

**MINUTES  
OF  
CITY OF WHARTON  
REGULAR CITY COUNCIL MEETING  
MARCH 28, 2016**

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. Pastor Meredith Wende-Mills led the opening devotion and Mayor Montalvo led the pledge of allegiance.

Councilmember's present were: Mayor Domingo Montalvo, Jr. and Councilmembers Tim Barker, Al Bryant, Vincent Huerta, Russell Machann, Don Mueller and Steven Schneider.

Councilmember absent was: None

Staff members present were: Finance Director Joan Andel, City Secretary Paula Favors, TRMC, Assistant to the City Manager Brandi Jimenez, Assistant to the Building Official Gwyn Laney, Police Chief Terry David Lynch, Patrol Officer Luis Moreno, Jr., EMS Director John Kowalik and Assistant City Attorney Amy Rod.

Visitors present were: David Schroeder, Executive Director with Wharton Economic Development Corporation (WEDCo), Rob Reyes, Karen Vannerson with Linebarger Goggan Blair & Sampson LLP, Pastor Meredith Wende-Mills, Blaise Dreitner, P.E., with CivilCorp LLC, M.G. Khan and Shaina Bowen with the Wharton Journal Spectator.

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 Public Comments were made.

The fourth item on the agenda was the Wharton Moment. Mayor Domingo Montalvo, Jr. thanked the American Legion as well as others for a remarkable celebration during the unveiling of the Mike C. Pena Memorial Highway on Saturday, March 19, 2016.

The fifth item on the agenda was the City of Wharton Financial Report for February 2016. Finance Director Joan Andel presented the financial report for the month of February 2016. Mrs. Andel stated that the TexPool balance for January as \$131,530.42 with an average monthly yield of .30%. She said the Prosperity Bank balance for February 2016 was \$10,664,389.19 with an average monthly yield of .15% and the total ad valorem taxes collected as of February 2016 were \$1,738,768 with the sales tax for the month of February

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2016 was \$141,221. After some discussion, Councilmember Russell Machann moved to approve the City of Wharton Financial Report for the month of February 2016. Councilmember Don Mueller seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider a request by M.G. Khan for a 26' variance from the required 35' setback resulting in 9' setback to replace gas canopy damage in extreme winds. City Manager Andres Garza, Jr. presented a request by M.G. Khan for a 26' variance from the required 35' setback resulting in 9' setback to replace gas pump canopy damage in extreme winds at 2425 N. Richmond Road. Assistant to the Building Official Gwyn Laney stated Mr. Khan was requesting a waiver of the permit fee due to hardship as well. After some discussion, Councilmember Don Mueller moved to approve the request by M.G. Khan for a 26' variance from the required 35' setback resulting in 9' setback from the property line to replace gas pump canopy damage in extreme winds. Councilmember Al Bryant seconded the motion. Councilmembers Steven Schneider, Tim Barker, Don Mueller, Al Bryant and Russell Machann voted for the motion. Councilmember Vincent Huerta voted against the motion. The motion carried.

The seventh item on the agenda was to review and consider Wharton Emergency Medical Service Department (EMS):

A. Request to fully outfit the reserve unit.

B. **Resolution:** A resolution of the Wharton City Council authorizing the purchase of an EKG Monitor, Lucas Device and Stair Chair through Physio-Control, Inc. and Stryker and authorizing the City Manager of the City of Wharton to execute all documents related to said contract.

