

**MINUTES
OF
CITY OF WHARTON
CITY COUNCIL REGULAR MEETING
SEPTEMBER 9, 2024**

Mayor, Tim Barker declared a Regular Meeting duly open for the transaction of business at 7:04 P.M. at City Hall 120 E. Caney Street Wharton, TX. Councilmember, Burnell Neal, led the opening devotion, and Mayor, Tim Barker led the pledge of allegiance.

Councilmembers present were: Mayor, Tim Barker, and Councilmembers, Terry Freese; Russell Machann; Burnell Neal; Larry Pittman; Steve Schneider, and David Voulgaris.

Councilmembers absent were: None.

Staff members present were: City Manager, Joseph R. Pace; Finance Director, Joan Andel; Assistant City Manager, Paula Favors, TRMC, CPM, MMC, IPMA-CP; Director of Planning and Development, Gwyn Teves; Police Chief, Terry David Lynch; Public Works Director, Roderick Semien, and Airport Manager, Dwayne Pospisil.

Visitors present were: Ryan Salazar; Walter Garrett; Kristi Kocian, and Colby Primeaux with the Wharton Journal Spectator.

Roll Call and Excused Absences.

All Councilmembers were present.

Public Comments.

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

Wharton Moment.

Mayor, Tim Barker, called for Wharton Moments.

City Manager, Joseph R. Pace, stated the Rotary Gala would be held on September 28th, 2024 and Diamond Rio would be performing.

Mayor, Tim Barker, stated City Attorney Paul Webb was doing well after a recent medical procedure and will be returning to the next City Council meeting.

Public Hearing.

1. Public Hearing: Proposed Budget for the City of Wharton, Texas Fiscal Year October 1, 2024, to September 30, 2025.

Mayor, Tim Barker, opened the Public Hearing at 7:04 p.m. No comments were given. Mayor, Tim Barker, closed the Public Hearing at 7:05 p.m.

Review and Consider:

The first item on the agenda was to review and consider the reading of the minutes from the regular meetings held on August 12, 2024, and August 26, 2024, and the special meeting held on August 5, 2024. After some discussion, Councilmember, Russell Machann, moved to approve the reading of the minutes from the regular meetings held August 12, 2024, and August 26, 2024, and special meeting held August 5, 2024. Councilmember, Larry Pittman, seconded the motion. All voted in favor.

The second item on the agenda was to review and consider a request from the Monterey Square Business Association for the following for the Monterey Square Wine and Arts Fair on October 12, 2024:

- A. Close Fulton Street between Burleson Street and Milam Street, as well as close Houston Street between Burleson Street and Hawes Street from 11:30 a.m. until 10:00 p.m. on Saturday, October 12, 2024.
- B. Pick up and return six (6) generator lights for safety for the fair location and Guffey Park parking area.
- C. Allow open containers for alcohol on City property on the exterior sides of Monterey Square and approximately two adjoining blocks to include all participating businesses.
- D. Waive all local permits and fees.
- E. Provide trash containers and bags.

Ms. Kristi Kocian of Monterey Square Business Association, presented a copy of the letter dated August 12, 2024, from her providing her request for the aforementioned items. Ms. Kocian requested item B. be changed to eight (8) generator lights. After some discussion, Councilmember, Terry Freese, moved to approve the aforementioned items A. through E. with the update to eight (8) generator lights. Councilmember, Burnell Neal, seconded the motion. All voted in favor.

The third item on the agenda was to review and consider a resolution of the Wharton City Council ratifying and approving a contract with Branch Construction for Lead Service Line Inventory (LSLI) and authorizing the City Manager to execute all documents related to said ratification. Public Works Director, Roderick Semien, presented a copy of the proposal for Branch Construction to complete the field verification of the initial LSLI. Mr. Semien stated that on August 1, 2024, Quiddity Engineering LLC contacted the City Staff and said they received two quotes from agencies significantly higher than their original estimate of \$55,000.00. He said the quotes were to cover a quantity of 1,736 residential meters and 212 commercial meters to be inspected. Director Semien stated that after some discussion and the limited timeline to complete the inventory, the City had chosen to seek out a third option, Branch Construction, although still above the original estimate, but still the lowest bid. Mr. Semien said Branch Construction was a member of the TIPs cooperative and was hired to work on August 6, 2024. After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Resolution No. 2024-88, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2024-88**

A RESOLUTION OF THE WHARTON CITY COUNCIL RATIFYING AND APPROVING A CONTRACT WITH BRANCH CONSTRUCTION FOR LEAD SERVICE LINE INVENTORY (LSLI) AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS RELATED TO SAID RATIFICATION.

