

**MINUTES
OF
CITY OF WHARTON
CITY COUNCIL REGULAR MEETING
DECEMBER 12, 2022**

Mayor, Tim Barker, declared a Regular Meeting duly open for the transaction of business at 7:00 P.M. at City Hall 120 E. Caney Street Wharton, TX. Councilmember, Clifford Jackson, led the opening devotion and Mayor, Tim Barker, led the pledge of allegiance.

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

Councilmember absent was: None.

Staff members present were: City Manager, Joseph R. Pace; City Attorney, Paul Webb; City Secretary, Paula Favors, TRMC, CPM, MMC; Finance Director, Joan Anandel; Director of Planning and Development, Gwyn Teves, CPM; Assistant to the City Manager, Brandi Jimenez; Police Patrol Sergeant, Stephen Jimenez, Ariel Soltura; EMS Director, Christy Gonzales; Assistant to the Building Official, Claudia Velasquez; Fire Inspector, Hector Hernandez, Wharton Volunteer Fire Chief, Anthony Abbott and Public Works Director, Anthony Arcidiacono.

Visitors present were: Joe Southern 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.

City Manager, Joseph R. Pace, stated the City of Wharton Employee Banquet would be held Thursday, December 15, 2022 at the Wharton Civic Center.

Review and Consider:

The first item on the agenda was to review and consider reading of the minutes from the regular meetings held November 14, 2022 and November 28, 2022. After some discussion, Councilmember, Russell Machann, moved to approve the minutes from the regular meetings held November 14, 2022 and November 28, 2022. Councilmember, Steve Schneider, seconded the motion. All voted in favor.

The second item on the agenda was to review and consider an expiration of 60-day extension of Variance for Temporary Placement of Travel Trailer for Temporary Housing for 517 Black Street and recommendation for next steps. Director of Planning and Development, Gwyn Teves, stated Mr. Haywood Ross, had requested, and received multiple temporary variances of Chapter 38- Manufactured Housing, Mobile Homes and Travel Trailers; Article II-Requirements Concerning Mobile Homes, Manufactured Housing and Travel Trailers; Division 3-Recreational Vehicles for 517 Black Street and the last extension expired December 9, 2022. Mrs. Teves said the City Council's last extension was for 60-days for Mr. Ross to make alternate arrangements for housing and to vacate the premises, but Mr. Ross still had not supplied any of the required utilities to the trailer as of this date and was still occupying the trailer. She said it was the recommendation of the City Staff to proceed with applying penalty fees and filing with the Municipal Court which was the standard course of action per the City Ordinance. After some discussion, Councilmember, Terry Freese, moved that the City Staff begin the regular process of applying penalty fees and filing with the Municipal Court, the standard course of action per the City Ordinance, for placement of the travel trailer used for housing on 517 Black Street. Councilmember, Steve Schneider, 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 approving the lease of an Elgin Broom Bear Truck from Kinloch Equipment & Supply, Inc., and authorizing the Mayor of the City of Wharton to execute all documents related to said contract. Public Works Director, Anthony Arcidiacono presented a copy of a memorandum from him regarding the leasing of an Elgin Broom Bear Truck from Kinloch Equipment & Supply, Inc. Mr. Arcidiacono stated the Finance Committee met on Monday, December 12, 2022, and were recommending the City Council consider approving the request. After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Resolution No. 2022-130, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2022-130**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE LEASE OF AN ELGIN BROOM BEAR TRUCK FROM KINLOCH EQUIPMENT & SUPPLY, INC. AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID CONTRACT.

WHEREAS, The Wharton City Council wishes to enter into a lease agreement with Kinloch Equipment & Supply, Inc.; and,

WHEREAS, The City of Wharton and Kinloch Equipment & Supply, Inc., wishes to be bound by the conditions as set forth in the contract; and,

WHEREAS, The Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute 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 of the City of Wharton to execute all documents with Kinloch Equipment & Supply, Inc., for the Elgin Broom Bear Truck.