City Manager Andres Garza, Jr. presented a memorandum dated March 8, 2016, from EMS Director John Kowalik in regards to purchases to fully outfit the reserve unit with all the necessary supplies and equipment due to increase and distance of transports. City Manager Garza further presented the quotes for the EKG monitor, Lucas Device and a Stair Chair. Mr. Kowalik stated that the total cost for the supplies and equipment was \$67,379.89. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Resolution No. 2016-17, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2016-17**

**A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING  
THE PURCHASE OF AN EKG MONITOR, LUCAS DEVICE AND STAIR  
CHAIR THROUGH PHYSIO-CONTROL, INC. AND STRYKER AND  
AUTHORIZING THE CITY MANAGER OF THE CITY OF WHARTON TO  
EXECUTE ALL DOCUMENTS RELATED TO SAID CONTRACT.**

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**WHEREAS,** The Wharton EMS Department wishes the City Council to approve the purchase of an EKG Monitor, Lucas Device and Stair Chair to fully outfit the reserve unit; and,

**WHEREAS,** The City of Wharton is has determined that these companies are sole source providers; and,

**WHEREAS,** The Wharton City Council wishes to authorize the City Manager to purchase an EKG Monitor and Lucas Device from Physio-Control, Inc., and a Stair Chair from Stryker; and,

**WHEREAS,** The Wharton City Council wishes to authorize the City Manager to execute the agreement related to the purchase of this equipment from the respective company.

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

**SECTION I.** The Wharton City Council hereby authorizes the purchase of an EKG Monitor and Lucas Device from Physio-Control, Inc., and a Stair Chair from Stryker.

**SECTION II.** The Wharton City Council hereby authorizes the City Manager to execute the agreement related to the purchase of the vehicles.

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

**PASSED AND APPROVED** this 28th day of March 2016.

**CITY OF WHARTON**

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**Domingo Montalvo, Jr.**  
Mayor

**ATTEST:**

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**Paula Favors**  
City Secretary

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

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The eighth item on the agenda was to review and consider a resolution of the Wharton City Council awarding a contract to M&C Fonseca for the Sidewalk Accessibility and Historic Streetscape Project and authorizing the Mayor of the City of Wharton to execute all documents related to said contract. City Manager Andres Garza, Jr. stated that bids were received on March 14, 2016, it was determined that Boettcher Hlavinka, who was the lowest bidder, was not prequalified within the amount of time designated by TxDOT and in the specifications. City Manager Garza said that M&C Fonseca would be the lowest qualified bidder and once approved the package would be then sent to TxDOT for their official concurrence to accept them as the low bidder for the project. City Manager Garza presented a letter to him from Mr. Blaise Dreitner, P.E. of CivilCorp LLC recommending the contract be awarded to M&C Fonseca in the amount of \$780,104.05. After some discussion, Councilmember Don Mueller moved to approve City of Wharton Resolution No. 2016-18, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2016-18**

**A RESOLUTION OF THE WHARTON CITY COUNCIL AWARDING A CONTRACT TO M&C FONSECA FOR SIDEWALK ACCESSIBLITLY AND HISTORIC STREETScape PROJECT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID CONTRACT.**

**WHEREAS,** Bids were received for the Sidewalk Accessibility and Historic Streetscape Project; and,

**WHEREAS,** M&C Fonseca was deemed the best lowest qualified bidder in the amount of \$780,104.05; and,

**WHEREAS,** After the bid is approved by City Council the bid award will be sent to the Texas Department of Transportation (TxDOT) for their official concurrence to accept M&C Fonseca as the lowest qualified bidder for final contract execution; and,

**WHEREAS,** The Wharton City Council wishes to award a contract to M&C Fonseca for the Sidewalk Accessibility and Historic Streetscape Project in the amount of \$780,104.05; and,

**WHEREAS,** the City of Wharton and M&C Fonseca wish 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 on behalf of the City of Wharton.

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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, Texas, to execute a contract for the Sidewalk Accessibility and Historic Streetscape Project to M&C Fonseca in the amount of \$780,104.05 after receiving official concurrence from TxDOT.
- Section II.** The City of Wharton and M&C Fonseca are hereby bound by the conditions as set forth in the agreement.
- Section III.** That this resolution shall become effective immediately upon its passage.

