

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
JANUARY 27, 2014**

Mayor Domingo Montalvo, Jr. declared a Regular Meeting duly open for the transaction of business at 7:00 P.M at City Hall 120 E. Caney Street Wharton, TX. Mayor Domingo Montalvo, Jr. 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, Russell Machann, Don Mueller, and Karen Schulz.

Councilmembers absent were: None.

Staff members present were: City Attorney Paul Webb, Finance Director Joan Anandel, Police Chief Tim Guin, Emergency Management Coordinator Steve Johnson, Sgt. Grady Smith, Sgt. Amy Bergstrom, ID Officer Randy Whitlock, Civic Center Director Jo Beth Knezek, Building Official Ronnie Bollom, Assistant to the City Manager Cheryl Urbanovsky, and City Secretary Paula Favors.

Visitors present were: David Schroeder, Executive Director of the Wharton Economic Development Corporation (WEDCO), Carlos Cotton, P.E. with Jones and Carter, Inc., Ben Sharp with the Wharton Journal Spectator, Tim Sanders, P.E. with BEFCO Engineering, Inc., Christine Stransky, Sherry L. Smith, Kara Suchadoll, Mozelle Stephens, Kimberly Castillo, I.O. Coleman, Jr. and Sarah Hudgins.

The second item on the agenda was Roll Call and Excused Absences. All members were present.

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

The fourth item on the agenda was the Wharton Moment. City Manager Andres Garza, Jr. congratulated City Secretary Paula Favors for completing the Texas Municipal Clerks Certification Program. City Manager Garza stated the program included over two-hundred hours of home study as well as eight seminars and four exams.

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The fifth item on the agenda was Proclamations for Chief Timothy Guin and National Teen Dating Violence Awareness and Prevention. Mayor Domingo Montalvo, Jr. presented Police Chief Tim Guin with a proclamation for his thirty-four (34) years of service with the City of Wharton. Mayor Montalvo presented a Proclamation declaring January 31, 2014 as "*Chief Timothy Guin Day*," which read as follows:

**CITY OF WHARTON
OFFICE OF THE MAYOR
PROCLAMATION**

- WHEREAS,** Mr. Timothy Guin was born on January 21, 1958 in Wharton, Texas, to James and Nadine Guin; and, was one of two children; and
- WHEREAS,** Tim graduated in 1976 from the Wharton High School, and is a lifelong citizen of the City of Wharton; and
- WHEREAS,** On July 14, 1978, Tim married Sherrie Dorris and had two daughters, Wendy and Amanda, who gave him two grandchildren; and
- WHEREAS,** On December 12, 1979, and to the City's benefit Tim began his career with the City of Wharton as a Patrol Officer; and
- WHEREAS,** On August 9, 1993, Tim was promoted to Police Chief, and remained so for 21 years; and
- WHEREAS,** Tim served the City of Wharton for the past 34 years and has always provided the City and its residents professional, loyal and dedicated service; and
- WHEREAS,** Tim Guin on January 31, 2014 has retired as an employee of the City of Wharton.

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

January 31, 2014 as

“Chief Timothy Guin Day”

and deem it an honor and a privilege to extend on behalf of the citizens of the City of Wharton, best wishes to Mr. Guin upon his retirement. And, on behalf of the citizens of Wharton, I wish him much success and happiness in his future endeavors.

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IN WITNESS THEREOF, I have set my hand and caused the seal of the City of Wharton to be affixed this 27th day of January, in the year of our Lord Two Thousand Fourteen A.D.

Domingo Montalvo, Jr.
Mayor
City of Wharton, Texas

Mayor Montalvo presented a service watch for Chief Guin's years of service to him. Mayor Montalvo then presented a proclamation declaring the month of February 2014 as National Teen Dating Violence Awareness and Prevention, which read as follows:

**CITY OF WHARTON
OFFICE OF THE MAYOR
PROCLAMATION**

- WHEREAS**, Females between the ages 16 – 24 are more vulnerable to intimate partner violence, experiencing abuse at a rate almost triple the national average; and
- WHEREAS**, One in three adolescent girls in the United States is a victim of physical, emotional or verbal abuse from a dating partner, a figure that far exceeds victimization rates for other types of violence affecting youth; and
- WHEREAS**, High school students who experience physical violence in a dating relationship are more likely to use drugs and alcohol, are at greater risk of suicide and are much more likely to carry patterns of abuse into future relationships; and
- WHEREAS**, Young people victimized by a dating partner are more likely to engage in risky sexual behavior and unhealthy dieting behaviors and the experience may disrupt normal development of self-esteem and body image; and
- WHEREAS**, Nearly half of teens who experience dating violence report that incidents of abuse take place in a school building or on school grounds; and
- WHEREAS**, Only 33% of teens who are in an abusive relationship ever tell anyone about the abuse, and 81% of parents surveyed either believe teen dating violence is not an issue or admit they do not know if it is one; and

WHEREAS, By providing young people with education about healthy relationships and relationship skills and by changing attitudes that support violence, we recognize that dating violence can be prevented; and

WHEREAS, It is essential to raise community awareness and to provide training for teachers, counselors and school staff so that they may recognize when youth are exhibiting signs of dating violence; and

WHEREAS, The establishment of Teen Dating Violence Awareness and Prevention Month will benefit young people, their families, schools and communities regardless of socioeconomic status, gender, sexual orientation or ethnicity; and

WHEREAS, Everyone has the right to a safe and healthy relationship and to be free from abuse.

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

**Month of February 2014 as
Teen Dating Violence Awareness
and Prevention Month
in Wharton, Texas.**

IN WITNESS THEREOF, I have set my hand and caused the seal of the City of Wharton to be affixed this 27th day of January, in the year of our Lord Two Thousand Fourteen A.D.

