

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
SEPTEMBER 26, 2011**

Mayor Pro-Tem Don Mueller declared a Regular Meeting duly open for the transaction of business at 7:00 P.M. Mayor Pro-Tem Don Mueller led the opening devotion and led the pledge of allegiance.

Councilmember's present were: Mayor Pro-Tem Don Mueller, Councilmembers Al Bryant, Jeff Gubbels, Terry David Lynch, Russell Machann, and Karen Schulz.

Councilmember absent was: Mayor Domingo Montalvo, Jr.

Staff members present were: City Manager Andres Garza, Jr., Finance Director Joan Andel, City Secretary Paula Favors, Assistant to City Manager Jackie Jansky, Public Works Director Carter Miska, P.E., and EMS Director John Kowalik.

Visitors present were: David Schroeder with Wharton Economic Development Corporation, Carlos Cotton P.E., with Jones and Carter, Hannah Gubbels, Keith Magee with Wharton Journal Spectator, I.O. Coleman, Jr., Alan Borjorquez from Borjorquez Law Firm, PLLC, and Rachel Rust.

The second item on the agenda was Roll Call and Excuses Absences. Councilmember Jeff Gubbels moved to excuse the absence of Mayor Domingo Montalvo, Jr. Councilmember Alfred Bryant seconded the motion. All voted in favor.

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

The fourth item discussed on the agenda was the Wharton Moment. Councilmember Terry David Lynch congratulated Mr. James Copper, City of Wharton Emergency Management Coordinator, for being awarded the 100 Club Citizen of the Year, and Police Officer Donna Guanajuato for being awarded Officer of the Year. No comments were given.

The fifth item on the agenda was to review and consider the City of Wharton Financial Report for the month of August 2011. Finance Director Joan Andel presented the financial report for the month of August 2011. Mrs. Andel stated that the total ad valorem taxes collected were \$7,677.33 and the sales tax for the month of August 2011 was \$111,679.79. She further stated that the TexPool balance for August was \$169,957.58 with an average monthly yield of 0.09%. She said the Prosperity Bank balance for August 2011 was \$6,693,342.46 with an average

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monthly yield of 0.15%. Mrs. Andel further stated that other investments included \$2,661.07 at TexasGulf Federal Credit Union in the debt fund, and \$255,807.30 at Capital One Marketing. After some discussion, Councilmember Jeff Gubbels moved to approve the City of Wharton Financial Report for the month of August 2011. Councilmember Russell Machann seconded the motion. All voted in favor.

The sixth item on the agenda item was to review and consider an ordinance adopting the fiscal year 2011-2012 annual budget for the City of Wharton, Texas; Appropriating the sums established therein; and directing the City Secretary to file copies as required by law. City Manager Andres Garza, Jr. stated that during the regular August 22, 2011 City Council meeting the City Council received under separate cover, a copy of the proposed budget for the City of Wharton, Texas, Fiscal Year October 1, 2011 to September 30, 2012. City Manager Garza further stated that during the regular September 12, 2011 City Council meeting, the City Council held the required public hearing to receive public input regarding City of Wharton annual budget for fiscal year 2011 – 2012. Finance Director Joan Andel presented the City Council with a draft ordinance adopting the fiscal year 2011-2012 annual budget for the City of Wharton, Texas. After some discussion, Councilmember Terry David Lynch moved to approve City of Wharton Ordinance No. 2011-15, which read as follows:

**CITY OF WHARTON, TEXAS
ORDINANCE NO. 2011-15**

**AN ORDINANCE ADOPTING THE FISCAL YEAR 2011-2012 ANNUAL BUDGET FOR
THE CITY OF WHARTON, TEXAS; APPROPRIATING THE
SUMS ESTABLISHED THEREIN; AND DIRECTING THE
CITY SECRETARY TO FILE COPIES AS REQUIRED BY LAW.**

WHEREAS, the City’s budget for the fiscal year ending September 30, 2012, which is attached hereto, was duly submitted to the City Council more than thirty (30) days prior to September 30, 2011.

WHEREAS, a public hearing was duly called and held on said budget not less than seven days nor more than fourteen days after date of publication giving notice of such meeting and prior to the time the City Council of the City of Wharton levied taxes for such current fiscal year; and

WHEREAS, all parties desiring to participate and be heard at said public hearing having been heard until no more evidence was offered, and such hearing having been concluded, and the City Council of said City having made such changes in such budget as in its judgment the law warrants and the best interest of the taxpayers of the City of Wharton, Texas, demand, said budget with such changes being attached hereto, as aforesaid.

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

Section 1. **THAT** the findings set out in the preamble of this ordinance are true and correct.

Section 2. **THAT** the budget of the City of Wharton, Texas for the fiscal year ending September 30, 2012, be and the same is hereby, in all respects, finally approved and adopted including any changes approved by the City Council; and the same shall be and is hereby filed with the City Secretary of the City.

Section 3. **THAT** the General Fund is hereby established to account for resources associated with traditional government activities, which are not required legally or by sound financial management to be accounted for in another fund. The General Fund is hereby approved with \$4,356,811 estimated revenues and \$5,066,750 in appropriations and with transfers-in approved at \$709,939. The amounts are specified for departmental purposes named in said budget and they are hereby appropriated to and for such purposes at the departmental level.