**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 ninth item on the agenda was to review and consider a resolution of the Wharton City Council establishing a Consultant Selection Committee and developing evaluation criteria for the selection of a consulting firm for the 2016 Planning and Capacity Building Fund Project from TDA-Office of Rural Affairs of the Texas Community Development Block Grant Program. City Manager Andres Garza, Jr. stated that the City Council authorized on January 25, 2016, the submission of a Planning and Capacity Building Fund grant application for the development of a Comprehensive Development Plan. City Manager Garza said it also authorized the advertising for general administrative services for the grant and the City was required to procure those services using a formal procurement process that requires the contract to be awarded be selected by using a Consultant Selection Committee to score the request for proposals with an established criteria. He said the Consultant Selection Committee could consist of elected and/or appointed officials. City Manager Garza said the City staff was recommending that the members of the City Council Finance Committee along with the City Manager and Finance Director be appointed to the

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Consultant Selection Committee which would in turn provide to the City Council a recommendation on the consultants to be used for these services. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Resolution No. 2016-19, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2016 -19**

**A RESOLUTION OF THE WHARTON CITY COUNCIL ESTABLISHING A CONSULTANT SELECTION COMMITTEE AND DEVELOPING EVALUATION CRITERIA FOR THE SELECTION OF A CONSULTING FIRM FOR THE 2016 PLANNING AND CAPACITY BUILDING FUND PROJECT FROM TDA-OFFICE OF RURAL AFFAIRS OF THE TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM.**

**WHEREAS,** The Wharton City Council wishes to establish a Consultant Selection Committee to request proposals related to the 2016 Planning and Capacity Building Fund Project and provide recommendations to the entire City Council; and,

**WHEREAS,** The Wharton City Council wishes the Consultant Selection Committee to consist of the City Council Finance Committee along with the City Manager and Finance Director; and,

**WHEREAS,** The Wharton City Council wishes for this Committee to exist until a recommendation for a consultant is forwarded to the entire City Council; and,

**WHEREAS,** The Wharton City Council wishes to approve a proposal rating criteria as stated on Exhibit "A", a copy of which is attached and made part of this resolution.

**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 establishes the City Council Consultant Selection Committee.

**Section II.** That the Wharton City Council Consultant Selection Committee will consist of the City Council Finance Committee along with the City Manager and Finance Director.

**Section III.** That the Wharton City Council hereby approves a consultant selection criteria as stated in Exhibit "A" attached to this resolution.

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

**Passed, Approved, and Adopted** this 28th day of March 2016.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:** \_\_\_\_\_  
**PAULA FAVORS**  
City Secretary

Councilmember Vincent Huerta seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider update of City of Wharton on-going projects. City Manager Andres Garza, Jr. presented a copy of the memorandum dated March 21, 2016 providing an update on the City of Wharton current projects.

#### **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 Library and the office of the City of Wharton City Secretary for viewing or the report may be viewed on line at <http://www.cityofwharton.com/information-a-notices/lcrb-feasibility-study>.

On December 14, 2015, the City Council authorized the Wharton Levee Sump Study with Halff and Associates to determine what components of the Wharton Flood Reduction Project (Levee Project) could be undertaken to move this project forward. The City Staff met with Mr. Levi Hein P.E. of Halff and Associates Fort Worth Office to kick-off the study. The firm has begun the study and the City Staff will be working with them to formulate a plan for funding consideration by the U.S. Corp of Engineers and other funding agencies. Once developed it will be presented to the City Council Public Works Committee for a formulation of a recommendation to the City Council. Also, the City Council authorized the submission of a Clean Water Project Information Form (CWPIF) to the Texas Water Development Board for some possible funding.

#### **DRAINAGE:**

**1. Santa Fe Outfall Channel.**

The Public Works Department has finished excavation of the channel. During the month of January, routine maintenance was done on the Channel. The channel is slowly increasing in grass cover which is allowing several eroded areas to heal themselves over time. The Public Works Department has installed grade stabilization structures to eliminate erosion thereby reducing or eliminating the need to reshape the channel areas with active erosion. The Public Works Department will be installing additional grade stabilization structures or pipe drops along the channel. These structures are part of the original engineering design and not only control erosion but are helping to improve drainage in the city by serving as the outfall for water that has been redirected to the Santa Fe Channel. Work on property owners land is now complete.

