

**MINUTES  
OF  
CITY OF WHARTON  
CITY COUNCIL REGULAR MEETING  
NOVEMBER 13, 2023**

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

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

Councilmembers absent were: None.

Staff members present were: City Manager, Joseph R. Pace; City Attorney, Paul Webb; Finance Director, Joan Andel; Assistant City Manager, Paula Favors, TRMC, CPM, MMC; Director of Planning and Development, Gwyn Teves; Assistant to the City Manager, Brandi Jimenez; Police Chief, Terry David Lynch; Police Lt., Lance Bothell and Emergency Management Coordinator, Lt. Ben Guanajuato

Visitors present were: Sam Scinta, Jr. 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.

1. Councilmember, Burnell Neal, thanked Police Chief, Terry David Lynch, for his and Lt. Lance Bothell's assistance during the Party Under the Bridge event when his niece had a medical emergency. Councilmember Neal also thanked Assistant to the City Manager, Brandi Jimenez, for her help during his brother-in-law's medical emergency making sure he was taken care of and staying with him until Emergency Services arrived.
2. Councilmember, Don Mueller, the Veteran's Day celebration was a success.
3. City Manager, Joseph R. Pace, stated HEB held its ribbon cutting ceremony after their recent remodel.
4. City Secretary, Paula Favors, stated the Assistant City Attorney, Amy Rod, commended the Wharton Municipal Court Judge and staff on holding the first jury trial in over 30 years and did a fantastic job.
5. City Attorney, Paul Webb, stated it was Mayor, Tim Barker's birthday.

**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 October 9, 2023, and October 23, 2023. After some discussion, Councilmember, Russell Machann, moved to approve the reading of the minutes from the regular meetings held October 9, 2023, and October 23, 2023. Councilmember, Don Mueller, seconded the motion. All voted in favor.

The second item on the agenda was to review and consider setting a Public Hearing on the creation of Reinvestment Zone Number One for Tax Increment Financing Purposes. Finance Director, Joan Anandel, stated that on October 23, 2023, the City Council passed Resolution number 2023-88 authorizing the creation of the Wharton Public Improvement District No. 2 in accordance with Chapter 372 of the Texas Local Government Code. At this time, it was necessary to set a Public Hearing on the creation of Reinvestment Zone Number One for Tax Increment Financing Purposes. Mrs. Anandel said that City Staff requested to hold this Public Hearing on November 27, 2023, at the Regular City Council meeting. After some discussion, Councilmember, Russell Machann, moved to approve setting the Public Hearing on the creation of Reinvestment Zone Number One for Tax Increment Financing Purposes on November 27, 2023, at 7 p.m. Councilmember, Terry Freese, seconded the motion. All voted in favor.

The third item on the agenda was to review and consider a request from Mr. Raymond Harrison on behalf of Harrison Brothers Properties and Hamer Real Estate LLC to review the plat for Richmond Commercial Subdivision, Wm. Kincheloe, Blk 64E, 64F, 64J, 64K-1, 64E-1. Director of Planning & Development, Gwyn Teves, presented a copy of the request from Mr. Raymond Harrison on behalf of Harrison Brothers Properties and Hamer Real Estate LLC to review the plat for Richmond Commercial Subdivision, Wm. Kincheloe, Blk 64E, 64F, 64J, 64K-1, 64E-1. Mrs. Teves stated the Planning Commission met on Monday, November 6, 2023, and voted to recommend this item to the City Council for consideration. After some discussion, Councilmember, Terry Freese, moved to approve the request from Mr. Raymond Harrison on behalf of Harrison Brothers Properties and Hamer Real Estate LLC to review the plat for Richmond Commercial Subdivision, Wm. Kincheloe, Blk 64E, 64F, 64J, 64K-1, 64E-1. Councilmember, Don Mueller, seconded the motion.

The fourth item on the agenda was to review and consider a request from the Monterey Square Business Association and Lt. Ben Guanajuato for assistance for Snow on the Square on Friday, December 15, 2023, for the following:

- A. Post the event (Snow on the Square) on the digital billboard on Hwy. 59 by La Casona/Walmart.
- B. Closing the 100 Block of South Fulton Street from Burleson Street to Milam Street from 3:00 p.m. to 9:30 p.m.
- C. Use City-owned barricades for the street closures.
- D. Provide ten (10) trash barrels and extra liners.

