

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
OCTOBER 23, 2017**

Mayor Tim Barker declared a Regular Meeting duly open for the transaction of business at 7:07 P.M at City Hall 120 E. Caney Street Wharton, TX. Councilman Don Mueller led the opening devotion and Mayor Barker led the pledge of allegiance.

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

Councilmember absent was: None.

Staff members present were: City Manager Andres Garza, Jr., Finance Director Joan Anandel, City Secretary Paula Favors, TRMC, Assistant to the City Manager Brandi Jimenez, Public Works Director Wade Wendt and Community Development Coordinator Gwyn Teves.

Visitors present were: None.

The second item on the agenda was Roll Call and Excused Absences. All members were present.

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

The fourth item on the agenda was the Wharton Moment. City Manager Andres Garza, Jr. stated that he would be receiving an award for 40 years of service to city government through the International City Manager's Association (I.C.M.A.) in San Antonino, Texas on October 25, 2017.

The fifth item on the agenda was to review and consider the City of Wharton Financial Report for September 2017. Finance Director Joan Anandel presented the financial report for the month September 2017. Mrs. Anandel stated that the TexPool balance for September was \$318,399.14 with an average monthly yield of 1.01%. She said the Prosperity Bank balance for September 2017 was \$4,360,797.70 with an average monthly yield of .25%. After some discussion, Councilmember Al Bryant moved to approve the City of Wharton Financial Report for the month of September 2017. Councilmember Russell Machann seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider Waste Corporation of America, L.P. (WCA) Rate Modification to the Solid Waste Collection and Disposal Service Franchise Agreement:

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A. Resolution: A resolution of the Wharton City Council approving the Amendment No. 10 to the Franchise Agreement for Solid Waste Collection Services with Waste Corporation of America and authorizing the Mayor to execute the agreement.

B. Ordinance: An ordinance repealing and replacing the City of Wharton Code of Ordinances, Chapter 86 Utilities and Services, Article III, Solid Waste Disposal Exhibit A, 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 and setting an effective date.

City Manager Andres Garza, Jr. presented a copy of the memorandum dated October 19, 2017 from Finance Director Joan Anel providing a copy of the letter dated September 25, 2017 from Mr. Trevor Royal of Waste Corporation of America (WCA) regarding their rate modification regarding to the Solid Waste Collection and Disposal Service Franchise between the City of Wharton and WCA. City Manager Garza stated that WCA could request rate modifications in accordance with Section 14.00, Basis and Methods of Payment, Item 14.02 Modification of Rates of the General Specifications of the Franchise Agreement and the rate would need to be approved by the City Council on October 23, 2017 in order for it to be effective December 1, 2017. Finance Director Joan Anel stated that Mr. Royal stated in the rate increase modification was 2.33% in accordance with the price index mentioned in the City's franchise agreement with WCA. City Manager Garza stated that the City Council Finance Committee met on October 23, 2017 and were recommending the City Council consider approving the rate modification. After some discussion, Councilmember Don Mueller moved to approve City of Wharton Resolution No. 2017-108 and City of Wharton Ordinance No. 2017-14, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2017-108**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE AMENDMENT NO. 10 TO THE FRANCHISE AGREEMENT FOR SOLID WASTE COLLECTION SERVICES WITH WASTE CORPORATION OF AMERICA AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, On August 7, 2008, the Wharton City Council approved Resolution No. 2008-50 approving the franchise agreement between the City of Wharton and Waste Corporation of America to be effective October 1, 2008; and,

WHEREAS, The Wharton City Council wishes to amend Exhibit "C" of the franchise agreement to reflect the increase in rates as set forth in Section 14.02 Modification of Rates of the contract; and,

WHEREAS, WCA and the City of Wharton wishes to be bound by the conditions outlined the agreement; and,

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

WHEREAS, This resolution is passed in accordance with said contract.

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 amend Exhibit “C” of the franchise contract between the City of Wharton and Waste Corporation of America.

Section II. That the Wharton City Council hereby establishes the rates outlined in the Exhibit “C” of the contract.

Section III. That the effective date of the Exhibit “C” will be the 1st day of December 2017.

Section IV. That the Mayor of the City of Wharton is hereby authorized to execute the contract amendment.

Passed, Approved, and Adopted this 23rd day of October 2017.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

CITY OF WHARTON

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ORDINANCE NO. 2017-14

AN ORDINANCE REPEALING AND REPLACING THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 86 UTILITIES & SERVICE, ARTICLE III, SOLID WASTE DISPOSAL EXHIBIT A; 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 AND SETTING AN EFFECTIVE DATE.

