

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
SEPTEMBER 10, 2012**

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

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

Councilmember absent was: Terry David Lynch.

Staff members present were: City Manager Andres Garza, Jr., Finance Director Joan Anzel, City Secretary Paula Favors, Assistant to City Manager Jackie Jansky, City Attorney Paul Webb, Public Works Director Carter Miska, P.E., Building Official Ronnie Bollom, Civic Center Director Jo Beth Knezek, and Police Chief Tim Guin.

Visitors present were: David Schroeder, Executive Director, Wharton Economic Development Corporation, Wharton Chamber of Commerce Director Ron Sanders, I.O. Coleman, Jr., Joe Barker, Brenda Muzyka, Tim Muzyka, Wanda Popp, Rachel Rust, Carlos Cotton, P.E. of Jones & Carter, Inc., and Ben Sharp, Wharton Journal Spectator.

The second item on the agenda was Roll Call and Excuses Absences. After some discussion, Councilmember Don Mueller moved to excuse Councilmember Terry David Lynch. Councilmember Al Bryant seconded the motion. All voted in favor.

The third item on the agenda was Public Comments. Mr. Merrell "Doc" Barfield stated his opposition to demolishing the Cloud Street water storage tank that was constructed in 1936. Mr. Barfield stated that the water storage tank was a part of Wharton's history and he was bitterly opposed to it being demolished.

The fourth item on the agenda was the Wharton Moment. Assistant to City Manager Jackie Jansky stated on September 4, 2012. The American Legion Post No. 87 presented the City of Wharton with a plaque in an effort to thank Wharton for its assistance with Vietnam Memorial Traveling Wall.

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The fifth item on the agenda was to review and consider reading of the minutes from the regular meetings held August 14, 2012 and August 23, 2012. After some discussion, Councilmember Jeff Gubbels moved to approve the minutes from the regular meetings held August 14, 2012 and August 23, 2012. Councilmember Russell Machann seconded the motion. All voted in favor.

The sixth item discussed on the agenda was a public hearing on the proposed budget for the City of Wharton, Texas, fiscal year October 1, 2012 to September 30, 2013. Mayor Domingo Montalvo, Jr. opened the Public Hearing at 7:12 p.m. No comments were made. Mayor Domingo Montalvo, Jr. closed the Public Hearing at 7:13 p.m.

The seventh item on the agenda was to review and consider action on changes to the proposed budget for the City of Wharton, Texas, fiscal year October 1, 2012 to September 30, 2013. City Manager Andres Garza, Jr. stated during the August 27, 2012 regular City Council meeting he presented a copy of the proposed budget for the City of Wharton, Texas, Fiscal Year October 1, 2012 to September 30, 2013. City Manager Garza stated that the budget was balanced. After some discussion, no action was taken.

The eighth item on the agenda was to review and consider a request by Mr. Ron Sanders, Executive Director of the Wharton Chamber of Commerce & Agriculture for City of Wharton assistance by approving the following for the Wine and Arts Fair to be held Saturday, October 13, 2012:

- A. Street closure of Houston Street from Milam to Burleson Streets from 9:00 a.m. until 12:00 Midnight.
- B. Allow "open containers" during the event on City of Wharton property on the exterior sides of the Monterey Square and approximately one adjoining block to include all participating businesses.
- C. Waive all local permit fees.

City Manager Andres Garza, Jr. presented a copy of the letter dated August 27, 2012 from Mr. Ron Sanders, Executive Director of the Wharton Chamber of Commerce & Agriculture providing his request for City Council approval of the afore-mentioned items. Mr. Sanders stated the request was the same as the previous year. After some discussion, Councilmember Al Bryant moved to approve the afore mentioned items A., B., and C. Councilmember Karen Schulz seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider a request by Mr. Morris Dean et ux Martha for a preliminary/final plat of the subdivision of Lot 58A-1, A 0.62 Ac. Tract of Land, situated in the City of Wharton, in the William Kincheloe League, Abstract No. 38, Wharton, Texas, being the subdivision of that certain called 0.6173 Ac. Tract of Land. City Manager Andres Garza, Jr. presented an Application for Plat submitted by Mr. Morris Dean et ux Martha for a preliminary/final plat of the subdivision of Lot 58A-1, A 0.62 Ac. Tract of Land, situated in the City of Wharton, in the William Kincheloe League, Abstract No. 38, Wharton, Texas, being the subdivision of that certain called 0.6173 Ac. Tract of Land. Assistant to City Manager Jackie Jansky stated the Planning Commission had met on September 4, 2012 and voted to recommend the City Council consider approving the proposed preliminary/final plat of the property. After some discussion, Councilmember Jeff Gubbels moved to approve the request by Mr. Morris

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Dean et ux Martha for a preliminary/final plat of the subdivision of Lot 58A-1, A 0.62 Ac. Tract of Land, situated in the City of Wharton, in the William Kincheloe League, Abstract No. 38, Wharton, Texas, being the subdivision of that certain called 0.6173 Ac. Tract of Land. Councilmember Karen Schulz seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider a request by Timothy & Brenda Muzyka, Property Owners, for City Council to consider abandoning the alley located behind 708 Walnut/508 Avenue A; Barbee, Block 6, Lot 1. City Manager Andres Garza, Jr., stated that during the regular August 27, 2012, the Wharton City Council reviewed the documentation provided by Building Official Ronnie Bollom and the information that was provided by Mr. Timothy Muzyka, Property Owner, concerning the proposed abandonment of the alley located behind 708 Walnut/508 Avenue A; Barbee, Block 6, Lot 1. City Manager Garza said the Wharton City Council had voted to table the item to allow the Councilmembers additional time to consider the request and Councilmember Karen Schulz had indicated that she was ready to move forward and consider the request to abandon the alley. After some discussion, Councilmember Jeff Gubbels moved to table indefinitely the request by Timothy & Brenda Muzyka, Property Owners, for City Council to consider abandoning the alley located behind 708 Walnut/508 Avenue A; Barbee, Block 6, Lot 1. Councilmember Karen Schulz seconded the motion. All voted in favor.

