

**MINUTES
OF
CITY OF WHARTON
CITY COUNCIL REGULAR MEETING
MAY 28, 2019**

Mayor Tim Barker declared a Regular Meeting duly open for the transaction of business at 7:10 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, Alice Heard-Roberts, Clifford Jackson, Russell Machann, Don Mueller and Steve Schneider.

Councilmember absent was: None.

Staff members present were: City Manager Andres Garza, Jr, Finance Director Joan Andel, City Attorney Paul Webb, City Secretary Paula Favors, TRMC, CPM, Assistant to the City Manager Brandi Jimenez, Community Development Director Gwyn Teves, and Public Works Director John Plaia.

Visitors present were: Kenneth Dimmick, Arnold Amaro, Debra Medina, Curtis Roberts with Fd2s, Kaytee Cenko, Bradley C. Loehr, P.E., with BEFCO Engineering, Duria Jackson, I.O. Coleman, and Albert Villegas with the Wharton Journal Spectator.

Roll Call and Excused Absences. All members were present.

Public Comments.

Mr. Arnold Amaro requested information on who would be protected by the levee and requested to see a map of the proposed levee.

Mr. I. O. Coleman, Jr. stated the railroad crossing were in need of repair, mosquitos needed to be sprayed for and the Mt. Zion Baptist Church would be holding an event in June that all were welcome to attend.

Wharton Moment. No comments were made.

The first item on the agenda was to review and consider the City of Wharton Financial Report for April 2019. Finance Director Joan Andel presented the financial report for the month of April 2019. Mrs. Andel stated that the TexPool balance for April was \$2,893,630.75 with an average monthly yield of 2.43%. She said the Prosperity Bank balance for April 2019 was \$8,161,308.62 with an average monthly yield of .25%. After some discussion, Councilmember Russell Machann moved to approve the City of Wharton Financial Report for the month of April 2019. Councilmember Steve Schneider seconded the motion. All voted in favor.

The second item on the agenda was to review and consider the Annual Drinking Water Quality Report (Consumer Confidence Report) (CCR). City Manager Andres Garza, Jr. stated the City of Wharton was required by the Texas Commission on Environmental Quality to provide its water customers copies of the Annual Drinking Water Quality Report (Consumer Confidence Report) (CCR) on a yearly basis to keep customers informed as to the quality of the water supply. City Manager Garza presented a memorandum from Finance Director Joan Andel regarding the dissemination of the Consumer Confidence Report. Mrs. Andel stated a public meeting was required and the City Staff was requesting City Council approval to hold the public meeting on Thursday, June 13, 2019 at 5:30 p.m. at City Hall to allow an opportunity for citizens to ask questions regarding the report. She said the deadline to submit the required documentation to TCEQ was June 30th. After some discussion, Councilmember Clifford Jackson moved to approve setting the public meeting for Thursday, June 13, 2019 at 5:30 p.m. at City Hall for the Annual Drinking Water Quality Report (Consumer Confidence Report) (CCR) and the City Staff's recommendation for the dissemination of the Consumer Confidence Report. Councilmember Terry Freese seconded the motion. All voted in favor.

The third item on the agenda was to review and consider the 2019 Street Improvement Project:

A. Bid Tabulations.

City Manager Andres Garza, Jr. stated bids were received on Tuesday, May 22, 2019 for the 2019 Street Improvement Project with one bid was received from in the amount of \$1,445,896.39. City Manager Garza said the construction budget for the project was \$825,000.00-\$850,000.00 and after discussions with the engineers, BEFCO Engineering, it was recommended that the City of Wharton reject the bid. He said the City Staff met with BEFCO Engineering and decided it was in the best interest to re-bid the FEMA streets only. City Manager Garza stated the City Council Public Works Committee met on Monday, May 28, 2019 at 5:30 p.m. and were recommending the City Council consider rejecting the bid received and have the Public Works Street Department proceed with the base work. After some discussion, Councilmember Russell Machann moved to approve rejecting the bid received from in the amount of \$1,445,896.39 and authorized the Public Works Street Department proceed with the base work. Councilmember Don Mueller seconded the motion. All voted in favor.

The fourth item on the agenda was to review and consider the update on the Cloud Street Water Well Repair Project. Public Works Director John Plaia informed the City Council on the Cloud Street Water Well Repair Project issues and repairs. Matt Breazeale, P.E. with Jones and Carter, Inc., presented three options for the City Council to consider for the Cloud Street Water Well Repair Project as follows: Option A – Install a 6” Interior Liner and Install Pump at a cost of \$138,728, Option B – Install Pump at a cost of \$2,600, Option C – Install a Clay Plug and Install a Pump at a cost of \$23,125. Mr. Breazeale stated it was Jones and Carter's recommendation that the City consider Option A which would address the concern of a hole brining in gravel pack material, possibility of extending the life of the well substantially, prevent sand intrusion and be less risky. After some discussion, Councilmember Don Mueller moved to approve Option A - Install a 6” Interior Liner and Install Pump at a cost of \$138,728 for the Cloud Street

Water Well Repair Project, as Change Order #2. Councilmember Clifford Jackson seconded the motion. All voted in favor.