WHEREAS, The Wharton City Council wishes to ratify and approve Branch Construction for the field verification of the initial Lead Service Line Inventory (LSLI); and,

WHEREAS, The Wharton City Council wishes to authorize the City Manager to execute all documents related to said ratification.

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

Section I. The Wharton City Council hereby ratifies and approves a contract with Branch Construction for the field verification of the initial Lead Service Line Inventory (LSLI).

Section II. The Wharton City Council hereby authorizes the City Manager to execute all documents related to said ratification.

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

Passed, Approved, and Adopted this 9th day of September 2024.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

Councilmember, David Voulgaris, seconded the motion. All voted in favor.

The fourth item on the agenda was to review and consider a resolution of the Wharton City Council authorizing the City Manager to approve LED lighting installation at the Wharton Regional Airport

and authorizing the City Manager to execute all documents related to said installation. Airport Manager, Dwayne Pospisil, stated he solicited quotes for LED lighting installation at the Wharton Regional Airport and the quotes they were as follows:

Gulf Coast A/C & Electrical-\$9,591.00

Barbee Electric-\$9,675.00

Penner Electric-no response

Mr. Pospisil said it was the City Staff's recommendation for Gulf Coast A/C & Electrical to complete the installation. He said funds for the LED lighting would be through the Routine Airport Maintenance Plan (RAMP). After some discussion, Councilmember, Russell Machann, moved to approve City of Wharton Resolution No. 2024-89, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2024-89**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE CITY MANAGER TO APPROVE LED LIGHTING INSTALLATION AT THE WHARTON REGIONAL AIRPORT AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS RELATED TO SAID INSTALLATION.

WHEREAS, The Wharton City Council has appropriated funds for the installation of LED lighting in the hangars and repair shop at the Wharton Regional Airport; and,

WHEREAS, The Wharton City Council wishes to authorize the City Manager to approve the LED lighting installation at the Wharton Regional Airport from Gulf Coast A/C & Electrical in the amount of \$9,591.00; and,

WHEREAS, The Wharton City Council wishes to authorize the City Manager to execute all documents related to the installation of the lighting.

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

SECTION I. The Wharton City Council hereby authorizes the City Manager to approve the LED lighting installation at the Wharton Regional Airport from Gulf Coast A/C & Electrical in the amount of \$9,591.00.

SECTION II. The Wharton City Council hereby authorizes the City Manager to execute all documents related to the installation of the lighting.

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

PASSED AND APPROVED this 9th day of September 2024.

CITY OF WHARTON

TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The fifth item on the agenda was to review and consider an ordinance regarding the City of Wharton's Texas Municipal Retirement System benefits providing for (1) an increase to the employee contribution rate; and (2) adopting: (i) annually accruing updated service credits; and (ii) annually accruing annuity increases, also referred to as cost-of-living adjustments (COLA) for retirees and their beneficiaries.

As discussed with the City Council Finance Committee on July 22, 2024, the City Staff is requesting to move forward with changes to the City of Wharton's employee retirement plan through the Texas Municipal Retirement System (TMRS). City Secretary, Paula Favors, stated that by statute, when a City changes its employee contribution rate and the City currently offers Cost of Living Adjustments (COLA) on an annually repeating basis, the City must readopt this annually repeating provision. City Secretary Favors said this readoption was necessary because there was a new COLA cost associated with the new provision. She said that when the ordinance becomes effective, the City must begin deducting the new contribution rate from each employee's gross monthly compensation. Mrs. Favors stated that beginning October 1, 2024, the City Staff was requesting to begin withholding 6%, as compared to the current 5% from eligible employees' salaries to deposit into their retirement accounts. She said the 100% Updated Service Credit without Transfers and 70% Cost of Living Adjustment Increase to Annuitants, Both Annually Repeating, would take effect on January 1, 2025. After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Ordinance No. 2024-13, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2024-13**