The eleventh item on the agenda to review and consider an ordinance amending the City of Wharton Code of Ordinances, Chapter 18, Building and Construction, Article III; Construction Codes, Sections 18-66 through Section 18-77; and Article VII Plumbing and Mechanical Rules and Regulations; Sections 18-326 through Section 18-414; Providing that a violation of the ordinance or any part of the Code as adopted hereby shall constitute a penalty upon conviction of a fine; Providing for separability and setting an effective date. Building Official Ronnie Bollom stated the Building Standards Commission met on August 16, 2012 and the Plumbing and Mechanical Board met on August 28, 2012 and voted to recommend the City Council consider approving amendments in the City of Wharton Code of Ordinances, Chapter 18 Building and Construction respective to each committee. City Manager Andres Garza, Jr. presented a copy of the memorandum dated August 28, 2012 from Plumbing and Mechanical Board Chairman, A. J. Rath, providing the recommendation for City Council to consider approving the proposed amendments and a copy of the memorandum dated September 6, 2012 from Building Official Ronnie Bollom providing the Building Standards Commission providing a summary of the items that were amended to the respective sections of Chapter 18 and a draft copy of the ordinance that includes the proposed changes. After some discussion, Councilmember Jeff Gubbels moved to approve City of Wharton Ordinance No. 2012-11, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2012-11**

AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 18, BUILDING AND CONSTRUCTION, ARTICLE III. CONSTRUCTION CODES, SECTIONS 18-66 THROUGH SECTION 18-77; AND ARTICLE VII PLUMBING AND MECHANICAL RULES AND REGULATIONS; SECTIONS 18-326 THROUGH SECTION 18-414; PROVIDING THAT A VIOLATION OF THE ORDINANCE OR ANY PART OF THE CODE AS ADOPTED HEREBY SHALL CONSTITUTE A PENALTY

UPON CONVICTION OF A FINE; PROVIDING FOR SEPARABILITY AND SETTING AN EFFECTIVE DATE.

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

WHEREAS, it is the desire of the Wharton City Council that the City of Wharton Code of Ordinances, Chapter 18, Building and Construction, Article III. Construction Codes, Sections 18-66 through Section 18-77; and Article VII Plumbing and Mechanical Rules and Regulations; Section 1/-326 through Section 18-414; shall read as follows:

ARTICLE III. CONSTRUCTION CODES

Sec. 18-66. Codes adopted.

- (a) The following International Codes, to be enforced by the building official, are hereby adopted:
- (1) International Building Code, 2012 Edition, with the latest revisions, including Appendices C, D, E, F, H, I, J, and K.
 - (2) International Residential Code for One- and Two- Family Dwellings, 2012 Edition, with the latest revisions, including Appendices A, B, C, D, E, F, G, H, J, and K.
 - (3) International Property Maintenance Code, 2012 Edition, with its latest revisions, including Appendix A.
 - (4) International Plumbing Code, 2012 Edition, with its latest revisions including Appendices B, C, D, E, F and G.
 - (5) International Fuel Gas Code, 2012 Edition, with its latest revisions including Appendices A, B, C and D.
 - (6) International Mechanical Code, 2012 Edition, with its latest revisions including Appendix A.
 - (7) International Fire Code, 2012 Edition, with its latest revisions including Appendices B, C, D, E, F, G, H and I.
 - (8) International Energy Conservation Code, 2012 Edition, with its latest revisions.
 - (9) International Swimming Pool and Spa Code, 2012 Edition, with latest revisions.

Sec. 18-69. Amendments to the International Building Code.

The building code adopted by reference in this article is amended as follows:

- (1) Reference to ICC Electrical Code is hereby repealed; heretofore, substituted with the National Electrical Code.
- (2) Section 105.1.1 Annual Permit and Section 105.1.2 Annual permit records is deleted.
- (3) Section 105.2 Work exempt from permit. Building: (1), (2) Fences not over six feet high, (3), (4) and (6) are deleted.
- (4) Section 113 Board of Appeals is deleted. The City of Wharton, Code of Ordinances, Chapter 18, Article IV, Building Standards Commission shall administer appeals.
- (5) Section 1907 Minimum Slab Provisions is amended as to the following subsections only, which subsections are to read as follows:
 - (a) The thickness of concrete floor slabs supported directly on the ground shall not be less than four inches (4”).
 - (b) Subsection 1907.1 (a) Use of Reinforcement Mesh. The use of reinforcement mesh in concrete foundations supporting structures shall be prohibited. A minimum of #3 reinforcement rods spaced twelve (12) inches on center each way shall be utilized. For reinforcement bar larger than #3, the maximum spacing shall be fifteen inches (15”) on center each way.
 - (c) Subsection 1907.1 (b) Steel Installation. All steel utilized in foundations shall be properly secured and arranged according to sound engineering practice according to the latest edition ACI 318.
 - (d) Subsection 1907.1 (c) Post Stress--Post Tension Concrete Foundations. Use of "post stress" or "post tension" slabs in the foundation construction of shall be permitted if said foundation has been properly designed by a certified engineer legally registered under the laws of the State of Texas. Construction of same "post stress" or "post tension" foundations shall be supervised and approved by a certified engineer legally registered under the laws of the State of Texas.
- (6) 2304.11.6. Termite protection shall be amended to read as follows: In geographical areas where hazard of termite damage is known to be very heavy, soils supporting concrete foundations with wood framing shall be chemically treated. Wood floor framing shall be of naturally durable species (termite resistant) or preservative treated in accordance with AWWPA U1 for the species, product preservative and end use or provided with other approved methods of termite protection.
- (7) 2308.9.1. Size, height and spacing shall be amended to read as follows: The size, height and spacing of studs shall be in accordance with Table 2308.9.1 with the exception that 2x4 No. 2 standard grade lumber, spaced at 16” (inches) on center, shall be the minimum requirement for all load bearing walls supporting one roof and ceiling and 2x4 No. 2 standard grade