The fifth item on the agenda is to review and consider a request for funding from the Wharton Downtown Business Association for a Community Wayfinding Program. City Manager Andres Garza, Jr. presented a letter from Wharton Downtown Business Association (WDBA) President Debra Medina to the Mayor and City Council regarding the City's assistance in funding for a Community Wayfinding Program and letters of support and the Proposal for Professional Wayfinding Consulting Services. City Manager Garza stated the WDBA believed that there was a need for updated branding and wayfinding throughout the community and especially for the historic districts and that wayfinding was an important element in improving the City's economic condition. He said the WDBA was requesting funding in the amount of \$62,500.00. After some discussion, no action was taken.

The sixth item on the agenda was to review and consider an ordinance declaring a public necessity for the Acquisition of Public drainage and Levee Easement of the below listed property location in Wharton, Texas, for a public purpose, namely the acquisition, construction and maintenance of the Lower Colorado River Basin Phase I, Texas, Wharton Flood Risk Management Project; ratifying and affirming all prior acts and proceedings done or initiated by Attorneys and Employees of the City to acquire such property; authorizing all other lawful action necessary or incidental to such acquisitions. City Manager Andres Garza, Jr. stated the City Staff had determined that the portions of the tract(s) or parcel(s) of land were required for City Public Works Levee Flood Control Improvements. Community Development Coordinator Gwyn Teves stated the properties were R068875 A20034 ABST.34 TRACT 69 PT. (SOUTH) and R068876 A20003 ABST.3 TRACT 33 PT. (SOUTH). Mrs. Teves said the City may be unable to acquire public drainage and levee easements in said parcel(s) by negotiation and the City would then be compelled to exercise its power of eminent domain. After some discussion, Councilmember Alice Heard-Roberts moved to approve City of Wharton Ordinance No. 2019-14, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2019-14**

AN ORDINANCE DECLARING A PUBLIC NECESSITY FOR THE ACQUISITION OF PUBLIC DRAINAGE AND LEVEE EASEMENT OF BELOW LISTED PROPERTY LOCATED IN WHARTON, TEXAS, FOR A PUBLIC PURPOSE, NAMELY THE ACQUISITION, CONSTRUCTION AND MAINTENANCE OF THE LOWER COLORADO RIVER BASIN PHASE I, TEXAS, WHARTON FLOOD RISK MANAGEMENT PROJECT; RATIFYING AND AFFIRMING ALL PRIOR ACTS AND PROCEEDINGS DONE OR INITIATED BY ATTORNEYS AND EMPLOYEES OF THE CITY TO ACQUIRE SUCH PROPERTY; AUTHORIZING ALL OTHER LAWFUL ACTION NECESSARY OR INCIDENTAL TO SUCH ACQUISITIONS.

WHEREAS, the City of Wharton, Texas, has determined that the portions of the tract(s) or parcel(s) of land, hereinafter described, are required for City public works Levee flood control improvements; and

WHEREAS, the City may be unable to acquire public drainage and levee easements in said parcel(s) by negotiation and the City would then be compelled to exercise its power of eminent domain; now

BE IT ORDAINED BY THE WHARTON CITY COUNCIL that:

SECTION I. AUTHORIZATION. The City Attorney, Paul Webb, and the Special Legal Counsel of the City, Davidson, Troilo, Ream & Garza P. C., is hereby authorized and funded to prepare appropriate legal documents and enter appropriate negotiations for the acquisition of the easements on properties described in Exhibit "A". Failing such final attempt at negotiation, Special Legal Counsel is hereby authorized to initiate eminent domain condemnation proceedings in a court of competent jurisdiction in Wharton County, Texas on behalf of the City. Additionally, Special Legal Counsel is authorized to retain the professional services of an appraiser, to value the subject tract(s).

SECTION II. PUBLIC NECESSITY The City Council of Wharton, Wharton County, Texas, declares that a public necessity exists for the City of Wharton to acquire the easements on property located in Wharton County, Texas, and described in Exhibit "A" attached hereto and made a part hereof. The City Attorney, Paul Webb, and Special Legal Counsel, Davidson, Troilo, Ream & Garza P. C., are hereby directed to finally determine the owner(s) of said real property, coordinate with the Wharton City Manager in an attempt to finally negotiate the purchase or grant of an easement in said properties in Exhibit "A"; and failing such effort at final negotiation, to institute and prosecute to conclusion, an eminent domain condemnation suit against the known and/or unknown owner(s) of said property and against any and all other person(s) and legal entities who own or claim any interest in said lands; and to acquire the easement for the City of Wharton for use as a public flood control Levee.

SECTION III. INCORPORATION OF RECITALS. The City hereby finds that the statements set forth in the recitals of this Ordinance are true and correct and incorporates such recitals as findings of fact.