AN ORDINANCE REGARDING THE CITY OF WHARTON'S TEXAS MUNICIPAL RETIREMENT SYSTEM BENEFITS PROVIDING FOR (1) AN INCREASE TO THE EMPLOYEE CONTRIBUTION RATE; AND (2) ADOPTING: (i) ANNUALLY ACCRUING UPDATED SERVICE CREDITS; AND (ii) ANNUALLY ACCRUING ANNUITY INCREASES, ALSO REFERRED TO AS COST OF LIVING ADJUSTMENTS (COLAS) FOR RETIREES AND THEIR BENEFICIARIES.

Whereas, the City of Wharton, Texas (the "City"), elected to participate in the Texas Municipal Retirement System (the "System" or "TMRS") pursuant to Subtitle G of Title 8, Texas Government Code, as amended (which subtitle is referred to as the "TMRS Act"); and

Whereas, the City Council finds that it is in the public interest to: (1) increase the employee contribution rate contributed to TMRS, (2) in accordance with TMRS Act §853.404 and §854.203(h), reauthorize annually accruing Updated Service Credits, although without new Transfer USC effective January 1, 2025, and (3) in accordance with TMRS Act §854.203 and §853.404, reauthorize annually accruing annuity increases, also referred to as cost of living adjustments ("COLAs") for retirees and their beneficiaries, now:

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

Section 1. Increased Employee Contribution Rate.

(a) The rate of member contributions to be made by the City to the System shall be **6%** of the compensation of City employees who are members of the System, in accordance with TMRS Act §855.401. The City shall submit a monthly payroll report and deposit the amounts deducted from employees' compensation to the System in accordance with TMRS Act §855.402.

(b) The increased employee contribution rate under this Section shall be effective on the first day of the month of October, 2024.

Section 2. Authorization of Annually Accruing Updated Service Credits.

(a) As authorized by TMRS Act §854.203(h) and §853.404, and on the terms and conditions set out in TMRS Act §§853.401 through 853.404, the City authorizes each member of the System who on the first day of January of the calendar year immediately preceding the January 1 on which the Updated Service Credits will take effect (i) has current service credit or prior service credit in the System by reason of service to the City, (ii) has at least 36 months of credited service with the System, and (iii) is a TMRS-contributing employee of the City, to receive "Updated Service Credit," as that term is defined and calculated in accordance with TMRS Act §853.402.

(b) The Updated Service Credit authorized and provided under this Ordinance shall be **100%** of the "base Updated Service Credit" of the TMRS member calculated as provided in TMRS Act §853.402.

(c) If the City previously adopted an ordinance authorizing Updated Service Credit for forfeited prior service credit and/or current service credit with another System participating municipality (also known as "Transfer USC"), the calculations and adjustments set forth in TMRS Act §853.601 apply to any such prior Transfer USC.

(d) Each Updated Service Credit authorized and provided by this Ordinance shall replace any Updated Service Credit, prior service credit, special prior service credit, or antecedent service credit previously authorized for part of the same service.

(e) The initial Updated Service Credit authorized by this Section shall be effective on January 1 immediately following the year in which this Ordinance is approved, subject to receipt by the System prior to such January 1 and approval by the Board of Trustees ("Board") of the System. Pursuant to TMRS Act §853.404, the authorization and grant of Updated Service Credits in this Section shall be effective on January 1 of each subsequent year, using the same percentage of the "base Updated Service Credit" stated in Subsection (b) in computing Updated Service Credits for each future year, provided that, as to such subsequent year, the actuary for the System has made the determination set forth in TMRS Act §853.404(d), until this Ordinance ceases to be in effect as provided in TMRS Act §853.404(e).

Section 3. Authorization of Annual Increases in Retirement Annuities, or COLAs.

(a) On the terms and conditions set out in TMRS Act §854.203 and §853.404, the City authorizes and provides for payment of the increases described by this Section to the annuities paid to retired City employees and beneficiaries of deceased City retirees (such increases also called COLAs). An annuity increased under this Section replaces any annuity or increased annuity previously granted to the same person.