**2. Stavena Addition Drainage Project.**

The design and construction plans are complete. The challenge on this project is to find locations to place approximately 35,000 cubic yards of soil. The City Staff has scheduled a meeting with the Wharton Industrial Foundation representatives to discuss their interest in the excess soil.

**3. Ahldag Ditch Improvement.**

The project was approved in the 2013 Bond Program. Public Works Director is currently working out the details.

**4. On-going Drainage and Maintenance Program.**

The Public Works Department has continued working on cleaning residential draining ditches that have experienced poor drainage.

**5. Pecan Acres (Mahann, Kinkaid, Delmas) Drainage Project.**

The project area is currently being surveyed for the necessary improvements.

**WATER/SEWER IMPROVEMENTS:**

**1. On-going Water and Sewer Maintenance Program.**

Water leaks and sewer failures are still being seen in the month of February.

**2. Alabama Street Sewer Line Project.**

After the bid was rejected as a combined project, the City Staff proposed to submit to the Texas Department of Agriculture for the 2015-2016 Texas Community Development Block Grant for funding of the Rust 2, 3 and 4 Addition sewer lines along with lateral lines.

The application was submitted prior to the application deadline. The City Staff is waiting for a decision on this application. An announcement is expected by early summer.



**2. Kelving Way and Croom/Price Waterline Project.**

The project is on-going with the contractor, Supak Construction, should complete the project in a few weeks.

**3. Wastewater Treatment Plant No. 1 Improvement Project.**

The project is moving forward. Updates are being provided by Jones & Carter on a monthly basis when pay request are sent.

**STREET IMPROVEMENTS**

**1. FM 1301 Extension and Overpass Project Progress Report.**

IDC Inc. has submitted to TxDOT Yoakum District Office all required plans for the project. The City Staff continues to coordinate with TxDOT to ensure the project continues to move forward.

The City Staff met with Yoakum District Engineer Paul Reitz on February 5, 2016 to discuss the project. The City Staff will brief the City Council at the March 14, 2016 regular City Council Meeting.

**2. I-69 Project.**

TxDOT will hold a public hearing in the next few weeks regarding the environmental requirements for the project in Wharton County.

**3. NanYa Exit Ramp Project.**

The City has submitted its request to TxDOT on proceeding with the changes to the NanYa exit ramp that would accommodate the turn around that Buc-ees has agreed in principle to contribute to see the project materialize. The City is awaiting TxDOT's response.

**4. 2016 City Street Improvements.**

The City staff is preparing a list of the streets to present to the City Council for approval.

**5. Wharton Sidewalk Accessibility and Historic Streetscape Project.**

The Project has been authorized for re-bid by TxDOT. Bids will be received on March 14, 2016.

**WHARTON REGIONAL AIRPORT**

**1. Hangar Construction Project.**

The project is moving forward. BLS Construction was awarded the construction contract by TxDOT Aviation Division and the project is its final construction phase.

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After some discussion, no action was taken.

The eleventh item on the agenda was to review and consider appointments to the City of Wharton Boards, Commissions and Committees:

- A. Building Standards Commission.

After some discussion, no action was taken.

The twelfth item on the agenda was to review and consider City Council Boards, Commission and Committee Report:

- A. Beautification Commission meeting held on March 9, 2016.
- B. Wharton Economic Development Corporation meeting held on March 21, 2016.

After some discussion, no action was taken.

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

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

After some discussion, no action was taken.

The fourteenth 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 7:25 p.m.

**CITY OF WHARTON, TEXAS**

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

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**Mayor**

**ATTEST:**

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**Paula Favors**  
**City Secretary**