

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
MAY 14, 2018**

Mayor Tim Barker 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. Councilman Russell Machann led the opening devotion and Mayor Tim Barker led the pledge of allegiance.

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

Councilmembers absent were: Terry Freese and Steve Schneider.

Staff members present were: City Manager Andres Garza, Jr, Finance Director Joan Andel, City Secretary Paula Favors, City Attorney Paul Webb, Public Works Director Wade Wendt, Assistant to City Manager Brandi Jimenez, EMS Director John Kowalik, Assistant to the Building Official Claudia Velasquez, and Community Development Coordinator Gwyn Teves.

Visitors present were: Ben Muhlhausen, Ernest Lemons, William Ramsey, Steve Wilson, I.O. Coleman, Jr., Sadie Favors, Wharton Economic Development Corporation (WEDCo) Executive Director, Chad Odom and Albert Villegas 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 Councilmember Terry Freese and Councilmember Steve Schneider. Councilmember Don Mueller seconded the motion. All voted in favor.

The third item on the agenda was Public Comments. Mr. Ernest Lemons stated that he felt the Wharton City Council was doing a great job and he welcomed the newly elected official to the Council.

The fourth item on the agenda was the Wharton Moment. No comments were made.

The fifth item on the agenda was to review and consider the reading of the minutes from the regular meetings held April 9, 2018 and April 23, 2018. After some discussion, Councilmember Al Bryant moved to approve the reading of the minutes from the regular meeting held on April 9, 2018 and April 23, 2018. Councilmember Don Mueller seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider an ordinance canvassing the election returns and declaring the results of the City Officers' Election held May 5, 2018.

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Ordenanza: Una ordenanza haciendo el escrutinio y declarando los resultados de la eleccion de concejales municipales que se celebros el 5 de mayo de 2018.

City Manager Andres Garza, Jr. presented a draft ordinance canvassing the election returns and declaring the results of the City Officers' Election held May 5, 2018. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Ordinance No. 2018-06, which read as follows:

**CITY OF WHARTON, TEXAS
ORDINANCE NO. 2018-06**

**AN ORDINANCE CANVASSING THE ELECTION RETURNS AND
DECLARING THE RESULTS OF THE CITY OFFICERS' ELECTION
HELD ON MAY 5, 2018**

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

The City Council of the City of Wharton, Texas has canvassed the returns of the city officers' election held on the **5th of May 2018**, and the City Council finds and declares that the election returns were duly and legally made, that all of the votes counted at the election were valid and legal, and that each of the candidates in the election received the following numbers of votes:

	<u>Early Votes</u>	<u>Election Day</u>	<u>Total</u>
Mayor At-Large – Unopposed			
Councilmember District No. 2 - Unopposed			
Steven Schneider			
Councilmember District No. 4 - Unopposed			
Don Mueller			
Councilmember Position No. 6 – At Large			
David Schroeder			
<u>140</u>	<u>75</u>		<u>215</u>
Ray Linseisen			
<u>46</u>	<u>18</u>		<u>64</u>
Alice Heard			
<u>213</u>	<u>87</u>		<u>300</u>

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Election Returns

The City The Council further finds and declares that the election was duly called, that notice of the election was given in accordance with law, that the election was held in accordance with law, that **Tim Barker** was elected Mayor At-Large, **Steven Schneider** was elected Councilmember District No. 2, **Don Mueller** was elected Councilmember District No. 4, and that **Alice Heard** was elected Councilmember Position No. 6 – At Large.

The City Council declares the above-named persons to be duly elected to the above-named offices, subject to the taking of their oaths of office as provided by the laws of the State of Texas and the charter 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 resolution 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.