Domingo Montalvo, Jr.
Mayor
City of Wharton, Texas

The sixth item on the agenda was to review and consider City of Wharton Financial Report for the month of December 2013. Finance Director Joan Anandel presented the financial report for the month of December 2013. Mrs. Anandel stated that the TexPool balance for December was \$151,310.42 with an average monthly yield of .04%. She said the Prosperity Bank balance for December 2013 was \$11,006,118.77 with an average

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monthly yield of .15%. After some discussion, Councilmember Don Mueller moved to approve the City of Wharton Financial Report for the month of December 2013. Councilmember Russell Machann seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider request by Mr. Paul Kearney, Event Coordinator for Wharton County Juneteenth Festival, for City Council consideration to approve the following:

- A. Authorization to hold the 5th Annual Juneteenth Festival on Saturday, June 14, 2014 from 10:00 a.m. through 12:00 midnight in the downtown square area.
- B. Use of the City of Wharton stage and City personnel to assemble and dismantle the stage at no cost.
- C. Use of City of Wharton personnel as debris clean-up crew at no cost.
- D. City of Wharton assistance by providing hotel/motel funding for the required security.
- E. City of Wharton assistance in coordinating with Waste Corporation of America for solid waste disposal receptacles and additional debris collection.
- F. Waiver of the fees associated with the Temporary Permit for the consumption and possession of Alcoholic Beverages.
- G. City Council authorization to close portions of Houston and Fulton Street adjacent to the Downtown Square from 5:00 p.m. on Friday, June 13th through 12:00 Midnight, Saturday, June 14th, 2014 and the section of Houston Street from Burlson Street to Elm Street on Saturday, June 14, 2014 from 6:00 p.m. through 11:30 p.m. in accordance with the Traffic Control Plan; and, to provide all necessary barricades.
- H. **Ordinance:** An ordinance approving the traffic control plan for the James Simmons, Jr. 5th Annual Juneteenth Festival, authorizing the Police Department to redirect traffic and authorizing the Mayor of the City of Wharton to execute the Texas Department of Transportation Agreement for the Temporary Closure of State Right of Way.

City Manager Andres Garza, Jr. presented copies of the letters dated November 15, 2013 from Mr. Paul Kearney, Event Coordinator for the Wharton County Juneteenth Festival requesting the afore-mentioned items. City Manager Garza also presented a copy of the Texas Department of Transportation Agreement for the Temporary Closure of State Right of Way and a draft copy of the ordinance approving the traffic control plan for this event. City Manager Garza stated the issue with item G. any closure over four hours on a state highway requires a Traffic Control Plan to be submitted to the Texas Department of Transportation. City Manager Garza said a major expense goes along with renting signs and barricades to comply with regulations from TxDOT. City Manager Garza recommended the City Council postpone the item to a later meeting which would allow Mr. Paul Kearney, Event Coordinator for Wharton County Juneteenth Festival, to schedule a meeting with the Texas Department of Transportation to discuss possible options. After some discussion, no action was taken.

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The eighth item on the agenda was to review and consider establishment of a No Train Horn Quiet Zone in the City of Wharton. City Manager Andres Garza, Jr. stated that at the January 13, 2014 Wharton City Council meeting, the City Council authorized the City Staff to proceed with the establishment of a No Train Quiet Zone in the City. City Manager Garza presented a draft resolution authorizing the City Manager to proceed with the process and an agreement with BEFCO Engineering for the engineering assistance needed for the establishment of the Quiet Zone. Tim Sanders, P.E., with BEFCO Engineering, Inc. presented to the City Council the steps needed to establish a Quiet Zone in the City of Wharton. Mr. Sanders said the process could take up to two years to complete and Phase 1 of the project would be \$7,000.00. Councilmember Jeff Gubbels requested the amount of impact on the City budget the additional insurance liability would cost. City Manager Garza recommended the issue be brought back to the table after more information could be obtained regarding the cost of the additional insurance liability.

The ninth item on the agenda was to review and consider a request by Van Ramsey for an Over 50% Variance for a Zero lot line setback for carport, Zero set back will be for rear and side property line at Gallaher 2nd, Block A, Lots 3, 4; 409 West Burluson, Wharton, Texas. Building Official Ronnie Bollom stated that Mr. Van Ramsey was requesting a zero lot line setback variance for carport to be set for rear and side of property. After some discussion, Councilmember Terry David Lynch moved to approve the request by Van Ramsey for an Over 50% Variance for a Zero lot line setback for carport, Zero set back will be for rear and side property line at Gallaher 2nd, Block A, Lots 3, 4; 409 West Burluson, Wharton, Texas provided all guidelines are met. Councilmember Al Bryant seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider approving a memorandum of understanding agreement between Stray Pet Outreach Team (SPOT), City of El Campo Animal Control (ECAC), City of Wharton Animal Control (WAC), and Jackson County Happy Tails (JCHT); and authorizing the Mayor of the City of Wharton to execute said agreement. City Manager Andres Garza, Jr. presented a copy of the Memorandum of Understanding Agreement from SPOT for an adoption event they wish to conduct on February 8, 2014 at the Wharton County Fairgrounds. Christine Stransky thanked the City Council for their previous support of Stray Pet Outreach Team (SPOT) and asked the City Council to consider supporting a “mega adoption” on Saturday, February 8, 2014, 10 am – 1 pm, at Crescent Hall at Wharton County Fairgrounds and providing the insurance coverage of the City of Wharton’s Animal Control animals at the location. After some discussion, Councilmember Terry David Lynch moved to approve City of Wharton Resolution No. 2014-07, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2014-07**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A
MEMORANDUM OF UNDERSTANDING (“AGREEMENT”) BETWEEN**

WHARTON COUNTY STRAY PET OUTREACH TEAM (“SPOT”), CITY OF EL CAMPO ANIMAL CONTROL (“ECAC”), CITY OF WHARTON ANIMAL CONTROL (“WAC”), AND JACKSON COUNTY HAPPY TAILS (“JCHT”) COMBINED EFFORTS TO HELP HOMELESS DOGS AND CATS IN THE CITIES OF EL CAMPO AND WHARTON; AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE SAID AGREEMENT.