Section 4. **THAT** the Hotel Motel Fund is created to account for the occupancy tax levied on hotel rooms within the City as adopted by city ordinance and consistently with Chapter 351 of the Texas Tax Code. The Hotel Motel Fund is hereby approved with \$171,905 in estimated revenues and \$56,649 in appropriations and transfers-out approved at \$115,256 with beginning fund balance of approximately \$49,290.

Section 5. **THAT** the Narcotics Seizure Fund is created to account for the resources and uses of assets seized in illegal narcotics activities. The uses are limited to law enforcement activities. The Narcotics Seizure Fund is hereby approved with \$23,239 estimated revenues, \$7,000 in appropriations, \$16,239 in transfers-out .with beginning fund balance of over \$6,834.

Section 6. **THAT** the Debt Service Fund is hereby created to account for the accumulation of resources collected for Interest and Sinking requirements and for the disbursement of those resources for debt requirements. The Debt Service Fund is hereby approved with \$839,334 in estimated revenues and \$824,457 in appropriations. The estimated beginning fund balance is \$377,075.

Section 7. **THAT** the Capital Improvement Fund is created to account for infrastructure improvements authorized by the City Council. The Capital Improvement Fund is approved with \$0 in estimated revenues and expenses.

Section 8. **THAT** the Water and Sewer Fund is created to account for the resources and uses associated with the delivery of utility services to citizens of Wharton as an enterprise fund. The Water & Sewer Fund is hereby approved with \$2,920,622 in estimated revenues. Water and sewer is approved with \$2,876,687 in appropriations, which includes a franchise fee of 8% of water and sewer sales or approximately \$228,791, and transfers-out approved at \$594,494.

Section 9. **THAT** the Solid Waste Fund is created to account for the financial activities of the City's solid waste collection contract and delivery to citizens of Wharton as an enterprise fund. The Solid Waste Fund is approved with \$1,310,100 in estimated revenues and \$1,310,100 in appropriations which includes a franchise

fee of 6% of solid waste revenues or approximately \$68,000, and transfers-out approved at \$25,000.

Section 10. **THAT** the Emergency Medical Services Fund is created to account for the financial activities of the emergency medical services provided to the city and surrounding areas as an enterprise fund. The Emergency Medical Services Fund is approved with \$1,381,987 in estimated revenues and \$1,332,781 in appropriations and transfers-out at \$49,206.

Section 11. **THAT** the Civic Center Fund is created to account for the financial activities of the Civic Center as an enterprise fund. The Civic Center is approved with \$65,700 in estimated revenues and \$229,723 in appropriations. Transfers-in are approved at \$115,256 with a \$48,767 decrease to fund balance.

Section 12. **THAT** the Airport Fund is created to account for the financial activities of the Wharton Regional Airport as an enterprise fund. The Airport Fund is approved with \$228,855 in estimated revenues and \$228,855 in appropriations.

Section 13. **THAT** the City Secretary shall file copies of this Ordinance and of such budget with the County Clerk of Wharton County, Texas.

PASSED AND APPROVED by a favorable majority of the members of the City Council of the City of Wharton, Texas, in council meeting, this 26th day of September 2011 duly assembled in accordance with Article VI of the Charter of the City of Wharton, Texas, by the following vote:

Domingo Montalvo, Jr., Mayor	Voted	Absent
Alfred Bryant, Councilmember District 1	Voted	Yes
Karen Schulz, Councilmember District 2	Voted	Yes
Terry Lynch, Councilmember District 3	Voted	Yes
Donald Mueller, Councilmember District 4	Voted	Yes
Russell Machann, Councilmember at Large Place 5	Voted	Yes
Jeff Gubbels, Councilmember at Large Place 6	Voted	Yes

Separability

If any court of competent jurisdiction rules that any section, subsection, sentence, clause, phrase, or portion of this ordinance 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.

CITY OF WHARTON

By: _____
Don Mueller, Mayor Pro-Tem

ATTEST:

APPROVED FOR ADMINISTRATION:

Paula Favors, City Secretary

Andres Garza, Jr., City Manager

APPROVED AS TO FORM:

APPROVED FOR FUNDING:

Paul Webb, City Attorney

Joan Anandel, Finance Director

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

The seventh item on the agenda was to review and consider an ordinance levying a Tax Rate for the City of Wharton, Texas, for the Tax Year 2011; directing the Tax Assessor-Collector to assess, account for and distribute the taxes as herein levied; and providing repealing and severability clauses. Finance Director Joan Anandel presented a copy of the draft ordinance levying a tax rate for the City of Wharton, Texas, for the Tax Year 2011; directing the Tax Assessor-Collector to assess, account for and distribute the taxes as herein levied; and providing repealing and severability clauses. Mrs. Anandel stated the total tax rate would be .48801/\$100 valuation. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Ordinance No. 2011-16, which read as follows:

**CITY OF WHARTON, TEXAS
ORDINANCE NO. 2011-16**

AN ORDINANCE LEVYING A TAX RATE FOR THE CITY OF WHARTON, TEXAS, FOR THE TAX YEAR 2011; DIRECTING THE TAX ASSESSOR-COLLECTOR TO ASSESS, ACCOUNT FOR AND DISTRIBUTE THE TAXES AS HEREIN LEVIED; AND PROVIDING REPEALING AND SEVERABILITY CLAUSES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS:

Section 1. **THAT** there be and is hereby levied for the year 2011 on all real and personal property within and all real and personal property and mineral royalties owned within the city limits of the City of Wharton, Texas for the year 2011, except so much thereof as may be exempt by the constitution and of the State of Texas and of the United States, the following:

General Fund Operations	.279730/\$100 valuation
For Debt Service Requirements	.20828/\$100 valuation
Total Tax Rate	.48801/\$100 valuation

Section 2. **THAT** the Tax Assessor-Collector and/or Finance Director is hereby directed to assess, extend and enter upon the certified tax rolls of the City of Wharton, Texas, for the current taxable year, as provided by the Wharton County Appraisal District, the amounts and rates as herein levied, to keep correct amount of same, and when collected, to be distributed in accordance with this ordinance.

Passage and Approval

PASSED AND APPROVED by a favorable majority of the members of the City Council of the City of Wharton, Texas, in a council meeting, this 26th day of September, 2011, duly assembled in accordance with Article VI of the Charter of the City of Wharton, Texas, by the following vote:

Domingo Montalvo, Jr., Mayor	Voted	Absent
Alfred Bryant, Councilmember District 1	Voted	Yes
Karen Schulz, Councilmember District 2	Voted	Yes
Terry Lynch, Councilmember District 3	Voted	Yes
Donald Mueller, Councilmember District 4	Voted	Yes
Russell Machann, Councilmember at Large Place 5	Voted	Yes
Jeff Gubbels, Councilmember at Large Place 6	Voted	Yes

Separability

If any court of competent jurisdiction rules that any section, subsection, sentence, clause, phrase, or portion of this ordinance 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.

CITY OF WHARTON

By: _____
Don Mueller, Mayor Pro-Tem

ATTEST:

APPROVED FOR ADMINISTRATION:

Paula Favors, City Secretary

Andres Garza, Jr., City Manager

APPROVED AS TO FORM:

APPROVED FOR FUNDING:

Paul Webb, City Attorney

Joan Anandel, Finance Director

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

The eighth item on the agenda was a public hearing to obtain citizen input on draft plans for the reapportionment of the City's four single-member council districts. City Manager Andres Garza, Jr. presented a copy of the notice of Public Hearing that was published in the Wharton Journal Spectator on Wednesday, September 21, 2011 inviting the public to attend the public hearing to obtain citizen input on draft plans for the reapportionment of the City's four single-member council districts.

Mayor Pro-Tem Don Mueller opened the public hearing at 7:10 p.m.

Attorney Alan Borjorquez from Borjorquez Law Firm, PLLC, stated that citizen input being sought in the redistricting process. Mr. Borjorquez further stated that redistricting was needed due to the fact that District 2 was oversized and District 1 was undersized. Mr. Borjorquez ended his presentation stating the redistricting process should be complete by November 14, 2011. Mr. I.O. Coleman, Jr. stated the process was user friendly for citizens and the Borjorquez Law Firm was very professional. Mr. Coleman further stated that he supported draft map A. After some discussion, Councilmember Terry David Lynch moved to close the public hearing. Councilmember Al Bryant seconded the motion. All voted in favor.

Mayor Pro-Tem Don Mueller closed the public hearing at 7:17 p.m.

The ninth item on the agenda was to review and consider a resolution authorizing the Mayor of the City of Wharton, Wharton County, Texas, to execute an agreement with the Chamber of Commerce and Agriculture for Visitor and Convention Bureau Services for the October 1, 2011 to September 30, 2012 fiscal year. City Manager Andres Garza, Jr. presented a copy of the proposed agreement for the Chamber of Commerce and Agriculture to provide Visitor and Convention Bureau Services for the October 1, 2011 to September 30, 2012 fiscal year as approved in the City of Wharton fiscal year 2011-2012 budget. City Manager Garza stated the agreement was the same as the previous years agreement and that there was no change. After some discussion, Councilmember Russell Machann moved to approve City of Wharton Resolution No. 2011-71, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2011-71**

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF WHARTON, WHARTON COUNTY, TEXAS, TO EXECUTE AN AGREEMENT WITH THE CHAMBER OF COMMERCE AND AGRICULTURE FOR VISITOR AND CONVENTION BUREAU SERVICES FOR OCTOBER 1, 2011 TO SEPTEMBER 30, 2012 FISCAL YEAR.

WHEREAS, the Wharton City Council hereby authorizes Mayor Domingo Montalvo, Jr. to execute an agreement with the Wharton Chamber of Commerce and Agriculture for visitor and convention bureau services; and,

WHEREAS, the City of Wharton and the Wharton Chamber of Commerce and Agriculture hereby agrees to be bound by the conditions as set forth in 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 Domingo Montalvo, Jr., Mayor of the City of Wharton to execute an agreement with the Wharton Chamber of Commerce and Agriculture for Visitor and Convention Bureau Services for the October 1, 2011 to September 30, 2012 fiscal year.

