

**MINUTES  
OF  
CITY OF WHARTON  
CITY COUNCIL SPECIAL MEETING  
MAY 16, 2022**

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. Pastor, Adraylle Watson, led the opening devotion and Mayor, Tim Barker led the pledge of allegiance.

Councilmember's present were: Mayor, Tim Barker, and Councilmembers, Terry Freese; Clifford Jackson; Alice Heard-Roberts; Russell Machann; Don Mueller and Larry Pittman.

Councilmember absent was: Steve Schneider.

Staff members present were: City Manager, Joseph R. Pace; City Attorney, Paul Webb; Finance Director, Joan Anandel; City Secretary, Paula Favors, TRMC, CPM, MMC; Assistant to the City Manager, Brandi Jimenez; Director of Planning and Development, Gwyn Teves; Police Chief, Terry David Lynch; Facilities Maintenance Director; Bob Baker, EMS Director, Christy Gonzales; Public Works Director, Anthony Arcidiacono; Emergency Management Coordinator Lt. Ben Guanajuato; Detective, Stephen Jimenez; Patrol Officer, Ashley Strelec; Detective, Ariel Soltura; Patrol Officer, Andre Murray; Detective, Jeremy Eder; Patrol Officer, David White; Detective, Rashied Byrd; Patrol Officer, Leticia Banda; Records Clerk, Mandy Barnett; Lt. Ben Evans; Sgt. Justin Moran; Detective, Jason Barker; Telecommunicator Stephanie LaPoma; Sgt. Rick Alvarado; Crime Victim's Officer, Courtney Bobbitt; Lt. Danny Marek; Patrol Officer, Leelia Barajas; Street Superintendent, Roderick Semien; Equipment Operator, Juan Delgado; Assistant to the Public Works Director, Amy Horelica; Equipment Operator, Gregg Flores; Equipment Operator, Ricky Guzman, Water Superintendent, Harold Matula; Customer Service Worker, Stanley Konvicka; Sewer Plant Operator, Jason Gangstad; Equipment Operator, Steve Salazar; Heavy Equipment Operator, Oscar Del Bosque; Paramedic Michael Boullion; EMS Supervisor II, Nancy McKelvy; Paramedic III – Supervisor, Michael Giesalhart; Paramedic, John Alvarez and Paramedic, Shelly Garcia.

Visitors present were: Jess Howell; Betty Howell; Daren Roberts; Elizabeth White; Oliver Bobbitt; Sarah Lynch; Carol Lynch; Melissa

Terry, of Harrison, Waldrop & Uherek, LLP and Joe Southern with the Wharton Journal Spectator.

**Roll Call and Excused Absences.**

After some discussion, Councilmember, Russell Machann, moved to excuse Councilmember, Steve Schneider. Councilmember, Clifford Jackson, seconded the motion. All voted in favor.

**Public Comments.**

Mayor, Tim Barker, called for Public Comments. No comments were given.

**Wharton Moment.**

Mayor, Tim Barker, called for Wharton Moments. No comments were given.

**Proclamation:**

Mayor, Tim Barker, presented the following Proclamations:

1. Proclamation: Honoring Law Enforcement.

**CITY OF WHARTON  
OFFICE OF THE MAYOR  
Proclamation  
“Honoring Law Enforcement”**

**WHEREAS,** There are approximately 900,000 law enforcement officers serving communities across the United States, including the dedicated members of the Wharton Police Department; and,

**WHEREAS,** Nationally there were 615 line of duty law enforcement deaths in 2021 and there have been 95 deaths so far in 2022; and,

**WHEREAS,** Since the first recorded death in 1791, more than 20,000 law enforcement officers in the United States have made the ultimate sacrifice and have been killed in the line of duty; and,

**WHEREAS,** The City Council of the City of Wharton wishes to offer its condolences and its support to all the departments who have experienced loss of life and the impact these events have had on the families of those lost and injured; and,

**WHEREAS,** At the Monday, May 16, 2022, City of Wharton City Council meeting, the City Council and the Wharton Police Department will observe a moment of silence, in honor of all fallen officers and their families; and,

**WHEREAS,** The City of Wharton wishes to recognize and honor the hard work, dedication and risk taken by the men and women of the Wharton Police Department as well as law enforcement across the country.