WHEREAS, SPOT, ECAC, WAC, AND JCHT are cooperatively working together to help homeless dogs and cats in the Cities of El Campo and Wharton, and Wharton County; and

WHEREAS, SPOT, ECAC, WAC, AND JCHT entered into this Agreement with the knowledge this is a trial effort to host a “mega adoption” on Saturday, February 8, 2014, 10 am – 1 pm, at Crescent Hall at Wharton County Fairgrounds; and

WHEREAS, the Parties are desirous of entering into this Agreement to clarify the functions and responsibilities of each in this endeavor; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor to execute said agreement on behalf of the City of Wharton.

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

Section I. That the Agreement between SPOT, ECAC, City of Wharton Animal Control (WAC), AND JCHT is hereby approved.

Section II. SPOT, ECAC, WAC, and JCHT host a “mega adoption” on February 8, 2014 at Wharton County Fairgrounds.

Section III. The Parties are desirous of entering into this Agreement to clarify the functions and responsibilities of each in this endeavor.

Section IV. That the Mayor of the City of Wharton is hereby authorized to sign any and all documents relating to the agreement.

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

PASSED, AGREED AND ADOPTED this 27th day of January 2014.

CITY OF WHARTON, TEXAS

By:

DOMINGO MONTALVO, JR.
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The eleventh item on the agenda was to review and consider Wharton Police Department:

- A. **Resolution:** A resolution adopting a revised City of Wharton Police Department Policy to reflect changes base on 2014 Racial Profiling Report in accordance with House Bill 3389.

Police Chief Tim Guin stated the only change in the policy would be to include middle-eastern decent to the City of Wharton Police Department Policies and Code(s) of Conduct. After some discussion, Councilmember, Terry David Lynch moved to approve City of Wharton Resolution No. 2014-08, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2014-08**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A REVISED WHARTON POLICE DEPARTMENT POLICIES AND CODE OF CONDUCT.

WHEREAS, The Wharton Police Department has established Policies and Code(s) of Conduct that the Wharton Police Department Staff operates by; and

WHEREAS, In an effort to meet the new requirements, the Wharton Police Department wishes the City Council to adopt a revised Policies and Code(s) of Conduct; and

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WHEREAS, The Wharton City Council wishes to adopt the Wharton Police Department Policies and Code(s) of Conduct; and

WHEREAS, The Wharton City Council wishes the amendments to be effective immediately upon approval of this resolution.

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

Section 1. The Wharton City Council hereby approves the revised City of Wharton Police Department Policies and Code(s) of Conduct.

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

PASSED, APPROVED AND ADOPTED this the 27^h day of January 2014.

CITY OF WHARTON, TEXAS

By: _____
DOMINGO MONTALVO, JR.
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

B. The Wharton Police Department Annual Contact Report for 2014.

City Manager Andres Garza, Jr. presented a copy of the memorandum dated January 14, 2014 to him from Police Chief Tim Guin submitting the City of Wharton 2014 Racial Profiling Report. Chief Tim Guin stated that no complaints were received regarding racial profiling. He stated that the traffic contacts that resulted in a citation or an arrest by race or ethnicity were:

Caucasian/White	444	31.9%
Hispanic	470	33.8%

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Black	456	32.8%
Asian	10	0.7%
Middle Eastern-Descent	12	0.9%
Native American	0	.0%

Chief Guin stated that the report needs only to be presented and that action was not required by the City Council. After some discussion, no action was taken.

The twelfth item on the agenda was to review and consider an ordinance ordering a City Officer's Election to be held as a joint election with Wharton County Elections Department for the purpose of electing the positions of Mayor and Councilmembers; Providing for the date, time and place of the election, Notice of the Election, Filing Applications; Drawing for Ballot Positions, Use of Accessible Voting System, and Making Election Returns.

Una ordenanza ordenando una elección de funcionarios de la ciudad a celebrarse de forma conjunta con el departamento de elecciones del condado de Wharton con el propósito de elegir puestos de concejales; Asignando la fecha, horas, y lugar de la elección, el aviso de la elección, presentación de solicitudes, sorteo para lugares en la balota, uso de sistema de votación accesible, nombramiento de los trabajadores de la elección, votación anticipada, y entrega de los resultados de la elección.

City Manager Andres Garza, Jr. presented a draft copy of the ordinance, in English and Spanish versions as required by law, ordering a City's Officer's Election to be held as a joint election with the Wharton County Elections Department. City Secretary Paula Favors stated the City Council positions that were up for election were the Mayor's Position and three (3) City Council positions, which are District No.'s 2, 4, and 6. After some discussion, Councilmember Terry David Lynch moved to approve City of Wharton Ordinance No. 2014-03, which read as follows:

**CITY OF WHARTON, TEXAS
ORDINANCE NO. 2014-03**

AN ORDINANCE ORDERING A CITY OFFICERS ELECTION TO BE HELD AS A JOINT ELECTION WITH WHARTON COUNTY ELECTIONS DEPARTMENT FOR THE PURPOSE OF ELECTING THE POSITIONS OF COUNCILMEMBERS; PROVIDING FOR THE DATE, TIME, AND PLACE OF THE ELECTION, NOTICE OF THE ELECTION, FILING APPLICATIONS, DRAWING FOR BALLOT POSITIONS, USE OF ACCESSIBLE VOTING SYSTEM, APPOINTMENT OF ELECTION WORKERS, EARLY VOTING, AND MAKING ELECTION RETURNS.

