

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
AUGUST 11, 2014**

Mayor Pro-Tem Don Mueller declared a Regular Meeting duly open for the transaction of business at 7:00 P.M at City Hall 120 E. Caney Street Wharton, TX. Mayor Pro-Tem Mueller led the opening devotion and the pledge of allegiance.

Councilmember's present were: Mayor Pro-Tem Don Mueller and Councilmembers Tim Barker, Al Bryant, Russell Machann and Steven Schneider.

Councilmembers absent was: Mayor Domingo Montalvo, Jr., and Councilmember Jeff Gubbels.

Staff members present were: City Manager Andres Garza, Jr, Finance Director Joan Anandel, City Secretary Paula Favors, Assistant to the City Manager – Special Projects Cheryl Urbanovsky, Police Chief Terry David Lynch, EMS Director John Kowalik, City Attorney Paul Webb, Administrative Assistant to Public Works Director Amy Kasper, Airport Manager David Allen, Community Services Director Jo Beth Knezek, Telecommunicator Shyan Chancey, Telecommunicator Amanda Heffner, Telecommunicator Derek Rivera, Telecommunicator Risa Eldridge, Patrol Sargent Justin Moran, Patrol Officer David Hunter, Patrol Officer Grady Smith, Airport Attendant Darrell Hawley, Airport Attendant Dwayne Pospisil, Accounts Receivable Clerk Lindsey Fruebos, Civic Center Maintenance Jason Orsak, Civic Center Maintenance O.H. Ullmann, Jr., Mechanic Roary Dickerson, Mechanic Leonard Hubenak, Heavy Equipment Operator Roderick Semien, Streets Superintendent Willie Sanders, Equipment Operator Ricky Guzman, Crew Leader Oscar Del Bosque, Heavy Equipment Operator Rudy Smith, Heavy Equipment Operator Harry Wicks, and Maintenance Worker Charlie Jackson, Assistant to the Building Official Gwyn Laney and Public Works Director Kyle Marchant, P.E.

Visitors present were: Wharton Economic Development Director David Schroeder and Natalie Frels with the Wharton Journal Spectator.

The second item on the agenda was Roll Call and Excuses Absences. After some discussion, Councilmember Al Bryant moved to excuse Mayor Domingo Montalvo, Jr. and

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

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

The fourth item on the agenda was the Wharton Moment. City Attorney Paul Webb congratulated City Manager Andres Garza, Jr. on the birth of his first grandchild. City Manager Andres Garza, Jr. requested prayers for the Hinze family after the fire that consumed their family restaurant.

The fifth item on the agenda was to review and consider the reading of the minutes from the regular meetings held July 14, 2014 and July 28, 2014 and special meeting held July 15, 2014. After some discussion, Councilmember Russell Machann moved to approve the minutes from the regular meetings held July 14, 2014 and July 28, 2014 and special meeting held July 15, 2014. Councilmember Tim Barker seconded the motion. All voted in favor.

The sixth item on the agenda was introductions of City Employees to Mayor and City Councilmembers. City Manager Andres Garza, Jr. stated Department Heads would continue introducing City Staff to the Mayor and City Councilmembers. Public Works Director Kyle Marchant, P.E. introduced his staff as follows: Administrative Assistant to the Public Works Director Amy Kasper, Mechanic Roary Dickerson, Mechanic Leonard Hubenak, Heavy Equipment Operator Roderick Semien, Streets Superintendent Willie Sanders, Equipment Operator Ricky Guzman, Crew Leader Oscar Del Bosque, Heavy Equipment Operator Rudy Smith, Heavy Equipment Operator Harry Wicks, and Maintenance Worker Charlie Jackson. Community Services Director Jo Beth Knezek introduced her staff as follows: Accounts Receivable Clerk Lindsey Fruebos, Civic Center Maintenance Jason Orsak, part time Civic Center Maintenance O.H. Ullmann, Jr. Airport Manager David Allen introduced his staff as follows: Airport Attendant Dwayne Pospisil and part time Airport Attendant Darrell Hawley. Police Chief Terry David Lynch introduced his staff as follows: Telecommunicator Shyan Chancey, Telecommunicator Amanda Heffner, Telecommunicator Derek Rivera, Telecommunicator Risa Eldridge, Patrol Sargent Justin Moran, Patrol Officer David Hunter and Patrol Officer Grady Smith.

