

**MINUTES
OF
CITY OF WHARTON
SPECIAL CITY COUNCIL MEETING
MAY 17, 2010**

Mayor David W. Samuelson declared a Special Meeting duly open for the transaction of business at 6:04 p.m. Councilmember Domingo Montalvo, Jr. led the opening devotion and then Mayor led the pledge of allegiance.

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

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

Staff members present were: City Manager Andres Garza, Jr., City Secretary Lisa Olmeda, and City Attorney Paul Webb.

Visitors present were: Barry Halvorson with Wharton Journal Spectator.

The second item on the agenda was Roll Call and Excused Absences. Councilmember Domingo Montalvo, Jr. made a motion to excuse the absence of Councilmember V. L. Wiley, Jr. from the special City Council meeting held on May 17, 2010. Councilmember Lewis Fortenberry, Jr. seconded the motion. All voted in favor.

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

The fourth item on the agenda was to review and consider an ordinance canvassing the election returns and declaring the results of the City Officers' Election held May 8, 2010.

ORDENANZA: UNA ORDENANZA PARA HACER EL ESCRUTINIO Y DECLARAR LOS RESULTADOS DE LA ELECCIÓN DE FUNCIONARIOS MUNICIPALES REALIZADA EL 8 DE MAYO DE 2010. City Manager Andres Garza, Jr. presented a draft ordinance canvassing the election returns and declaring the results of the City Officers' Election held May 8, 2010. City Secretary Lisa Olmeda presented the tabulation results to City Council for review. After some discussion, Councilmember Terry David Lynch made a motion to approve Ordinance No. 2010-05, which read as follows:

**CITY OF WHARTON, TEXAS
ORDINANCE NO. 2010-05**

**AN ORDINANCE CANVASSING THE ELECTION RETURNS AND
DECLARING THE RESULTS OF THE CITY OFFICERS' ELECTION
HELD ON MAY 8, 2010**

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

The City Council of the City of Wharton, Texas has canvassed the returns of the city officers' election held on the **8th of May 2010**, and the City Council finds and declares that the election returns were duly and legally made, that all of the votes counted at the election were valid and legal, and that each of the candidates in the election received the following numbers of votes:

	<u>Early Votes</u>	<u>Election Day</u>	<u>Total</u>
Mayor			
Nikki Paige Araguz	<u>73</u>	<u>45</u>	<u>118</u>
Domingo Montalvo, Jr.	<u>226</u>	<u>156</u>	<u>382</u>
Provisional Ballots	<u>0</u>	<u>3</u>	<u>3</u>
Election Returns	<u>299</u>	<u>201</u>	<u>500</u>

The City Council of the City of Wharton, Texas pursuant to the Texas Election Code declare unopposed:

Councilmember District No. 2

Lewis Fortenberry, Jr.

Councilmember District No. 4

Don Mueller

Councilmember At Large Place No. 6

Jeff Gubbels

The City Council further finds and declares that the election was duly called, that notice of the election was given in accordance with law, that the election was held in accordance with law, that **Lewis Fortenberry, Jr.** was elected Councilmember District No. 2, **Don E. Mueller** was elected Councilmember District No. 4, **Jeff Gubbels** was elected Councilmember At Large - Place No. 6, and that **Domingo Montalvo, Jr.** was elected Mayor.

The City Council declares the above-named persons to be duly elected to the above-named offices, subject to the taking of their oaths of office as provided by the laws of the State of Texas and the charter of the City of Wharton, Texas.

Severability

If any court of competent jurisdiction rules that any section, subsection, sentence, clause, phrase, or portion of this resolution 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 the 17th of **May 2010**.

CITY OF WHARTON, TEXAS

By: _____
DAVID W. SAMUELSON
Mayor

ATTEST:

LISA OLMEDA
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

CIUDAD DE WHARTON, TEXAS
ORDENANZA N° 2010-

UNA ORDENANZA PARA HACER EL ESCRUTINIO Y DECLARAR LOS RESULTADOS DE LA ELECCIÓN DE FUNCIONARIOS MUNICIPALES REALIZADA EL 8 DE MAYO DE 2010.

El Consejo Municipal de la Ciudad de Wharton, Texas RESUELVE LO SIGUIENTE:

El Consejo Municipal de la Ciudad de Wharton, Texas, hizo el escrutinio de los votos de la elección de funcionarios municipales realizada el **8 de mayo de 2010**, y el Consejo Municipal determina y declara que los esto se realizó en forma debida y legal, que todos los votos contados en la elección eran válidos y legales y que cada uno de los candidatos en la elección recibió el siguiente número de votos:

	<u>Votación anticipada</u>	<u>Día de la elección</u>	<u>Total</u>
Alcalde			
Nikki Paige Araguz	<u>73</u>	<u>45</u>	<u>118</u>
Domingo Montalvo, Jr.	<u>226</u>	<u>156</u>	<u>382</u>
Balotas provisionales	<u>0</u>	<u>3</u>	<u>3</u>
Resultados de la elección	<u>299</u>	<u>201</u>	<u>500</u>

El Consejo Municipal de la Ciudad de Wharton, Texas, conforme al Código de Elecciones de Texas, declara sin oposición:

Concejal, Distrito N° 2

Lewis Fortenberry, Jr.