Passage and Approval

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, on the 14th of **May 2018**.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

CIUDAD DE WHARTON, TEXAS

ORDENANZA NUMERO 2018-06

UNA ORDENANZA HACIENDO EL ESCRUTINIO Y DECLARANDO LOS RESULTADOS DE LA ELECCIÓN DE CONCEJALES MUNICIPALES QUE SE CELEBRO EL 5 DE MAYO 2018

ASÍ SE ORDENA por el Consejo Municipal de la Ciudad de Wharton, Texas:

El Consejo Municipal de la Ciudad de Wharton, Texas, ha escudriñado los resultados de las elecciones de concejales municipales celebrada el **5 de mayo 2018**, y el Consejo Municipal halla y declara que los resultados de la elección fueron debidamente y legalmente hechos, que todos los votos de la elección contados fueron validos y legales, y que cada uno de los candidatos en la elección recibieron los números de votos siguientes:

	Votación anticipada	Día de la elección	Total
Alcalde - Sin oponente Tim Barker			
Concejal para el Distrito No.2 – Sin oponente Steven Schneider			
Concejal para el Distrito No. 4 – Sin oponente Don Mueller			
Concejal para el Distrito No. 6 – En forma irrestricta			
David Schroeder	<u>140</u>	<u>75</u>	<u>215</u>
Ray Linseisen	<u>46</u>	<u>18</u>	<u>64</u>
Alice Heard	<u>213</u>	<u>87</u>	<u>300</u>
Resultados de la elección	<u>477</u>	<u>359</u>	<u>836</u>

El Consejo Municipal también determina y declara que la elección fue debidamente convocada, que el aviso de la elección se dio de acuerdo con la ley, que la elección misma se celebró de acuerdo con la ley, que **Tim Barker** fue elegido Alcalde –en forma irrestricta, **Steven Schneider** fue elegido Concejal para el Distrito No.2, y que **Don Mueller** fue elegido Concejal para el Distrito No.4, y que **Alice Heard** fue elegido Concejal para el Distrito No.6.

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El Consejo Municipal declara que las personas arriba mencionadas han sido debidamente elegidos a los puestos arriba mencionados, pendiente que hagan sus juramentos de sus cargos como se requiere según las leyes del Estado de Texas y la carta constitutiva de la Ciudad de Wharton, Texas.

Divisibilidad

Si cualquier tribunal competente con jurisdicción declara cualquier sección, sub-sección, frase, clausula, frase, o parte de esta resolución invalida o no constitucional, dicha parte se considerará ser una disposición aparte, distinta, y independiente, y dicha decisión no afectará la validez de las disposiciones restantes.

Autorización y Aprobación

AUTORIZADA y APROBADA por el Consejo Municipal de la Ciudad de Wharton, Texas, el 14 de mayo 2018.

CIUDAD DE WHARTON, TEXAS

Por: _____
TIM BARKER
Alcalde

ATESTIGADO POR:

PAULA FAVORS
Secretaria Municipal

APROBADO EN TANTO A FORMA:

PAUL WEBB
Abogado de la Ciudad

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

The seventh item on the agenda was to review and consider an ordinance annexing the hereinafter described territory, owned by Mr. Brett Rowley, to the City of Wharton, Wharton County, Texas, and extending the boundary limits of said City so as to include said hereinafter described property within said City limits, and granting to all the inhabitants of said property all the rights and privileges of other citizens and binding said inhabitants by all of the acts, ordinances, resolutions, and regulations of said City, and adopting a service plan. City Manager Andres Garza, Jr. stated that during the regular February 26, 2018 regular Wharton City Council meeting, the City Council accepted a petition for voluntary annexation from Mr. Brett Rowley. City Manager Garza said the first and second public hearing were held during

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the regular April 9, 2018 Wharton City Council meeting and since the requirements of the public hearings had been satisfied, the City Council could consider the ordinance annexing the property of a certain 8.19 acre tract in the Randall James ½ League, Abstract 36, Wharton, Wharton County Texas, owned by Mr. Brett Rowley by the City of Wharton, Texas. Community Development Coordinator Gwyn Teves stated the schedule to complete the annexation process and a service plan in accordance with the City's Charter and State Law were included in the City Council packet. After some discussion, Councilmember Don Mueller moved to approve City of Wharton Ordinance No. 2018-05, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2018-05**

AN ORDINANCE ANNEXING THE HEREINAFTER DESCRIBED TERRITORY, OWNED BY MR. BRETT ROWLEY, TO THE CITY OF WHARTON, WHARTON COUNTY, TEXAS, AND EXTENDING THE BOUNDARY LIMITS OF SAID CITY SO AS TO INCLUDE SAID HEREINAFTER DESCRIBED PROPERTY WITHIN SAID CITY LIMITS, AND GRANTING TO ALL INHABITANTS OF SAID PROPERTY ALL THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING SAID INHABITANTS BY ALL OF THE ACTS, ORDINANCES, RESOLUTIONS, AND REGULATIONS OF SAID CITY, AND ADOPTING A SERVICE PLAN.