SECTION IV. SEVERABILITY. If any provision of this Ordinance or the application hereof to any circumstance shall ever be held to be invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, and the governing body hereby declares that this Ordinance would have been enacted without such invalid provision; and that in lieu of each clause or provision of this Ordinance that is deemed invalid, illegal, or unenforceable, there then will be added by the Mayor as necessary, with the approval of the City Manager and City Attorney as to form and legality, and as a part of the Ordinance, a substitute or additional clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be legally possible, valid and enforceable.

SECTION V. EFFECTIVE DATE. This Ordinance shall become effective immediately following its passage.

SECTION VI. OPEN MEETINGS The City finds that this Ordinance was discussed, considered, and appropriate action was taken upon it in accordance with the Texas Open

Wharton City Council Regular Meeting
May 28, 2019

Meetings Act requirements of Texas law, set forth in Tex. Gov't Code Ann. as amended, Title 5, Chapter Sec. 551.001 et seq.

PASSED AND ADOPTED this the 28th day of May 2019.

CITY OF WHARTON

TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

Councilmember Terry Freese seconded the motion. All voted favor.

The seventh item on the agenda was to review and consider a resolution of the Wharton City Council adopting Procurement Policies and Procedures for Federal Grants for the Texas General Land Office (GLO) Community Development Block Grant Disaster Recovery (CDBG-DR) Program and authoring the Mayor of the City of Wharton to execute all documents related to said plan. City Manager Andres Garza, Jr. stated the City of Wharton was required to develop and adopt Procurement Policies and Procedures for Federal Grants for the Texas General Land Office (GLO) Community Development Block Grant Disaster Recovery (CDBG-DR) Program. City Manager Garza presented a copy of the City of Wharton Procurement Policies and Procedures for Federal Grants and a copy of the draft resolution. After some discussion, Councilmember Russell Machann moved to approve City of Wharton Resolution No. 2019-60, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2019-60**

A RESOLUTION OF THE WHARTON CITY COUNCIL ADOPTING PROCUREMENT POLICIES AND PROCEDURES FOR FEDERAL GRANTS FOR THE TEXAS GENERAL LAND OFFICE (GLO) COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY (CDBG-DR) PROGRAM AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID PLAN.

WHEREAS, The City of Wharton is required to develop and adopt Procurement Policies and Procedures for Federal Grants for the Texas General Land Office (GLO) Community Development Block Grant Disaster Recovery (CDBG-DR) Program; and,

WHEREAS, The Procurement Policies and Procedures for Federal Grants is attached as Exhibit A; and,

WHEREAS, The Wharton City Council wishes to adopt Procurement Policies and Procedures for Federal Grants for the Texas General Land Office (GLO) Community Development Block Grant Disaster Recovery (CDBG-DR) Program.

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

Section I. The Wharton City Council hereby approves and adopts the Procurement Policies and Procedures for Federal Grants for the Texas General Land Office (GLO) Community Development Block Grant Disaster Recovery (CDBG-DR) Program Exhibit A as attached.

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

Passed, Approved and Adopted this 28th day of May 2019.

CITY OF WHARTON, TEXAS

By: _____
Tim Barker
Mayor

ATTEST:

Paula Favors
City Secretary

Councilmember Steve Schneider 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 adopting a Citizen Participation Plan for the Texas General Land Office (GLO) Community Development Block Grant Disaster Recovery (CDBG-DR) Program and authorizing the Mayor of the City of Wharton to execute all documents related to said plan. City Manager Andres Garza, Jr. stated the City of Wharton was required to develop and adopt a Citizen Participation Plan for the Texas General Land Office (GLO) Community Development Block Grant Disaster Recovery (CDBG-DR) Program. City Manager Garza presented a copy of the City of Wharton Citizen Participation Plan and a draft copy of the resolution. After some discussion, Councilmember Russell Machann moved to approve City of Wharton Resolution No. 2019-61, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2019-61**

A RESOLUTION OF THE WHARTON CITY COUNCIL ADOPTING A CITIZEN PARTICIPATION PLAN FOR THE TEXAS GENERAL LAND OFFICE (GLO) COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY (CDBG-DR) PROGRAM AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID PLAN.

WHEREAS, The City of Wharton is required to develop and adopt a Citizen Participation Plan for the Texas General Land Office (GLO) Community Development Block Grant Disaster Recovery (CDBG-DR) Program; and,

WHEREAS, The Plan is in both English (Exhibit A) and Spanish (Exhibit B); and,

WHEREAS, The Wharton City Council wishes to adopt a Citizen Participation Plan for the Texas General Land Office (GLO) Community Development Block Grant Disaster Recovery (CDBG-DR) Program.

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

Section I. The Wharton City Council hereby approves and adopts the Citizen Participation Plan for the Texas General Land Office (GLO) Community Development Block Grant Disaster Recovery (CDBG-DR) Program in both English (Exhibit A) and Spanish (Exhibit B) as attached.

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

Passed, Approved and Adopted this 28th day of May 2019.

