

**MINUTES
OF
CITY OF WHARTON
CITY COUNCIL MEETING
FEBRUARY 13, 2023**

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. Councilmember, Russell Machann, 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; Russell Machann; Don Mueller; Larry Pittman and Steve Schneider.

Councilmember absent was: None.

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; Police Lieutenant, Lance Bothell; Finance Account, London Davis; Public Works Director, Anthony Arcidiacono; EMS Director, Christy Gonzales and Police Chief, Terry David Lynch.

Visitors present were: Burnell Neal; Don Hillis; Mike Moss; Raymond Harrison and Joe Southern with the Wharton Journal Spectator.

Roll Call and Excused Absences.

All Councilmembers were present.

Public Comments.

Mayor Tim Baker called for Public Comments.

Wharton Moment.

Mayor, Tim Barker, thanked the Mayor's Committee on People with Disabilities for their hard work on the Committee's Valentine's Dance. Mayor Barker said the event was a success and the Committee did a great job.

Review and Consider:

The first item on the agenda was to review and consider the reading of the minutes from the regular meetings held January 9, 2023, and January 23, 2023. City Secretary, Paula Favors, presented a copy of the draft minutes from the regular meetings held January 9, 2023, and January 23, 2023. After some discussion, Councilmember, Clifford Jackson, moved to approve of the minutes from the regular meetings held January 9, 2023, and January 23, 2023. Councilmember, Terry Freese, seconded the motion. All voted in favor.

The second item on the agenda was to review and consider a request from Mr. Don M. Hillis of 1724 Oliver Street, Pecan Acres, Block 2, Lot 9 & 10 for a 5-foot variance from the required 25-foot front property line setback resulting in a 20-foot setback for the installation of a carport. Director of Planning & Development, Gwyn Teves, presented a copy of a request from Mr. Don M. Hillis of 1724 Oliver Street, Pecan Acres, Block 2, Lot 9 & 10 for a 5-foot variance from the required 25-foot front property line setback resulting in a 20-foot setback for the installation of a carport. Mrs. Teves stated the Planning Commission met on Monday, February 6, 2023, and voted to recommend this item to the City Council for consideration. After some discussion, Councilmember, Russell Machann, moved to approve the request from Mr. Don M. Hillis of 1724 Oliver Street, Pecan Acres, Block 2, Lot 9 & 10 for a 5-foot variance from the required 25-foot front property line setback resulting in a 20-foot setback for the installation of a carport. Councilmember, Larry Pittman, seconded the motion. All voted in favor.

The third item on the agenda was to review and consider a request from Mr. Raymond Harrison on behalf of John A. Barclay of McElroy Ave., Ahldag, Block 38U, Barclay, Lot 1 & 2 for a variance from Wharton, Texas - Code of Ordinances APPENDIX A - SUBDIVISIONS Sec. 5. - General requirements and design standards – 5.02 Lots to replat 3 lots to dimensions of 44' x 115'. Director of Planning & Development, Gwyn Teves, presented a copy of the request from Mr. Raymond Harrison on behalf of John A. Barclay of McElroy Ave., Ahldag, Block 38U, Barclay, Lot 1 & 2 for a variance from Wharton, Texas - Code of Ordinances APPENDIX A - SUBDIVISIONS Sec. 5. - General requirements and design standards – 5.02 Lots to replat 3 lots to dimensions of 44' x 115'. Mrs. Teves stated the Planning Commission met on Monday, February 6, 2023, and voted to recommend this item to the City Council for consideration. After some discussion, Councilmember, Larry Pittman, moved to approve the request from Mr. Raymond Harrison on behalf of John A. Barclay of McElroy Ave., Ahldag, Block 38U, Barclay, Lot 1 & 2 for a variance from Wharton, Texas - Code of Ordinances APPENDIX A - SUBDIVISIONS Sec. 5. - General requirements and design standards – 5.02 Lots to replat 3 lots to dimensions of 44' x 115'. Councilmember, Russell Machann, seconded the motion. All voted in favor.