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

Passed, Approved, and Adopted this 26th day of September 2011.

CITY OF WHARTON, TEXAS

By: _____
DON MUELLER
Mayor Pro-Tem

ATTEST:

PAULA FAVORS
City Secretary

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

The tenth item on the agenda was to review and consider a request by Mr. Ron Sanders, Executive Director of the Wharton Chamber of Commerce for City Council consideration to approve extending the hours to close the 100 block of South Houston Street beginning at 10:00 a.m. until 12:00 Midnight on Saturday, October 8, 2011 for the Monterey Square Wine and Arts

Fair. City Manager Andres Garza, Jr. stated that during the September 12, 2011 Wharton City Council meeting, the City Council approved the request by Mr. Ron Sanders, Executive Director of the Wharton Chamber of Commerce for the following items:

- A. Approval of the Third Annual Wine and Arts Fair to be held Saturday, October 8, 2011 from 3:00 p.m. to 10:00 p.m.
- B. Approval to close Houston Street, from Milam to Burleson Streets, from 12:00 Noon to 10:00 p.m.
- C. Allow "open containers" for the wine on City property on the exterior sides of Monterey Square and approximately one adjoining block to include all participating businesses.

Mr. Ron Sanders, Executive Director of the Wharton Chamber of Commerce stated the committee would need additional time to set up and tear down than previously thought. Mr. Sanders requested the hours of the street closure be extended beginning at 10:00 a.m. until 12:00 Midnight. After some discussion, Councilmember Terry David Lynch moved to approve extending the hours of the street closure to begin at 10:00 a.m. to 12:00 midnight. Councilmember Karen Schulz seconded the motion. All voted in favor.

The eleventh item on the agenda was to review and consider a request by Mr. Greg Baines, Executive Director of Just Do It Now, Inc. for City Council approval to close a portion of MLK Blvd. from Allen Street to Sanders Street for the National Night Out Event to be held Tuesday, October 4, 2011. City Manager Andres Garza, Jr. presented a copy of the email dated September 21, 2011 from Mr. Greg Baines, Executive Director of Just Do It Now, Inc. (JDIN). City Manager Garza stated that Mr. Baines was requesting the City Council consider approving to close a portion of MLK Blvd. from Sanders Street to Allen Street for the JDIN National Night Out event to be held on October 4, 2011 from 5:00 p.m. to 10:00 p.m. Assistant to City Manager Jackie Jansky presented a copy of a drawing that indicated the location of the proposed street closure. After some discussion, Councilmember Al Bryant moved to approve closing a portion of MLK Blvd. from Sanders Street to Allen Street for the JDIN National Night Out event to be held on October 4, 2011 from 5:00 p.m. to 10:00 p.m. Councilmember Karen Schulz seconded the motion. All voted in favor.

The twelfth item on the agenda was to review and consider Wharton County Emergency Services District No. 3:

A. **Resolution:** A resolution of the Wharton City Council approving an interlocal agreement between the City of Wharton and the Wharton County Emergency Services District No. 3 for Emergency Medical Services and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. presented a draft copy of the interlocal agreement for Emergency Medical Services (EMS) between the City of Wharton and the Wharton County Emergency Services District (ESD) No. 3. City Manager Garza stated that the ESD No. 3 Board Directors met on September 8, 2011 and voted to approve the agreement with the City and the terms of the agreement were the same terms as last year. After some discussion, Councilmember Terry David Lynch moved to approve City of Wharton Resolution No. 2011-72, which read as follows:

CITY OF WHARTON

RESOLUTION NO. 2011-72

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN INTERLOCAL AGREEMENT FOR EMERGENCY MEDICAL SERVICES BETWEEN THE WHARTON COUNTY EMERGENCY SERVICES DISTRICT (ESD) NO. 3 AND THE CITY OF WHARTON EMERGENCY MEDICAL SERVICES DEPARTMENT.

WHEREAS, the Wharton County Emergency Services District (ESD) No. 3 Board has hereby authorized the ESD No. 3 President to execute an agreement with the City of Wharton for emergency medical services; and,

WHEREAS, the City of Wharton hereby wishes to enter into an interlocal agreement with the Wharton County Emergency Services District (ESD) No. 3 to provide Emergency Medical Services (EMS); and

WHEREAS, the ESD No. 3 and the City of Wharton wishes to 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 an interlocal agreement between the City of Wharton and the Wharton County Emergency Services District (ESD) No. 3 for emergency medical services.

Section II. That the City of Wharton and the ESD No. 3 shall hereby be 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 26th day of September 2011.