- E. Pick up, set up, and return a generator-light plant that the snow committee will rent and pay for.
- F. Waive all fees that may apply to this event.

Lt., Ben Guanajuato, presented a copy of the request from the Monterey Square Business Association for assistance for Snow Day on the Square. After some discussion, Councilmember, Terry Freese, moved to approve aforementioned items A. through F. Councilmember, Burnell Neal, 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 authorizing the Mayor of the City of Wharton to enter into a Multiple-Use Agreement between the Texas Department of Transportation and the City of Wharton for the installation of License Plate Readers in the City of Wharton and the Extraterritorial Jurisdiction. Chief of Police, Terry David Lynch, presented a copy of a memorandum regarding a Multiple-Use Agreement with the Texas Department of Transportation for the installation of License Plate Readers. After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Resolution No. 2023-94, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2023-94**

**A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO ENTER INTO A MULTIPLE-USE AGREEMENT BETWEEN THE TEXAS DEPARTMENT OF TRANSPORTATION, AND THE CITY OF WHARTON FOR THE INSTALLATION OF LICENSE PLATE READERS IN THE CITY OF WHARTON AND THE EXTRATERRITORIAL JURISDICTION.**

**WHEREAS,** The City of Wharton wishes to install License Plate Readers to existing poles or new poles at the following:

1. F.M. 102 @ U.S. 59 Frontage Road (westbound)
2. Junior College Blvd. @ Ponderosa Road (southbound)
3. F.M 102 near Walmart (eastbound)
4. U.S. 59 Frontage Road near La Casona (southbound)
5. U.S. 59 Frontage Road near Holiday Inn (southbound)
6. Business 59 @ F.M. 961 (northbound)
7. Highway 60 near C.R. 140 (northbound)
8. F.M. 1301 near C.R. 166 (westbound)
9. Business 59 near C.R. 229 (southbound); and,

**WHEREAS,** The City of Wharton will fund in its entirety the installation of the License Plate Readers within the City of Wharton and the Extraterritorial Jurisdiction; and,

**WHEREAS,** The City of Wharton agrees to hold and save the Texas Department of Transportation free from damage that may result from the installation of the License Plate Reader Equipment; and,

**WHEREAS,** In the event, the use of the State Highway Right-of-Way, under the control and operation of the Texas Department of Transportation changes, the Texas Department of Transportation requires the City of Wharton to modify the Multiple-Use Agreement, if needed.

**WHEREAS,** The City of Wharton will be responsible for the maintenance and use of State Highway Right-of-Way at the location of the facilities; and,

**WHEREAS,** The Wharton City Council wishes to enter into a Multiple-Use Agreement with the Texas Department of Transportation.

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

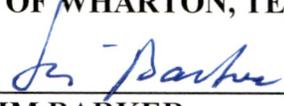
**Section I.** The City Council hereby authorizes the City of Wharton to enter into a Multiple-Use Agreement with the Texas Department of Transportation for the installation of License Plate Readers in the City of Wharton and the Extraterritorial Jurisdiction.

**Section II.** That the Wharton City Council hereby authorizes the Mayor of the City of Wharton 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 13<sup>th</sup> day of November 2023.

**CITY OF WHARTON, TEXAS**

By: 

**TIM BARKER**

Mayor

**ATTEST:**

\_\_\_\_\_  
**PAULA FAVORS**

City Secretary

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

The sixth item on the agenda was to review and consider the Wharton Economic Development Corporation Resolution No. 2023-08. City Manager, Joseph R. Pace, presented a draft copy of the Wharton Economic Development Corporation Resolution No. 2023-08. City Manager Pace stated the Resolution had been approved by the Board of Directors of the Wharton Economic

Development Corporation. After some discussion, Councilmember, Russell Machann, moved to approve the Wharton Economic Development Corporation Resolution No. 2023-08, which read as follows:

**WHARTON ECONOMIC DEVELOPMENT CORPORATION  
RESOLUTION NO. 2023-08  
A RESOLUTION AUTHORIZING WHARTON ECONOMIC DEVELOPMENT  
CORPORATION TO ENTER INTO AN AGREEMENT WITH RICHARD LOCKLEY  
FOR RETAIL DEVELOPMENT**

**WHEREAS**, Wharton Economic Development Corporation (“Corporation”) is a non-profit economic corporation organized under the provisions of the Development Corporation Act, now Chapter 501 of the Texas Local Government Code, as amended and desires to adopt projects and provide incentives for economic development within the City of Wharton; and

**WHEREAS**, the Corporation has adopted as a specific project the expenditure of the estimated amount of \$150,000.00 to WHARTON FEED & SUPPLY, LLC, a Texas limited liability company (“WHARTON FEED”) for retail development at 3030 North Richmond Rd, Wharton, Texas 77488 (“PROJECT”) and,

**WHEREAS**, the funds will be distributed only upon completion of the PROJECT, and,

**WHEREAS**, the standard performance agreement will be executed by Corporation and WHARTON FEED prior to any funding from Corporation to LOCKLEY, and

**WHEREAS**, the Corporation deems the PROJECT as necessary to promote business development and for future and current job creation.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF  
CORPORATION that;**

Section 1. The facts and matters set forth in the preamble of this Resolution are hereby found to be true and correct.

Section 2. The Corporation will make funds of \$150,000.00 available to WHARTON FEED to reimburse the costs of the PROJECT in accordance with the terms and provisions with a Performance Agreement by and between the Corporation and WHARTON FEED to promote and develop and expanded business enterprise, to be located at 3030 North Richmond Rd, Wharton, Texas 77488.

Section 3. The Corporation President is hereby by authorized to execute the Performance Agreement on behalf of the Corporation.

This resolution was adopted at a regular meeting of the Board of Directors of Corporation on November 13, 2023.

**WHARTON ECONOMIC DEVELOPMENT CORPORATION, WHARTON, TEXAS**

**By:** \_\_\_\_\_  
**Freddie Pekar, President**

**Attest:** \_\_\_\_\_  
**Andrew Armour, 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 approving an agreement between the City of Wharton and the Texas Department of Transportation Aviation Division for the Routine Airport Maintenance Program, TxDOT CSJ No. M2413WHRT, for the airport maintenance at the Wharton Regional Airport and authorizing the Mayor of the City of Wharton to execute all documents related to said contract. Finance Director, Joan Anandel, presented a copy of the 2024 Routine Airport Maintenance Program (RAMP) Grant for the Wharton Regional Airport. Mrs. Anandel stated the City of Wharton had participated in the RAMP Program in the past years. After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Resolution No. 2023-95, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2023-95**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN AGREEMENT BETWEEN THE CITY OF WHARTON AND THE TEXAS DEPARTMENT OF TRANSPORTATION AVIATION DIVISION, FOR THE ROUTINE AIRPORT MAINTENANCE PROGRAM, TxDOT CSJ NO. M2413WHRT FOR THE AIRPORT MAINTENANCE AT THE WHARTON REGIONAL AIRPORT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID CONTRACT.**

**WHEREAS,** The Wharton City Council wishes to conduct maintenance to the Wharton Regional Airport under the 2024 Routine Airport Maintenance Program; and,

**WHEREAS,** The Texas Department of Transportation Aviation Division and the City of Wharton wishes to enter into an agreement under the 2024 Routine Airport Maintenance Program for airport maintenance at the Wharton Regional Airport; and,

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

**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 a contract with the Texas Department of Transportation Aviation Division for the 2024 Routine Airport Maintenance Program.
- Section II.** That the Texas Department of Transportation Aviation Division and the City of Wharton are hereby bound by the conditions as set forth in the agreement.
- Section III.** That the Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute all documents related to the contract.
- Section IV.** That this resolution shall become effective immediately upon its passage.