**Now, Therefore,** I, Tim Barker, by the authority vested in me as Mayor of the City of Wharton, Texas, do hereby proclaim the 16th of May 2022 as:

**“Honoring Law Enforcement Day”**

in the City of Wharton, Texas.

**IN WITNESS THEREOF,** I have set my hand and caused the seal of the City of Wharton to be affixed this 16<sup>th</sup> day of May, in the year of our Lord two thousand and twenty-two A.D.

2. Proclamation: Public Works Week.

**CITY OF WHARTON  
OFFICE OF THE MAYOR  
PROCLAMATION**

**National Public Works Week Proclamation**

**May 15-21, 2022**

**“Ready and Resilient”**

**WHEREAS,** Public Works Professionals focus on infrastructure, facilities, emergency management and services that are of vital importance to sustainable and resilient communities and the public health, high quality of life and well-being of the people of the City of Wharton; and,

**WHEREAS,** These infrastructures, facilities and services could not be provided without the dedicated efforts of Public Works Professionals, who are federally mandated First Responders and the Engineers, Managers and Employees at all levels of government and the private sector, who are responsible for rebuilding, improving and protecting our nation’s transportation, water supply, water treatment and solid waste systems, public buildings and other structures and facilities essential for our citizens; and,

**WHEREAS,** It is in the public interest for the citizens, civic leaders and children in the City of Wharton to gain knowledge and maintain ongoing interest and understanding of the importance of Public Works First Responders and Public Works Programs in their respective communities; and,

**WHEREAS,** The year 2022 marks the 62<sup>nd</sup> Annual National Public Works Week sponsored by the American Public Works Association/Canadian Public Works Association.

**NOW, THEREFORE BE IT RESOLVED,** I, Tim Barker, Mayor of the City of Wharton do hereby designate the week May 15–21, 2022, as:

“National Public Works Week”

I urge all citizens to join with representatives of the American Public Works Association and government agencies in activities, events and ceremonies designed to pay tribute to our Public Works Professionals, Engineers, Managers and Employees and to recognize the substantial contributions they make to protecting our national health, safety and quality of life.

**IN WITNESS THEREOF,** I have set my hand and caused the seal of the City of Wharton to be affixed this 16th day of May, in the year of our Lord two thousand twenty-two A.D.

3. Proclamation: Emergency Medical Services Week.

**CITY OF WHARTON  
OFFICE OF THE MAYOR  
PROCLAMATION**

**Emergency Medical Services Week Proclamation  
May 15 - 21, 2022  
“Rising to the Challenge”**

**WHEREAS,** Emergency Medical Services is a vital public service; and,

**WHEREAS,** The members of Emergency Medical Services Teams are ready to provide lifesaving care to those in need 24 hours a day, seven days a week; and,

**WHEREAS,** Access to quality emergency care dramatically improves the survival and recovery rate of those who experience sudden illness or injury; and,

**WHEREAS,** Emergency Medical Services has grown to fill a gap by providing important, out of hospital care, including preventative medicine, follow-up care and access to telemedicine; and,

**WHEREAS,** The Emergency Medical Services System consists of First Responders, Emergency Medical Technicians, Paramedics, Emergency Medical Dispatchers, Firefighters, Police Officers, Educators, Administrators, Pre-Hospital Nurses, Emergency Nurses, Emergency Physicians, trained members of the public and other out of hospital medical care providers; and,

**WHEREAS,** The members of Emergency Medical Services Teams, whether career or volunteer, engage in thousands of hours of specialized training and continuing education to enhance their lifesaving skills; and,

**WHEREAS,** It is appropriate to recognize the value and the accomplishments of Emergency Medical Services providers by designating Emergency Medical Services Week.