CITY OF WHARTON, TEXAS

By: _____
DON MUELLER
Mayor Pro-Tem

ATTEST:

PAULA FAVORS

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

B. Resolution: A resolution of the Wharton City Council approving an interlocal agreement for Administrative Services between the City of Wharton and the Wharton County Emergency Services District No. 3 and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. presented a draft copy of the interlocal agreement for Administrative Services between the City of Wharton and the Wharton County Emergency Services District (ESD) No. 3. City Manager Garza stated that the ESD No. 3 Board Directors met on September 8, 2011 and voted to approve the agreement with the City and the terms of the agreement were the same terms as last year and when the ESD No. 3 was created. After some discussion, Councilmember Jeff Gubbels moved to approve City of Wharton Resolution No. 2011-73, which reads as follows:

**CITY OF WHARTON
RESOLUTION NO. 2011-73**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN INTERLOCAL AGREEMENT FOR ADMINISTRATIVE SERVICES BETWEEN THE WHARTON COUNTY EMERGENCY SERVICES DISTRICT (ESD) NO. 3 AND THE CITY OF WHARTON AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, the Wharton County Emergency Services District (ESD) No. 3 Board has hereby authorized the ESD No. 3 President to execute an agreement with the City of Wharton for administrative services; and,

WHEREAS, the ESD No. 3 and the City of Wharton 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 Wharton City Council hereby approves an interlocal agreement between the City of Wharton and the Wharton County Emergency Services District No. 3 for administrative services.

Section II. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute the agreement.

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

Passed, Approved, and Adopted this 26th day of September 2011.

CITY OF WHARTON, TEXAS

By: _____
DON MUELLER
Mayor Pro-Tem

ATTEST:

PAULA FAVORS
City Secretary

Councilmember Russell Machann 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 authorizing the submission of a pre-application for funding under the US DOT Tiger III discretionary grant program for the City of Wharton's proposed US 59 and FM 1301 Improvement Project and authorizing the Mayor of the City of Wharton to execute and submit all documents related to said application. City Manager Andres Garza, Jr. stated that during the August 8, 2011 regular City Council meeting, the City Council authorized the City Staff to prepare an application for the US Department of Transportation under the 2011 TIGER III Discretionary Grant Program for the City's road projects. City Manager Garza presented a copy of information found on the US Department of Transportation website providing background information regarding the grant program. City Manager Garza stated that the City Staff was preparing the pre-application and was requesting City Council approval to submit the pre-application that would encompass the entire US 59 and FM 1301 road improvements as outlined in the plan that was presented to the Texas Department of Transportation (TxDOT) Commission, which the City Council had received under separate cover. Mayor Pro-Tem Don Mueller stated concerns with the resolution not including the FM 102 Relocation Project. City Manager Garza stated that at the current time the City and the plan prepared by IDC Inc. did have funds to proceed with the FM 102 Relocation Project but could add it back into the pre-application. After some discussion, Councilmember Jeff Gubbels moved to amend the resolution as it was written to include FM 102 Relocation Project and not just US 59 and FM 1301 and to submit the pre-application under the 2011 TIGER discretionary grant application. The City of Wharton Resolution No. 2011- 74, read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2011-74**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE SUBMISSION OF A PRE-APPLICATION FOR FUNDING UNDER THE US DOT TIGER III DISCRETIONARY GRANT PROGRAM FOR THE CITY OF WHARTON'S PROPOSED US 59 AND FM 1301 IMPROVEMENT PROJECT AND AUTHORIZING

THE MAYOR OF THE CITY OF WHARTON TO EXECUTE AND SUBMIT ALL DOCUMENTS RELATED TO SAID APPLICATION.

WHEREAS, the Wharton City Council wishes to make improvements to the City's transportation system in accordance with the priorities listed in the City of Wharton Resolution No. 2011-61; and

WHEREAS, the Wharton City Council wishes to submit a pre-application to the US Department of Transportation for funding under the TIGER III Discretionary Grant Program; and

WHEREAS, the proposed projects to be included in the application is set forth in the City of Wharton Resolution NO. 2011-61 include the following:

- US 59 Main Lane Grade Separation Overpass over proposed county road with South and North bound frontage roads along US 59, North and South bound entrance and exit ramps along US 59.
- FM 1301 extension from SH 60 to US 59.
- US 59 Exit Ramp & Access Improvements South of FM 102 (for the NanYa Plastic and JM Eagle Plants)
- FM 1301 Extension from US 59 to Owens Road.
- Relocation of FM 102 from SH 60.

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute and submit all documents related to said application.

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

Section I. The Wharton City Council hereby authorizes the submission of a pre-application to the US Department of Transportation for funding under the TIGER III Discretionary Grant Program

Section II. The Wharton City Council hereby approves the projects to be submitted in the proposed grant application to include the following:

- US 59 Main Lane Grade Separation Overpass over proposed county road with South and North bound frontage roads along US 59, North and South bound entrance and exit ramps along US 59.
- FM 1301 extension from SH 60 to US 59.
- US 59 Exit Ramp & Access Improvements South of FM 102 (for the NanYa Plastic and JM Eagle Plants)
- FM 1301 Extension from US 59 to Owens Road.
- Relocation of FM 102 from SH 60.

Section III. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute all documents relating to said application.

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

Passed, Approved, and Adopted this 26th day of September 2011.