Section II. The City of Wharton and Kinloch Equipment & Supply, Inc., 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 12th day of December 2022.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

Councilmember, Clifford Jackson, 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 approving a contract for Ambulance Transfers with OakBend Medical Center and authorizing the Mayor of the City of Wharton to execute all documents related to said contract. Emergency Medical Services Director, Christy Gonzales, presented a copy of the contract for Ambulance Transfers between The City of Wharton and OakBend Medical Center to provide ambulance services to out of city facilities for patients of OakBend Medical Center that are hospitalized in the City of Wharton. Mrs. Gonzales stated City Attorney, Paul Webb, had reviewed the contract was recommending the City Council consider approving the contract. After some discussion, Councilmember, Russell Machann, moved to approve City of Wharton Resolution No. 2022-131, which read as follows:

CITY OF WHARTON
RESOLUTION NO. 2022-131

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A CONTRACT FOR AMBULANCE TRANSFERS WITH OAKBEND MEDICAL CENTER AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID CONTRACT.

WHEREAS, The Wharton City Council wishes to approve the contract with OakBend Medical Center for ambulance transfers; and,

WHEREAS, The City of Wharton and OakBend Medical wishes to be bound by the conditions set forth in the contract; 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 contract between the City of Wharton and OakBend Medical for ambulance transfers.

Section II. That the City of Wharton and OakBend Medical are hereby bound by the conditions set forth in the contract.

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 12th day of December 2022.

CITY OF WHARTON

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

Councilmember, Don Mueller, 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 Permanent Access Easement between the City of Wharton and Kansas City Southern Railroad to provide construction and maintenance access to their facilities and authorizing the Mayor of the City of Wharton to execute the agreement. Director of Planning & Development, Gwyn Teves, stated the City Staff was contacted by Foster Jones & Associate Engineering on

behalf of Kansas City Southern Railroad in reference to an access easement to allow for their workers and equipment to access the new spur line that was being installed within the City. Mrs. Teves said KCS was requesting to have an access easement off North Sunset around South Caney Drive and the easement would be in surface only and would be secondary to any of the City Right-of-Way uses. City Attorney, Paul Webb, stated he had reviewed the easement and was recommending the City Council consider approving him continuing to work with KCS to finalize the language in the documents prior to filing. After some discussion, Councilmember, Russell Machann, moved to approve City of Wharton Resolution No. 2022-132, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2022-132**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A PERMANENT ACCESS EASEMENT BETWEEN THE CITY OF WHARTON AND KANSAS CITY SOUTHERN RAILROAD TO PROVIDE CONSTRUCTION AND MAINTENANCE ACCESS TO THEIR FACILITIES AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, The Wharton City Council wishes to approve a Permanent Access Easement Agreement with Kansas City Southern Railroad to provide construction and maintenance access to their facilities; and,

WHEREAS, The easement would be located on City-owned property described as being a **0.139 acre** proposed Permanent Access Easement, being part of the WILLIAM KINCHELOE LEAGUE, A-38, City of Wharton, Wharton County, Texas, and being part of a tract of land conveyed by Lee Rieger and wife Mary Nell Rieger to the City of Wharton by Deed recorded on April 29, 1957 in Volume 298, Page 44, Official Public Records of Wharton County, Texas; and,

WHEREAS, The City of Wharton and Kansas City Southern Railroad 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 City Council of the City of Wharton hereby approves a Permanent Access Easement Agreement with Kansas City Southern Railroad to provide construction and maintenance access to their facilities.

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

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

Passed, Approved, and Adopted this 12th day of December 2022.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The sixth item on the agenda was to review and consider resolution of the Wharton City Council approving an Agreement for Construction, Maintenance and Operation of Continuous Highway Lighting Systems within a Municipality with Texas Department of Transportation; and authorizing the Mayor of the City of Wharton to execute the agreement. Director of Planning & Development, Gwyn Teves, stated the TxDOT Staff in the Yoakum District Office had been in contact with the City in reference to entering into a Continuous Lighting Agreement for lighting to be constructed on I-69 during the construction upgrades. Mrs. Teves said TxDOT was requesting that the City power and maintain the lighting to be installed from south of JM Eagle to just north of the future FM 1301 interchange. She said that after discussing further with TxDOT, it was the City Staff's recommendation that the City Council consider executing the agreement and while the lighting was only aesthetic in nature, it would enhance the future intersection of F.M. 1301 and I-69 as well as the F.M. 102 and I-69 area throughout the City Limits and provide a positive look to the City for future economic opportunities. After some discussion, Councilmember, Clifford Jackson, moved to approve City of Wharton Resolution No. 2022-133, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2022-133**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN AGREEMENT FOR CONSTRUCTION, MAINTENANCE AND OPERATION OF CONTINUOUS HIGHWAY LIGHTING SYSTEMS WITHIN A MUNICIPALITY WITH TEXAS DEPARTMENT OF TRANSPORTATION; AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, The Wharton City Council wishes to approve an Agreement for Construction, Maintenance and Operation of Continuous Highway Lighting Systems Within a Municipality with Texas Department of Transportation; and,