BE IT ORDAINED by the City Council of the City of Wharton, Texas, that Chapter 86 Utilities & Service, Article III Solid Waste Disposal Exhibit A shall be replaced as follows:

SCHEDULE "A"

Base Rates

Monthly Residential Waste Collection

\$23.36 per Residential Unit which includes a \$3.00 per month fee.

Monthly Commercial Hand Collection

\$30.06 per Commercial Unit which includes a \$3.50 per month fee.

Container Service (per month) includes a \$3.50 fee

2 yd 1xwk \$ 64.60

Published in the Wharton Journal Spectator Saturday, October 28, 2017 and Saturday, November 4, 2017.

2xwk \$ 115.93

3xwk \$ 149.16

4xwk \$ 205.88

5xwk \$ 256.47

Additional Pick-up \$ 70.51

3yd 1xwk \$ 95.15

2xwk \$ 170.93

3xwk \$ 228.54

4xwk \$ 307.07

5xwk \$ 382.96

Additional Pick-up \$ 102.09

4yd 1xwk \$ 119.01

2xwk \$ 207.93

3xwk \$ 294.80

4xwk \$ 408.26

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5wk	\$ 509.44
Additional Pick-up	\$ 128.29
6yd 1wk	\$ 169.31
2wk	\$ 324.67
3wk	\$ 453.55
4wk	\$ 610.65
5wk	\$ 762.43
Additional Pick-up	\$ 181.15
8yd 1wk	\$ 209.97
2wk	\$ 391.89
3wk	\$ 586.11
4wk	\$ 813.01
5wk	\$ 1015.39
Additional Pick-up	\$ 222.28

Rates for Roll-offs:

Delivery Fee	\$ 118.03
Monthly Rental	\$ 141.63
Pull Price (per pull)	\$ 150.78
Disposal Fee-Loose (per yard)	\$ 8.26
Disposal Fee-Compact (per yard)	\$ 9.74

Rates for Other Services:

Hourly Rate	\$115.57
Disposal per cubic yard	\$8.07

PENALTY

Except as otherwise provided in this chapter, any person found guilty of intentionally, knowingly or recklessly violating any provision of this article and upon conviction thereof in the municipal court shall be fined in accordance with the terms of Section 1-5 of the Code of Ordinances of the City of Wharton, Texas.

SEVERABILITY

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

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EFFECTIVE DATE

This Ordinance shall become effective at 12:01 a.m. on the 1st day of December 2017.

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, on the 23rd day October 2017.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

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

The seventh item on the agenda was to review and consider a resolution of the Wharton City Council authorizing the City Manager of the City of Wharton to execute a Performance Agreement with Wharton Economic Development Corporation regarding funding for the Mowing and Landscape Maintenance Agreement with Texas Department of Transportation of approximately 89 acres of land along Highway US 59 at its intersection with FM 102 and Highway 60. City Manager Andres Garza, Jr. presented a letter from Wharton Economic Development Corporation Executive Director Chad Odom regarding the Municipal Maintenance Performance agreement that would fund the City's agreement with TxDOT for the Landscape and Maintenance Agreement the City had approved and the Wharton Economic Development Corporation agreement along with a resolution that would authorize the City Manager to execute the agreement on behalf of the City. After some discussion, Councilmember Russell Machann moved to approve City of Wharton Resolution No. 2017-109, which read as follows:

CITY OF WHARTON

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RESOLUTION NO. 2017 - 109

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE CITY MANAGER OF THE CITY OF WHARTON TO EXECUTE A PERFORMANCE AGREEMENT WITH WHARTON ECONOMIC DEVELOPMENT CORPORATION REGARDING FUNDING FOR THE MOWING AND LANDSCAPE MAINTENANCE AGREEMENT WITH TEXAS DEPARTMENT OF TRANSPORTATION OF APPROXIMATELY 89 ACRES OF LAND ALONG HIGHWAY 59 AT ITS INTERSECTION WITH FM 102 AND HIGHWAY 60.

WHEREAS, The Wharton City Council wishes to authorize a Municipal Maintenance Performance Agreement with the Wharton Economic Development Corporation for the maintenance of approximately 89 acres along US Highway 59 at its intersection with FM 102 and Highway 60; and,

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

WHEREAS, The Wharton City Council wishes to authorize the City Manager 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 1. The Wharton City Council hereby authorizes the City Manager of the City of Wharton to execute a Municipal Maintenance Performance Agreement with Wharton Economic Development Corporation.