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

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"Section 32 of the City Charter provides that regular city elections will be held annually on the first Saturday in May; however, pursuant to changes in the Texas Election Code, Section 41.001(a), the General Election date has been changed to the second Saturday in May."

Joint Election

Wharton County Elections Department will be conducting the duties as described in the Joint Election Agreement.

Position

An election shall be held in the City of Wharton, Texas, for the purpose of electing the following officials for the City:

Mayor – At Large
Councilmember - District No. 2
Councilmember - District No. 4
Councilmember at Large - Place No. 6

Date

An election shall be held in the City of Wharton, Texas, on **May 10, 2014**.

Time

The polls shall open for voting at **7 a.m.** and shall close at **7 p.m.**

Location

The election shall be held at the City of Wharton Civic Center at 1924 North Fulton Street, Wharton, Texas.

Notice of City Officers' Election

The Mayor shall cause a notice by publication of this election to be published at least once in a newspaper that is published in the City of Wharton, Texas, and that is in the jurisdiction of the City of Wharton, Texas, which publication shall be not earlier than the **30th day** nor later than the **10th day** before election day.

The Mayor shall also give notice of the election by causing a copy of the notice of election to be posted not later than the **21st day** before election day on the bulletin board located at the City Hall, 120 East Caney, Wharton, Texas, and used for posting notices of meetings of the Wharton City Council. The notice shall include the location of the polling place.

Eligibility to Vote

The election shall be held in accordance with the Election Code of the State of Texas. Only qualified resident voters of the City of Wharton, Texas, shall be eligible to vote in the election.

Candidate Names

The City Secretary shall, in accordance with the terms and provisions of the Texas Election Code, order the candidate names to be printed on the ballots for said General Election.

Filing

Candidates must file applications for a place on the ballot with the City Secretary of the City of Wharton, Texas, beginning on **January 29, 2014** and continuing through **5 p.m. on February 28, 2014**. A declaration of write-in candidacy must be filed not later than 5:00 P.M. on **February 28, 2014**.

Candidates for City Councilmember must designate the position filed for either Mayor – At Large, Councilmember - District No. 2, Councilmember - District No. 4, or Councilmember at Large - Place No. 6.

Drawing for Ballot Positions

On March 10, 2014 at 10:00 a.m., a drawing will take place in the office of the City Secretary for the purpose of determining the order of the candidates' names as they are to appear on the ballot.

The City Secretary shall post a notice of the date, hour, and place of the drawing and this notice shall remain posted continuously for at least 72 hours immediately preceding the scheduled time of the drawing.

Ballots

Paper ballots shall be used for the purposes of provisional and mail-out for early voting and provisional for election day.

Accessible Voting System

Section 61.012 of the Texas Election Code requires that the City of Wharton must provide at least one accessible voting system in each polling place used in a Texas election on or after January 1, 2006. This system must comply with state and federal laws setting the requirements for voting systems that permit voters with physical disabilities to cast a secret ballot.

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The Office of the Texas Secretary of State has certified that the iVotronic (DRE) voting machines is an accessible voting system that may legally be used in Texas elections.

Sections 123.032 and 123.035 of the Texas Election Code authorize the acquisition of voting systems by local political subdivisions and further mandate certain minimum requirements for contracts relating to the acquisition of such voting systems. The City of Wharton shall lease or rent from the County of Wharton as authorized by Section 123.032.

The City of Wharton hereby adopts for use in Early Voting and Election Day Voting the iVotronic (DRE) voting machines as approved by the Secretary of State to comply with HAVA requirements.

Elections Recording Management Tabulation System

The City of Wharton shall lease or rent from the County the ERM (Elections Recording Management) systems for tabulation purposes, if needed.

Election Officers

The Wharton County Elections Department (WCED) will be responsible for the appointment of the presiding judge and alternate judge. The following-named persons are appointed officers for the election:

Presiding Judge: Joyce Barker
Alternate Presiding Judge: Faye Evans

WCED shall arrange the training. WCED is responsible for notifying the election presiding and alternate judges of the eligibility requirements of Subchapter C of Chapter 32 of the Texas Election Code, and will take the necessary steps to insure that the presiding and alternate judges appointed are eligible to serve. The presiding judge, with the assistance from WCED, will be responsible for insuring the eligibility of each appointed clerk hired to assist the judge in the conduct of the election.

Early Voting

Wharton County Elections Administrator is Audrey Wessels appointed early voting clerk and is authorized to appoint other deputies to serve as early voting clerks.

The early voting by personal appearance for the above-designated election shall take place at the Wharton County Annex D, Suite 115, E. Milam, Wharton, Texas. The place for early voting shall remain open on each day that is not a Saturday, Sunday, or an official state holiday, between the hours of **8 a.m.** and **5 p.m.**, beginning on **April 28, 2014** and continuing through **May 1, 2014; Monday, May 5, 2014** and continuing through **Tuesday, May 6, 2014** between the hours of **7 a.m.** to **7 p.m.**

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Voters may send ballot applications and mailed ballots to the Wharton County Elections Administrator's office at P.O. Box 390, Wharton, TX 77488.

Early Voting Ballot Board

An Early Voting Ballot Board is hereby established for the purpose of early voting results. Wharton County Elections Administrator shall appoint the Presiding Judge of the Early Voting Ballot Board. Wharton County Elections Administrator shall act as Early Voting Ballot Board Clerk.

Compensation for Election Officials and Clerks

The election officials and clerks shall be compensated in the following manner:

The Election Judge for the May 10, 2014 General Election shall be paid \$9.00 per hour. The Election Judge shall also be paid \$25.00 for delivering the precinct records, keys to ballot box or other election equipment and unused election supplies after the election.

The Alternate Judge for the May 10, 2014 General Election shall be paid \$8.50 per hour.