CITY OF WHARTON, TEXAS

By: _____
Tim Barker
Mayor

ATTEST:

Paula Favors
City Secretary

Councilmember Steve Schneider seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider the Lower Colorado River Basin Phase I, Texas, Wharton Flood Risk Management Project:

A. Resolution: A resolution of the Wharton City Council approving an Engineering Services Agreement between the City of Wharton and Jones & Carter Engineering for the City of Wharton Colorado River Flood Control Utility Relocation Project and authorizing the Mayor of the City of Wharton to execute all documents related to said project.

B. Resolution: A resolution of the Wharton City Council approving an Engineering Services Agreement between the City of Wharton and Jones & Carter Engineering for the City of Wharton Levee Private Utility Coordination and authorizing the Mayor of the City of Wharton to execute all documents related to said project.

City Manager Andres Garza, Jr. stated that as the City moves forward on the levee project, the City would be responsible to abandon and relocate its utilities and it was also required to coordinate the relocation and/or abandonment of the private utilities in the areas needed for the levee project. Community Development Director Gwyn Teves stated that on May 13, 2019, the City Council Public Works Committee met and was presented by the City Staff the requirements for the work to be performed by Jones & Carter. Mrs. Teves stated the Public Works Committee was recommending the City Council consider approving the contracts. After some discussion, Councilmember Clifford Jackson moved to approve City of Wharton Resolution No. 2019-62 and 2019-63, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2019-62**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN ENGINEERING SERVICES AGREEMENT BETWEEN THE CITY OF WHARTON AND JONES & CARTER ENGINEERING FOR THE CITY OF WHARTON COLORADO RIVER FLOOD CONTROL UTILITY RELOCATION PROJECT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID PROJECT.

WHEREAS, The Wharton City Council wishes to engage the services of Jones & Carter Engineering to provide professional engineering services in connection with said project; and,

WHEREAS, Jones & Carter Engineering wishes to provide said services for the City of Wharton Colorado River Flood Control Utility Relocation Project; and,

WHEREAS, The City of Wharton and Jones & Carter Engineering wishes to be bound by the conditions of said professional engineering services agreement; and,

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

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

Section I. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute a professional engineering services agreement with Jones & Carter Engineering for the City of Wharton Colorado River Flood Control Utility Relocation Project.

Section II. The City of Wharton and Jones & Carter Engineering are hereby bound by the conditions as set forth in the agreement.

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

Passed, Approved, and Adopted this 28th day of May 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

**CITY OF WHARTON
RESOLUTION NO. 2019-63**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN ENGINEERING SERVICES AGREEMENT BETWEEN THE CITY OF WHARTON AND JONES & CARTER ENGINEERING FOR THE CITY OF WHARTON LEVEE PRIVATE UTILITY COORDINATION AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID PROJECT.

WHEREAS, The Wharton City Council wishes to engage the services of Jones & Carter Engineering to provide professional engineering services in connection with said project; and,

WHEREAS, Jones & Carter Engineering wishes to provide said services for the City of Wharton Levee Private Utility Coordination; and,

WHEREAS, The City of Wharton and Jones & Carter Engineering wishes to be bound by the conditions of said professional engineering services agreement; and,

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

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

- Section I.** The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute a professional engineering services agreement with Jones & Carter Engineering for the City of Wharton Levee Private Utility Coordination.
- Section II.** The City of Wharton and Jones & Carter Engineering are hereby bound by the conditions as set forth in the agreement.
- Section III.** That this resolution shall become effective immediately upon its passage.

Passed, Approved, and Adopted this 28th day of May 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

Councilmember Steve Schneider seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider a resolution of the Wharton City Council authorizing the submission of a Community Development Block Grant Disaster Recovery (CDBG-DR) Application to the Texas General Land Office; and authorizing the Mayor to act as the City's Executive Officer and authorized representative in all matters pertaining to the City's participation in the CDBG-DR Program. City Manager Andres Garza, Jr. stated certain conditions existed related to flooding that occurred during an eligible federally declared disaster in 2017 which represented a threat to the public health and safety and the City had a desire to develop a viable community, including decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low-to-moderate income. Community Development Coordinator Gwyn Teves stated the City Staff felt it was in the City's best interest to apply for funding under the CDBG-DR Program. After some discussion, Councilmember Don Mueller moved to approve City of Wharton Resolution No. 2019-64, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2019-64**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE SUBMISSION OF A COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY (CDBG-DR) APPLICATION TO THE TEXAS GENERAL LAND OFFICE; AND AUTHORIZING THE MAYOR TO ACT AS THE CITY'S EXECUTIVE OFFICER AND AUTHORIZED REPRESENTATIVE IN ALL MATTERS PERTAINING TO THE CITY'S PARTICIPATION IN THE CDBG-DR PROGRAM.

WHEREAS, The Wharton City Council desires to develop a viable community, including decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low-to-moderate income; and,

WHEREAS, Certain conditions exist related to flooding that occurred during an eligible federally declared disaster in 2017 which represent a threat to the public health and safety; and,

WHEREAS, It is necessary and in the best interests of to apply for funding under the CDBG-DR Program; and,

WHEREAS, The Wharton City Council wishes to authorize the Mayor to act as the City's Executive Officer and Authorized Representative in all matters pertaining to the City's participation in the CDBG-DR Program.