The fourth item on the agenda was to review and consider a request from Ms. Bonnie Johnson owner of 425 Croom Dr., Sycamore Grove Addition, Block ODD, Lot 2 & 3 to replat the property. Director of Planning & Development, Gwyn Teves, presented a copy of the request from Ms. Bonnie Johnson owner of 425 Croom Dr., Sycamore Grove Addition, Block ODD, Lot 2 & 3 to replat the property. Mrs. Teves stated the Planning Commission met on Monday, February 6, 2023, and voted to recommend this item to the City Council for consideration. After some discussion, Councilmember, Clifford Jackson, moved to approve the request from Ms. Bonnie Johnson owner of 425 Croom Dr., Sycamore Grove Addition, Block ODD, Lot 2 & 3 to replat the property. Councilmember, Steve Schneider, seconded the motion. All voted in favor.

The fifth item on the agenda was to review and consider a request from Mr. Burnell Neal, Property Owner of 1511 Columbine Street, to have water and sewer lines relocated. Mr. Burnell Neal, Property Owner of 1511 Columbine Street, requested to have water and sewer line relocated for no charge. Mr. Neal stated that he purchased a property that had previously been owned by one

owner that had several adjacent properties. He said that all of the properties were connected to one meter and he did not feel it was his responsibility to have to pay to have one installed on his property. After some discussion, no action was taken.

The sixth item on the agenda was to review and consider a Presentation of Sales Tax information. Finance Director, Joan Andel, and Finance Accountant, London Davis, presented information on the City's sales tax. After some discussion, no action was taken.

The seventh item on the agenda was to review and consider the Wharton Police Department Annual Contact Report for 2022. Police Chief, Terry David Lynch, presented a copy of the memorandum dated January 30, 2023, to City Manager, Joseph R. Pace, regarding the City of Wharton 2022 Annual Contact Report (Racial Profiling Report) in accordance with Senate Bill 1074. Chief Lynch, presented the report to the City Council. After some discussion, Councilmember, Russell Machann, moved to approve the Wharton Police Department Annual Contact Report for 2022. Councilmember, Don Mueller, 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 approving a price increase to the Purchase Agreement with Houston Mac Haik Dodge Chrysler, Ltd., and authorizing the Mayor of the City of Wharton to execute all documents related to said increase. EMS Director, Christy Gonzales, stated that on December 13, 2021, the Wharton City Council approved the purchase of a remount and chassis from the Frazer Company, through their licensed franchise dealer, Mac Haik Dodge Chrysler Jeep, for the remount of Unit 1124. Mrs. Gonzales said the total amount of the original remount and chassis was \$157,474.00 but due to the shortage of Dodge RAM 3500 chassis', Mac Haik had a Dodge RAM 4500 chassis available for purchase for \$168,474.00 which was an increase of \$11,000.00. She said City Staff was requesting the City Council consider approving the increase of \$11,000.00 for the Dodge RAM 4500 chassis. After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Resolution No. 2023-10, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2023-10**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A PRICE INCREASE TO THE PURCHASE AGREEMENT WITH MAC HAIK DODGE CHRYSLER, LTD., AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID INCREASE.

WHEREAS, On December 13, 2021, the Wharton City Council approved the purchase of a remount and chassis from the Frazer Company, through their licensed franchise dealer, Mac Haik Dodge Chrysler Ltd., for the remount of Unit 1124 in the amount of \$157,474.00; and,

WHEREAS, Due the shortage of Dodge RAM 3500 chassis', Mac Haik has a Dodge RAM 4500 chassis available for purchase for \$168,474.00, an increase of \$11,000.00; 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 price increase to the Purchase Agreement with Mac Haik Dodge Chrysler, Ltd.

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 the price increase to the Purchase Agreement with Mac Haik Dodge Chrysler Ltd., for the purchase of a remount and Dodge RAM 4500 chassis in the amount of \$168,474.00 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 price increase to the Purchase Agreement.