The Election Clerk(s) for the May 10, 2014 General Election shall be paid \$8.50 per hour.

Writ of Election

Wharton County Elections Administrator shall deliver to the above-appointed presiding judge for the election not later than the **15th day** before election day.

Returns

"Section 41 of the City Charter provides that city elections shall be canvassed within one (1) week after the election; however, pursuant to changes in the Texas Election Code, Section 67.003, the local canvass shall convene not earlier than the third day or later than the 11th day after the election day." The period for official canvass shall be from May 13 - 21, 2014. The officers holding the election shall make returns of the results thereof to the Mayor of this City, as required by the Election Code of the State of Texas.

Order

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The City Council of the City of Wharton, Texas, shall order the election, in accordance with the foregoing provisions.

Severability

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

Passage and Approval

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, on this 27th day of January, 2014.

CITY OF WHARTON, TEXAS

ATTEST:

By: _____
Domingo Montalvo, Jr.
Mayor

By: _____
Paula Favors
City Secretary

APPROVED AS:

Paul Webb
City Attorney

CIUDAD DE WHARTON, TEXAS ORDENANZA N° 2014-03

UNA ORDENANZA ORDENANDO UNA ELECCIÓN DE FUNCIONARIOS DE LA CIUDAD A CELEBRARSE DE FORMA CONJUNTA CON EL DEPARTAMENTO DE ELECCIONES DEL CONDADO DE WHARTON CON EL PROPÓSITO DE ELEGIR PUESTOS DE CONCEJALES; ASIGNANDO LA FECHA, HORAS, Y LUGAR DE LA ELECCIÓN, EL AVISO DE LA ELECCIÓN, PRESENTACION DE SOLICITUDES, SORTEO PARA LUGARES EN LA BALOTA, USO DE SISTEMA DE VOTACIÓN ACCESIBLE, NOMBRAMIENTO DE LOS TRABAJADORES DE LA ELECCION,

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VOTACIÓN ANTICIPADA, Y ENTREGA DE LOS RESULTADOS DE LA ELECCION.

El Consejo Municipal de La Ciudad De Wharton, Texas, ORDENA:

“La Sección 32 de la Carta Constitutiva establece que se realicen elecciones ordinarias de la ciudad anualmente el primer sábado de mayo; sin embargo, de acuerdo con los cambios del Código de Elecciones de Texas, Sección 41.001(a) la fecha de la Elección General ha sido cambiada al segundo sábado de mayo”

Elección conjunta

El Departamento de elecciones del condado de Wharton realizará las obligaciones descritas en el Acuerdo de Elección Conjunta.

Puesto

Se celebrará una elección en la ciudad de Wharton, Texas, con el propósito de elegir a los siguientes oficiales de la Ciudad:

Alcalde - De forma irrestricta
Concejal - Distrito No. 2
Concejal - Distrito No. 4
Concejal - Posición No. 6

Fecha

Se celebrará una elección en la ciudad de Wharton, Texas, el **10 de mayo de 2014.**

Horas

Los lugares de votación abrirán para votar a las **7:00 a.m.** y se cerrarán a **las 7:00 p.m.**

Lugar

La elección se celebrará en el Centro Cívico de la ciudad de Wharton, en 1924 North Fulton Street, Wharton, Texas.

Aviso de elección de oficiales municipales

El Alcalde anunciará el aviso de la elección mediante la publicación del aviso por lo menos una vez en un periódico publicado en la ciudad de Wharton, Texas, y que esté

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en la jurisdicción de la ciudad de Wharton, Texas, cuya publicación no sea anterior a **30 días** antes ni posterior a **10 días** antes de la fecha del día de la elección.

El Alcalde también anunciará el aviso de la elección mediante la publicación del aviso en el tablero de anuncios ubicado en la Alcaldía, 120 East Caney, Wharton, Texas, utilizado para publicar los avisos de las reuniones del Concejo Municipal de Wharton no después de **21 días** antes de la elección. El aviso contendrá la ubicación del lugar de la votación.

Elegibilidad para votar

La elección se realizará de acuerdo con el Código de Elecciones del estado de Texas. Solamente los electores capacitados de la ciudad de Wharton, Texas, serán elegibles para votar en la elección.

Nombres de los candidatos

La Secretaria Municipal de acuerdo con los términos y disposiciones del Código de Elecciones del estado de Texas ordenará que los nombres de los candidatos sean impresos en las balotas para dicha Elección General.

Período de presentación

Los candidatos deben presentar sus solicitudes para un lugar en la balota a la Secretaria Municipal de la Ciudad de Wharton, Texas, a partir del **29 de enero de 2014** y continuando hasta las

5:00 de la tarde del **28 de febrero de 2014**. La declaración de solicitud de candidato anotado se debe presentar no más tarde de las 5:00 de la tarde del **28 de febrero de 2014**.

Los candidatos para concejales municipales deben designar el puesto al que se están postulando, ya sea para Alcalde de forma irrestricta, concejal del Distrito No. 2, concejal del Distrito No. 4, o concejal de forma irrestricta - Posición No. 6.

Sorteo para los lugares en las balotas

El 10 de marzo de 2014, a las 10:00 de la mañana se celebrará un sorteo en las oficinas de la Secretaria Municipal con el propósito de determinar el orden en que los nombres de los candidatos se imprimirán en la balota.

La Secretaria Municipal publicará el aviso de la fecha, hora y lugar del sorteo y este aviso deberá permanecer anunciado continuamente por lo menos las 72 horas inmediatamente anteriores a la hora programada para tal sorteo

Balotas

Se usarán balotas de papel con los propósitos de los votos provisionales y por correo para la votación anticipada y provisionales para el día de la elección.