WHEREAS, Article I. Incorporation; Form of Government; Corporate and General Powers of the City of Wharton City Charter; Section 8 Extending city limits upon petition and Section 9 Extending and fixing city limits by ordinance as restricted by law, of the City Charter, of the City of Wharton, Texas, an incorporated city, authorizes the annexation of territory, subject to the laws of this state; and

WHEREAS, the procedures prescribed by the City Charter of the City of Wharton, Texas, and the laws of this state have been duly followed with respect to the following described territory, to wit:

A 8.1978-ACRE TRACT OF LAND SITUATED IN THE RANDALL JAMES ½ LEAGUE, ABSTRACT 36, WHARTON COUNTY, TEXAS, BEING ALL OF THAT CALLED 1.338-ACRE TRACT OF LAND DESCRIBED IN A DEED TO JOHN R. SOARD II AND CLAIRE B. SOARD RECORDED IN VOLUME 903, PAGE 605 OF THE WHARTON COUNTY OFFICIAL PUBLIC RECORDS AND THAT CALLED 1.326-ACRE TRACT OF LAND DESCRIBED IN A DEED TO SUZANNE NICKSICK ARMOUR AND LAURENCE H. ARMOUR III RECORDED IN VOLUME 932, PAGE 666 OF THE WHARTON COUNTY OFFICIAL PUBLIC RECORDS, AND LOTS 1-8, 8A & 18, BLOCK 2 (CALLED "FIRST TRACT"), A PORTION OF LOTS 1 & 2, BLOCK 4 AND A PORTION OF THAT 60-FOOT WIDE RIGHT-OF-WAY OF WILLIAM WAY (ABANDONED BY COMMISSIONERS COURT RECORD, PAGE 460 DATED DECEMBER, 1966, CALLED TRACT 3), ALL IN THE GREEN MEADOWS UNIT 1 RECORDED IN VOLUME 361, PAGE 660 OF THE WHARTON COUNTY DEED RECORDS, (CALLED "SECOND TRACT") IN A DEED TO JOHN E. COCHRAN RECORDED IN VOLUME 731, PAGE 618 OF THE WHARTON COUNTY OFFICIAL PUBLIC RECORDS AND THE RIGHT-OF-WAY OF LA DELLE STREET AS DEDICATED BY SAID PLAT OF GREEN MEADOWS UNIT 1, SAID 8.1978-

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ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, (BEARINGS BASED ON THE TEXAS COORDINATE SYSTEM OF 1983, SOUTH CENTRAL ZONE (4204), AS DETERMINED BY GPS MEASUREMENTS. (Exhibit A)

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

Section I. That the heretofore described property is hereby annexed to the City of Wharton, Wharton County, Texas, and that the boundary limits of the above described territory within the city limits of the City of Wharton, and the same shall hereafter be included within the territorial limits of said city, and the inhabitants thereof shall hereafter be entitled to all the rights and privileges of other citizens of the City of Wharton and they shall be bound by the acts, ordinances, resolutions, and regulations of said city.

Section II. A service plan for the area is adopted and attached as Exhibit B.

Section III. The City Secretary is hereby directed to file with the County Clerk of Wharton, Texas, a certified copy of this ordinance.

Section IV. This ordinance shall become effective immediately upon its passage.

PASSED, APPROVED, and ADOPTED by the City Council of the City of Wharton, Texas, on the 14th day of May 2018.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