lumber, spaced 24” (inches) on center, shall be the minimum requirement for all non-load bearing walls.

- (8) Table 2308.10.2(1) and 2308.10.2(2). Ceiling joist spans for common lumber species, No. 3 standard grade lumber shall be omitted from the species and grade column.
- (9) Table 2308.10.3 (1) through 2308.10.3(6). Rafter spans for common lumber species, No. 3 standard grade lumber shall be deleted from the species and grade column.
- (10) Appendix H. Any discrepancy between requirements set forth by the City of Wharton Sign Ordinance and Appendix H shall result in the more restrictive of the two.
- (11) Appendix K. Any discrepancy between requirements set forth by the City of Wharton Electrical Code Ordinance and Appendix K shall result in the more restrictive of the two.

Sec. 18-69.1. Additions to the International Building Code.

The following provisions are added to the International Building Code adopted in Section 18-66.

(1) Installation and Placement of Steel Reinforcement:

- (a) A minimum of number three (#3) steel reinforcement bar shall be installed in all concrete paving. Bars, regardless of size, shall be placed at a maximum distance of sixteen (16) inches on center, or less, in all directions dependent upon application. Plastic or metal supports shall be utilized so that the steel reinforcement bars are located in the center third of the concrete. Bricks or concrete rubble shall not be used to support reinforcement bar. The use of welded wire fabric (wire mesh) and fiber reinforcement shall be prohibited unless approved by the code official.
- (b) Isolation (expansion) joints, with sleeved steel dowel bars spaced at a maximum distance of eighteen (18) inches on center, shall be placed at designed locations or a maximum distance of twenty (20) feet on center to allow relative movement in three (3) directions and avoid formation of cracks elsewhere in the concrete.
- (c) Thickness and compression strength of the concrete shall be dependent upon the application for which it is designed. Concrete paved driveways and sidewalks shall be constructed to a minimum thickness of four (4) inches.

Sec. 18-70. Amendment to the International Residential Code.

The residential code adopted by reference in this article is amended as follows:

- (1) Reference to ICC Electrical Code is hereby repealed; heretofore, substituted with the National Electric Code.

- (2) Section 105.2 Work Exempt from Permit Building: (1), (2) Fences not over six feet (6') high, (3) and (5) are deleted.
- (3) Section R112. Board of Appeals is deleted. The City of Wharton, Code of Ordinances, Chapter 18, Article IV, Building Standards Commission shall administer appeals.
- (4) Section R313 Automatic Fire Sprinkler Systems. No Provision of this article shall be contradictory to Texas State Law.
- (5) Section R318.1 Sub-terranean Termite Control Methods shall be amended to read as follows:
In areas subject to very heavy termite infestation probability as indicated by Table R301.2(1), methods of protection shall include chemical termiticide treatment as provided in Section R318.2 or termite baiting system installed and maintained according to the label, in addition to pressure-preservative-treated wood in accordance with the AWWPA standards listed in Section R317.1 or; naturally durable termite-resistant wood as provided in Section R318.1 (4) or; physical barriers as provided in Section R318.3
- (6) Section 318.2 Chemical Termiticide Treatment shall be amended to read as follows:
Chemical termiticide treatment shall include soil treatment for all soils supporting concrete foundations and wood framing. The concentration, rate of application and method of treatment of the chemical termiticide shall be in strict accordance with the termiticide label.
- (7) Section R403.1.3.2 Slabs on Ground with Turned Down Footings shall be amended as to the following subsections only, which are to read as follows:
 - (a) Subsections R403.1.3.2 (a) Exterior Beams with Brick Veneer. All exterior beams of single level, one and two family dwellings employing concrete foundations shall have a minimum of four (4), No. 5 continuous reinforcement rods running full length of said beams. Concrete brick and/or stone exterior veneers shall require two (2) additional No. 5 reinforcement rods.
 - (b) Subsections R403.1.3.2 (b) Exterior Beams on Frame Structures. All exterior beams of single level, one and two family dwellings employing concrete foundations and wall siding applications shall have a minimum of three (3), No. 5 continuous reinforcement rods running full length of said beams.
 - (c) Subsections R403.1.3.2 (c) Interior Beams on Brick Veneer. All Interior beams of single level, one and two family dwellings employing concrete foundations shall have a minimum of three (3), No. 5 continuous reinforcement rods running the full length of said beams. Concrete brick and/or stone exterior veneers shall require one (1) additional No. 5 reinforcement rod.
 - (d) Subsections R403.1.3.2 (d) Interior Beams on Frame Structures. All interior beams on single level, one and two family dwellings employing concrete foundations and wall siding applications shall have a minimum of two (2) No. 5 continuous reinforcement rods running the full length of said beams.