CITY OF WHARTON, TEXAS

By: _____
DON MUELLER
Mayor Pro-Tem

ATTEST:

PAULA FAVORS
City Secretary

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

The fourteenth item on the agenda was to review and consider a resolution of the Wharton City Council approving a Right of Entry Agreement between the City of Wharton and Dr. Robert S. Vineyard to provide access to the property described as A20034 Abst. 34 – Tract South 63 and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. stated that during the regular June 27, 2011 Wharton City Council meeting, the City Council approved Resolution No. 2011-27 authorizing the City Manager to obtain, on behalf of the City of Wharton, Right of Entry (ROE) agreements in support of the Lower Colorado River Basin Phase I, Texas, City of Wharton Flood Damage Reduction Project. City Manager Garza further stated that the City Staff had been working with representatives of the US Army Corp of Engineers (USACE) and Half Associates (the engineering firm) to develop the pre-construction, engineering and design (PED) plans for the Wharton Levee Project. City Manager Garza stated that the City Council approved the City Manager to obtain the needed ROE agreements if the ROE's could not be negotiated between the property owners and the USACE. He further stated that Mr. Robert S. Vineyard, DDS and the USACE. could not agree on terms; however, he had negotiated the terms with the City executing the ROE in lieu of the USACE. After some discussion, Councilmember Jeff Gubbels moved to approve City of Wharton Resolution No. 2011-75, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2011-75**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A RIGHT OF ENTRY AGREEMENT BETWEEN THE CITY OF WHARTON AND DR. ROBERT S. VINEYARD TO PROVIDE ACCESS TO THE PROPERTY DESCRIBED AS a20034

ABST. 34-TRACT SOUTH 63 AND AUTHRIZINGH THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, the City of Wharton has partnered with the United States Army Corp of Engineers (USACE) and Halff Associates to develop the design and engineering for the Lower Colorado River Basin Phase I Texas, City of Wharton Flood Damage Reduction Project; and

WHEREAS, there exists a need for certain properties to be accessed by the consultant (geotechnical, surveyor, soil sampling, etc.) of the USACE and Halff Associates as part of this project through its rights of entry with property owners ; and

WHEREAS, Dr. Robert S. Vineyard wishes to enter into said agreement with the City of Wharton to allow access to his property described as A20034 Abst. 34 – Tract South 63; and

WHEREAS, the City of Wharton and Dr. Vineyard wishes to be bound by the conditions outlined in the agreement; and

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

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

Section I. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute a right of entry agreement between the City of Wharton and Dr. Robert S. Vineyard to allow access to his property described as A20034 Abst. 34 – Tract South 63 for the Lower Colorado River Basin Phase I Texas, City of Wharton Flood Damage Reduction Project.

Section II. The City of Wharton and Dr. Robert S. Vineyard are hereby bound by the conditions set forth in the agreement.

Section III. This resolution shall be effective on the date of its passage.

Passed, Approved, and Adopted this 26th day of September 2011.

CITY OF WHARTON, TEXAS

By: _____
DON MUELLER
Mayor Pro-Tem

ATTEST:

PAULA FAVORS, City Secretary

Councilmember Al Bryant 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 City of Wharton Section 125 Flex Medical Program Policy for full-time City employees. Finance Director Joan Anadel stated that with the City Council's approval of the 2011-2012 City of Wharton fiscal year budget, the City Council approved the \$500 Section 125 Flex Medical Program contribution to be paid by the City of Wharton to the full-time City employees. Mrs. Anadel stated that the draft resolution established a policy that would allow the City to provide the benefit to full-time City employees and if the City hired a new full-time employee during the fiscal year, the \$500 Section 125 Flex Medical Program contribution would be pro-rated on a monthly basis. After some discussion, Councilmember Terry David Lynch moved to approve City of Wharton Resolution No. 2011-76, which reads as follows:

**CITY OF WHARTON
RESOLUTION NO. 2011-76**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A CITY OF WHARTON SECTION 125 FLEX MEDICAL PROGRAM POLICY FOR FULL-TIME CITY EMPLOYEES.

WHEREAS, the City of Wharton contracts with the Texas Municipal League -Intergovernmental Employee Benefits Pool (TML-IEBP) to administer the Section 125 Flex Medical Program; and

WHEREAS, the Wharton City Council wishes to deposit \$500.00 for the October 1, 2011 to September 30, 2011 fiscal year for all full time employees into a Section 125 flexible medical spending plan for unreimbursed healthcare expenses; and

WHEREAS, each new full time employee that is hired after October 1, 2011 shall receive the benefit on a pro-rated on a monthly basis with the first month being the month of hire.

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 to fund \$500.00 for each full-time city employee through a Section 125 flexible spending plan for unreimbursed healthcare expenses, which is administered by the Texas Municipal League Intergovernmental Employee Benefits Pool.

Section II. That each new full time employee that is hired after October 1, 2011 shall receive the benefit on a pro-rated monthly basis.

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

Passed, Approved, and Adopted this 26th day of September 2011.

CITY OF WHARTON, TEXAS

By: _____
DON MUELLER
Mayor Pro-Tem

ATTEST:

PAULA FAVORS
City Secretary

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

The sixteenth item on the agenda was to review and consider City of Wharton Fuel:

- A. Bid Tabulation.
- B. **Resolution:** A resolution of the Wharton City Council awarding a contract to Oil Patch Brazos Valley for the City of Wharton fuel and authorizing the Mayor of the City of Wharton to execute the agreement.