Section 2. The City of Wharton and Wharton Economic Development Corporation are hereby bound by the conditions set forth in the agreement.

Section 3. That this resolution shall become effective immediately upon its passage.

PASSED, APPROVED and ADOPTED this 23rd day of October 2017.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER

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Mayor

ATTEST:

BY: _____
PAULA FAVORS
City Secretary

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

The eighth item on the agenda was to review and consider a resolution of the Wharton City Council authorizing the Mayor of the City of Wharton, Wharton County, Texas, to execute an agreement with the Wharton Chamber of Commerce and Agriculture for Visitor and Convention Bureau Services for the October 1, 2017 to September 30, 2018 fiscal year. City Manager Andres Garza, Jr. presented a draft agreement between the City of Wharton and the Chamber of Commerce & Agriculture for Visitor and Convention Bureau Services for the October 1, 2017 to September 30, 2018 fiscal year. After some discussion, Councilmember Russell Machann moved to approve City of Wharton Resolution No. 2017-110, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2017-110**

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, 2017 TO SEPTEMBER 30, 2018 FISCAL YEAR.

WHEREAS, The Wharton City Council hereby authorizes Mayor Tim Barker 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 Tim Barker, 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, 2017 to September 30, 2018 fiscal year.

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

Passed, Approved, and Adopted this 23rd day of October 2017.

CITY OF WHARTON, TEXAS

By: _____
Tim Baker
Mayor

ATTEST:

PAULA FAVORS
City Secretary

Councilmember Terry Freese seconded the motion. All voted favor.

The ninth 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 for Emergency Medical Services between the City of Wharton and the Wharton County Emergency Services District (ESD) No. 3 and authorizing the Mayor of the City of Wharton to execute the agreement.

City Manager Andres Garza, Jr. presented a copy of the memorandum dated October 17, 2017 from City Secretary Paula Favors to him providing the Wharton County Emergency Services District (ESD) No. 3's recommendation that the Interlocal Agreement Amendment be considered for approval by the City Council. City Manager Garza also presented a draft copy the agreement and draft resolution approving the agreement. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Resolution No. 2017-111, which read as follows:

CITY OF WHARTON
RESOLUTION NO. 2017-111

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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 23rd day of October 2017.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

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PAULA FAVORS

City Secretary

Councilmember Terry Freese seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider Valhalla Water Well Rework Project:

- A. Pay Request No. 5 and Final from Weisinger, Incorporated and Progress Report No. 5.
- B. Change Order No. 2.

City Manager Andres Garza, Jr. presented Pay Request No. 5 and Final in the amount of \$7,761.25 from Weisinger, Incorporated for the Valhalla Water Well Rework Project and the Progress Report No. 5 for construction activities for the period of July 1, 2017 to September 22, 2017. After some discussion, Councilmember Al Bryant moved to approve Pay Request No. 5 and Final in the amount of \$7,761.25 from Weisinger, Incorporated for the Valhalla Water Rework Project, Progress Report No. 5 and Change Order No. 2. Councilmember Terry Freese seconded the motion. All voted in favor.

The eleventh item on the agenda was to review and consider the update of City of Wharton Grant Programs. City Manager Andres Garza, Jr. presented a copy of a memorandum dated October 18, 2017, from Community Development Coordinator, Gwyn Laney, providing an update on the City of Wharton Grant Programs. After some discussion, no action was taken.

The twelfth item on the agenda was to review and consider update of City of Wharton on-going Projects. City Manager Andres Garza, Jr. presented a copy of the memorandum dated October 19, 2017 providing an update on the City of Wharton current projects as of September 31, 2017.

FLOOD REDUCTION (LEVEE) PROJECT

The U.S. Army Corp of Engineers (USACE) Lower Colorado River Phase I Report - City of Wharton Flood Prevention Project and Recommended report is located at the Wharton County Library and the office of the City of Wharton City Secretary for viewing or the report may be viewed on line at <http://www.cityofwharton.com/information-a-notices/lcrb-feasibility-study>. The City Council authorized the submission of a loan application to the Texas Water Development Board (TWDB) for the first phase of the levee project. The City Staff re-submitted the project to Texas Water Development Board for the 2017 Program Year under the Clean Water State Revolving Fund for loan forgiveness consideration. The City has also submitted a request for a Project Participation

Agreement (PPA) to allow the City to proceed on the partial construction of the project to the U.S. Corp of Engineers. The City is awaiting a response.