Sistema de votación Accesible

La sección 61.012 del Código de Elecciones de Texas requiere que la Ciudad de Wharton deberá ofrecer al menos un sistema de votación accesible en cada lugar de votación usado en cualquier elección de Texas a partir del 1º de enero de 2006. Este sistema debe de cumplir con las leyes federales y estatales que establecen los requisitos para sistemas de votaciones que brinden una manera práctica y eficaz para que los votantes con discapacidades físicas voten en una balota secreta.

La oficina del Secretario de Texas ha certificado que las máquinas de votación iVotronic (DRE) son un sistema de votación accesible que puede ser usado legalmente en las elecciones de Texas.

Las secciones 123.032 y 123.035 del Código de Elecciones de Texas autorizan a las subdivisiones políticas la adquisición de sistemas de votación y además ordenan ciertos requisitos mínimos para los contratos relacionados con la adquisición de tales sistemas de votación. La Ciudad

de Wharton arrendará o alquilará del condado de Wharton según está autorizado por la sección 123.032.

La Ciudad de Wharton por medio del presente adopta para su uso en la votación anticipada y en el día de la elección las máquinas de votación iVotronic (DRE) según está aprobado por el Secretario del Estado para cumplir con los requisitos HAVA.

Sistema de Administración de la Tabulación de los Registros

La Ciudad de Wharton arrendará o alquilará del condado la (Administración de Registros de Elecciones) (ERM) con los propósitos de tabulación, si fuera necesario.

Oficiales de la elección

El Departamento de Elecciones del Condado de Wharton (WCED) será responsable del nombramiento del juez presidente y del juez presidente alterno. Las siguientes personas nombradas son nombradas como oficiales para la elección:

Juez Presidente:	Joyce Barker
Juez presidente Alterno:	Faye Evans

El WCED dispondrá el entrenamiento. El WCED es responsable de notificar al juez presidente y al juez presidente alterno de los requisitos del Subcapítulo C del Capítulo 32 del Código de Elecciones de Texas, y tomará las medidas necesarias para asegurar que el juez presidente y el juez presidente alterno nombrados sean elegibles para desempeñar el cargo. El juez presidente, con la asistencia del WCED, será responsable de asegurar la

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elegibilidad de cada secretaria nombrada para asistir al juez presidente a realizar la elección.

Votación anticipada

La administradora de elecciones del Condado de Wharton, Audrey Wessels, es nombrada como secretaria de la votación anticipada y queda autorizada a nombrar a otros asistentes para desempeñarse como secretarías de la votación anticipada.

La votación anticipada por comparecencia personal para la elección nombrada aquí arriba se realizará en el Anexo D del Condado de Wharton, Sala 115, E. Milam, Wharton, Texas. El lugar de

votación anticipada permanecerá abierto cada día que no sea sábado, domingo, o fiesta estatal oficial, desde las **8:00 de la mañana hasta las 5:00 de la tarde**, comenzando el **28 de abril de 2014** y continuando hasta el **1 de mayo de 2014**; el lunes **5 de mayo de 2014** y continuando el martes, **6 de mayo de 2014** desde las **7:00 de la mañana a las 7:00 de la noche**.

Los votantes deben enviar las solicitudes de balotas y las balotas votadas por correo a la oficina de la administradora de elecciones del Condado de Wharton: P.O. Box 390, Wharton, Texas 77488.

Junta de Balotas de la Votación Anticipada

Por medio del presente se establece una Junta de Balotas de la Votación Anticipada con el propósito de los resultados de la votación anticipada. La administradora de elecciones del Condado de Wharton nombrará al juez presidente de la Junta de Balotas de la Votación Anticipada. La administradora de elecciones del Condado de Wharton actuará como secretaria de de la Junta de Balotas de la Votación Anticipada.

Compensación para los Oficiales y los Secretarios de la Elección

Los oficiales y los secretarios de la elección serán compensados de la siguiente forma:

El juez de la elección de la elección general del 10 de mayo de 2014 será pagado \$9.00 por hora. El juez de la elección también será pagado \$25.00 por entregar los registros de los precintos, las llaves de la caja de las balotas u otro equipo electoral y los suministros electorales que no se hayan usado después de la elección.

El Juez alerno para la elección general del 10 de mayo de 2014 será pagado \$8.50 por hora.

Los secretarios de la elección para la elección general del 10 de mayo de 2014 serán pagados \$8.50 por hora.

Oficio de Elección

La administradora de elecciones del Condado de Wharton entregará al arriba nombrado juez presidente para la elección no más tarde de **15 días** antes del día de la elección.

Resultados

“La Sección 41 de la Carta Constitutiva dispone que las elecciones municipales serán escrutinadas durante una (1) semana después de la elección; sin embargo, de acuerdo con los cambios del Código de Elecciones de Texas, Sección 67.003, el escrutinio local se congregará no antes del tercer día ni más tarde del onceavo (11) día después del día de la elección.”. El periodo para los escrutinios oficiales será desde el 13 hasta el 21 de mayo de 2014. Los oficiales que realicen la elección deberán entregar los resultados de ella al alcalde de esta ciudad, según lo requiere el Código de Elecciones de Texas.

Orden

El Consejo Municipal de la Ciudad de Wharton, Texas, ordenará la elección de acuerdo con las siguientes disposiciones.

Divisibilidad

Si algún tribunal de jurisdicción competente dicta que cualquier sección, subsección, oración, cláusula, frase, o parte de esta orden sea inválida o inconstitucional, dicha parte será considerada como disposición separada, distinta e independiente, y dicho dictamen no afectará a la validez de las partes restantes.

Promulgación y Aprobación

PASADO Y APROBADO por El Consejo Municipal de la Ciudad de Wharton, Texas, este día 27 de enero de 2014.