- (e) Subsections R403.1.3.2 (e) Use of Welded Wire Reinforcement (Mesh Wire). The use of welded wire reinforcement (mesh wire) in one and two family dwellings employing concrete floor slabs supported directly on ground be prohibited. A minimum of No. 3 reinforcement rods spaced a maximum of twelve inches (12”) on center each way shall be utilized. A minimum thickness of a concrete floor slab supported directly on ground shall be four inches (4”).
 - (f) Subsections R403.1.3.2 (f) Steel Installation. All steel reinforcement utilized in one and two family dwelling concrete foundations shall be properly secured and arranged according to sound engineering practice according to the latest edition of ACI 318.
 - (g) Subsections R403.1.3.2 (g) Post Stress/Tension Concrete Foundations. Use of “post stress/tension” reinforcement for concrete foundations of one and two family dwellings shall be permitted if said foundation has been properly designed by a certified structural engineer legally registered under the laws of the State of Texas. Construction of the same “post stress/tension” foundations shall be supervised and approved by a certified engineer legally registered under the laws of the State of Texas.
- (8) Section R502.3.1(1) and Table R502.3.1(2) Floor Joist Spans for Common Lumber Species shall be amended as follows: Delete #3 grade lumber from Species and Grade Column.
 - (9) Table R602.2 Grade shall read as follows: studs shall be a minimum of No. 2 standard or stud grade lumber.
 - (10) Table R602.3(5) Size, height, and spacing of wood studs, bearing walls, maximum spacing for 2x4 when supporting roof and ceiling only, shall be 16” inches on center.
 - (11) Table R802.4(1) and Table R802.4(2) Ceiling Joist Spans for Common Lumber Species shall be amended as follows: Delete #3 grade lumber from Species and Grade Column.
 - (12) Table R802.5.1(1) through and including Table R802.5.1(8) Rafter Spans for Common Lumber Species shall be amended as follows: Delete #3 grade lumber from the Species and Grade Column.

Sec. 18-70.1. Additions to the International Residential Code.

The following provisions are added to the International Residential Code adopted in Section 18-66.

- (1) Installation and Placement of Steel Reinforcement:
 - (a) A minimum of No. 3 (three) steel reinforcement bar shall be installed in all concrete paving. Bars shall be placed at a maximum distance of sixteen (16) inches on center, or less, in all directions dependent upon application. Plastic or metal supports shall be utilized so that the steel reinforcements bars are located in the center one-third of the concrete. Bricks or concrete rubble shall not be used to support reinforcement bar. The

use of welded wire fabric (wire mesh) and fiber reinforcement shall be prohibited unless approved by the code official.

- (b) Isolation (expansion) joints, with sleeved dowel bars spaced at a maximum distance of eighteen (18) inches on center, shall be placed at designed locations or a maximum distance of twenty (20) feet on center to allow relative movement in three (3) directions and avoid formation of cracks elsewhere in the concrete.
- (c) Thickness and compression strength of the concrete shall be dependent upon the application for which it is designed. Concrete paved driveways and sidewalks shall be constructed to a minimum thickness of four (4) inches.

(2) Permits and Inspections:

- (a) Permits and inspections shall not be required for private residential concrete paving that is not used by the public if the concrete paving application is less than fifty (50) square feet.
- (b) Permits and inspections shall be required for all other concrete paving applications.

Sec. 18-70.2. Amendments to the International Property Maintenance Code.

The property maintenance code adopted by reference in this article is amended as follows:

- (1) Reference to the ICC Electrical Code is hereby repealed; heretofore, substituted with the National Electric Code.
- (2) Section 111 Means of Appeal is deleted. The City of Wharton, Code of Ordinances, Chapter 18, Article IV, Building Standards Commission shall administer appeals.
- (3) Section 403.5 Clothes Dryer Exhaust shall be amended to read as follows: Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted in accordance with the International Mechanical Code and the manufacturer's instructions.
- (4) Section 603.1 Mechanical Appliances shall be amended to read as follows: All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances, water heating appliances and air-conditioning/heat appliances shall be capable of performing the intended function in accordance with the manufacturer's specifications and related International Codes as referenced in Section 18-66 of this Article.

Sec. 18-72. Amendments to the International Plumbing Code.

- (1) Reference to ICC Electrical Code is hereby repealed; heretofore, substituted with the National Electrical Code.