(b) The amount of the annuity increase under this Section is computed as the sum of the prior service and current service annuities on the effective date of retirement of the person on whose service the annuities are based, multiplied by **70%** of the percentage change in Consumer Price Index for All Urban Consumers, from December of the year immediately preceding the effective date of the person's retirement to the December that is 13 months before the effective date of the increase under this Section.

(c) An increase in an annuity that was reduced because of an option selection is reducible in the same proportion and in the same manner that the original annuity was reduced.

(d) If a computation under this Section does not result in an increase in the amount of an annuity, the amount of the annuity will not be changed under this Section.

(e) The amount by which an increase under this Section exceeds all previously granted increases to an annuitant is an obligation of the City and of its account in the benefit accumulation fund of the System.

(f) The initial increase in annuities authorized by this Section shall be effective on January 1 immediately following the year in which this Ordinance is approved, subject to receipt by the System prior to such January 1 and approval by the System's Board. Pursuant to TMRS Act §853.404, an increase in retirement annuities shall be made on January 1 of each subsequent year, provided that, as to such subsequent year, the actuary for the System has made the determination set forth in TMRS Act §853.404(d), until this Ordinance ceases to be in effect as provided in TMRS Act §853.404(e).

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 9th day of September 2024.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

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

The sixth item on the agenda was to review and consider a resolution of the Wharton City Council approving a Facilities Extension Agreement with CenterPoint Energy for Removal of Utility Service and Release of Easement at 500 S. Caney Dr. as part of the CDBG-DR Hurricane Harvey Buyout Contract #20-066-005-C034 and authorizing the Mayor of the City of Wharton to execute all documents related to the agreements. Director of Planning & Development, Gwyn Teves, stated the City Staff had been working with CenterPoint Energy to terminate service to 500 S. Caney Dr., a property purchased through the CDBG-DR Hurricane Harvey Buyout Contract #20-066-005-C034. Mrs. Teves said the removal of these facilities, per CenterPoint Energy's estimate, would be \$2,640.00 and the cost covers the removal of services to the property per the Facilities Extension Agreement and overhead work as required. She said it would also be required to release the utility easement to have the work finalized. Mrs. Teves stated the property was required to

remain a greenspace and was not allowed to be developed in the future, so these utilities would not be needed. After some discussion, Councilmember, Russell Machann, moved to approve City of Wharton Resolution No. 2024-90, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2024-90**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A FACILITIES EXTENSION AGREEMENT WITH CENTERPOINT ENERGY FOR REMOVAL OF UTILITY SERVICE & RELEASE OF EASEMENT AT 500 S. CANEY DR. AS PART OF THE CDBG-DR HURRICANE HARVEY BUYOUT CONTRACT #20-066-005-C034 AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO THE AGREEMENTS.

WHEREAS, The Wharton City Council wishes to approve and authorize CenterPoint Energy to remove electrical utilities & release the utility easement at 500 S. Caney Dr.; and,

WHEREAS, The Wharton City Council and CenterPoint Energy wishes to be bound by the terms and conditions as outlined in the agreement; and,

WHEREAS, The Wharton City Council wishes to ratify and approve the City Staff to remit payment to CenterPoint Energy in the amount of \$2,640.00 for the cost to remove the services; and,

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

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 Facilities Extension Agreement between the City of Wharton and CenterPoint Energy for the removal of electrical utilities & release of utility easement at 500 S. Caney Dr. as part of the CDBG-DR Hurricane Harvey Buyout Contract #20-066-005-C034.

Section II. The Wharton City Council hereby approves the City Staff to remit payment in the amount of \$2,640.00 to CenterPoint Energy to remove the service.

Section III. That the City of Wharton and CenterPoint Energy are hereby bound by the terms and conditions as set forth in the agreement.

Section IV. The Wharton City Council hereby authorizes the Mayor to execute all documents related to the agreement.