City Manager Andres Garza, Jr. stated that on Monday, September 11, 2011 the City of Wharton received bids for the City of Wharton fuel. City Manager Garza presented a copy of the bid tabulation and a copy of the memorandum dated September 20, 2011 from Public Works Director Carter Miska, P. E. recommending the City Council consider awarding the fuel contract to Oil Patch Brazos Valley. City Manager Garza stated that although, Petroleum Traders Corp. was a few hundred dollars lower, Oil Patch Brazos Valley was located in the City of Wharton and would be able to respond to the City's needs. City Manager Garza further stated that after reviewing the bids, the City Staff considered Oil Patch Brazos Valley to be the best qualified bidder in accordance with bid specifications, and he concurred with Public Works Director Carter Miska, P.E.'s recommendation. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Resolution No. 2011-77, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2011-77**

A RESOLUTION AWARDING A BID FOR FUEL TO OIL PATCH BRAZOS VALLEY AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID CONTRACT.

WHEREAS, competitive, sealed bids were received on September 19, 2011 for the City of Wharton Fuel; and

WHEREAS, Oil Patch Brazos Valley was deemed to be the best qualified bidder as per bid specifications; and

WHEREAS, the Wharton City Council wishes to award the contract to Oil Patch Brazos Valley; and

WHEREAS, the City of Wharton and Oil Patch Brazos Valley wishes to be bound by the conditions set forth in the agreement; and

WHEREAS, this resolution is passed in accordance with this bid.

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

Section I. That Oil Patch Brazos Valley is hereby awarded the bid for City of Wharton Fuel in accordance with the bid documents.

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

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

Passed, Approved, and Adopted this 26th day of September 2011.

CITY OF WHARTON, TEXAS

By: _____
DON MUELLER
Mayor Pro-Tem

ATTEST:

PAULA FAVORS
City Secretary

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

The seventeenth item on the agenda was to review and consider approval of the request by Mr. Nick W. Popp; 419 Blanch Street; Peach Acres, Block City Council 6, Lot 16 & 17, for City of Wharton water service outside the City Limits. City Manager Andres Garza, Jr. presented a copy of the application that was submitted by Mr. Nick W. Popp, who was requesting water service to be provided to his residence outside the City limits. City Manager Garza also

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presented a copy of a drawing that indicated the property location, which was 419 Blanche Street; Peach Acres, Block 6, Lots 16 & 17. City Manager Garza stated that Ms. Veronica B. Mattheaus was the owner of the property and she had signed her power of attorney to Mrs. Wanda Popp, who indicated in her letter dated September 9, 2011 that Nick Popp lived and maintained the residence at 419 Blanche Street. After some discussion, Councilmember Terry David Lynch moved to approve the request by Mr. Nick W. Popp; 419 Blanche Street; Peach Acres, Block City Council 6, Lot 16 & 17, for City of Wharton water service outside the City Limits. Councilmember Karen Schulz seconded the motion. All voted in favor.

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

- A. Beautification Commission.
- B. Building Standards Commission.
- C. Holiday Light Decorating Chairman.
- D. Mayor's Committee on People with Disabilities
- E. Wharton Economic Development Corporation Board of Directors.

After some discussion, Councilmember Russell Machann moved to reappoint Councilmember Terry David Lynch to the Wharton Economic Development Corporation Board of Directors for the term of October 1, 2011 to September 30, 2013. Councilmember Karen Schulz seconded the motion. All voted in favor.

The nineteenth item on the agenda was to review and consider the status report on City of Wharton Projects. City Manager Andres Garza, Jr. presented a copy of his memorandum dated September 26, 2011 to the City Council providing an update on the City of Wharton on-going projects, which read as follows:

FLOOD REDUCTION (LEVEE) PROJECT

The U.S. Army Corp of Engineers (USACE) Lower Colorado River Phase I Report - City of Wharton Flood Prevention Project and Recommended report is located at the Wharton County Library and the office of the City of Wharton City Secretary for viewing or the report may be viewed on line at <http://www.swf.usace.army.mil/pubdata/notices/LowerColorado/>.

On September 12, the City Council Public Works Committee and the City Council was provided a project update by representatives of the US Army Corp of Engineers (USACE) and Half Associates. On September 13, 2011 City Staff and Half Associates walked several thousand feet of proposed levee alignment in an effort to ground truth data in the 35% construction plans. The City Staff continues to work with the USACE and Half Associates in obtaining the required ROE agreements. The agreement for the Third and Restated Agreement between the City of Wharton and the Lower Colorado River Authority (LCRA) has been submitted to LCRA for execution. The amendment will incorporate Segment 1a into the project, which is the extension of the levee along FM 102.

DRAINAGE:

1. Santa Fe Outfall Channel.

The Public Works Department has finished excavation up to Alabama Road. The Public Works Department will now focus on installing grade stabilization structures and installing other best management practices needed to control erosion. Excavation will continue weather permitting.