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

Section I. That a CDBG-DR application is hereby authorized to be filed with the Texas General Land Office for funding consideration under the Hurricane Harvey Disaster Recovery Program.

Section II. That the application be for \$1,650,172.00 of grant funds to provide drainage improvements.

Section III. That the Mayor is designated as the Chief Executive Officer and Authorized Representative to act in all matters in connection with this application and participation in the CDBG-DR Program.

Section IV. That the Mayor is designated as the overseer of all grant activities so as to ensure there are no Conflicts of Interest.

Section V. That all funds will be used in accordance with all applicable federal, state, local and programmatic requirements including but not limited to procurement, environmental review, labor standards, real property acquisition, and civil rights requirements.

Section VI. That contributing funds in the amount of \$ -0- in cash are committed by the City of Wharton, Texas toward application activities

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

Passed, Approved, and Adopted this 28th day of May 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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 authorizing the acceptance of the Municipal Service Plan for areas in the City of Wharton's Extra-Territorial Jurisdiction (ETJ) for Annexation:

- A. Approximately 188 acres of land on the southeast side of Wharton. Generally located north of County Road 142 (Hutchins Road), north of Pioneer Road to not less than one thousand feet (1000') west of State Highway 60 and property east of State Highway 60 known as Colorado Bend 2.
- B. Approximately 86 acres of land on the north side of Wharton. Generally located north of County Road 222, East of US-59, South of Peach Creek and west of State Highway 60.
- C. Approximately 360 acres of land to begin at the north east City of Wharton City Limits on US Hwy. 59 to include a width not less than one thousand feet (1000') and to include tracts in Abstract 38 and Abstract 58 along US Hwy. 59 to include any adjacent areas which will be considered by the Wharton City Council for annexation in to the City of Wharton's Corporate City Limits.

City Manager Andres Garza, Jr. presented a copy of a draft Municipal Service Plan for the City of Wharton's annexation process as directed by the City Council on April 29, 2019. City Manager Garza stated the Plan would be for the above mentioned proposed annexations. After some discussion, Councilmember Russell Machann moved to approve City of Wharton Resolution No. 2019-65, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2019-65**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE ACCEPTANCE OF THE MUNICIPAL SERVICE PLAN FOR AREAS IN THE CITY OF WHARTON'S EXTRA-TERRITORIAL JURISDICTION (ETJ) FOR ANNEXATION:

- A.) APPROXIMATELY 188 ACRES OF LAND ON THE SOUTHEAST SIDE OF WHARTON. GENERALLY LOCATED NORTH OF COUNTY ROAD 142 (HUTCHINS ROAD), NORTH OF PIONEER ROAD TO NOT LESS THAN ONE THOUSAND FEET (1,000') WEST OF STATE HIGHWAY 60 AND PROPERTY EAST OF STATE HIGHWAY 60 KNOWN AS COLORADO BEND 2.
- B.) APPROXIMATELY 86 ACRES OF LAND ON THE NORTH SIDE OF WHARTON. GENERALLY LOCATED NORTH OF COUNTY ROAD 222, EAST OF US-59, SOUTH OF PEACH CREEK AND WEST OF STATE HIGHWAY 60.
- C.) APPROXIMATELY 360 ACRES OF LAND TO BEGIN AT THE NORTH EAST CITY OF WHARTON CITY LIMITS ON US HWY. 59 TO INCLUDE A WIDTH NOT LESS THAN ONE THOUSAND FEET (1000') AND TO INCLUDE TRACTS IN ABSTRACT 38 AND ABSTRACT 58 ALONG US HWY. 59.

TO INCLUDE ANY ADJACENT AREAS WHICH WILL BE CONSIDERED BY THE WHARTON CITY COUNCIL FOR ANNEXATION INTO THE CITY OF WHARTON'S CORPORATE CITY LIMITS.

WHEREAS, The Wharton City Council has the authority in accordance with the State of Texas Law to annex property into its Corporate City limits; and,

WHEREAS, The Wharton City Council wishes to approve the Municipal Service Plan for the City of Wharton's Extra-Territorial Jurisdiction (ETJ) as listed in A.), B.) and C.).

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

Section I. The Wharton City Council hereby directed the City Manager to prepare the necessary service plan for annexation of certain tracts of land in the City's ETJ and adjacent areas.

Section II. The Wharton City Council wishes to approve the Municipal Service Plan for the afore mentioned A.), B.) and C.).

Passed, Approved, and Adopted this the 28th day of May 2019.