**NOW, THEREFORE BE IT RESOLVED,** I, Tim Barker, Mayor of the City of Wharton, in recognition of this event do hereby proclaim the week of May 15-21, 2022, in the City of Wharton as:

**“EMERGENCY MEDICAL SERVICES WEEK”**

with the EMS Strong theme, EMS WEEK: Rising to the Challenge, I encourage the community to observe this week with appropriate programs, ceremonies, and activities.

**IN WITNESS THEREOF,** I have set my hand and caused the seal of the City of Wharton to be affixed this 16th day of May, in the year of our Lord two thousand twenty-two A.D.

**Review and Consider:**

The first item on the agenda was to review and consider City of Wharton Annual Financial Report for Fiscal Year October 1, 2020, to September 30, 2021, by Harrison, Waldrop & Uherek, L.L.P. Ms. Melissa Terry, of Harrison, Waldrop & Uherek, LLP, the City Auditors, presented the City of Wharton Annual Financial Report for Fiscal Year October 1, 2020, to September 30, 2021. Finance Director, Joan Andel, stated the City Council Finance Committee met at 5:00 p.m. on Monday, May 16, 2022, and were recommending the City Council consider approving the report. After some discussion, Councilmember, Terry Freese, moved to approve the City of Wharton Annual Financial Report for Fiscal Year October 1, 2020, to September 30, 2021, by Harrison, Waldrop & Uherek, L.L.P. Councilmember, Don Mueller, seconded the motion. All voted in favor.

The second item on the agenda was to review and consider a resolution of the Wharton City Council authorizing the sale of certain City of Wharton Properties as surplus properties and authorizing the Mayor of the City of Wharton to execute all necessary documents associated with said sale of those certain properties. Director of Planning & Development, Gwyn Teves, stated the 0.2388-acre (10,400 sq ft) parcel of land; Alexander Jackson Survey, Abstract 34, being a portion of a 5.495-acre tract of land, is surplus property that would be affected by the expansion of I-69 and was posted for sale in the Wharton Journal Spectator as required by the City Charter to accept qualifying bids. Mrs. Teves said the original posting did not result in any submissions and the second advertisement was run on both April 27, 2022, and May 4, 2022. After some discussion, Councilmember, Russell Machann, moved to approve City of Wharton Resolution No. 2022-49, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2022-49**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE DEVELOPMENT OF A NEW LOCATION HIGHWAY, TO BE DESIGNATED AS AN EXTENSION OF FM 1301, FROM SH 60 IN WHARTON TO US 59 AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID CONSIDERATION.**

**WHEREAS,** The City of Wharton is developing a new location highway, to be designated as an extension of FM 1301, from SH 60 in Wharton to US 59; and,

**WHEREAS,** The new location highway would facilitate the flow of traffic; and,

**WHEREAS,** The City of Wharton agrees to provide one hundred percent of the right of way and utility adjustments and provide for the development of the project including the environmental document and the plans, specifications and estimate; and,

**WHEREAS,** In conjunction with the 1301 Project, the Texas Department of Transportation will convey to the City of Wharton those portions of right of way underlying FM 102 from US 59 to SH 60 upon completion of construction of the project and making the project open for public use; and,

**WHEREAS,** The City of Wharton shall accept jurisdiction, control, and maintenance of FM 102 from US 59 to SH 60 upon removal of FM 102 from the state highway system and renaming of this section of roadway thus removing the FM 102 designation upon completion of construction of the project and making the project open for public use; and,

**WHEREAS,** The Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute all documents related to said consideration.

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

**Section I.** The Wharton City Council hereby supports the request of the Texas Department of Transportation to designate FM 1301 the proposed highway on the new location.

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

**Passed, Approved, and Adopted** this 23rd day of May 2022.

**CITY OF WHARTON, TEXAS**

By: \_\_\_\_\_  
**DON MUELLER**  
Mayor Pro-Tem

**ATTEST:**

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**PAULA FAVORS**

City Secretary

Councilmember, Clifford Jackson, seconded the motion. All voted in favor.