WHEREAS, The City of Wharton and Texas Department of Transportation 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 for Construction, Maintenance and Operation of Continuous Highway Lighting Systems Within a Municipality with Texas Department of Transportation.

Section II. That the City of Wharton and Texas Department of Transportation wishes to be 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 12th day of December 2022.

CITY OF WHARTON

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The seventh item on the agenda was to review a consider Pay Request No. 3 from CR McDonald Electric, Inc., for the Texas HMGP Project DR-4332-0105 COW Critical Facility Generators. Director of Planning & Development, Gwyn Teves, presented a copy of Pay Request No. 3 from CR McDonald Electric, Inc., for the Texas HMGP Project DR-4332-0105 COW Critical Facility Generators in the amount of \$390,600.00. Mrs. Teves stated the City Council awarded a contract for construction to CR McDonald Electric, Inc., for the Texas HMGP Project DR-4332-0105 COW Critical Facility Generators Project. After some discussion, Councilmember, Russell Machann, moved to approve Pay Request No. 3 from CR McDonald Electric, Inc., for the Texas HMGP

Project DR-4332-0105 COW Critical Facility Generators in the amount of \$390,600.00. Councilmember, Larry Pittman, seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider a resolution of the Wharton City Council approving Change Order No. 6, for additional contract time with Weisinger, Inc., for the Wharton Well and Water Plant Project and authorizing the Mayor to execute all documents related to said Change Order. Director of Planning & Development, Gwyn Teves, presented a copy of the Wharton Well & Water Plant – Contract #2 (Water Well), Change Order No. 6 from Weisinger, Inc., for additional time to the contract in the amount of 151 days. Mrs. Teves stated the extension was being requested due to multiple experienced delays on the part of E-Contractors – Contract #1. She said this would move the contract completion date to April 30, 2023. After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Resolution No. 2022-134, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2022-134**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING CHANGE ORDER NO. 6, FOR ADDITIONAL CONTRACT TIME WITH WEISINGER, INC. FOR THE WHARTON WELL AND WATER PLANT PROJECT AND AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS RELATED TO SAID CHANGE ORDER.

WHEREAS, The Wharton City Council wishes to approve Change Order No. 6, for additional contract time with Weisinger, Inc. for the Wharton Well and Water Plant Project; and,

WHEREAS, The Wharton City Council wishes to authorize the Mayor to execute all documents related to the change order.

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 Change Order No. 6, for 151 additional days to the contract with Weisinger, Inc. for the Wharton Well and Water Plant Project.

Section II. The Wharton City Council hereby authorizes the Mayor to execute all documents related to the change order.

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

Passed, Approved, and Adopted this 12th day of December 2022.

CITY OF WHARTON, TEXAS

By: _____

TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

Councilmember, Clifford Jackson, seconded the motion. Councilmember, Don Mueller, voted against the motion. Councilmember, Clifford Jackson, Councilmember, Terry Freese, Councilmember Steve Schneider, Councilmember, Russell Machann and Councilmember, Larry Pittman, voted in favor of the motion. The motion carried.

The ninth item on the agenda was to review and consider Pay Request No. 1 from HTI Construction for the Armstrong Street Waterline Improvements. Director of Planning & Development, Gwyn Teves, presented a copy of Pay Request No. 1 from HTI Construction for the Armstrong Street Waterline Improvements in the amount of \$92,350.80. After some discussion, Councilmember, Russell Machann, moved to approve consider Pay Request No. 1 from HTI Construction for the Armstrong Street Waterline Improvements. Councilmember, Larry Pittman, seconded the motion. All voted in favor.