- (2) Section 109, Means of Appeal is deleted. The City of Wharton, Code of Ordinances, Chapter 18, Article VII, Division I, Plumbing and Mechanical Appeals and Advisory Board shall administer the appeals.
- (3) Section 305.1 Corrosion. Pipes passing through concrete or cinder walls and floors or other corrosive material shall be protected against external corrosion by a protective plastic tubing that will withstand any reaction from the lime and acid of concrete, cinder or other corrosive material. Poly wrap sleeves are prohibited.
- (4) Section 605.3 Water Service Pipe. Water service pipe shall conform to NSF 61 and shall conform to one of the standards listed in Table 605.3 All water service pipe or tubing, installed underground and outside of the structure, shall have a minimum working pressure rating of 160 psi (1100 kPa) at 73.4 (f (23(C). Where the water pressure exceeds 160 psi (1100kPa), piping material shall have minimum rated working pressure equal to the highest available pressure. Plastic (PVC) water service piping shall terminate within 5 feet (1524 mm) inside the point of entry into a building. All ductile iron water pipe shall be cement mortar line in accordance with AWWA C 104. If copper water supply pipe is utilized it shall be K or L copper.
- (5) Section 605.4 Water Distribution Pipe. Water distribution pipe shall conform to NSF 61 and shall conform to one of the standards listed in Table 605.4. All hot water distribution pipe and tubing shall have a minimum pressure rating of 100 psi (600 kPa) at 180(F (82(C). If copper water distribution pipe is utilized it shall be K or L copper.
- (6) Section 702.3 Building Sewer Pipe. Building sewer pipe shall conform to one of the standards listed in Table 702.3. All plastic piping shall be a minimum of Schedule 40 PVC.

Sec. 18-73. Amendments to the International Fuel Gas Code.

The fuel gas code adopted by reference in this article is amended as follows:

- (1) Reference to ICC Electrical Code is hereby repealed; heretofore, substituted with the National Electrical Code.
- (2) Section 109. Means of Appeal is deleted. The City of Wharton, Code of Ordinances, Chapter 18, Article VII, Division I, Plumbing and Mechanical Appeals and Advisory Board shall administer the appeals.
- (3) Section 406.4 Test Pressure Measurement. Test pressure shall be measured with a manometer or with a pressure measuring device designed and calibrated to read, record, or indicate a pressure loss due to leakage during the pressure test period. The source of pressure shall be isolated before the pressure tests are made. An annually certified diaphragm gauge shall be used for all pressure tests.

- (4) Addition of Section 406.4.3 Line and System Test. Upon completion of repairing or replacing a gas line, the Code Official has the authority to require a test on all gas lines and systems during a gas pressure test inspection.
- (5) Section 409.5 Equipment shutoff valve. *Exception:* Shutoff valves for vented decorative appliances and decorative appliances for installation in vented fireplaces shall be installed in a ready accessible location within sight of the appliance. Such valves shall be permanently identified and shall service no other equipment. (This amendment shall also apply to the 2012 International Residential Code, Section G2420.5 (409.5) Equipment shutoff valve.)

Sec. 18-74. Amendments to the International Mechanical Code.

The mechanical code adopted by reference in this article is amended as follows:

- (1) Reference to ICC Electrical Code is hereby repealed; heretofore, substituted with the National Electrical Code.
- (2) Section 109 Means of Appeal is deleted. The City of Wharton, Code of Ordinances, Section 18, Article VI, Plumbing and Mechanical Appeals and Advisory Board shall administer appeals.

Sec. 18-74.1 Addition to the International Mechanical Code.

The mechanical code adopted by reference in this article is added as follows:

- (1) Require the mechanical contractor to mark the air handler legend plates or clearly mark access panel with the appropriate voltage/kw and phase of the installed components at the time of installation. If modifications are made, mark the appropriate electrical information at that time.

Sec. 18-75. Amendments to the International Fire Code.

The fire code adopted by reference in this article is amended as follows:

- (1) Reference to ICC Electrical Code is hereby repealed; heretofore, substituted with the National Electrical Code
- (2) Section 108 Board of Appeal is deleted. The City of Wharton, Code of Ordinance. Section 18, Article IV, Building Standards Commission will administer appeals.
- (3) Section 315.1 has the following addition, which is to read as follows:
 - a. Section 315.1.1 Tank Storage-Restricted Locations
 1. The storage of flammable or combustible liquids in above ground tanks outside of buildings is prohibited within the limits of the fire districts.

2. The location and installation of outside aboveground tanks for the storage of flammable or combustible liquids shall be in accordance with NFPA 30.

b. Section 315.1.2 Bulk Plants-Location of Plants

No new bulk plants shall be constructed within the limits of the Fire District.

c. Section 315.1.3 Installation of Containers.

Within the limits of the fire district established by law restricting the storage of liquefied petroleum gas for the protection of heavily populated or congested commercial areas, the aggregate capacity of any one installation shall not exceed 2,000 gal (7.57 m3) water capacity, except that in particular installations this capacity limit may be altered at the discretion of the fire official, after consideration of special features such as topographical conditions, nature of occupancy and proximity to buildings, capacity of proposed containers, degree of private protection to be provided, and capabilities of the local fire department.

Secs. 18-330--18-355. Reserved.

Fine and Penalty for Violations

Sec. 18-145. Penalties.

Any person violating any of the terms or provisions of this article shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than \$100.00 nor more than the maximum provided in section 1-5 for each offense. If the terms or provisions of this article are violated by any corporation or firm, the officers and agents actively in charge of the business of such corporation or firm and the person actually performing the work for such corporation or firm shall be subject to the penalties provided in this section.

Separability

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.

Effective Date

This Ordinance shall become effective on the 21st day of September 2012 at 12:01 a.m..

Passage and Approval

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, on the 10th day of September 2012.