**Passed, Approved, and Adopted** this 13<sup>th</sup> day of November 2023.

**CITY OF WHARTON**

By: \_\_\_\_\_  
**TIM BARKER**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**PAULA FAVORS**  
City Secretary

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

The eighth item on the agenda was to review and consider a resolution by the City of Wharton, Texas (“city”) denying the Statement of Intent to change rates filed on or about October 30, 2023, by CenterPoint Energy Resources Corporation, D/B/A, CenterPoint Energy Entex and CenterPoint Energy Texas Gas; authorizing continued participation in the Texas Coast Utilities Coalition of Cities; authorizing intervention in proceedings related to CenterPoint’s Statement of Intent; requiring the reimbursement of municipal rate case expenses; authorizing representation of the City by special counsel; finding that the meeting complies with the Open Meetings Act; making other findings and provisions related to the subject. City Manager, Joseph R. Pace, stated that on or about October 30, 2023, CenterPoint Energy Resources Corporation, D/B/A, CenterPoint Energy Entex, and CenterPoint Energy Texas Gas (“CenterPoint” or “Company”) filed a Statement of Intent to increase rates by a total of approximately \$37.4 million. City Manager Pace said CenterPoint filed its application with the Railroad Commission of Texas (RRC) on the same date it filed its application with the City with an overall increase of \$37.4 million. City Attorney, Paul Webb, stated CenterPoint proposes to increase rates for its residential class of customers by \$58.4 million and to decrease rates for its small and large commercial customers by a combined amount of about \$21 million which means that CenterPoint's proposed allocation of costs to the customer

classes needs a close review. City Attorney, Paul Webb, requested the City Council consider approving the resolution to delay the change of rates until further review could be made. After some discussion, Councilmember, Burnell Neal, moved to approve City of Wharton Resolution No. 2023-96, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2023-96**

**RESOLUTION BY THE CITY OF WHARTON, TEXAS (“CITY”) DENYING THE STATEMENT OF INTENT TO CHANGE RATES FILED ON OR ABOUT OCTOBER 30, 2023 BY CENTERPOINT ENERGY RESOURCES CORPORATION, D/B/A, CENTERPOINT ENERGY ENTEX, AND CENTERPOINT ENERGY TEXAS GAS; AUTHORIZING CONTINUED PARTICIPATION IN THE TEXAS COAST UTILITIES COALITION OF CITIES; AUTHORIZING INTERVENTION IN PROCEEDINGS RELATED TO CENTERPOINT’S STATEMENT OF INTENT; REQUIRING THE REIMBURSEMENT OF MUNICIPAL RATE CASE EXPENSES; AUTHORIZING REPRESENTATION OF THE CITY BY SPECIAL COUNSEL; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT**

**WHEREAS**, CenterPoint Energy Resources Corporation, D/B/A, CenterPoint Energy Entex and CenterPoint Energy Texas Gas (“CenterPoint” or “Company”) filed a Statement of Intent with the City on or about October 30, 2023, to change its rate schedules within the corporate limits of this municipality, specifically to increase its system-wide, annual revenue requirement by approximately \$37.4 million; and

**WHEREAS**, the City is a regulatory authority under the Gas Utility Regulatory Act (“GURA”) and under Chapter 104, §103.001 et seq. of GURA has exclusive original jurisdiction over CenterPoint’s rates, operations, and services within the municipality; and

**WHEREAS**, in order to maximize the efficient use of resources and expertise in reviewing, analyzing and investigating CenterPoint’s rate request and its changes in tariffs it is prudent to coordinate the City’s efforts with a coalition of similarly situated municipalities; and

**WHEREAS**, the City, in matters regarding applications by CenterPoint to change rates, has in the past joined with other local regulatory authorities to form the Texas Coast Utilities Coalition of Cities (TCUC), and hereby continues its participation in TCUC; and

**WHEREAS**, CenterPoint’s rate request consists of a voluminous amount of information including CenterPoint’s rate-filing package, pre-filed direct testimony, exhibits, schedules, and workpapers; and

**WHEREAS**, CenterPoint proposes to implement its proposed increase in rates on or about December 4, 2023, and

**WHEREAS**, CenterPoint's application fails to establish that its overall revenue request resulted in no more than an amount that will permit CenterPoint a reasonable opportunity to earn a reasonable return on the utility's invested capital used and useful in providing service to the public in excess of its reasonable and necessary operating expenses; and