The third item on the agenda was to review and consider an ordinance allowing certain employees of the City who have terminated previous memberships in the Texas Municipal Retirement System (TMRS), to deposit the sums so withdrawn, plus annual withdrawal charges, and allowing and undertaking the cost of allowing any such employee credit in such system for all service to which such employee had been entitled at date of such withdrawal, with like effect as if all such service had been performed as an employee of this City. City Secretary, Paula Favors, stated the City of Wharton had Texas Municipal Retirement System (TMRS) retirement for its full-time employees. Mrs. Favors said the Personnel Department was requesting the City Council consider adopting a Buy Back option through TMRS which would allow City employees who had previously refunded and forfeited TMRS service to purchase and re-establish that service credit. She said that as of the valuation date, December 31, 2020, there were 12 employees with previously forfeited service credit eligible for buyback under a previously adopted ordinance. Mrs. Favors said the City Council Finance Committee met and were recommending the City Council consider approving the request. After some discussion, Councilmember, Russell Machann, moved to approve City of Wharton Ordinance No. 2022-07, which read as follows:

**CITY OF WHARTON  
ORDINANCE NO. 2022-07**

**AN ORDINANCE ALLOWING CERTAIN EMPLOYEES OF THE CITY WHO HAVE TERMINATED PREVIOUS MEMBERSHIPS IN THE TEXAS MUNICIPAL RETIREMENT SYSTEM (TMRS), TO DEPOSIT THE SUMS SO WITHDRAWN, PLUS ANNUAL WITHDRAWAL CHARGES, AND ALLOWING AND UNDERTAKING THE COST OF ALLOWING ANY SUCH EMPLOYEE CREDIT IN SUCH SYSTEM FOR ALL SERVICE TO WHICH SUCH EMPLOYEE HAD BEEN ENTITLED AT DATE OF SUCH WITHDRAWAL, WITH LIKE EFFECT AS IF ALL SUCH SERVICE HAD BEEN PERFORMED AS AN EMPLOYEE OF THIS CITY.**

**WHEREAS,** The actuary of the Texas Municipal Retirement System has determined that all obligations charged against the City's account in the benefit accumulation fund, including the obligations arising as a result of this ordinance, can be funded by the City within its maximum contribution rate and within its amortization period; and,

**WHEREAS,** The City Council has determined that adoption of this ordinance is in the best interests of the City.

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

**Section I:** Pursuant to Section 853.003 of Subtitle G of Title 8, V.T.C.A., Government Code, as amended, the City of Wharton hereby elects to allow any member of the Texas Municipal Retirement System who is an employee of this City on the 16th day of May, 2022, who has terminated a previous membership in said System by withdrawal of deposits while absent from service, but who has at least 24 months of credited service as an employee of this City since resuming membership to deposit with the System in a lump sum the amount withdrawn, plus a withdrawal charge of five percent (5%) of such amount for each year from date of such withdrawal to date of redeposit, and thereupon such member shall be allowed credit for all service to which the member had been entitled at date of termination of earlier membership, with like effect as if all such service had been rendered as an employee of this City, whether so rendered or not. The City agrees to underwrite and hereby assumes the obligations arising out of the granting of all such credits, and agrees that all such obligations and reserves required to provide such credits shall be charged to this City's account in the benefit accumulation fund. The five percent (5%) per annum withdrawal charge paid by the member shall be deposited to the credit of the City's account in said benefit accumulation fund; and the deposits of the amount previously withdrawn by the member shall be credited to his or her individual account in the benefit accumulation fund of the System.

**Section II:** This ordinance shall become effective on the **16th day of May, 2022**, which is a date on or after the date set forth in Section I, above.