CITY OF WHARTON, TEXAS

By: _____
DOMINGO MONTALVO, JR.
Mayor

ATTEST:

PAULA FAVORS

City Secretary

APPROVED AS TO FORM

PAUL WEBB
City Attorney

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

The twelfth item on the agenda was to review and consider a resolution of the Wharton City Council administratively approving an application for tax abatement filed by Mr. Vic Desai, owner of America's Best Value Inn dated April 18, 2012. City Manager Andres Garza, Jr. presented a copy of the Tax Abatement Application that was submitted by Mr. Vic Desai, owner of America's Best Value Inn, which was planned to be constructed along FM 102 behind Buc-ee's. City Manager Garza stated that the City Council Finance Committee met on September 10, 2012 and recommended the City Council consider deferring action on the request for tax abatement until additional information had been submitted by Mr. Desai. After some discussion, Councilmember Jeff Gubbels moved to table the resolution of the Wharton City Council administratively approving an application for tax abatement filed by Mr. Vic Desai, owner of America's Best Value Inn dated April 18, 2012 until further information could be received. Councilmember Karen Schulz 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 administratively approving an application for tax abatement filed by Dr. Phil Tiet owner of Wharton Dental dated August 23, 2012. City Manager Andres Garza, Jr. presented a copy of the Tax Abatement Application that was submitted by Dr. Phil Tiet. City Manager Garza stated that Dr. Tiet was planning to construct a new dental office to be located along Regional Medical Drive off of FM 102. City Manager Garza stated the City Council Finance Committee met on

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Monday, September 10, 2012 voted to deny the request for tax abatement as requested; however, they did recommend that the City Council authorize the City Staff to pursue a 380 agreement or other avenues to better assist the company. After some discussion, Councilmember Jeff Gubbels moved to table the request approving the application of the Wharton City Council for tax abatement filed by Dr. Phil Tiet owner of Wharton Dental dated August 23, 2012. Councilmember Karen Schulz seconded the motion. All voted in favor.

The fourteenth item on the agenda was to review and consider a request for authorization for the City Staff to prepare an application for submission to the Texas Department of Agriculture for funding under the Texas Community Development Block Grant. City Manager Andres Garza, Jr. stated the Texas Department of Agriculture would be accepting applications for funding under the 2012-2013 Texas Community Development Block Grant Program (TxCDBG) and the City Staff was seeking City Council authorization to prepare an application for submission. City Manager Garza said a Public Hearing was required to allow an opportunity for citizens to participate in the project selection process and provide their comments, etc. City Manager Garza presented a draft Notice of Public Hearing and with City Council's approval, stating that the notice would be published in the Wharton Journal Spectator. City Manager Garza said the City Council Public Works Committee met on September 6, 2012 and was recommending the City Council consider approving the applications preparation and to hold the necessary public hearings. After some discussion, Councilmember Jeff Gubbels moved to approve authorization of the City Staff preparing an application for submission to the Texas Department of Agriculture for funding under the Texas Community Development Block Grant. Councilmember Russell Machann 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 amending the City of Wharton Police Department Policies and Code of Conduct. City Manager Andres Garza, Jr. presented a copy of the email dated August 20, 2012 to him from Police Chief Tim Guin providing a copy of the amended Wharton Police Department Policies and Code of Conduct. Police Chief Tim Guin stated the policies had been updated to meet the new requirements and that Attorney Paul Webb had reviewed and approved of the changes. City Manager Garza stated the City Council Public Safety Committee met on Monday, September 10, 2012 and recommended the City Council consider approving the amendments to the City of Wharton Police Department Policies and Code of Conduct. After some discussion, Councilmember Jeff Gubbels moved to approve City of Wharton Resolution No. 2012-39, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2012-39**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AMENDMENTS TO THE CITY OF 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 amend said Policies and Code(s) of Conduct; and

WHEREAS, The Wharton City Council wishes to amend 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 amendments to the 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 10th day of September 2012.

CITY OF WHARTON, TEXAS

By: _____
DOMINGO MONTALVO, JR.
Mayor

ATTEST:

PAULA FAVORS

City Secretary

Councilmember Russell Machann seconded the motion.

The sixteenth item on the agenda was to review and consider a resolution of the Wharton City Council authorizing the Mayor of the City of Wharton to execute a Reciprocal Law Enforcement Assistance Agreement with the City of El Campo. City Manager Andres Garza, Jr. presented a copy of the fax dated September 6, 2012 from City Attorney Paul Webb to him providing a copy of the letter dated September 6, 2012 to him from Mr. Ronald B. Collins, Attorney providing a draft copy of the Reciprocal Law Enforcement Assistance Agreement between the Cities of El Campo and Wharton. City Manager Garza stated that he had submitted the proposed agreement to Police Chief Guin for his review. City Manager Garza presented a copy of the letter dated September 7, 2012 to him providing his and Chief Guin's recommendations for City Council to consider approving the agreement. City Manager Garza stated that the City Council Public Safety Committee met on Monday, September 10, 2012 and recommended the City Council consider approving the Reciprocal Law Enforcement Assistance Agreement between the Cities

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of El Campo and Wharton. After some discussion, Councilmember Don Mueller moved to approve City of Wharton Resolution No. 2012-40, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2012-40**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE A RECIPROCAL LAW ENFORCEMENT ASSISTANCE AGREEMENT WITH THE CITY OF EL CAMPO.

WHEREAS, The City of El Campo and the City of Wharton wishes to enter into a Reciprocal Law Enforcement Agreement; and

WHEREAS, The City of El Campo and the City of Wharton wishes to be bound by the conditions set forth in said contract; and

WHEREAS, The Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute the agreement; and

WHEREAS, The Wharton City Council wishes this resolution to become effective immediately upon its passage.

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 Reciprocal Law Enforcement Agreement with the City of El Campo.

Section II. The City of Wharton and the City of El Campo are hereby bound by the conditions set forth in said agreement.