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

The eighth item on the agenda was to review and consider Planning Commission recommendation for final action on a Final Re-Plat of Arnel 2, Lot 1K-4, Arnel 2, Lot 1K-4A, Green Meadows, Blk 2, Lots 1-8 & Green Meadows, Blk 2, Lot 8A, located at the end of La Delle St. in the City of Wharton for patio home subdivision. City Manager Andres Garza, Jr. stated the Planning Commission reviewed the request by Mr. Brett Rowley for approval of a Final Re-Plat of Arnel 2, Lot 1K-4, Arnel 2, Lot 1K-4A, Green Meadows, Blk 2, Lots 1-8 & Green Meadows, Blk 2, Lot 8A, located at the end of La Delle St. in the City of Wharton for patio home subdivision on May 7, 2018. Community Development Coordinator Gwyn Teves stated the Planning Commission were requesting the City Council consider approving the request. After some discussion, Councilmember Russell Machann moved to approve the Final Re-Plat of Arnel 2, Lot 1K-4, Arnel 2, Lot 1K-4A, Green Meadows, Blk 2, Lots 1-8 & Green Meadows, Blk 2, Lot 8A, located at the end of La Delle St. in the City of Wharton for patio home subdivision on May 7, 2018. Councilmember Don Mueller seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider a request from Mr. Ronnie Baines, President of The Wharton Girls Softball Association, for the donation of a City of Wharton mower to the Wharton Girls Softball Association. City Manager Andres Garza, Jr. presented a letter to him from Mr. Ronnie Baines, President of The Wharton Girls Softball Association, for the donation of a City of Wharton mower to the Wharton Girls Softball Association. City Manager Garza stated that on April 23, 2018 the City Council approved the purchase of two (2) new mowers for the Facilities Maintenance Department and Mr. Baines was requesting one of the old mowers from the Facilities Maintenance Department be donated to The Wharton Girls Softball Association. City Attorney Paul Webb stated it was his recommendation the mower be processed through the City of Wharton's sell of personal property procedure. City Manager Garza stated the item could be further discussed at a later meeting. After some discussion, no action was taken.

The tenth item on the agenda was to review and consider a request by Mr. William Ramsey for a 2' Rear Building Line Setback Variance at 1315 N. Fulton St., Rust & Kelly, Block 1, Lot 11, 12A, 12B to construct an addition to the existing garage. City Manager Andres Garza, Jr. presented a request from by Mr. William Ramsey for a 2' Rear Building Line Setback Variance to construct an addition to the existing garage. Community Development Coordinator Gwyn Teves stated the Planning Commission met and were recommending the City Council consider approving the request. After some discussion, Councilmember Al Bryant moved to approve the request by Mr. William Ramsey for a 2' Rear Building Line Setback Variance at 1315 N. Fulton St., Rust & Kelly, Block 1, Lot 11, 12A, 12B to construct an addition to the existing garage. Councilmember Russell Machann seconded the motion. All voted in favor.

The eleventh item on the agenda was to review and consider a resolution of the Wharton City Council approving the purchase of a chassis and remount from Frazer Co. (through their licensed franchise dealer, Mac Haik) through the Houston/Galveston Area Council Cooperative Purchasing Program and authorizing the Mayor of the City of Wharton to execute any and all

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documents related to said purchases. City Manager Andres Garza, Jr. presented a memorandum from EMS Director John Kowalik to him requesting to purchase a chassis and remount for one of the City's units from Frazer Co./Mac Haik Dodge Chrysler Jeep in the amount \$131,768.75. Mr. Kowalik stated a \$75,000 grant was received from the M.G. and Lillie A. Johnson Foundation, Inc. to go towards the purchase of the chassis and a Frazier box for another ambulance. After some discussion, Councilmember Don Mueller moved to approve City of Wharton Resolution No. 2018-33, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2018 -33**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE PURCHASE OF A CHASSIS AND REMOUNT FROM FRAZER CO./MAC HAIK DODGE CHRYSLER JEEP THROUGH THE HOUSTON/GALVESTON AREA COUNCIL COOPERATIVE PURCHASING PROGRAM AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ANY AND ALL DOCUMENTS RELATED TO SAID PURCHASES.

WHEREAS, The Wharton City Council wishes to approve the purchase of a chassis and remount from Frazer Co./Mac Haik Dodge Chrysler Jeep in the amount of \$131,768.75; and,

WHEREAS, The Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute any and all documents related to said purchase.

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 agreement with Frazer Co./Mac Haik Dodge Chrysler Jeep for the purchase of an ambulance chassis and remount in the amount of \$131,768.75 through the Houston-Galveston Area Council Cooperative Purchasing Program.

Section II. That the Mayor of the City of Wharton is hereby authorized to execute any and all documents related to said purchase.