The tenth item on the agenda to review and consider a resolution of the Wharton City Council ratifying and approving Change Order No. 2 for additional costs with HTI Construction for the Armstrong Street Waterline Improvement Project and authorizing the Mayor to execute all documents related to said Change Order. Director of Planning & Development, Gwyn Teves, stated that on June 13, 2022, the Wharton City Council agreed to enter into an Infrastructure Improvement Agreement with the Wharton Economic Development Corporation for the waterline on Armstrong Street for the new construction of the Alamo Lumber Company. Mrs. Teves said the agreement was to reimburse costs not to exceed \$198,000.00 for the improvements. She said the construction had been progressing on Alamo Lumber and the utility work began mid-October. Change Order No. 1 was authorized on November 14, 2022, for \$28,900.00 resulting in a contract amount of \$204,303.00. Mrs. Teves stated that during construction it was determined that there was a new concrete driveway that did not exist when the original plans and bid were solicited, requiring adding addition boring footage and three (3) service leads, which was resulting in a second Change Order in the amount of \$7,600.00 for a total contract price of \$211,903.00. After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Resolution No. 2022-135, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2022-135**

**A RESOLUTION OF THE WHARTON CITY COUNCIL RATIFYING AND APPROVING
CHANGE ORDER NO. 2 FOR ADDITIONAL COSTS WITH HTI CONSTRUCTION FOR**

THE ARMSTRONG STREET WATERLINE IMPROVEMENT PROJECT AND AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS RELATED TO SAID CHANGE ORDER.

WHEREAS, The Wharton City Council wishes to approve Change Order No. 2, for an increase in the amount of \$7,600.00 for additional boring and 3 service leads; and,

WHEREAS, The Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute all documents related to the ratification and approval of Change Order # 2 on behalf of the City of Wharton.

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 Change Order No. 2 in the amount of \$7,600.00 for HTI Construction.

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

Passed, Approved, and Adopted this 12th day of December 2022.

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 Appointments, Resignations and Vacancies to the City of Wharton Boards, Commissions and Committees:

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

City Manager, Joseph R. Pace, stated Mr. Shawn Stockwell presented his office with a letter of interest to serve on the Building Standard Commission. After some discussion, Councilmember, Clifford Jackson, moved to appoint the following:

A. Appointments	Building Standard Commission	Term Expiring:
Shawn Stockwell		June 30, 2023

Councilmember, Larry Pittman, 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 November 28, 2022.

After some discussion, no action was taken.

Executive Session

1. City Council may adjourn into an Executive Session in accordance with Section 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. To deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee:
 1. Wharton Volunteer Fire Department Chief and Fire Administrator.
 2. Building Official.

Mayor, Tim Barker, moved the meeting into Executive Session at 7:18 p.m.

Return to Open Session

1. Action on items discussed in Executive Session:
 - A. Appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee:
 1. Wharton Volunteer Fire Department Chief and Fire Administrator.
 2. Building Official.

Mayor, Tim Barker, returned the meeting into Open Session at 7:31 p.m.

1. Wharton Volunteer Fire Department Chief and Fire Administrator.

Councilmember, Terry Freese, moved to approve Hector Hernandez as the Wharton Volunteer Fire Department Chief. Councilmember, Russell Machann, seconded the motion. All voted in favor.

2. Building Official.

Councilmember, Larry Pittman, moved to approve Claudia Velasquez as the Building Official. Councilmember, Terry Freese, seconded the motion. All voted in favor.

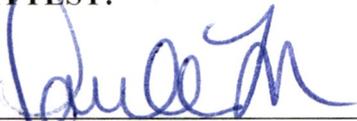
There being no further discussion, Councilmember, Don Mueller, moved to adjourn. Councilmember, Larry Pittman, seconded the motion. All voted in favor.

The meeting adjourned at 7:32 p.m.

CITY OF WHARTON, TEXAS

By: 
TIM BARKER
Mayor

ATTEST:


PAULA FAVORS
City Secretary