**WHEREAS**, CenterPoint's application fails to establish that its proposed rates are just and reasonable; and

**WHEREAS**, CenterPoint may exercise its statutory right to appeal a City decision regarding CenterPoint's request to increase rates to the Railroad Commission of Texas; and

**WHEREAS**, CenterPoint filed its Statement of Intent to increase its revenue and change its rate with the City and with the Railroad Commission of Texas on the same date, October 30, 2023, and it is important to intervene in the proceedings before the Railroad Commission of Texas because the Railroad Commission's decisions will impact rates within the City;

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

**Section 1.** The findings set out in the preamble are in all things approved and incorporated herein as if fully set forth.

**Section 2.** CenterPoint's application fails to show that its proposed rates are just and reasonable.

**Section 3.** The City hereby **DENIES** CenterPoint's request to increase its revenue and change its rates and in support of **DENIAL** finds that:

- A.** CenterPoint failed in its burden of proof to establish that its requested increase in revenue or the changes set forth in its tariffs attached to CenterPoint's Statement of Intent to change rates, results in just and reasonable rates;
- B.** CenterPoint failed in its burden of proof to establish that adoption of its proposed rate base, expenses, investment, return on equity, and other rate issues as presented in CenterPoint's Statement of Intent to increase rates, result in just and reasonable rates.

**Section 4.** The City authorizes intervention in proceedings related to CenterPoint's Statement of Intent before the Railroad Commission of Texas and any related proceedings in any courts of law.

**Section 5.** The City continues its participation with other cities in a coalition of cities known as the Texas Coast Utilities Coalition of Cities (TCUC) with the understanding that the Steering Committee of TCUC is to provide direction and guidance to Special Counsel representing said cities.

**Section 6.** The City hereby retains Herrera Law & Associates, PLLC as Special Counsel to represent the City with regard to CenterPoint's Statement of Intent and related proceedings, including proceedings before local and state regulatory authorities and any court of law and authorizes Special Counsel to employ such rate experts as may be necessary for review and evaluation of CenterPoint's Statement of Intent.

**Section 7.** The City, in coordination with the TCUC Steering Committee, shall review the invoices of the lawyers and rate experts for reasonableness before submitting the invoices to CenterPoint for reimbursement.

**Section 8.** The City hereby orders CenterPoint to reimburse the City's rate case expenses as provided in the Gas Utility Regulatory Act and that CenterPoint shall continue to do so on a monthly basis and within 30 days after submission of the City's invoices for the City's reasonable costs associated with the City's activities related to this rate review or to related proceedings involving CenterPoint before the City, the Railroad Commission of Texas, or any court of law.

**Section 9.** A copy of this resolution shall be sent to Mr. Alfred R. Herrera, Herrera Law & Associates, PLLC, 4400 Medical Parkway, Austin, Texas 78756, and a courtesy copy to Mr. Patrick Peters, VP – Regulatory Legal, AGC, CenterPoint Energy, Inc., 1005 Congress Ave., Suite 650, Austin Texas 78701.

**Section 10.** The meeting at which this resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

**Section 11.** This resolution supersedes any prior inconsistent or conflicting resolution or ordinance.

**Section 12.** This resolution shall become effective from and after its passage.

**PASSED AND APPROVED this 13th day of November 2023.**

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**TIM BARKER**  
Mayor

**ATTEST:**

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**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 City of Wharton's Updated Personnel Policies:

- A. Resolution: A resolution by the City Council of the City of Wharton, Texas adopting a policy prohibiting the installation or use of TikTok on city devices or for use of that application for official city-related business under Texas S.B. 1893.
- B. Resolution: A resolution by the City Council of the City of Wharton, Texas amending the City's Personnel Policy – Mental Health Leave - to implement the requirements of HB 1486, amends Section 614.015 of the Local Government Code, establishing a Mental Health Leave Policy for the City of Wharton Telecommunicators; providing a severability clause and establishing an effective date.
- C. Resolution: A resolution of the Wharton City Council adopting a policy as required by the Federal Pregnant Workers Fairness Act to provide reasonable accommodation to employees and applicants with limitations related to pregnancy, childbirth, or related medical conditions.