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

PASSED, APPROVED, and ADOPTED this 13th day of February 2023.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

Councilmember, Larry Pittman, seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider the resolution of the Wharton City Council approving the EXHIBIT K Subdivision Participation and Release Forms for the Opioid Settlement and authorizing the Mayor of the City of Wharton to execute all documents related to said agreement. City Secretary, Paula Favors, stated the City of Wharton approved the Texas Term Sheet in October of 2021, joining in the distribution of the funds from opioid manufacturers. Mrs. Favors said the City of Wharton had been allocated \$33,204.14, and Endo/Par, became part of the legal claim in February 2022 and Walmart, Allergan and CVS were also becoming part of the distribution of funds. She said the only requirement to join in the funding distribution was for the City Council to approve the Mayor signing the EXHIBIT K Subdivision Participation and Release Forms. After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Resolution No. 2023-11, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2023-11**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE EXHIBIT K SUBDIVISION PARTICIPATION AND RELEASE FORMS FOR THE OPIOID SETTLEMENT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID AGREEMENT.

WHEREAS, The City of Wharton obtained information indicating that certain drug companies and their corporate affiliates, parents, subsidiaries, and such other defendants as may be added to the litigation (collectively, "Defendants") have engaged in fraudulent and/or reckless marketing and/or distribution of opioids that have resulted in addictions and overdoses; and,

WHEREAS, These actions, conduct and misconduct have resulted in significant financial costs to the City; and,

WHEREAS, On May 13, 2020, the State of Texas, through the Office of the Attorney General, and a negotiation group for Texas political subdivisions entered into an Agreement entitled Texas Opioid Abatement Fund Council and Settlement Allocation Term Sheet and now an additional subdivision participation is available from Allergan, Walmart and Walgreens and Release Form is attached hereto as Exhibit "A" and Exhibit "B" and Exhibit "C"; and,

WHEREAS, Special Counsel and the State of Texas have recommended that the City of Wharton support the EXHIBIT K Subdivision Participation and Release Forms.

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

- Section I.** Support the adoption and approval of the EXHIBIT K Subdivision Participation and Release Forms.
- Section II.** Authorize the Mayor of the City of Wharton to sign the EXHIBIT K Subdivision Participation and Release Forms.
- Section III.** That this resolution shall become effective immediately upon its passage.

Passed, Approved, and Adopted this 13th day of February 2023.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS

City Secretary

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

The tenth item on the agenda was to review and consider the Amendment to Contract Agreement with the Texas Municipal League Health Benefits Pool (TML Health Benefits Pool):

- A. Resolution: A resolution of the Wharton City Council approving the amendment to the Texas Municipal League (TML) Health Benefits Pool Agreement and; Authorizing the Mayor of the City of Wharton to execute all documents relating to said agreement.

City Secretary, Paula Favors, presented a copy of the Benefit Waiting Period Change Form from the TML Health Benefits Pool. Mrs. Favors stated TML sent the City a notice regarding the Pool's Contribution Policy that would be changing as of May 1, 2023. She said that in the past, TML Health waived contributions for the first partial month of coverage when a new hire's benefits start in the middle of the month but due to the cost increase in claims and pharmacy, the Pool was no longer able to waive the fee. Mrs. Favors said that three options had been given for the City to choose from and they were as follows:

1. Benefits become effective on the first day of the month following a new employee's start date.
2. Benefits become effective on the first day of the month following 30 days after the new employee's start date.
3. Benefits become effective on the first day of the month following 60 days after a new employee's start date.

City Secretary Favors stated that it was City Staff's recommendation that the City Council consider approving Option #1 which would allow benefits to become effective on the first day of the month following a new employee's start date. After some discussion, Councilmember, Larry Pittman, moved to approve City of Wharton Resolution No. 2023-12, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2023-12**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE AMENDMENT TO THE TEXAS MUNICIPAL LEAGUE (TML) HEALTH BENEFITS POOL AGREEMENT AND; AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID AGREEMENT.

WHEREAS, The City of Wharton received the amendment to the agreement from the Texas Municipal League (TML) Health Benefits Pool for the benefit waiting period; and,

WHEREAS, The City of Wharton wishes to continue with the Texas Municipal League (TML) Health Benefits Pool for the administration of Health Benefits; and,

WHEREAS, The City of Wharton would provide to each full time eligible employee with the TML Health Benefits Pool becoming effective the first day of the month following the employee's date of hire.

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 the amendment to the agreement with the Texas Municipal League (TML) Health Benefits Pool.