CIUDAD DE WHARTON, TEXAS
ATESTIGUACIÓN:

City of Wharton
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Por: _____

Domingo Montalvo, Jr.
Alcalde

Por: _____

Paula Favors
Secretarial Municipal

APROBADO:

Paul Webb
Abogado Municipal

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

The thirteenth item on the agenda was to review and consider a resolution approving an agreement with Jones & Carter, Inc. for engineering services on Waste Water Treatment Plant #1 Improvements and authorizing the Mayor of the City of Wharton to execute said agreement. City Manager Andres Garza, Jr. presented a copy of a draft agreement with Jones & Carter, Inc. for the improvements to Wastewater Treatment Plant No. 1. City Manager Garza stated that the improvements were authorized in the 2013 Bond Program and the City Council Public Works Committee met on Monday, January 27, 2014 and recommended the City Council consider approving the agreement. After some discussion, Councilmember Don Mueller moved to approve City of Wharton Resolution No. 2014-09, which read as follows:

CITY OF WHARTON
RESOLUTION NO. 2014-09

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN AGREEMENT WITH JONES & CARTER, INC. AND THE CITY OF WHARTON FOR ENGINEERING SERVICES ON WASTE WATER TREATMENT PLANT NO. 1 IMPROVEMENTS AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, On January 27, 2014 the Wharton City Council entered into a professional engineering services agreement with Jones & Carter, Inc. for the engineering services on Waste Water Treatment Plant No. 1 Improvements.

WHEREAS, the City of Wharton and Jones & Carter, Inc. 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 said contract amendment.

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

Section I. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute an agreement with Jones & Carter, Inc. and the City of Wharton for engineering services on Waste Water Treatment Plant No. 1 Improvements.

Section II. The City of Wharton and Jones & Carter, Inc. 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 27th day of January 2014.

CITY OF WHARTON, TEXAS

By: _____
DOMINGO MONTALVO, JR.
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The fourteenth item on the agenda was to review and consider approving the acquisition of vehicles and equipment for the Public Works Department from the Texas Department of Transportation. City Manager Andres Garza, Jr. stated that the Texas Department of Transportation (TxDOT) was in the process of replacing its equipment and vehicles throughout the State. City Manager Garza said the City in the past had taken advantage of the program since it can obtain equipment and/or vehicles that are in fairly good condition. City Manager Garza said the City Council Public Works Committee met on Monday, January 27, 2014 and recommended the City Council consider approving the acquisition of vehicles and equipment for the Public Works Department from the Texas Department of Transportation. After some discussion, Councilmember Karen Schulz moved to approve the acquisition of vehicles and equipment for the Public Works Department from the Texas Department of Transportation. Councilmember Terry David Lynch seconded the motion. All voted in favor.

The fifteenth item on the agenda to review and consider approving Stavena Drainage Project. City Manager Andres Garza, Jr. presented a preliminary layout of the

improvements to provide drainage to the Stavena Addition. City Manager Garza stated the project would bring the drainage to the Sante Fe Drainage Outfall Ditch and the improvements would be on existing City of Wharton right-of-way, therefore, there would be no acquisition cost. City Manager Garza said the majority of the cost would be the moving of the dirt from the ditch. City Manager Garza said the City Council Public Works Committee met on Monday, January 27, 2014 and recommended City Council consider approving the project. After some discussion, Councilmember Al Bryant moved to approve the Stavena Drainage Project. Councilmember Karen Schulz seconded the motion. All voted in favor.

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

- A. Texas Department of Agriculture, Texas Community Development Block Grant Program, TxCDBG Contract No. 713510:
 1. **Resolution:** A resolution of the Wharton City Council appointing the Labor Standards Officer for the City of Wharton Ahldag Addition Sanitary Sewer Improvement Project, Texas Department of Agriculture, Texas Community Development Program Contract No. 713510.
 2. **Resolution:** A resolution of the Wharton City Council City Council appointing the Depository/Authorized Signatories for the City of Wharton Ahldag Addition Sanitary Sewer Improvement Project, Texas Department of Agriculture, Texas Community Development Program Contract No. 713510.
 3. **Resolution:** A resolution of the Wharton City Council designating a Consultant Selection Committee and selection criteria for the procurement of Professional Engineering Services for the City of Wharton Ahldag Addition Sanitary Sewer Improvement Project, TxCDBG Contract No. 713510

City Manager Andres Garza, Jr. presented three draft resolutions in reference to grant requirement for the City of Wharton Ahldag Addition Sanitary Sewer Improvement Projects. After some discussion, Councilmember Russell Machann moved to approve City of Wharton Resolutions No 2014-10, 2014-11, and 2014-12, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2014-10**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPOINTING THE LABOR STANDARDS OFFICER FOR THE CITY OF WHARTON AHLDAG ADDITION SANITARY SEWER IMPROVEMENT PROJECT, TEXAS DEPARTMENT OF AGRICULTURE, TEXAS COMMUNITY DEVELOPMENT PROGRAM CONTRACT NO. 713510.

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WHEREAS, The Wharton City Council approved Resolution No. 2014-XX approving City of Wharton Ahldag Addition Sanitary Sewer Improvement Project, Texas Department of Agriculture, Texas Community Development Program Contract No. 713510; and

WHEREAS, In accordance with the contract requirements, the Wharton City Council wishes to appoint a Labor Standards Officer for the Ahldag Addition Sanitary Sewer Improvement Project; and

WHEREAS, The Wharton City Council wishes to appoint Director of Community Services Jo Beth Knezek as the Labor Standards Officer for the afore-mentioned project (Form 701); and

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

Section I. The Wharton City Council wishes to appoint Director of Community Services Jo Beth Knezek as the Labor Standards Officer for the City of Wharton Ahldag Addition Sanitary Sewer Improvement Project, Texas Department of Rural Affairs, Texas Community Development Program Contract No. 713510.

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

PASSED, APPROVED, AND ADOPTED this the 27th day of January 2014.