The seventh item on the agenda was to review and consider a resolution awarding a contract for the remodeling of the EMS Bunk Station and authorizing the Mayor of the City of Wharton to execute all documents relating to said contract. City Manager Andres Garza, Jr. stated that the EMS department requested cost estimates for the remodeling of the station bunk room and three bids were received from Stockwell Construction, Southwest Graphix, and Brothers Custom Work, Inc.; bid quotes received were as follows: Stockwell Construction: \$49,985.00, Southwest Graphics: \$55,350.00 and Brothers Custom Work, Inc: \$59,150.00. EMS Director John Kowalik stated his request that City Council consider approving the bid from Stockwell Construction for the remodeling of the station bunk room. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Resolution No. 2014-62, which read as follows:

CITY OF WHARTON

RESOLUTION NO. 2014-62

A RESOLUTION AWARDDING A CONTRACT FOR THE REMODELING OF THE EMS BUNK STATION AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID CONTRACT.

WHEREAS, proposals were received for the City of Wharton EMS bunk station remodeling project; and

WHEREAS, Stockwell Construction was deemed the best lowest qualified bidder in the amount of \$49,985.00; and

WHEREAS, the Wharton City Council wishes to award a contract to Stockwell Construction for the City of Wharton EMS Bunk Station Remodeling Project in the amount of \$49,985.00; and

WHEREAS, the City of Wharton and Stockwell Construction wish to be bound by the conditions as set forth in the agreement; and,

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

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

Section I. The Wharton City Council hereby authorizes the Mayor of the City of Wharton, Texas, to execute a contract for the City of Wharton EMS Bunk Station Remodeling Project to Stockwell Construction in the amount of \$49,985.00.

Section II. The City of Wharton and Stockwell Construction are hereby 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 11th day of August 2014.

CITY OF WHARTON, TEXAS

By: _____
DONALD MUELLER
Mayor Pro-Tem

ATTEST:

PAULA FAVORS

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City Secretary

Councilmember Tim Barker seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider a resolution approving a Memorandum of Understanding between Wharton Police Department and Wharton Independent School District Police Department regarding investigative assistance and communication center. City Manager Andres Garza, Jr. presented an email from Chief Lynch regarding a memorandum of understanding between the City and WISD and a proposed Memorandum of Understanding between the Wharton Police Department and Wharton ISD Police Department in which the Wharton Police Department would respond should the Wharton ISD Police Department need assistance with major felony criminal investigations, as well as authorization for Wharton ISD Police to use Wharton Police's communication center. After some discussion, Councilmember Russell Machann moved to approve City of Wharton Resolution No. 2014-63, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2014-63**

A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN WHARTON POLICE DEPARTMENT AND WHARTON INDEPENDENT SCHOOL DISTRICT POLICE DEPARTMENT REGARDING INVESTIGATIVE ASSISTANCE AND COMMUNICATION CENTER.

WHEREAS, the members of the Wharton Police Department investigate offenses and incidents throughout the City of Wharton; and,

WHEREAS, the Wharton ISD Police Department has requested investigative assistance on certain types of criminal offenses and incidents and use of the City's Communication Center; and,

WHEREAS, it is in the best interest of the citizens of Wharton and Wharton ISD that their agencies work together.

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

Section I. The Wharton City Council hereby authorizes the Chief of Police of the City of Wharton, Texas, to execute a Memorandum of Understanding between Wharton Police Department and Wharton Independent School District Police Department regarding investigative assistance and communication center.

Section II. The Wharton Police Department and Wharton Independent School District Police Department are hereby bound by the conditions as set forth in the memorandum of understanding.

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

PASSED, APPROVED, and ADOPTED this 11th day of August 2014.

CITY OF WHARTON, TEXAS

By: _____
DONALD MUELLER
Mayor Pro-Tem

ATTEST:

PAULA FAVORS
City Secretary

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

The ninth item on the agenda was to review and consider a Request for Payment No. 1 to J&A Coating, LLC for the Rehabilitation of (2) 500,000 Gallon Ground Storage Tanks Project at Alabama Road. City Manager Andres Garza, Jr. presented the Progress Payment Request No. 1 requests from Dunham Engineering for J & A Coating LLC on the Rehabilitation of (2) 500,000 Gallon Ground Storage Tanks Project at Alabama Road in the amount of \$72,180. After some discussion, Councilmember Tim Barker moved to approve the Progress Payment Request No. 1 request from Dunham Engineering for J & A Coating LLC on the Rehabilitation of (2) 500,000 Gallon Ground Storage Tanks Project at Alabama Road in the amount of \$72,180. Councilmember Al Bryant seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider a resolution of the Wharton City Council authorizing the execution of a Landscape Maintenance Agreement with the Texas Department of Transportation and the City of Wharton and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. stated that at the July 14, 2014 meeting, the City Council voted to pursue a Landscape Agreement with TxDOT in order for the City to maintain certain areas along Highway 59 at its intersection with FM 102 and Highway 60. City Manager Garza said the City would pursue funding from Wharton Economic Development Corporation for the cost and the City Staff had submitted the funding request to WEDC and had received from TxDOT a Landscape Agreement that would allow the City to maintain those areas. City Manager Garza presented a Landscape Maintenance Agreement along with maps prepared by the City Staff showing the area to be maintained. After some discussion, Councilmember Russell Machann moved to approve City of Wharton Resolution No. 2014-64, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2014 - 64**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE EXECUTION OF A LANDSCAPE MAINTENANCE AGREEMENT WITH THE TEXAS DEPARTMENT OF TRANSPORTION AND THE CITY OF WHARTON AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, Chapter 311 of the Transportation Code gives the City exclusive dominion, control, and jurisdiction over and under the public streets within its corporate limits and authorizes the City of Wharton to enter into agreements with the State to fix responsibilities for maintenance, control, supervision, and regulation of State highways within and through its corporate limits; and

WHEREAS, Section 221.002 of the Transportation Code authorizes the State of Texas, at its discretion, to enter into agreements with cities to fix responsibilities for maintenance, control, supervision, and regulation of State highways within and through the corporate limits of such cities; and

WHEREAS, the State of Texas and City of Wharton have entered into a Municipal Maintenance Agreement dated August 25, 1997, the provisions of which are incorporated herein by reference, and wherein the City of Wharton has agreed to retain all functions and responsibilities for maintenance and operation which are not specifically described as the responsibility of the department; and

WHEREAS, the State of Texas has existing landscape improvements, such as, but not limited to, tree, shrub, and turf plantings, and other aesthetic elements for areas within the right of way of state highway routes with the City of Wharton; and

WHEREAS, the City of Wharton agrees to be responsible for all required maintenance of the landscape improvements; and

WHEREAS, the Wharton City Council wishes this resolution to become effective immediately upon its passage; and

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

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

Section I. This agreement prescribes the responsibilities of the State of Texas and the City of Wharton to the maintenance of landscape elements on controlled access

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state highways, and described and graphically shown as “State Maintained and Operated” in that agreement.

Section II. The parties agree that this agreement may be amended. Such amendments, to be effective, must be in writing and signed by both parties.

Section III. The Wharton City Council authorizes the Mayor of the City of Wharton to execute said agreement.

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

PASSED, APPROVED, and ADOPTED this 11th day of August 2014.

CITY OF WHARTON, TEXAS

By: _____
DON MUELLER
Mayor Pro-Tem

ATTEST:

PAULA FAVORS
City Secretary

Councilmember Tim Barker seconded the motion. All voted in favor.

The eleventh item on the agenda was to review and consider requests by Habitat for Humanity of East Wharton County:

- A. Resolution: A resolution of the Wharton City Council approving the transfer of the City of Wharton surplus real property located at Wharton, Block 57, Lot 11 to East Wharton County Habitat for Humanity and authorizing the Mayor of the City of Wharton to execute all documents related to the property transfer.
- B. Waive of all permit fees and water/sewer taps.
- C. Front building line setback variance of 5’ resulting in a 20’ building line setback on 602 Cedar Circle, Wharton Addition, Block 57, Lot 11.
- D. Front building line setback variance of 5’ resulting in a 20’ building line setback at 604 Cedar Circle, Wharton Addition, Block 57, Lot 10.

After some discussion Councilmember Al Bryant moved to approve City of Wharton Resolution No 2014-65, waive all permit fees and water/sewer tap fees. The resolution read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2014-65**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE TRANSFER OF THE CITY OF WHARTON SURPLUS REAL PROPERTY LOCATED AT WHARTON, BLOCK 57, LOTS 11 TO EAST WHARTON COUNTY HABITAT FOR HUMANITY AND AUTHROIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO THE PROPERTY TRANSFER.