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

PASSED, APPROVED, and ADOPTED this 14th day of May 2018.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER

Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The twelfth item on the agenda was to review and consider Permission from the Wharton City Council to obtain outsource proposals for the following:

- A. Code Plan Review.
- B. Inspection Services.
- C. Backflow Program.
- D. Fats, Oils and Grease Management (FOG Program).

City Manager Andres Garza, Jr. presented a memo from Building Official Ronnie Bollom requesting permission from the City Council to obtain proposals for outsourcing for the above mentioned. Assistant to the Building Official Claudia Velasquez stated that with the resignation of the Fire Inspector, outsourcing some of the duties would help Code Enforcement Department with continuity of services. After some discussion, Councilmember Russell Machann moved to approve the Code Enforcement Department's request to obtain outsource proposals for afore mentioned items. Councilmember Don Mueller seconded the motion. All voted in favor.

The thirteenth item on the agenda was to review and consider a resolution providing for the Public Sale of Property acquired by the City of Wharton from delinquent taxes. City Manager Andres Garza, Jr. stated that Ms. Leslie Hilliard with McCreary Veselka Bragg & Allen PC Attorneys at Law was requesting that the described properties that were offered for sale by the Sheriff of Wharton County, Texas at a public auction prior to a judgment of foreclosure for delinquent taxes by the District Courts of Wharton County. City Manager Garza said the properties did not receive sufficient bids as set by law and were struck off to the County of Wharton and later conveyed to the City of Wharton, Texas as Trustee and they would be up for sale at no minimum bid. After some discussion, Councilmember Russell Machann moved to approve City of Wharton Resolution No. 2018-34, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2018-34**

STATE OF TEXAS

COUNTY OF WHARTON

**RESOLUTION PROVIDING FOR THE PUBLIC SALE
OF PROPERTY ACQUIRED BY THE CITY OF WHARTON
FROM DELINQUENT TAXES**

WHEREAS, the following described properties were offered for sale by the Sheriff of Wharton County, Texas at a public auction pursuant to a judgment of foreclosure for delinquent taxes by the District Courts of Wharton County; and

WHEREAS, the following described properties did not receive sufficient bids as set by law and were struck off to the County of Wharton and later conveyed to the City of Wharton,

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Texas as Trustee, for the use and benefit of itself and the other taxing units for which levied taxes on the properties, pursuant to TEX. PROP. TAX CODE § 34.01 (j); and

WHEREAS, TEX. PROP. TAX CODE § 34.05 (c) and (d) provide that a taxing unit may request that the Sheriff sell the property at a public sale to the highest bidder with no minimum bid required,

THEREFORE, BE IT HEREBY RESOLVED that the City of Wharton, Texas, does hereby request the Sheriff of Wharton County, Texas to conduct a public sale in the manner prescribed by the Texas Rules of Civil Procedure and § 34.05 (c) and (d) of the Texas Tax Code and sell the following described properties to the highest bidder for cash.

Cause #	Suit Styling	Legal Description, Deed Reference, Account #, Bid in Trust Date & Judgment Year (all properties located in Wharton County, Texas unless otherwise noted)
T08433	Wharton County, et al v Eddie Jackson, A/K/A Eddie J. Jackson A/K/A Eddie Joe Jackson, et al	Lot 2, Block 2, Harrison Addition, an addition to the City of Wharton, Wharton County, Texas (Volume 163, Page 3, Deed Records of Wharton County, Texas; SAVE & EXCEPT However, the North 45 feet by 50 feet of said Lot 2, Block 2, Harrison Addition, as described in Volume 624, Page 46, Deed Records, Wharton County, Texas), 1206 W Caney, Account #R016023 (Bid in Trust 10/6/2009)
T08951	The County of Wharton, Texas v Unknown Heirs to the Estate of Mary Ella Heard, deceased, et al	Lot 4A, Block 2, Harrison Addition to the City of Wharton, Wharton County, Texas (Volume 615, Page 695 of the Deed Records, Wharton County, Texas), 1216 W Caney, Account #R016026 (Bid in Trust 3/3/2015)
T09177	Wharton County et al v Unknown Heirs to the Estate of Lesser Mayberry, Deceased	Lot 11, Block 'A', West Milam Addition, a subdivision in Wharton County, Texas (Volume 214, Page 1, Deed Records of Wharton County, Texas), 1611 W Milam, Account #R025779 (Bid in Trust 8/2/2016)
T09836	The County of Wharton, Texas v Alice Salinas et al	Lot 3, Block 3, River Road Addition to the City of Wharton, Wharton County, Texas (Volume 422, Page 597 of the Deed Records, Wharton County, Texas), 809 David, Account #R022715 (Bid in Trust 10/6/2015)