CITY OF WHARTON, TEXAS

By: _____
DOMINGO MONTALVO, JR.
Mayor

ATTEST:

PAULA FAVORS
City Secretary

**CITY OF WHARTON
RESOLUTION NO. 2014-11**

A RESOLUTION OF THE WHARTON CITY COUNCIL, DESIGNATING AUTHORIZED SIGNATORIES FOR CONTRACTUAL DOCUMENTS AND DOCUMENTS FOR REQUESTING FUNDS PERTAINING TO THE TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (TxCDBG) CONTRACT NUMBER 713510.

WHEREAS, the City of Wharton, Texas has received a 2013 Texas Community Development Block Grant award to provide Sanitary Sewer improvements, and;

WHEREAS, it is necessary to appoint persons to execute contractual documents and document for requesting funds from the Texas Department of Agriculture, and;

WHEREAS, an original signed copy of the TxCDBG Depository/Authorized Signatories *Designated Form* (Form A202-Attached) is to be submitted with a copy of this Resolution, and;

WHEREAS, the City of Wharton, Texas acknowledges that in the event that an authorized signatory of the City changes (elections, illness, resignations, etc.), the City must provide TxCDBG with following:

- a resolution stating who the new authorized signatory is (not required if this original resolution names only the title and not the name of the signatory); and
- a revised TxCDBG Depository/Authorized Signatories Designation Form (Form A202-Attached)

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

Section I. The Mayor, City Manager or Finance Director be authorized to execute contractual documents between the Texas Department of Agriculture and the City of Wharton for the 2013 Texas Community Development Block Grant Program.

Section II. The Mayor, City Manager or Finance Director be authorized to execute the *State of Texas Purchase Voucher and Request for Payment Form* documents required for requesting funds approved in the 2013 Texas Community Development Block Grant Program.

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

PASSED, APPROVED AND ADOPTED this 27th day of January 2014.

CITY OF WHARTON, TEXAS

By: _____
DOMINGO MONTALVO, JR.
Mayor

ATTEST:

PAULA FAVORS
City Secretary

**CITY OF WHARTON
RESOLUTION NO. 2014-12**

A RESOLUTION OF THE WHARTON CITY COUNCIL DESIGNATING A CONSULTANT SELECTION COMMITTEE AND SELECTION CRITERIA FOR THE PROCUREMENT OF PROFESSIONAL ENGINEERING SERVICES FOR THE CITY OF WHARTON AHLDAG ADDITION SANITARY SEWER IMPROVEMENT PROJECT, TEXAS COMMUNITY BLOCK GRANT DEVELOPMENT PROGRAM (TXCDBG) CONTRACT NO. 713510.

WHEREAS, The City of Wharton has been awarded grant funds from the Office of Rural Community Affairs under the Texas Community Development Block Grant Program, TxCDBG Contract No. 713510; and

WHEREAS, The City of Wharton wishes to follow the State of Texas Procurement Process for Professional Services; and

WHEREAS, The City Council wishes to designate a consultant selection committee composed of the City Council Public Works Committee, City Manager and Public Works Director (Attachment

A) for the procurement of professional engineering services the Ahldag Addition Sanitary Sewer Improvement Project; and

WHEREAS, The Consultant Selection Committee will recommend an engineering firm to the City Council for consideration; and

WHEREAS, It is the responsibility of the consultant selection committee follow the below listed recommended guidelines (Attachment B):

- a. Procurement Provisions for Professional Services,
- b. The Texas Engineering Practice Act,
- c. Procurement Standards, Uniform Grant and Contract Management Standards,
- d. Texas Government Code - Chapter 2254 Professional and Consulting Services, Subchapter A. Professional Services,
- e. Proposal Rating Sheet for Engineering Services.

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

Section I: The City Council hereby designates a consultant selection committee for the procurement of professional engineering services for the Ahldag Addition Sanitary Sewer Improvement Project.

Section II: The City of Wharton hereby accepts the State of Texas Procurement Process procedures for Professional Services (Attachment B).

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

PASSED, APPROVED AND ADOPTED this the 27th day of January 2014.

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 seventeenth item on the agenda was to review and consider City of Wharton City Council Boards, Commissions, and Committees Appointments:

- A. Beautification Commission.
- B. Holiday Light Decorating Chairman.

After some discussion, no action was taken.

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

- A. Beautification Commission meeting was held on January 8, 2014.
- B. Finance Committee meeting was scheduled to be held on January 13, 2014 but canceled.
- C. Public Works Committee meeting was scheduled to be held on January 13, 2014 but canceled.
- D. Mayor's Committee on People with Disabilities Committee was held on January 14, 2014.
- E. Public Works Committee meeting is scheduled for January 27, 2014.

After some discussion, no action was taken.

The nineteenth item on the agenda was City Manager's Reports:

- | | |
|---|--------------------------------|
| A. City Secretary/Personnel. | I. Legal Department. |
| B. Code Enforcement. | J. Municipal Court. |
| C. Community Services Department /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. Fire Marshal. |
| H. Fire Department. | P. Wharton Regional Airport. |

After some discussion, no action was taken.

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The twentieth item on the agenda was to review and consider a request for water service outside the City Limits by Sheila Lenior. City Manager Andres Garza, Jr. presented an application for water service outside the City Limits from Ms. Lenior. After some discussion, Councilmember Terry David Lynch moved to approve the request for water service outside the City Limits by Sheila Lenior. Councilmember Al Bryant seconded the motion. All voted in favor.

The twenty-first item on the agenda was adjournment. After some discussion, Councilmember Don Mueller moved to adjourn. Councilmember Al Bryant seconded the motion. All voted in favor.

The meeting adjourned at 8:17 p.m.

CITY OF WHARTON, TEXAS

By: _____
Domingo Montalvo, Jr.
Mayor

ATTEST:

Paula Favors
City Secretary