WHEREAS, the City of Wharton (“City”) desires to support the availability of housing opportunities for low income residents, construct appropriate drainage for the citizens, and promote economic development within the community as public purposes;and

WHEREAS, East Wharton County Habitat for Humanity has selected a family for the proposed housing; and

WHEREAS, the Wharton City Council wishes to transfer the property located at Wharton, Block 57, Lot 11; in the City of Wharton, Wharton County, Texas, to East Wharton County Habitat for Humanity for the construction of new housing; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute all documents related to the property transfer.

NOW, THEREFORE, BE IT RESOLVED by the Wharton City Council that:

Section I. The Wharton City Council hereby approves the transfer of the property located at Wharton, Block 57, Lot 11; in the City of Wharton, Wharton County, Texas, to East Wharton County Habitat for Humanity for the construction of new housing; and

Section II. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute all documents related to said property transfer.

Section III. This resolution shall become effective immediately after is passage.

PASSED, APPROVED AND ADOPTED by the City of Wharton at a regular meeting held on the 11th day of August 2014

CITY OF WHARTON, TEXAS

By: _____

DON MUELLER
Mayor Pro-Tem

ATTEST:

PAULA FAVORS
City Secretary

Councilmember Steven Schneider seconded the motion. All voted in favor. Assistant to the Building Official Gwyn Laney stated that items C. and D. needed to be considered as well for the front yard setback variances on lots 10 and 11. After some discussion, Councilmember Al Bryant moved to approve aforementioned items C. and D. the front yard building set back variances for lots 10 and 11, Block 57. Councilmember Russell Machann seconded the motion. All voted in favor.

The twelfth item on the agenda was to review and consider Executive Session: City Council may adjourn into an Executive Session in accordance with Section 551.072 and 551.087 of the Local Government Code, Revised Civil Statutes of Texas. Final action, decision or vote, if any with regard to any matter considered in Executive Session shall be made in Open Meeting.

A. Discussion: Acquisition of land for FM 1301 Extension Project.

B. Discussion: To deliberate the offer of a financial or other incentives to a prospect which the City seeks to have locate within the City of Wharton or within the City of Wharton's extra territorial jurisdiction (etj).

Mayor Pro-Tem Don Mueller moved the meeting into closed session at 7:28 p.m.

The thirteenth item on the agenda was to review and consider action on items discussed in Executive Session:

A. Review and Consider: Acquisition of land for FM 1301 Extension Project.

B. Review and Consider: To deliberate the offer of a financial or other incentives to a prospect which the City seeks to have locate within the City of Wharton or within the City of Wharton's extra territorial jurisdiction (etj).

Mayor Pro-Tem Don Mueller returned the meeting to open session at 8:13 p.m. Mayor Pro-Tem Mueller stated that the session was discussion only and no action would be taken.

The fourteenth item on the agenda was to review and consider City Council Boards, Committees and Commissions reports:

A. Finance Committee meeting held on July 23, 2014.

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- B. Public Works Committee meeting held on July 24, 2014.
- C. Consultant Selection Committee meeting for the City of Wharton Sidewalk Accessibility and Historic Streetscape Enhancement Project meeting was held July 24, 2014.
- D. Wharton Economic Development Corporation Board of Directors meeting held July 28, 2014.
- E. City Council Planning Commission meeting held August 4, 2014.

After some discussion, no action was taken.

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

- A. Electrical Board.
- B. Holiday Light Decorating Chairman.
- C. Planning Commission.
- D. Wharton Economic Development.

City Manager Andres Garza, Jr. presented the list of persons serving on the various City Boards, Commissions and Committees. City Manager Garza stated that there were still vacancies that need to be filled.

1. Appointments:

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

City Manager Garza presented a request of consideration for Marshall Francis to be appointed to the vacant position on the Planning Commission. After some discussion, Councilmember Russell Machann moved to appoint Mr. Marshall Francis to the Planning Commission for a term as follows:

C. Planning Commission	<u>Term ending</u>
Marshall Francis	June 30, 2016

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

The sixteenth item on the agenda was adjournment. There being no further discussion, Councilmember Russell Machann moved to adjourn. Councilmember Steven Schneider seconded the motion. All voted in favor.

The meeting adjourned at 8:16 p.m.

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CITY OF WHARTON, TEXAS

By: _____
Domingo Montalvo, Jr.
Mayor

ATTEST:

Paula Favors
City Secretary