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

Passed, Approved, and Adopted this 10th day of September 2012.

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 seventeenth item on the agenda was to review and consider City Council authorization for the City Staff to rebid the City of Wharton Sidewalk Accessibility and Historic Streetscape Project, Texas Department of Transportation Contract CSJ # 0913-09-049. City Manager Andres Garza, Jr. stated the Wharton City Council approved the City of Wharton Resolution No. 2012-32, rejecting the bids received on August 14, 2012 due to lack of available funding. City Manager Garza said the City Staff had been working with Mr. Bradley Loehr, P.E. of BEFCO Engineering to determine the scope of the project for rebidding purposes. City Manager Garza presented a copy of possible scenarios for rebidding the project and a copy of the funding sources available for the project prepared by Finance Director Joan Anzel. City Manager Garza said the City Council Public Works Committee met September 6, 2012 and voted to recommend the City Council rebid the project with the scope of work including all projects east of Business 59 (Richmond Road) with the inclusion of the four corners located at Cloud Street and Milam Street. After some discussion, Councilmember Russell Machann moved to approve authorization for the City Staff to rebid the City of Wharton Sidewalk Accessibility and Historic Streetscape Project, Texas Department of Transportation Contract CSJ # 0913-09-049. Councilmember Don Mueller seconded the motion. All voted in favor.

The eighteenth item on the agenda was to review and consider the Cloud Street Elevated Storage Tank Rehabilitation and/or Dismantling Project. City Manager Andres Garza, Jr. stated that during the City Council meeting held on July 23, 2012, the City Council instructed the City Staff to gather additional information on the Cloud Street Elevated Storage Tank. City Manager Garza said the City Staff met with Mr. Carlos Cotton, P.E., of Jones & Carter, Inc. City Manager Garza presented a copy of the letter dated August 31, 2012 from Mr. Cotton providing his recommendation. City Manager Garza said the City Council Public Works Committee met September 6, 2012 and voted to recommended the City Council consider approving Option 5, which is to remove the tank for \$40,000 and install a 20,000 gallon hydro tank for \$152,000 for a total cost of the project being \$192,000. After some discussion, Councilmember Jeff Gubbels moved to approve Option 5, which is to remove the tank for \$40,000 and install a 20,000 gallon hydro tank for \$152,000 for a total cost of the project being \$192,000. Councilmember Al Bryant seconded the motion. All voted in favor.

The nineteenth item on the agenda was to review and consider a resolution of the Wharton City Council approving an Interlocal Agreement with the Texas Municipal League-Intergovernmental Risk Pool (TML-IRP) for Property & Casualty and Workers' Compensation coverage for the City of Wharton; Authorizing the Mayor of the City of Wharton to execute all documents relating to said contract. City Manager Andres Garza, Jr. presented a copy of the memorandum dated September 7, 2012 from City Secretary Paula Favors to him regarding the Interlocal Agreement with the Texas Municipal League-Intergovernmental Risk Pool (TML-IRP) for Property & Casualty and Workers' Compensation coverage for the City of Wharton. City Manager Garza said Mrs. Favors stated that the amount for coverage for 2012-2013 is \$223,134.

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After some discussion, Councilmember Don Mueller moved to approve City of Wharton Resolution No. 2012-41, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2012-41**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN INTERLOCAL AGREEMENT WITH THE TEXAS MUNICIPAL LEAGUE-INTERGOVERNMENTAL RISK POOL (TML-IRP) FOR PROPERTY & CASUALTY AND WORKERS' COMPENSATION COVERAGE FOR THE CITY OF WHARTON; AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID CONTRACT.

WHEREAS, the City of Wharton received the renewal rate for property and casualty and workers' compensation coverage; and

WHEREAS, the Wharton City Council wishes to enter into an interlocal agreement with the Texas Municipal League-Intergovernmental Risk Pool (TML-IRP) for property & casualty and workers' compensation coverage for the City of Wharton; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute all documents related to said 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 an interlocal agreement with the Texas Municipal League-Intergovernmental Risk Pool (TML-IRP) for Property & Casualty Coverage and Worker's Compensation Coverage for the City of Wharton for fiscal year October 1, 2012 to September 30, 2013.

Section II. That the Mayor of the City of Wharton is hereby authorized to sign any documents relating to the aforementioned contracts.

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

Passed, Approved, and Adopted this 10th day of September 2012.

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 twentieth item on the agenda was to review and consider a resolution of the Wharton City Council adopting the Governmental Accounting Standard Board Statement (GASB) 54. City Manager Andres Garza, Jr. presented a copy of a draft resolution adopting the Governmental Accounting Standard Board Statement (GASB) 54, which would allow the City of Wharton to be in compliance with GASB 54. City Manager Garza stated the Finance Committee met on Monday, September 10, 2012 and recommended the City Council consider adopting the Governmental Accounting Standard Board Statement (GASB) 54. After some discussion, Councilmember Karen Schulz moved to approve City of Wharton Resolution No. 2012-42, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2012-42**

A RESOLUTION OF THE WHARTON CITY COUNCIL ADOPTING THE GOVERNMENTAL ACCOUNTING STANDARD BOARD STATEMENT (GASB) 54.

WHEREAS, the City of Wharton is required to identify and report fund balances per Governmental Accounting Standard Board Statement (GASB) 54; and

WHEREAS, the City of Wharton wishes to adopt the Governmental Accounting Standard Board Statement (GASB) 54, which would allow the City of Wharton to identify and report fund balances per the requirements of GASB 54.