THEREFORE, BE IT HEREBY RESOLVED that the City of Wharton, Texas hereby directs the Sheriff of Wharton County, Texas to conduct a sale on the first Tuesday in June, 2018, in the manner prescribed by the Texas Rules of Civil Procedure and TEX. PROP. TAX CODE § 34.05 (c) and (d).

THIS RESOLUTION WAS PASSED, APPROVED AND ADOPTED this the 14th day of May, 2018.

CITY OF WHARTON, TEXAS

BY: _____

TIM BARKER
 Mayor

ATTEST:

PAULA FAVORS
 City Secretary

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Councilmember Don Mueller seconded the motion. All voted in favor.

The fourteenth item on the agenda was to review and consider a resolution of the Wharton City Council approving the submission of hazard mitigation addendums to the Texas Department of Emergency Management (TDEM) for sewer infrastructure retrofitting, repair and mitigation of the riverbank and a shelter dome to update the Hazard Mitigation Plan adopted October 24, 2016. City Manager Andres Garza, Jr. stated that Emergency Management Department would submit three (3) addendums to the current Hazard Mitigation Plan to include additional action items to the plan. Community Services Coordinator Gwyn Teves stated that the items included sewer infrastructure retrofitting, repairs and mitigation of the riverbank and a shelter dome. Mrs. Teves said the items would be added to enhance the opportunity for funding through the HMGP program. After some discussion, Councilmember Don Mueller moved to approve City of Wharton Resolution No. 2018-35, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2018-35**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE SUBMISSION OF HAZARD MITIGATION ADDENDUMS TO THE TEXAS DEPARTMENT OF EMERGENCY MANAGEMENT (TDEM) FOR SEWER INFRASTRUCTURE RETROFITTING, REPAIR AND MITIGATION OF THE RIVERBANK AND A SHELTER DOME TO UPDATE THE HAZARD MITIGATION PLAN ADOPTED OCTOBER 24, 2016.

WHEREAS, The City of Wharton will submit to TDEM Hazard Mitigation Addendums for Sewer Infrastructure Retrofitting, Repair and Mitigation of the Riverbank and a Shelter Dome to be added to the current Hazard Mitigation Action Plan; and,

WHEREAS, The Wharton City Council wishes to allow the Emergency Management Coordinator to submit the addendums to TDEM for addition to the Hazard Mitigation Plan.

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

Section I: The Wharton City Council hereby approves the submittal of the addendums to TDEM for addition in the Hazard Mitigation Plan.

Section II: The Wharton City Council hereby authorizes the Emergency Management Coordinator to submit the addendums on behalf of the City of Wharton.

Section III: That this resolution shall take effect immediately upon its passage.

PASSED, APPROVED AND ADOPTED this 14th day of May 2018.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The fifteenth item on the agenda was to review and consider Halford Road Well and Water Plant Project:

A. Letter of Conditions.

B. **Resolution:** A resolution of the City Council of the City of Wharton authorizing and providing for the incurrence of indebtedness for the purpose of providing a portion of the cost acquiring, constructing, enlarging, improving, and/or extending its to provide water service facility to serve an area lawfully within its jurisdiction to serve.

City Manager Andres Garza, Jr. presented a draft resolution authorizing and providing for the incurrence of indebtedness for the purpose of providing a portion of the cost acquiring, constructing, enlarging, improving, and/or extending its to provide water service facility to serve an area lawfully within its jurisdiction to serve. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Resolution No. 2018-36, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2018-36
LOAN RESOLUTION
(Public Bodies)**

**APPROVED
OMB. No. 0572-0121**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHARTON AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING A PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS TO PROVIDE WATER SERVICE FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE.

