

**MINUTES
OF
CITY OF WHARTON
CITY COUNCIL MEETING
JANUARY 13, 2020**

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, 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, City Attorney Paul Webb, Finance Director Joan Anandel, City Secretary Paula Favors, TRMC, CPM, MMC, Assistant to the City Manager Brandi Jimenez, Police Chief Terry David Lynch and Community Development Director Gwyn Teves.

Visitors present were: Steven L. Roberts and Thomas Faust.

Roll Call and Excused Absences. All Councilmembers were present.

Public Comments. Mayor Tim Barker called for Public Comments. No comments were made.

Wharton Moment.

Mayor Tim Barker stated Mr. John McCain's 102nd birthday and Dr. Robert Caraway, Jr.'s 100th year birthday parties would be celebrated at the Wharton Civic Center during a come and go event from 5 p.m. until 7 p.m. on February 14, 2020. He said all were welcome to attend.

The first item on the agenda was to review and consider reading of the minutes from the regular meeting held December 9, 2019. After some discussion, Councilmember Russell Machann moved to approve the reading of the minutes from the regular meeting held December 9, 2019. Councilmember Don Mueller seconded the motion. All voted in favor.

The second item on the agenda was to review and consider the City of Wharton Financial Report for November 2019. Finance Director Joan Anandel presented the financial report for the month of November 2019. Mrs. Anandel stated that the TexPool balance for November was \$4,432,473.04 with an average monthly yield of 1.6774%. She said the Prosperity Bank balance for November 2019 was \$3,545,826.64 with an average monthly yield of 1.51%. After some discussion, Councilmember Russell Machann moved to approve the City of Wharton Financial Report for the month of November 2019. Councilmember Clifford Jackson seconded the motion. All voted in favor.

The third item on the agenda was to review and consider a request by Mr. Thomas Faust of Faust Air Conditioning & Heating LLC for a variance on permitting fees for work to be completed at Morning Star Apartments. City Manager Andres Garza, Jr. presented a request by Mr. Faust for a variance to reduce the required mechanical fees for work to be completed at Morning Star Apartments. Mr. Faust stated that he was withdrawing his request after receiving word that Morning Star Apartments was no longer managed by a nonprofit organization. After some discussion, no action was taken.

The fourth item on the agenda was to review and consider a resolution of the Wharton City Council authorizing the submission of a letter to Texas Department of Transportation (TxDOT) requesting improvements to State Highway 60 and authorizing the Mayor of the City of Wharton to execute all documents related to said submission. City Manager Andres Garza, Jr. presented a memorandum to him from Chief Terry Lynch regarding the Texas Department of Transportation's resurfacing project for State Highway 60 starting in the Spring of 2020. Chief Lynch stated the following were his recommend changes:

1. Re-striping of State Highway 60 (Milam Street), westbound from North Resident Street to Business 59 (Richmond Road) to a one-way single-marked lane.
2. Eliminate the corner parking spaces at the following intersections:
 - A. State Highway 60 (Milam Street) at Houston Street.
 - B. State Highway 60 (Milam Street) at Polk Street.
 - C. Alley way entrance (200 West Milam Street) State Highway 60.
3. Protected arrows at State Highway 60 (Milam Street) and FM 1299 (North Alabama Road) for Northbound and Southbound traffic.
4. Increase the pause between red and green Indicators on the traffic control devices at the following intersections:
 - A. FM 1301 (West Boling Highway) at Business 59 (North Richmond Road).
 - B. FM 1301 (West Boling Highway) at North Fulton Street.
 - C. FM1301 (East Boling Highway) at North Alabama Road.
 - D. Business 59 (North Richmond Road) at FM 102.
 - E. Business 59 (North Richmond Road) at State Highway 60 (West Burleson Street).
 - F. State Highway 60 (Milam Street) at FM 1299 (North Alabama Road).

City Manager Garza stated the City Council Public Works Committee met January 13, 2020 at 5:30 p.m. and were recommending the City Council consider approving Chief Lynch's recommendations. After some discussion, Councilmember Don Mueller moved to approve City of Wharton Resolution No. 2020-01, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2020-01**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE SUBMISSION OF A LETTER TO THE TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT) REQUESTING IMPROVEMENTS TO STATE HIGHWAY 60 AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID SUBMISSION.