CITY OF WHARTON

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS

City Secretary

Councilmember Clifford Jackson 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 authorizing the acceptance of Chapter 43 Texas Local Government Code Development Agreement for areas in the City of Wharton's Extra-Territorial Jurisdiction (ETJ) for annexation:

- A. Approximately 188 acres of land on the southeast side of Wharton. Generally located north of County Road 142 (Hutchins Road), north of Pioneer Road to not less than one thousand feet (1000') west of State Highway 60 and property east of State Highway 60 known as Colorado Bend 2.
- B. Approximately 86 acres of land on the north side of Wharton. Generally located north of County Road 222, East of US-59, South of Peach Creek and west of State Highway 60.
- C. Approximately 360 acres of land to begin at the north east City of Wharton City Limits on US Hwy. 59 to include a width not less than one thousand feet (1000') and to include tracts in Abstract 38 and Abstract 58 along US Hwy. 59 to include any adjacent areas which will be considered by the Wharton City Council for annexation in to the City of Wharton's Corporate City Limits.

City Manager Andres Garza, Jr. stated the agreement was required by Section 43.035 of the Texas Local Government Code to offer properties that are subject to an agricultural, wildlife management, or timber ad valorem tax exemption to be offered a "development agreement" with the property owner in lieu of annexation to allow the property to retain its extraterritorial status for up to 45 years or until any type of subdivision plat or related development document is filed with the City for the property, whichever occurs first. After some discussion, Councilmember Alice Heard-Roberts moved to approve City of Wharton Resolution No. 2019-66, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2019-66**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE ACCEPTANCE OF CHAPTER 43 TEXAS LOCAL GOVERNMENT CODE DEVELOPMENT AGREEMENT FOR AREAS IN THE CITY OF WHARTON'S EXTRA-TERRITORIAL JURISDICTION (ETJ) FOR ANNEXATION:

A.) APPROXIMATELY 188 ACRES OF LAND ON THE SOUTHEAST SIDE OF WHARTON. GENERALLY LOCATED NORTH OF COUNTY ROAD 142 (HUTCHINS ROAD), NORTH OF PIONEER ROAD TO NOT LESS THAN ONE THOUSAND FEET (1,000') WEST OF STATE HIGHWAY 60 AND PROPERTY EAST OF STATE HIGHWAY 60 KNOWN AS COLORADO BEND 2.

B.) APPROXIMATELY 86 ACRES OF LAND ON THE NORTH SIDE OF WHARTON. GENERALLY LOCATED NORTH OF COUNTY ROAD 222, EAST OF US-59, SOUTH OF PEACH CREEK AND WEST OF STATE HIGHWAY 60.

C.) APPROXIMATELY 360 ACRES OF LAND TO BEGIN AT THE NORTH EAST CITY OF WHARTON CITY LIMITS ON US HWY. 59 TO INCLUDE A WIDTH NOT LESS THAN ONE THOUSAND FEET (1000') AND TO INCLUDE TRACTS IN ABSTRACT 38 AND ABSTRACT 58 ALONG US HWY. 59 TO INCLUDE ANY ADJACENT AREAS WHICH WILL BE CONSIDERED BY THE WHARTON CITY COUNCIL FOR ANNEXATION INTO THE CITY OF WHARTON'S CORPORATE CITY LIMITS.

WHEREAS, The Wharton City Council has the authority in accordance with the State of Texas Law to annex property into its Corporate City limits; and,

WHEREAS, The Wharton City Council is required by Section 43.035 of the Texas Local Government Code to offer a development agreement to property owners who are subject to agricultural, wildlife management, or timber ad valorem tax exemption.

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

Section I. The Wharton City Council wishes to approve the Chapter 43 Texas Local Government Code Development Agreement.

Section II. The Wharton City Council wishes to authorize the Mayor to execute any and all Chapter 43 Texas Local Government Code Development Agreement for the proposed annexation.

Passed, Approved, and Adopted this the 28th day of May 2019.

CITY OF WHARTON

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The thirteenth item on the agenda was to review and consider a resolution of the Wharton City Council authorizing the award of a contract designating an acquisition and relocation firm for

the Wharton Levee Project. City Manager Andres Garza, Jr. stated proposals were received to provide acquisition and relocation services for the Wharton Levee Project defined in the USACE Project Participation Plan. Community Development Director Gwyn Teves stated the City Council Finance Committee met on Thursday, May 23, 2019 and were recommending the City Council consider awarding the contract to HDR. After some discussion, Councilmember Russell Machann moved to approve City of Wharton Resolution No. 2019-67, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2019-67**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE AWARD OF A CONTRACT DESIGNATING AN ACQUISITION AND RELOCATION FIRM FOR THE WHARTON LEVEE PROJECT.

WHEREAS, Proposals were received to provide acquisition and relocation services for the Wharton Levee Project defined in the USACE Project Participation Plan; and,

WHEREAS, HDR was deemed the highest ranked proposal; and,

WHEREAS, The Wharton City Council wishes to award a contract to HDR to provide acquisition and relocation services for the Wharton Levee Project defined in the USACE Project Participation Plan; and,

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

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

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

Section I. The Wharton City Council hereby authorizes the Mayor to execute a contract with HDR for the relocation and acquisition services for the Wharton Levee Project defined in the USACE Project Participation Plan.

Section II. The City of Wharton and HDR are hereby bound by the conditions as set forth in the contract.

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

Passed, Approved, and Adopted this 28th day of May 2019.