2. Highway 60 & Old Lane City Road Drainage Improvements

The construction plans have been approved by the TxDOT Yoakum District Office. City Staff has acquired the needed right of way from Edwin Kostka. City Staff met with Centerpoint Energy Staff on August 24, 2011 to discuss the procedures required for having the power poles moved in the drainage right of way. The Public Works Director has provided a set of construction plans to and met with Centerpoint Energy, AT&T, and Texas Mid Gulf Cable. Staff is currently in the process of resolving all utility conflicts. Construction will begin once the utility issues have been cleared.

3. On-going Street and Drainage Maintenance Program

The extreme drought is keeping the Street and Drainage crew very busy. The force of the ground shifting is causing numerous failures in the City's streets and storm sewers. Many of the failures must be fixed immediately since they pose a threat to the public's safety.

WATER/SEWER IMPROVEMENTS:

1. Water Storage Tank Maintenance Program.

The City of Wharton has awarded the rehab and painting contract to M.K. Painting, Inc. in the amount of \$284,000.00. The City would like to begin work in October and finish around January/February 2012 since during these months the water usage would be at its lowest.

2. Pressure Switches at City Water Plants

This project is complete; however, the Public Works Staff continues to monitor the system to insure that it is working properly. During the extreme heat conditions the pressure switches have been performing below standard. City Staff is working with Jones and Carter, Inc. to correct the problem.

3. Energy Efficiency Audit

Siemens Industry met with Jones & Carter, Inc. to review alternatives for wastewater treatment plant number one since the water plant rehabilitation report is being prepared by Jones & Carter. The full report should be complete soon.

4. Wastewater Treatment Plant No. 1 Rehabilitation Proposal

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City Council approved a proposal from Jones and Carter, Inc. to prepare a report that establishes a plan for the rehabilitation of and improvements to Wastewater Treatment Plant No. 1 to meet the future needs of the City and to meet future permit requirements.

Siemens Industry is working closely with Jones & Carter to assist in the development of a sound proposal.

City Staff has completed a capacity analysis for WWTP #1 which will help to enhance the rehabilitation proposal that Jones & Carter, Inc. is developing.

5. On-going Water and Sewer Maintenance Program

Due to extreme drought conditions, the Water and Sewer Department has been working seven days a week. The force of the ground shrinking has caused an unusual amount of water leaks and sanitary sewer issues. Currently the City is averaging about five water leaks a day and around twice the problems normally associated with the sanitary sewer collection system.

STREET IMPROVEMENTS

1. FM 102 Relocation and/or FM 1301

A. Progress Report on Project.

IDC Inc. and City Staff met with TxDOT staff in Yoakum on September 1, 2011 to discuss the project and the possibility of additional funding. The City has submitted a proposal to the TxDOT Transportation Commission for funding of the City's plan as approved by the City Council. The City is awaiting a response. Also, the City will be submitting a funding request to the US DOT TIGER III Discretionary Grant Program.

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

The City of Wharton has received the executed AFA from the State. The City Staff, in its meeting with TxDOT Yoakum District Representatives, discussed the possibility of the City undertaking the environmental assessment phase and TxDOT contributing the same amount of funds to the construction phase. The City Staff is exploring that possibility since it would give the City a better control of this portion of this project.

2. 2011 Street Improvement Program

Public Works Staff is currently identifying and preparing cost estimates for possible street improvements in 2011-2012.

3. Wharton Sidewalk Accessibility and Historic Streetscape Project

BEFCO Engineering has executed the engineering agreement for the design of the project. BEFCO has reduced the contract by \$5,000 due to their subcontractor for environmental work..

4. On-going Street and Drainage Maintenance Program

The extreme drought is keeping the Street and Drainage crew very busy. The force of the ground shifting is causing numerous failures in the City's streets and storm sewers. Many of the failures must be fixed immediately since they pose a threat to the public's safety.

OTHER PROJECTS

1. Fire Station Expansion Project

The Public Works Department and the Facilities Maintenance Department have completed the project.

WHARTON REGIONAL AIRPORT

1. Capital Improvement Drainage Project.

O'Malley Engineers have submitted the preliminary plans to the City of Wharton for the project. City Staff met with O'Malley Engineers on September 14, 2011 to discuss and comment on the plans. O'Malley is currently making the necessary changes. This project should be bid closer toward the end of the year.

The twentieth item on the agenda was to review and consider City Council, Committee, Commissions and Boards Reports:

A. Beautification Commission meeting held September 14, 2011.

City Manager Andres Garza, Jr. presented a copy of the report to the City Council. After some discussion, no action was taken.

The twenty-first item discussed on the agenda was to review and consider the City'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. Wharton Municipal Pool. |
| H. Fire Department. | P. Wharton Regional Airport. |

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

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The twenty-second item on the agenda was adjournment. After some discussion, Councilmember Jeff Gubbels made the motion to adjourn. Councilmember Al Bryant seconded the motion. All voted in favor.

The meeting adjourned at 7:41 p.m.

CITY OF WHARTON, TEXAS

By: _____

Don Mueller
Mayor Pro-Tem

ATTEST:

Paula Favors
City Secretary