WHEREAS, The City of Wharton finds it in the best interest of the citizens of City of Wharton to submit a request to the Texas Department of Transportation for improvements to State Highway 60; and,

WHEREAS, In the Spring of 2020, the Texas Department of Transportation has scheduled a resurfacing project for State Highway 60 that will affect the City of Wharton from the City Limits; and,

WHEREAS, The City Staff wishes to submit the following changes to the Texas Department of Transportation:

1. Re-striping of State Highway 60 (Milam Street), westbound from North Resident Street to Business 59 (Richmond Road) to a one-way single-marked lane.
2. Eliminate the corner parking spaces at the following intersections:
 - A. State Highway 60 (Milam Street) at Houston Street.
 - B. State Highway 60 (Milam Street) at Polk Street.
 - C. Alley way entrance (200 West Milam Street) State Highway 60.
3. Protected arrows at State Highway 60 (Milam Street) and FM 1299 (North Alabama Road) for Northbound and Southbound traffic.
4. Increase the pause between red and green Indicators on the traffic control devices at the following intersections:
 - A. FM 1301 (West Boling Highway) at Business 59 (North Richmond Road).
 - B. FM 1301 (West Boling Highway) at North Fulton Street.
 - C. FM1301 (East Boling Highway) at North Alabama Road.
 - D. Business 59 (North Richmond Road) at FM 102.
 - E. Business 59 (North Richmond Road) at State Highway 60 (West Burleson Street).
 - F. State Highway 60 (Milam Street) at FM 1299 (North Alabama Road).

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 submission of a letter to the Texas Department of Transportation for the above mentioned.

Section II. That the Wharton City Council authorizes the Mayor of the City of Wharton to execute all documents relating to said letter submission.

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

Passed, Approved, and Adopted this 13th day of January 2020.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The fifth item on the agenda was to review and consider a resolution of the Wharton City Council approving a Joint Election Agreement with Wharton County Elections Department for the City Election; and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. presented a copy of the Joint Election Agreement with Wharton County Elections Department for the City Election, which will be held May 2, 2020. City Secretary Paula Favors stated the contract was the same as in previous years and City Attorney Paul Webb reviewed the Joint Election Agreement and was recommending City Council consider approving the agreement. After some discussion, Councilmember Russell Machann moved to approve City of Wharton Resolution No. 2020-02, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2020-02**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A JOINT ELECTION AGREEMENT WITH WHARTON COUNTY ELECTIONS DEPARTMENT FOR THE CITY ELECTION; AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, The Wharton City Council wishes to approve the joint agreement with Wharton County Elections Department for the City election; and,

WHEREAS, The City of Wharton and Wharton County Elections Department wishes to be bound by the conditions set forth in the agreement; and,

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

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

- Section I.** That the Wharton City Council hereby approves an agreement between the City of Wharton and Wharton County Elections Department for the City election.
- Section II.** That the City of Wharton and Wharton County Elections Department are hereby bound by the conditions set forth in the agreement.
- Section III.** That the Wharton City Council hereby authorizes the Mayor of the Wharton to execute the agreement.
- Section. IV.** That this resolution shall become effective immediately upon its passage.

Passed, Approved, and Adopted this the 13th day of January 2020.

CITY OF WHARTON

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The sixth item on the agenda was to review and consider an ordinance amending the City of Wharton Code of Ordinances, Chapter 2, Administration, Article V, Division 2, Beautification Commission, Section 2-122 to 2-123. City Manager Andres Garza, Jr presented a copy of a draft ordinance amending the City of Wharton Code of Ordinances, Chapter 2, Administration, Article V, Division 2, Beautification Commission, Sections 2-122 to 2-123. City Manager Garza stated the request was made from the Downtown Business Association for the City Council to consider allowing them to make a recommendation for one of their members to serve on the Beautification Commission and the Wharton Chamber of Commerce had also shown interest in making a recommendation as well. City Secretary Paula Favors stated the amendment to the Ordinance would include two of the seven members of the commission being recommended for appointment by the City Council by the Wharton Chamber of Commerce (1 member) and the Downtown Business Association (1 member). Mrs. Favors stated that the City Staff was recommending this change due to the Commission not being able to hold meetings due to a lack of quorum and the

City Staff was also recommending that if any member be absent for (3) three consecutive meetings the position the person holds would automatically be considered vacant allowing the City Council to fill that position. After some discussion, Councilmember Steve Schneider moved to approve City of Wharton Ordinance No. 2020-01, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2020-01**

AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION, ARTICLE V, DIVISION 2, BEAUTIFICATION CITY COMMISSION, SECTIONS 2-122 AND 2-123.

BE IT ORDAINED by the City Council of the City of Wharton, Texas, that Chapter 2, Administration, Article V, Division 2, Beautification City Commission, Sections 2-122 and 2-123 be amended to read as follows:

Sec. 2-122. - Membership.

(a) The beautification city commission shall be comprised of seven members to be appointed by the city council and shall be residents of the city or shall have businesses in the city. Two of the seven members of the commission shall be recommended for appointment to the City Council by the Wharton Chamber of Commerce (1 member) and the Downtown Business Association (1 member).

Sec. 2-123. - Organization; meetings.

(d) Each month a report shall be submitted to the city council showing the cumulative attendance of each member with notation of members who have been absent from three consecutive meetings. Those members that have been absent for three consecutive meetings shall have their position on the Commission considered vacated.