Section II. That Wharton City Council hereby approves coverage for all eligible full-time employees through the Texas Municipal League (TML) Health Benefits Pool to be effective on the first day of the month following the employee's date of hire.

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

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

Passed, Approved, and Adopted this 13th day of February 2023.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

Councilmember, Don Mueller, 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 authorizing submission of applications to the Texas Water Development Board Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF) and authorizing the Mayor of the City of Wharton to execute all documents related to said submission. Director of Planning & Development, Gwyn Teves, stated the City staff was contacted by the Texas Water Development Board and advised of the application periods for the CWSRF & DWSRF applications and that both of the City's projects submitted last year were roll over eligible. Mrs. Teves said that the City had a pending application for the Mayfair-Linwood Water Line Replacements that had been rollover eligible since 2018 and the application had been advanced every year but had not been funded. She said it was the City Staff's recommendation that this

application be rolled over for the CWSRF application and that the City had a pending application for the Waste Water Treatment Plant 1 (WWTP 1) Replacement & Rehabilitation and this was the first eligible roll over for this project for the DWSRF application. After some discussion, Councilmember, Russell Machann, moved to approve City of Wharton Resolution No. 2023-13, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2023-13**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING SUBMISSION OF APPLICATIONS TO THE TEXAS WATER DEVELOPMENT BOARD CLEAN WATER STATE REVOLVING FUND (CWSRF) AND DRINKING WATER STATE REVOLVING FUND (DWSRF) AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID SUBMISSION.

WHEREAS, The City of Wharton City Council wishes authorize the submission of applications to the Texas Water Development Board Clean Water State Revolving Fund (CWSRF) and the Drinking Water State Revolving Fund (DWSRF); and,

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

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

SECTION I. The Wharton City Council hereby approves the submittal of applications to the Texas Water Development Board Clean Water State Revolving Fund (CWSRF) and the Drinking Water State Revolving Fund (DWSRF).

SECTION II. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute all documents related to said application.

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

PASSED, APPROVED, and ADOPTED this 13th day of February 2023.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The twelfth item on the agenda was to review and consider a resolution of the Wharton City Council approving and ratifying a Memorandum of Agreement with the Texas Historical Commission regarding the Single-Family Housing GLO Contract 19-076-050-B703 Project and authorizing the Mayor of the City of Wharton to execute all documents related to said Memorandum of Agreement. Director of Planning & Development, Gwyn Teves, stated that as a newly designated Historical District by the Texas Historical Commission, the GLO was requiring that the City enter into a Memorandum of Agreement (MOA) for 1517 Harris Street for the Wharton SFH 19-076-050-B703 Project. Mrs. Teves said this property was identified by the Texas Historical Commission to be a contributing resource to the newly formed West End Historic District, therefore, the Texas Historical Commission required this MOA in order to allow the project to proceed as planned. After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Resolution No. 2023-14, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2023-14**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AND RATIFYING A MEMORANDUM OF AGREEMENT WITH TEXAS HISTORICAL COMMISSION REGARDING THE SINGLE-FAMILY HOUSING GLO CONTRACT 19-076-050-B703 PROJECT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID MEMORANDUM OF AGREEMENT.

WHEREAS, The City of Wharton City Council wishes to ratify and enter into a Memorandum of Agreement with the Texas Historical Commission regarding the single-family housing GLO contract 19-076-050-B703 Project; and,

WHEREAS, The Memorandum of Agreement is specifically for the applicant at 1517 Harris St., Wharton, Texas; and,

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

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

SECTION I. The Wharton City Council hereby ratifies and approves the Memorandum of Agreement with the Texas Historical Commission regarding the single-family housing GLO contract 19-076-050-B703 Project.

SECTION II. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute all documents related to said Memorandum of Agreement.

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

PASSED, APPROVED, and ADOPTED this 13th day of February 2023.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

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

- A. Appointments.
- B. Resignations.
- C. Vacancies.

After some discussion, no action was taken.

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

The meeting adjourned at 7:31 p.m.

CITY OF WHARTON, TEXAS

By: Tim Barker
TIM BARKER
Mayor

ATTEST:

Paula Favors
PAULA FAVORS
City Secretary

