to review and consider the rescheduling of the Regular City Council meeting scheduled for May 27, 2013 due to the Memorial Day Holiday. After some discussion, Councilmember Don Mueller moved to reschedule the Regular City Council meeting scheduled for May 27, 2013 due to the Memorial Day Holiday to Tuesday, May 28, 2013. Councilmember Al Bryant seconded the motion. All voted in favor.

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

- A. Beautification Commission Meeting held May 8, 2013.
- B. Mayor's Committee on People with Disabilities Meeting held May 7, 2013.
- C. Wharton Economic Development Corporation Budget Committee Meeting held May 8, 2013.

After some discussion, no action was taken.

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

The meeting adjourned at 7:23 p.m.

CITY OF WHARTON, TEXAS

By: _____
Domingo Montalvo, Jr.
Mayor

ATTEST:

Paula Favors
City Secretary