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 13th day 2020.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

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

The seventh item on the agenda was to review and consider a resolution amending the Wharton Economic Development Corporation By-Laws. City Manager Andres Garza, Jr. presented a draft copy of the amended Wharton Economic Development Corporation By-Laws. After some discussion, Councilmember Alice Heard-Roberts moved to approve City of Wharton Resolution No. 2020-03, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2020 - 03**

A RESOLUTION AMENDING THE WHARTON ECONOMIC DEVELOPMENT CORPORATION BY-LAWS.

WHEREAS, The Wharton Economic Development Corporation established By-Laws March 13, 1998; and,

WHEREAS, The Wharton Economic Development Corporation wishes to amend its By-Laws; and;

WHEREAS, Wharton City Council approval is required to amend the By-Laws.

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

SECTION I: That the Wharton City Council hereby authorizes the Wharton Economic Development Corporation to amend its By-Laws.

SECTION II: That this resolution shall be effective immediately upon its passage.

Passed, Approved, and Adopted this 13th day of January 2020.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The eighth item on the agenda was to review and consider a request by HDR for approval of Change Order #1 to Work Authorization No. 1 for the City of Wharton Levee Real Estate Support Services. City Manager Andres Garza, Jr. presented a copy of Change Order No. 1 from HDR for Work Authorization No. 1 of the City of Wharton Real Estate Support Services. Community Development Director Gwyn Teves stated the Change Order added an additional 16% increase for the following services:

- Obtain approximately 190 additional right of entries, increased labor hours for HDR, Stateside Right of Way and LK Acquisitions.
- Perform legal descriptions.
- Appraise improvements at Dinosaur Park.
- Perform ESA Phase II for approximately 3 parcels; increased HDR labor hours along with adding two more subconsultants Eurofins and Geoprobe.
- Administrative fee, fixed fee, and direct expenses also increased.

Community Development Director Gwyneth Teves stated the City Staff was recommending the City Council consider approving the change order. After some discussion, Councilmember Clifford Jackson moved to approve Change Order #1 to Work Authorization No. 1 for the City of Wharton Levee Real Estate Support Services. Councilmember Terry Freese seconded the motion. All voted in favor.

The ninth 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.

City Manager Andres Garza, Jr. presented the list of persons serving on the various City Boards, Commissions and Committees. City Manager Garza stated that there were currently three positions that need to be filled in the Beautification Commission and with the amendment to the Beautification Commission Ordinance being approved the following appointments could be made by the City Council:

- 1. Ms. Lacey Border-Wharton Chamber of Commerce nominee.
- 2. Mr. Kenneth Dimmick- Wharton Downtown Business Association nominee.
- 3. Open Position- Mr. Courtney Taylor, Ms. Janice Morgan and Mr. James Perez.

After some discussion, Councilmember Terry Freese moved to appoint the following:

A. Beautification Commission.

Term Expiring:

Lacey Border-Wharton Chamber of Commerce Nominee	June 30, 2021
Kenneth Dimmick- Wharton Downtown Business Association Nominee	June 30, 2021

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

Councilmember Clifford Jackson moved to appoint the following:

A. Beautification Commission.

Term Expiring:

Courtney Taylor	June 30, 2020
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Councilmember Terry Freese seconded the motion. All voted in favor.

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

- A. Wharton Economic Development Corporation meeting held November 18, 2019.
- B. Beautification Commission meeting held December 11, 2019.
- C. Wharton Economic Development Corporation meeting held December 4, 2019.

After some discussion, no action was taken.

The eleventh item on the agenda was Executive Session. City Council may adjourn into an Executive Session in accordance with Sections 551.072 and 551.074 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.

Discussion:

- A. City Manager Employment Agreement.
- B. Acquisition of Real Property-Wharton Flood Reduction Project-Levee.
- C. Acquisition of Real Property-Guadalupe Park (Diocese of Victoria).

Mayor Tim Barker moved the meeting into Executive Session at 7:37 p.m.

The twelfth item on the agenda was Return to Open Session. Action on items discussed in Executive Session:

- A. City Manager Employment Agreement.
- B. Acquisition of Real Property-Wharton Flood Reduction Project-Levee.
- C. Acquisition of Real Property-Guadalupe Park (Diocese of Victoria).

Mayor Tim Barker returned the meeting to Open Session at 8:21 p.m. After some discussion, Councilmember Terry Freese moved to terminate the City Manager Employment Agreement effective January 17, 2020 and renegotiate it at a later date. Councilmember Clifford Jackson seconded the motion. All voted in favor.

Councilmember Russell Machann moved to approve proceeding with the acquisition of Real Property – Guadalupe Park (Diocese of Victoria). Councilmember Terry Freese seconded the motion. All voted in favor.

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

The meeting adjourned at 8:23 p.m.

CITY OF WHARTON, TEXAS

By: *Tim Barker*
TIM BARKER
Mayor

ATTEST:

Paula Favors
PAULA FAVORS
City Secretary