#### **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.

#### **Passage and Approval**

**PASSED AND APPROVED** by the City Council of the City of Wharton, Texas, on the 16<sup>th</sup> day May 2022.

**CITY OF WHARTON, TEXAS**

By: \_\_\_\_\_  
**TIM BARKER**  
Mayor

**ATTEST:**

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**PAULA FAVORS**

City Secretary

**APPROVED AS TO FORM:**

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**PAUL WEBB**

City Attorney

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

The fourth item on the agenda was to review and consider a presentation of a plaque to Alice Heard-Roberts for years of service. Mayor, Tim Barker, presented outgoing Councilmember, Alice Heard-Roberts, a plaque for her years of service on the Wharton City Council. Councilmember, Alice Heard-Roberts, spoke about her years of service and working alongside the Mayor and Councilmember. After some discussion, no action was taken.

The fifth 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 7, 2022.

Ordenanza: Una ordenanza haciendo el escrutinio y declarando los resultados de la eleccion de concejales municipales que se celebro el 7 de mayo de 2022.

City Secretary, Paula Favors, presented a draft ordinance canvassing the election returns and declaring the results of the City Officers' Election held May 7, 2022. After some discussion, Councilmember, Russell Machann, moved to approve City of Wharton Ordinance No. 2022-08 and 2022-08B, which read as follows:

**CITY OF WHARTON, TEXAS  
ORDINANCE NO. 2022-08**

**AN ORDINANCE CANVASSING THE ELECTION RETURNS AND DECLARING THE RESULTS OF THE CITY OFFICERS' ELECTION HELD ON MAY 7, 2022.**

**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 **7th of May 2022**, 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:

<b>Election Returns</b>	<u>Early Votes</u>	<u>Election Day</u>	<u>Total</u>
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**Councilmember District No. 2**

Steve Schneider	0	0	0
Unopposed			

**Councilmember District No. 4**

Don Mueller	0	0	0
Unopposed			

**Councilmember District No. 6 – At Large**

Alice Heard-Roberts	230	95	325
Larry Pittman	250	117	367

**Mayor-At Large**

Tim Barker	0	0	0
Unopposed			

The City 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 **Steven Schneider**, was elected Councilmember District No. 2; **Don Mueller**, was elected Councilmember District No. 4; **Larry Pittman**, was elected Councilmember District No. 6– At Large and **Tim Barker**, was elected Mayor-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 16th of May, 2022.

**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 2022-08B**

**UNA ORDENANZA HACIENDO EL ESCRUTINIO Y DECLARANDO LOS RESULTADOS DE LA ELECCIÓN DE FUNCIONARIOS MUNICIPALES QUE SE CELEBRO EL 7 DE MAYO 2022**

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



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 **Steven Schneider** fue elegido Concejal para el Distrito No. 2, Don Mueller fue elegido Concejal para el Distrito No. 4, **Larry Pittman** fue elegido Concejal para la Posición No. 6- de forma irrestricta, y que **Tim Barker** fue elegido Alcalde en forma irrestricta.

El Consejo Municipal declara que las personas arriba mencionadas han sido debidamente elegidas 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 inválida o no constitucional, dicha parte se considerará ser una disposición aparte, distinta, e 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 16 de mayo 2022.

**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, Clifford Jackson, seconded the motion. All voted in favor.

The sixth item on the agenda was to Administer: Oath of Office to Elected Officials: Councilmember, Steven Schneider; Councilmember, Don Mueller; Councilmember, Larry Pittman and Mayor, Tim Barker. City Attorney, Paul Webb, administered Oath of Office to Elected Officials: Councilmember, Don Mueller; Councilmember, Larry Pittman, and Mayor, Tim Barker.

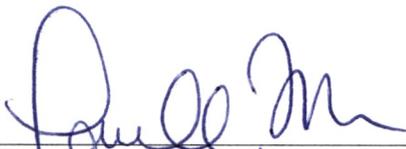
There being no further discussion, Councilmember, Don Mueller, moved to adjourn. Councilmember, Terry Freese, seconded the motion. All voted in favor.

The meeting adjourned at 6:40 p.m.

**CITY OF WHARTON, TEXAS**

By:   
**TIM BARKER**  
Mayor

**ATTEST:**

  
**PAULA FAVORS**  
City Secretary