City Secretary, Paula Favors, presented three (3) new City of Wharton Employee Personnel Policies. Mrs. Favors stated effective September 1, 2023, under Texas S.B. 1893, a city must adopt a policy prohibiting the installation or use of TikTok or any application covered by Chapter 620 of the Texas Government Code on any device owned or leased by the City and requiring removal of the application from those devices if already installed. Mrs. Favors presented a copy of a draft of the City of Wharton's Prohibited Technologies Security Policy.

Mrs. Favors stated the Texas Legislature enacted House Bill 1486 which became effective September 1, 2023, adding Section 615.059 to the Texas Local Government Code and requiring political subdivisions to develop and implement a paid mental health leave policy for full-time Telecommunicators employed by the political subdivision who experience a traumatic event in the scope of that employment. She said the City of Wharton already had in place a policy for Police Officers, as required by law but now it would include Telecommunicators. She presented a copy of a draft of the Peace Officer and Telecommunicator Mental Health Leave Policy updated as of November 2023.

Mrs. Favors stated effective June 27, 2023, as required by the federal Pregnant Workers Fairness Act (PWFA), the City of Wharton shall provide reasonable accommodations to employees and applicants with limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodation would cause undue hardship to the City of Wharton's operations. She presented a draft of the Reasonable Accommodations for Pregnant Workers Policy.

Mrs. Favors stated City Attorney Paul Webb had also reviewed and approved all three policies to be submitted for City Council consideration. After some discussion, Councilmember Russell Machann moved to approve City of Wharton Resolution No. 2023-97, 2023-98, and 2023-99, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2023-97**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS ADOPTING A POLICY PROHIBITING THE INSTALLATION OR USE OF TIKTOK ON CITY DEVICES OR FOR USE OF THAT APPLICATION FOR OFFICIAL CITY-RELATED BUSINESS UNDER TEXAS S.B. 1893.**

**WHEREAS,** Effective September 1, 2023, Under Texas S.B. 1893, the City hereby adopts a policy prohibiting the installation or use of TikTok or any application covered by Chapter 620 of the Texas Government Code on any device owned or leased by the City and requiring removal of the application from those devices if already installed; and,

**WHEREAS,** TikTok may be installed and used to the extent necessary for providing law enforcement or developing or implementing information security measures, and used in compliance with documented measures to mitigate risks to the security of governmental entity information; and,

**WHEREAS,** The Wharton City Council wishes to create this policy and authorize the City Manager to sign said policy.

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

**Section I.** The Wharton City Council hereby prohibits the installation of TikTok and/or any application covered by Chapter 620 of the Texas Government Code on any device owned or leased by the City and requires the removal of the application from those devices if already installed.

**Section II.** The Wharton City Council hereby approves the use of TikTok and/or any covered application to the extent necessary for providing law enforcement or developing or implementing information security measures to mitigate risks to the security of The City of Wharton's information.

**Section III.** The Wharton City Council hereby approves the creation of this policy and authorizes the City Manager to sign said policy.

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

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

**CITY OF WHARTON, TEXAS**

By: \_\_\_\_\_  
**TIM BARKER**  
Mayor

**ATTEST:**

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**PAULA FAVORS**

City Secretary

**CITY OF WHARTON  
RESOLUTION NO. 2023-98**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS AMENDING THE CITY'S PERSONNEL POLICY – MENTAL HEALTH LEAVE - TO IMPLEMENT THE REQUIREMENTS OF HB 1486, AMENDS SECTION 614.015 OF THE LOCAL GOVERNMENT CODE, ESTABLISHING A MENTAL HEALTH LEAVE POLICY FOR THE CITY OF WHARTON TELECOMMUNICATORS; PROVIDING A SEVERABILITY CLAUSE AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS,** The City of Wharton, Texas is a Home Rule Municipality located in Wharton County, Texas, created by the provisions of the Texas Local Government Code and operating under the State of Texas and its Home Rule Authority; and,