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 adopts Governmental Accounting Standard Board Statement (GASB) 54.

Section II. That the City of Wharton shall report governmental fund balances per GASB 54 definitions in the balance sheet as follows: non-spendable, restricted, committed, assigned or unassigned.

Section III. That the Wharton City Council shall approve all commitments by formal actions. The action to commit funds must occur prior to fiscal year-end, to report such commitments in the balance sheet of the respective period, even though the amount may be determined subsequent to fiscal year-end. A commitment can only be modified or removed by the same formal action.

Section IV. That the Wharton City Council shall hereby have the authority to assign any amount of funds Assignments may occur subsequent to fiscal year-end.

Section V. That the City Council will utilize funds in the following spending order: restricted, committed, assigned and undesignated.

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

Passed, Approved, and Adopted this 10th of September 2012.

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 twenty-first item on the agenda was to review and consider the Proposed Train Horn Quiet Zone. City Manager Andres Garza, Jr. stated City Attorney Paul Webb met with the City Council Public Works Committee on Thursday, September 6, 2012 and provided the Committee Members with the information regarding the proposed Quiet Zone as requested by the Public Works Committee during its meeting held July 9, 2012. City Manager Garza said the Public Works Committee voted to recommend the City Council not pursue with the creation of a Train Horn Quiet Zone in the City of Wharton. After some discussion, Councilmember Jeff Gubbels moved to table indefinitely the train horn quiet zone request. Councilmember Karen Schulz seconded the motion. All voted in favor.

The twenty-second item on the agenda was to review and consider the Texas Municipal League Intergovernmental Risk Pool Board of Trustees Election. City Manager Andres Garza, Jr. presented a copy of the Official Ballot for the Texas Municipal League (TML) Intergovernmental Risk Pool (IRP) Board of Trustees Election. City Manager Garza stated that he recommended that the City Council consider voting for all of the incumbents. City Manager Garza presented a copy of the letter dated August 22, 2012 from Mr. Greg Ingham, City Manager of Plainview, Texas, seeking the City's vote and support.

The incumbents were as follows:

Place 11 – Greg Ingham, Plainview, Texas
Place 12- Larry Gilley, Abilene, Texas
Place 13 – Byron Black, Burleson, Texas

After some discussion, Councilmember Karen Schulz moved to approve voting for all incumbents on the Official Ballot for the Texas Municipal League (TML) Intergovernmental Risk Pool (IRP) Board of Trustees Election. Councilmember Al Bryant seconded the motion. All voted in favor.

The twenty-third item on the agenda was to review and consider the Texas Municipal League Intergovernmental Employee Benefits Pool Members of Region 14 2012 Board of Trustees Election. City Manager Andres Garza, Jr. presented a copy of the letter dated August 17, 2012 from Ms. Catherine Fryer, Board Secretary for TML Intergovernmental Employee Benefits Pool Members of Region 14 providing the ballot for consideration by the City of Wharton. City Manager Garza stated that he recommended the City Council consider voting for Mr. Jay Stokes, City Manager of the City of Deer Park to serve on the Board of Trustees for TML Region 14. City Manager Garza presented a copy of the email dated August 20, 2012 from Mr. Stokes to him seeking the City's vote. After some discussion, Councilmember Russell Machann moved to approve voting for Mr. Jay Stokes, City Manager of the City of Deer Park to serve on the Board of Trustees for TML Region 14 Board of Trustees Election. Councilmember Karen Schulz seconded the motion. All voted in favor.

The twenty-fourth item on the agenda was to review and consider the City of Wharton City Council Boards, Commissions, and Committees:

- A. Beautification Commission.
- B. Holiday Light Decorating Chairman.
- C. Wharton Economic Development Corporation Board of Directors.

City Manager Andres Garza, Jr. presented copies of letters from Ms. Dana Black and Ms. Ronda Baker informing the City of Wharton of their interest in serving on the City's Beautification Commission. Assistant to City Manager Jackie Jansky stated that there were two vacancies on the Beautification Commission and the City had received letters from Ms. Dana Black and Ms. Ronda Baker, who were interested in serving. After some discussion, Councilmember Don Mueller moved to appoint the following:

	<u>Term Ending</u>
A. Beautification Commission. – Dana Black	June 30, 2013
A. Beautification Commission – Ronda Baker	June 30, 2013

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

Mrs. Jansky also stated that four applications were received for the Wharton Economic Development Corporation Board (WEDC) and that a Consultant Selection Committee meeting for WEDC Board of Directors would be scheduled in the very near future. After further discussion, Councilmember Russell Machann moved to appoint the following:

- C. Wharton Economic Development Corporation Board of Directors - Jeff Gubbels
- Term Ending

October 1, 2014

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

The twenty-fifth item on the agenda was to review and consider City Council Committees, Boards and Commission's Reports:

- A. Planning Commission meetings held August 20, 2012 and September 4, 2012.
- B. Plumbing and Mechanical Board meeting held August 28, 2012.
- C. City Council Public Works Committee meeting held September 6, 2012.

After some discussion, Councilmember Jeff Gubbels moved to approve the City Council Committees, Boards and Commission's Reports. Councilmember Karen Schulz seconded the motion. All voted in favor.

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

The meeting adjourned at 7: 39 p.m.

CITY OF WHARTON, TEXAS

By: _____
Domingo Montalvo, Jr.
Mayor

ATTEST:

Paula Favors
City Secretary