WHEREAS, it is necessary for the City of Wharton (*Public Body*) (herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of Four Million Eight Hundred Seventy-Two Thousand & 00/100 pursuant to the provisions of Texas State Statues; and

WHEREAS, the Association intends to obtain assistance from the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:

NOW THEREFORE, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$1 0,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legally permissible source.
5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.
7. Not to defease the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of

the United States. Any income from these accounts will be considered as revenues of the system.

9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.

10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.

11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.

12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.

13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.

14. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the Government is obtained. Also, with the prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities and replacement of short lived assets.

15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.

16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.

17. To accept a grant in an amount not to exceed \$ _____ under the terms offered by the Government; that the Mayor and of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.

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The vote was: Yeas 5 Nays 0 Absent 2

IN WITNESS WHEREOF, the City Council of the City of Wharton has duly adopted this resolution and caused it to be executed by the officers below in duplicate on this 14th day of May 2018.

By:
TIM BARKER
Title: Mayor

Attest:
PAULA FAVORS
Title: City Secretary

C. **Resolution:** A resolution of the Wharton City Council accepting the Letter of Conditions for USDA Loan for the City of Wharton Well and Water Plant Project and authorizing the City of Wharton Staff to proceed with document implementation necessary for legal counsel, financial advisor, bond counsel and engineering and authorizing the Mayor of Wharton to execute all documents related to said Letter of Conditions.

City Manager Andres Garza, Jr. presented the Letter of Conditions from the USDA for the Well and Water Plant Project and supporting documents for the Well and Water Plant Project. Finance Director Joan Andel presented different options for the funding of the project. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Resolution No. 2018-37, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2018 -37**

A RESOLUTION OF THE WHARTON CITY COUNCIL ACCEPTING THE LETTER OF CONDITIONS FOR USDA LOAN FOR THE CITY OF WHARTON WATER WELL PROJECT AND AUTHORIZING THE CITY OF WHARTON STAFF TO PROCEED WITH DOCUMENT IMPLEMENTATION NECESSARY FOR LEGAL COUNSEL, FINANCIAL ADVISOR, BOND COUNSEL AND ENGINEERING AND AUTHORIZING THE MAYOR OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID LETTER OF CONDITIONS.

WHEREAS, The City of Wharton City Council wishes to accept the letter of conditions from the USDA for the Water Well Project Loan; and,

WHEREAS, The City of Wharton City Council wishes to authorize City Staff to proceed with document implementation necessary for legal counsel, financial advisor, bond counsel and engineering; and,

WHEREAS, The Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute all documents relating to said letter of conditions.

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

SECTION I. The Wharton City Council hereby approves the acceptance of the letter of conditions from the USDA for the Water Well Project Loan.

SECTION II. Wharton City Council hereby authorizes City Staff to implement the documentation necessary for legal counsel, financial advisor, bond counsel and engineering.

SECTION III. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute all documents related to said letter of conditions.

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

PASSED, APPROVED, and ADOPTED this 14th day of May 2018.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

Councilmember Don Mueller seconded the motion. All voted in favor.

The sixteenth item on the agenda was to review and consider Pay Request No. 25 from Ceres Environmental. City Manager Andres Garza, Jr. presented Pay Request from Ceres Environmental for debris removal services from Ceres Environmental. Community Development Coordinator Gwyn Teves stated the pay request was No. 25 in the amount of \$8,516.00. After some discussion, Councilmember Al Bryant moved to approve Pay Request No. 25 from Ceres Environmental in the amount of \$8,516. Councilmember Don Mueller seconded the motion. All voted in favor.

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

- A. Beautification Commission.
- B. Building Standards Commission.
- C. Plumbing and Mechanical Board.
- D. City Council Committees.

After some discussion, Councilmember Russell Machann moved to appoint the following:

C. Plumbing and Mechanical Board
A.J. Rath

Term Expiring
June 30, 2020

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Bryan Lynn

June 30, 2020

Health Official
Dr. Jeff Gubbels

June 30, 2020

Councilmember Don Mueller seconded the motion. All voted in favor.

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

A. Finance Committee meeting held on April 23, 2018.

After some discussion, no action was taken.

The nineteenth 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 7:40 p.m.

CITY OF WHARTON, TEXAS

By: _____
Tim Barker
Mayor

ATTEST:

Paula Favors
City Secretary