DRAINAGE:

1. Stavena Addition Drainage Project.

The design and construction plans are complete. The challenge on this project is to find locations to place approximately 35,000 cubic yards of soil.

2. Ahldag Ditch Improvement.

The project was approved by the City Council. Public Works Director is currently working out the details.

3. On-going Drainage and Maintenance Program.

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

4. Pecan Acres (Mahann, Kinkaid, Delmas) Drainage Project.

The project area has been surveyed and an improvement plan has been developed by Schibe Engineering. The City Staff has contacted property owners for the necessary easements needed to install the drainage pipes. Two (2) of the four (4) property owners have executed the drainage agreements and have been accepted by the City Council. The remaining two (2) property owners have been contacted and the City Staff has been waiting for a response.

WATER/SEWER IMPROVEMENTS:

1. On-going Water and Sewer Maintenance Program.

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

2. Alabama Street Sewer Line Project.

The bid has been awarded to JTM Construction and the construction phase has begun. The mainline along Alabama Street has been installed. The company is now working on the alleys.

STREET IMPROVEMENTS

1. FM 1301 Extension and Overpass Project Progress Report.

IDC Inc. has submitted to TxDOT Yoakum District Office all required plans for the project. The City Staff continues to coordinate with TxDOT to ensure the project continues to move forward. The City is awaiting TxDOT announcement of the project to be funded in Wharton County.

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2. I-69 Project.

The City submitted the comments as approved by the City Council to TxDOT.

3. NanYa Exit Ramp Project.

TxDOT has been coordinating with NanYa on the exit design.

4. 2017 City Street Improvements.

The City 2017 Street Improvement Program has been approved by the City Council. The project has been placed on hold due to Hurricane Harvey flooding event. The City Staff is evaluating a restart date.

5. Wharton Sidewalk Accessibility and Historic Streetscape Project.

M.C. Fonseca Construction finished the project. Final payment has been approved by the City Council on October 16, 2017.

WHARTON REGIONAL AIRPORT

1. Hangar Construction Project.

This project is completed. The hangars have been leased.

After some discussion, no action was taken.

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

- A. Building Standards Commission.
- B. Mayor's Committee on People with Disabilities.
- C. Plumbing and Mechanical Board.
- D. Wharton Economic Development Corporation Board.

After some discussion, no action was taken.

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

- A. Mayor's Committee on People with Disabilities meeting held October 11, 2017.
- B. Public Works Committee meeting held October 16, 2017.

After some discussion, no action was taken.

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

- A. City Secretary/Personnel.
- H. Fire Marshall.

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

After some discussion, no action was taken.

The sixteenth item on the agenda was to review and consider Pay Request No. 4 from Ceres Environmental. City Manager Andres Garza, Jr. presented Pay Request No. 4 in the amount of \$22,163.27 for debris removal services from Ceres Environmental. Community Development Coordinator Gwyn Teves stated Pay Request No. 4 was due in the amount of \$22,163.27. After some discussion, Councilmember Russell Machann moved to approve Pay Request No. 4 from Ceres Environmental. Councilmember Al Bryant seconded the motion. All voted in favor.

The seventeenth item on the agenda was to review and consider an extension of the Declaration of Disaster issued August 23, 2017 through October 10, 2017. City Manager Andres Garza, Jr. presented a copy of the Declaration of Disaster issued August 23, 2017 in anticipation of Hurricane Harvey. City Manager Garza stated that the staff was requesting an extension of the declaration through October 10, 2017 pursuant to Government Code 418.018(b), the state of disaster shall not continue for a period of not more than seven days from the date of declaration unless continued or renewed by the City Council of the City of Wharton. After some discussion, Councilmember Al Bryant moved to approve an extension of the Declaration of Disaster issued August 23, 2017 through October 10, 2017.

The eighteenth item on the agenda was adjournment. There being no further discussion, Councilmember Don Mueller moved to adjourn. Councilmember Al Bryant seconded the motion. All voted in favor.

The meeting adjourned at 7:17 p.m.

CITY OF WHARTON, TEXAS

By: _____
Tim Barker
Mayor

ATTEST:

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Paula Favors
City Secretary