**WHEREAS,** The Texas Legislature enacted House Bill 1486 which became effective September 1, 2023, adding Section 615.059 to the Texas Local Government Code and requiring political subdivisions to develop and implement a paid mental health leave policy for full-time Telecommunicators employed by the political subdivision who experience a traumatic event in the scope of that employment; and,

**WHEREAS,** The Wharton City Council wishes to create this policy and authorize the City Manager to sign said policy.

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

**Section I.** The foregoing recitals are adopted and incorporated herein for all purposes.

**Section II.** The attached Exhibit A, titled "Mental Health Leave for Peace Officers and Telecommunicators," is hereby adopted in compliance with the requirements of HB 1486 and SB 1359 under Sec. 615.059, Texas Local Government Code.

**Section III.** The City Council hereby approves the creation of this policy and authorizes the City Manager to sign said policy.

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

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

**CITY OF WHARTON, TEXAS**

By: \_\_\_\_\_  
**TIM BARKER**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**PAULA FAVORS**  
City Secretary

**CITY OF WHARTON  
RESOLUTION NO. 2023-99**

**A RESOLUTION OF THE WHARTON CITY COUNCIL ADOPTING A POLICY AS REQUIRED BY THE FEDERAL PREGNANT WORKERS FAIRNESS ACT TO PROVIDE REASONABLE ACCOMMODATION TO EMPLOYEES AND APPLICANTS WITH LIMITATIONS RELATED TO PREGNANCY, CHILDBIRTH OR RELATED MEDICAL CONDITIONS.**

**WHEREAS,** Effective June 27, 2023, As required by the Federal Pregnant Workers Fairness Act (PWFA), the City of Wharton will provide reasonable accommodations to employees and applicants with limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodation will cause undue hardship to the City of Wharton's operations; and,

**WHEREAS,** This policy will be regulated under the City of Wharton's Family Medical Leave Act Policy; and,

**WHEREAS,** The Wharton City Council wishes to create this policy and authorize the City Manager to sign said policy.

**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 the Reasonable Accommodations for Pregnant Workers Policy.

**Section. II.** The Wharton City Council hereby authorizes the City Manager to sign said policy.

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

**Passed, Approved, and Adopted** this the 13th day of November 2023.

**CITY OF WHARTON**

By: \_\_\_\_\_  
**TIM BARKER**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**PAULA FAVORS**  
City Secretary

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

The tenth item on the agenda was to review and consider a resolution authorizing the sale of the City of Wharton's surplus personal property in accordance with the City Charter Section 75 Sale of City Personal Property through [www.publicsurplus.com](http://www.publicsurplus.com). City Secretary, Paula Favors, presented a copy of the list of surplus personal property that the City Staff was requesting City Council approval to advertise for bids. Mrs. Favors stated the request was for the City Council to consider authorizing the surplus personal property bidding process through [www.publicsurplus.com](http://www.publicsurplus.com) and authorizing the City Manager to sell items that were not sold through the bidding process on a first come first serve basis. After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Resolution No. 2023-100, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2023-100**

**A RESOLUTION AUTHORIZING THE SALE OF THE CITY OF WHARTON'S SURPLUS PERSONAL PROPERTY IN ACCORDANCE WITH THE CITY CHARTER SECTION 75 SALE OF CITY PERSONAL PROPERTY THROUGH WWW.PUBLICSURPLUS.COM.**

**WHEREAS,** the City of Wharton has identified surplus personal property; and,

**WHEREAS,** the Wharton City Council of the City of Wharton wishes to authorize the City Manager to sell the surplus personal property (Attachment A) directly to the public by publication notification in accordance with the City Charter Section 75 Sale of City personal property; and,

**WHEREAS,** the Wharton City Council authorizes the sale of surplus property through [www.publicsurplus.com](http://www.publicsurplus.com); and,

**WHEREAS,** the Wharton City Council wishes to authorize the City Manager to sell City personal property outright on a first come first serve basis if said property did not sell through the bidding process.