Concejal, Distrito N° 4

Don Mueller

Concejal en forma irrestricta, Posición N° 6

Jeff Gubbels

El Consejo Municipal determina y declara además que la elección fue convocada en la forma debida, que se dio aviso de la elección de conformidad con las leyes, que la elección se realizó de conformidad con las leyes, que **Lewis Fortenberry, Jr.** fue elegido Concejal – Distrito N° 2, **Don E. Mueller** fue elegido Concejal – Distrito N° 4, **Jeff Gubbels** fue elegido Concejal en forma irrestricta – Posición N° 6, y que **Domingo Montalvo, Jr.** fue elegido Alcalde.

El Consejo Municipal declara que las personas arriba nombradas fueron debidamente elegidas a los cargos indicados, sujeto a su juramento del cargo tal como lo indican las leyes del Estado de Texas y la Carta Constitutiva de la Ciudad de Wharton, Texas.

Divisibilidad

Si un tribunal de jurisdicción competente establece que alguna sección, subsección, frase, cláusula, o parte de esta resolución es inválida o inconstitucional, dicha parte será considerada como una disposición separada, definida e independiente, y dicha decisión no afectará la validez de las partes restantes de este documento.

Autorización y aprobación

AUTORIZADA Y APROBADA por el Consejo Municipal de la Ciudad de Wharton, Texas, el 17 de **mayo de 2010**.

CIUDAD DE WHARTON, TEXAS

Por: _____
DAVID W. SAMUELSON
Alcalde

ATESTIGUACIÓN:

LISA OLMEDA
Secretaria Municipal

APROBADO EN CUANTO A FORMATO:

PAUL WEBB
Abogado Municipal
Councilmember Lewis Fortenberry, Jr. seconded the motion.

Mayor David W. Samuelson presented the Certificate of Election to elected Mayor Domingo Montalvo, Jr., Councilmembers Lewis Fortenberry, Jr., Don Mueller and Jeff Gubbels.

The fifth item on the agenda was to review and consider a resolution of the Wharton City Council approving a Letter of Engagement between the City of Wharton and Andrews Kurth LLP for bond counsel services and authorizing the City Manager of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. stated that during the May 10, 2010 Wharton City Council meeting, the City Council approved the City Staff to move forward with refunding bonds; however, Mr. Thomas A. Sage, the City's bond counsel had partnered with Andrew Kurth, L.L.P. and was no longer with Vinson & Elkins. He then presented a copy of the letter received on May 14, 2010 from Mr. Sage regarding the change in firms. He said that Mr. Sage's team prepared a Letter of Engagement for bond counsel services. He then presented a draft copy of a resolution approving the City Manager to execute the letter of agreement, which was required to move forward with refunding the bonds. After some discussion, Councilmember Don Mueller made a motion to approve Resolution No. 2010-27, which read as follows:

CITY OF WHARTON
RESOLUTION NO. 2010-27

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A LETTER OF ENGAGEMENT BETWEEN THE CITY OF WHARTON AND ANDREWS KURTH, LLP FOR BOND COUNSEL SERVICES AND AUTHROIZING THE CITY MANAGER OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, the City of Wharton wishes to engage the services of Andrews Kurth, LLP for bond counsel services; and

WHEREAS, Andrews Kurth, LLP wishes to provide the City of Wharton with bond counsel services; and

WHEREAS, The City of Wharton and the Andrews Kurth, LLP. wishes to be bound by the conditions set forth in the agreement; and

WHEREAS, The Wharton City Council wishes to authorize the City Manager 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 approves the Letter of Engagement between the City of Wharton and Andrews Kurth, LLP for bond counsel services.

Section II. That the City of Wharton and Andrews Kurth, LLP are hereby bound by the conditions set forth in the agreement.

Section III. That the Wharton City Council hereby authorizes the City Manager of the City of Wharton to execute the agreement.

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

Passed, Approved, and Adopted this 17th day of May 2010.

CITY OF WHARTON, TEXAS

By: _____
DAVID W. SAMUELSON
Mayor

ATTEST:

LISA OLMEDA

City Secretary

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

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

The meeting adjourned at 6:08 p.m.

City of Wharton
Special City Council Meeting
May 17, 2010

CITY OF WHARTON, TEXAS

By: _____
DAVID W. SAMUELSON
Mayor

ATTEST:

LISA OLMEDA
City Secretary