CITY OF WHARTON, TEXAS

By: _____

TIM BARKER

Mayor

ATTEST:

PAULA FAVORS

City Secretary

Councilmember Steve Schneider 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 a contract for Disaster Debris Clearance and Removal Services and authorizing the Mayor of the City of Wharton to execute all documents related to said contract and setting an effective date. City Manager Andres Garza, Jr. stated proposals were received for Disaster Debris Clearance and Removal Services. Community Development Director Gwyn Teves stated the City Council Finance Committee met on Thursday, May 23, 2019 and were recommending the City Council consider approving a contract for disaster debris clearance and removal services with TFR Enterprises, Inc as the primary firm and Ceres Environmental Service, Inc. as the secondary firm. After some discussion, Councilmember Alice Heard-Roberts moved to approve City of Wharton Resolution No. 2019-68, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2019-68**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A CONTRACT FOR DISASTER DEBRIS CLEARANCE AND REMOVAL SERVICES AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID CONTRACT AND SETTING AN EFFECTIVE DATE.

WHEREAS, The City of Wharton received sealed bids for Disaster Debris Clearance and Removal Services; and,

WHEREAS, The Wharton City Council wishes to approve a contract between the City of Wharton and TFR Enterprises, Inc. as the primary firm for Disaster Debris Clearance and Removal Services and Ceres Environmental Service, Inc. as the secondary firm for Disaster Debris Clearance and Removal Services; and

WHEREAS, The City of Wharton and TFR Enterprises, Inc. and Ceres Environmental Service, Inc. wishes to be bound by the conditions as set forth in the agreements.

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

Section I. The Wharton City Council hereby approves a contract between the City of Wharton and TFR Enterprises, Inc. as the primary firm for Disaster Debris Clearance and Removal Services and Ceres Environmental Service, Inc. as the secondary firm for Disaster Debris Clearance and Removal Services

Section II. The Wharton City Council hereby approves to authorize the Mayor of the City of Wharton to execute the agreements.

Section III. The City of Wharton and TFR Enterprises, Inc. as primary service and Ceres Environmental Service, Inc. as secondary service are hereby bound by the conditions as set forth in the agreements.

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

Passed, Approved, and Adopted this the 28th day of May 2019.

CITY OF WHARTON

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The fifteenth item on the agenda was to review and consider the Belle Street Improvement Project:

A. Pay Request from Central Texas Concrete and Asphalt.

City Manager Andres Garza, Jr. presented a Pay Request from Central Texas Concrete and Asphalt in the amount of \$13,136.00 for the Belle Street Improvement Project. Public Works Director John Plaia stated the work had been completed and he was requesting the City Council consider approving the pay request. After some discussion, Councilmember Russell Machann moved to approve the pay request from Central Texas Concrete and Asphalt in the amount of \$13,136.00 for the Belle Street Improvement Project. Councilmember Clifford Jackson seconded the motion. All voted in favor.

The sixteenth item on the agenda was to review and consider the Wharton Economic Development Corporation Fiscal Year 2019-2020 Annual Budget. City Manager Andres Garza, Jr. presented a copy of the proposed Wharton Economic Development Corporation Fiscal Year 2019-2020 Annual Budget. After some discussion, Councilmember Alice Heard-Roberts moved to approve the Wharton Economic Development Corporation Fiscal Year 2019-2020 Annual Budget. Councilmember Clifford Jackson seconded the motion. All voted in favor.

The seventeenth item on the agenda was to review and consider the update of City of Wharton Grant Programs. Community Development Director Gwyn Teves presented an update of the City of Wharton Grant Programs. After some discussion, no action was taken.

The eighteenth item on the agenda was to review and consider the update of City of Wharton on-going Projects. City Manager Andres Garza, Jr. presented copy of his memorandum dated May 22, 2019 providing an update on the City of Wharton current projects as of April 30, 2019.

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 Project Participation Agreement (PPA) has been executed. The City has begun the process to acquire the property necessary to construct the project. The City is in the process of engaging a Right-of-Way Acquisition firm and the Engineers for City and private company utility relocations. As soon as the acquisition firm is engaged the City will meet with all affected property owners.

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. The ideal disposal site should be close to the project site to reduce the cost of construction.

2. Ahldag Ditch Improvement.

The project was approved by the City Council. Public Works Director is currently working out the details. The ditch improvements will be proposed under the Texas General Land Office (GLO) Infrastructure Grant Program.

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.

Installation of the drainage pipes was completed. The City Public Works Department will be regrading ditches to improve the drainage in the area.

WATER/SEWER IMPROVEMENTS:

1. On-going Water and Sewer Maintenance Program.

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

2. Water Well Repair Project-Cloud Street.

The well is under repair, Jones & Carter Engineers are in the process of providing a report to the City Council on the condition of the well and any recommendation to place it back into production.

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.

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. 2019 City Street Improvement Project.

The City has begun the planning process for the 2019 Street Improvement Project. Bids were received for the project, however they were higher than the funds available and only one bidder responded. The project has been rebid.