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

- Section I.** The City Council of the City of Wharton hereby authorizes the City Manager to sell the City of Wharton surplus personal property (Attachment A) in accordance with the City Charter Section 75 Sale of City personal property procedures.
- Section II.** The City Council of the City of Wharton hereby authorizes the sale of this personal property by publication notification.
- Section III.** The Wharton City Council authorizes the sale of surplus property through [www.publicsurplus.com](http://www.publicsurplus.com).
- Section IV.** The Wharton City Council hereby authorizes the City Manager to sell City personal property outright on a first come first serve basis if said property did not sell through the bidding process.
- Section V.** This resolution shall become effective immediately upon its passage.

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

**CITY OF WHARTON, TEXAS**

**By:**

\_\_\_\_\_  
**TIM BARKER**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**PAULA FAVORS**  
City Secretary

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

The eleventh item on the agenda was to review and consider was a resolution of the Wharton City Council approving the purchase of equipment for the city parks and facilities from Kirby Built LLC and authorizing the Mayor of the City of Wharton to execute all documents related to said purchase. Director of Planning & Development, Gwyn Teves, stated the City Staff had been working with the Friends of Caney Creek, which consists of the Caney Creek Conservation Foundation, Wharton Chamber of Commerce, Wharton County Agri-Life Extension, JM Eagle, and several citizens on the beautification of the Caney Creek Watershed. Mrs. Favors said the current desire was to place park benches and trash receptacles along Caney Creek on Park Lane. She said the group had also identified several sponsors for the benches and at the time sponsorship had been received from the Chamber of Commerce, Wharton Rotary Club, and Caney Creek

Conservation Foundation, and the group was working to obtain additional sponsors. Mrs. Teves stated to benefit from the cost savings of a bulk order, the group was also purchasing a replacement bench and trash receptacle for Mockingbird Park and a replacement picnic table and trash receptacle for the Airport. She said the City Staff sent requests for proposals to four (4) companies and three (3) of the companies were participants in the Buy Board Cooperative, one (1) provided a quote, one (1) did not respond and one (1) did not carry all of the equipment, but the lowest price was received from Kirby Built LLC for \$12,765.60 minus the tax amount of \$972.89. After some discussion, Councilmember, Russell Machann, moved to approve City of Wharton Resolution No. 2023-101, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2023-101**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE PURCHASE OF EQUIPMENT FOR THE CITY PARKS AND FACILITIES FROM KIRBY BUILT LLC AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID PURCHASE.**

**WHEREAS,** The Wharton City Council wishes to approve the purchase of equipment for the City Parks and Facilities from Kirby Built LLC; and,

**WHEREAS,** The City of Wharton has solicited proposals from a minimum of 3 businesses for fair and adequate pricing; and,

**WHEREAS,** The Wharton City Council wishes to authorize the City Staff to purchase 9 benches, 7 trash receptacles and 1 picnic table for the City Parks and Facilities from Kirby Built LLC; and,

**WHEREAS,** The Wharton City Council wishes to accept the donation of funds towards the purchase of the benches and trash receptacles as obtained; and,

**WHEREAS,** The Wharton City Council wishes to authorize the Mayor to execute all documents related to the purchase of the equipment.

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

**SECTION I.** The Wharton City Council hereby authorizes the purchase of equipment for the City Parks and Facilities from Kirby Built LLC.

**SECTION II.** The Wharton City Council accepts the donation of funds towards the purchase of benches and trash receptacles.

**SECTION III.** The Wharton City Council hereby authorizes the City Manager to execute all documents related to the purchase of the equipment.

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

**PASSED AND APPROVED** this 13th day of November 2023.

**CITY OF WHARTON**

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**TIM BARKER**  
Mayor

**ATTEST:**

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**PAULA FAVORS**  
City Secretary

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

The twelfth 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, Russell Machann, moved to appoint the following:

Term:

Terry Freese    Central Appraisal District Board                      January 1, 2024 - December 31, 2025

Councilmember, Don Mueller, 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 7:22 p.m.

**CITY OF WHARTON, TEXAS**

By:   
**TIM BARKER**  
Mayor

**ATTEST:**



**PAULA FAVORS**  
City Secretary