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

Passed, Approved, and Adopted this 9th day of September 2024.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The seventh item on the agenda was to review and consider a resolution of the Wharton City Council awarding a contract for Demolition, Hazardous Material Testing, and Abatement Services for Contract #20-066-005-C034 GLO CDBG DR Hurricane Harvey - Buyouts and authorizing the Mayor of the City of Wharton to execute all documents related to said contract. Director of Planning & Development, Gwyn Teves, stated the City Staff solicited Scopes of Qualifications (SOQ) for demolition services for the City of Wharton CDBG-DR Buyout Program. Mrs. Teves said the City received seven (7) SOQs and identified the two most qualified to request bids for the above services. She said that DSW & James W. Turner Construction both met with the City staff for a site walk and inspection on July 29, 2024 and submitted bids for review on August 6, 2024. Mrs. Teves stated the Staff recommended that after reviewing the submittals, the contract for the demolition, testing, and abatement services be awarded to James W. Turner Construction. After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Resolution No. 2024-91, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2024-91**

A RESOLUTION OF THE WHARTON CITY COUNCIL AWARDING A CONTRACT FOR DEMOLITION, HAZARDOUS MATERIAL TESTING & ABATEMENT SERVICES FOR CONTRACT #20-066-005-C034 GLO CDBG DR HURRICANE HARVEY - BUYOUTS AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID CONTRACT.

WHEREAS, Bids were received for demolition, hazardous material testing & abatement services at 400 S. Caney St.; and,

WHEREAS, James W. Turner Construction was deemed the best lowest qualified bidder in the amount of \$106,600.00; and,

WHEREAS, The Wharton City Council wishes to award a contract to James W. Turner Construction for demolition, hazardous material testing & abatement services in the amount of \$106,600.00; and,

WHEREAS, The City of Wharton and James W. Turner Construction wish to be bound by the conditions as set forth in the agreement; and,

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

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 for demolition, hazardous material testing & abatement services at 400 S. Caney St. to James W. Turner Construction in the amount of \$106,600.00.

Section II. The City of Wharton and James W. Turner Construction 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 9th day of September 2024.

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 Pay Request No. 2 from Capital Underground Utilities for the Titus Express Carwash Waterline Extension. Director of Planning & Development, Gwyn Teves, presented a copy of Pay Request No. 2 from Capital Underground Utilities for the Titus Express Carwash Waterline Extension in the amount of \$42,935.39. After some discussion, Councilmember, Russell Machann, moved to approve Pay Request No. 2 from Capital Underground Utilities for the Titus Express Carwash Waterline Extension in the amount of \$42,935.39. Councilmember, Larry Pittman, seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider Pay Request No. 15 from E-Contractors for the Wharton Well and Water Plant Contract No. 1 – General Construction. City Secretary, Paula Favors, stated the item would be placed on a future agenda. After some discussion, no action was taken.

The tenth item on the agenda was to review and consider the Official Ballot of the Texas Municipal League (TML) Region 14 Director Election. City Manager, Joseph R. Pace, presented a copy of the Official Ballot of the Texas Municipal League (TML) Region 14 Director Election. City Manager Pace stated it was his recommendation that the City Council consider casting the vote for the incumbent, Joe Zimmerman, Mayor, of Sugarland. After some discussion, Councilmember, Russell Machann, moved to approve casting the vote for the incumbent, Joe Zimmerman, Mayor, of Sugarland on the Official Ballot of the Texas Municipal League (TML) Region 14 Director Election. Councilmember, Larry Pittman, seconded the motion. All voted in favor.

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

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

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

- A. Resignations.
Debbie Folks Beautification Commission.

Councilmember, David Voulgaris, seconded the motion. All voted in favor. After some discussion, Councilmember, Russell Machann, moved to approve the following:

- | | | |
|------------------|---------------------|----------------------|
| B. Appointments. | | <u>Term Expiring</u> |
| Gary Nunez | Planning Commission | June 30, 2026 |

Councilmember, Terry Freese, seconded the motion. All voted in favor. After some discussion, Councilmember, Russell Machann, moved to approve the following:

- | | |
|------------------------------|--|
| C. Vacancies | Wharton Economic Development Corporation |
| Freddie Pekar | September 30, 2026 |
| Mike Wooton | September 30, 2026 |
| David Joost | September 30, 2026 |
| Councilmember, Larry Pittman | September 30, 2026 |

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

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

- A. Finance Committee meeting held August 26, 2024.

After some discussion, no action was taken.

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

The meeting adjourned at 7:22 p.m.

CITY OF WHARTON, TEXAS

By: *Tim Barker*
TIM BARKER
Mayor

ATTEST:

Paula Favors
PAULA FAVORS
City Secretary