After some discussion, no action was taken.

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

1. Appointments:

- A. Beautification Commission.
- B. Building Standards Commission.
- C. Plumbing and Mechanical Board.

2. Resignations: None.

After some discussion, no action was taken.

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

- A. Planning Commission meeting held May 6, 2019.
- B. Public Works Committee meeting held May 13, 2019.
- C. Finance Committee meeting held May 13, 2019.
- D. Airport Board meeting held May 14, 2019.

After some discussion, no action was taken.

The twenty-first item on the agenda was to review and consider the City Manager's Reports. City Manager Andres Garza, Jr. presented the following reports:

- | | |
|---|---------------------------------|
| A. City Secretary/Personnel. | H. Fire Marshall. |
| 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 twenty-second item on the agenda was Executive Session: City Council may adjourn into an Executive Session in accordance with Section 551.071 and 551.087 of the Local Government Code, Revised Civil Statutes of Texas. Final action, decision or vote, if any with regard to any Matter considered in Executive Session shall be made in Open Meeting.

- A. **Discussion:** Industrial District No. 1 Contract.

Mayor Barker moved the meeting into closed session at 8:53 p.m.

The twenty-third item on the agenda was Return to Open Session: Action on items discussed in Executive Session:

Mayor Tim Barker returned to open session at 9:06 p.m.

- A. Review & Consider: Industrial District No. 1 Contract.

After some discussion, no action was taken.

The twenty-fourth item discussed on the agenda was to review and consider an ordinance re-designating and reducing an area located within the extraterritorial jurisdiction of the City of Wharton, Texas, as the City of Wharton Industrial District No. 1. City Manager Andres Garza, Jr. presented a draft ordinance re-designating and reducing an area located within the extraterritorial jurisdiction of the City of Wharton, Texas, as the City of Wharton Industrial District No. 1 to match the area owned by Colorado Bend I Power, LLC. After some discussion, Councilmember Russell Machann moved to approve City of Wharton Ordinance No. 2019-15, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2019-15**

AN ORDINANCE RE-DESIGNATING AND REDUCING AN AREA LOCATED WITHIN THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF WHARTON, TEXAS, AS THE CITY OF WHARTON INDUSTRIAL DISTRICT NO. 1.

WHEREAS, Section 42.044 of the Texas Local Government Code authorizes the Wharton City Council to designate any part of its extraterritorial jurisdiction as an industrial district and to treat that area designated in a manner considered by the Wharton City Council to be in the best interests of the City of Wharton, Texas; and,

WHEREAS, The City of Wharton, Texas desires to re-designate and to reduce the size of the City of Wharton's Industrial District No. 1 as set forth below.

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

Section I. The facts and recitations in the preamble and recitals of this ordinance are found and declared to be true and correct and adopted as part of this ordinance for all purposes.

Section II. The area described by metes and bounds attached hereto as Exhibit "A" and incorporated herein for all purposes is hereby re-designated as the City of Wharton Industrial District No. 1.

Section III. 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 28th day of May 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

Councilmember Terry Freese

The twenty-fifth item discussed on the agenda was to review and consider a resolution of the Wharton City Council approving an Amended and Restated Industrial District Agreement between Colorado Bend I Power, LLC (Formerly Navasota Wharton Energy Partners, LP); authorizing an Industrial District Payment to the City of Wharton; making various findings and provisions related to the subjects; and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. presented a draft resolution approving and Industrial District Agreement with Colorado Bend I Power, LLC and authorizing an Industrial District Payment to the City of Wharton, and making various findings and provisions related to the subjects. After some discussion, Councilmember Clifford Jackson moved to approve City of Wharton Resolution No. 2019-69, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2019-69**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN AMENDED AND RESTATED INDUSTRIAL DISTRICT AGREEMENT BETWEEN COLORADO BEND I POWER, LLC (FORMERLY NAVASOTA WHARTON ENERGY PARTNERS, LP); AUTHORIZING AN INDUSTRIAL DISTRICT PAYMENT TO THE CITY OF WHARTON; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECTS; AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, The Wharton City Council has determined that it is in the best interest of the City and its citizens to enter into an Amended and Restated Industrial District Agreement with Colorado Bend I Power, LLC, a copy of which is attached hereto as Exhibit "A" (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 facts and recitations in the preamble and recitals of this resolution and the referenced Agreement are found and declared to be true and correct and are hereby approved as part of this resolution.

Section II. That the Wharton City Council hereby approves the Amended and Restated Industrial District Agreement between the City of Wharton and Colorado Bend I Power, LLC.

Section III. That the Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute the Agreement.

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

Passed, Approved, and Adopted this 28th day of May 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

Adjournment. There being no further discussion, Councilmember Don Mueller moved to adjourn. Councilmember Alice Heard-Roberts seconded the motion. All voted in favor.

The meeting adjourned at 9:09 p.m.

CITY OF WHARTON, TEXAS
Tim Barker

Tim Barker
Mayor

ATTEST:

Paula Favors

Paula Favors
City Secretary

