

**MINUTES
OF
CITY OF WHARTON
CITY COUNCIL REGULAR MEETING
JANUARY 08, 2024**

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, 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; Don Mueller; Russell Machann; Burnell Neal, and Steve Schneider.

Councilmembers absent were: Larry Pittman.

Staff members present were: City Manager, Joseph R. Pace; City Attorney, Paul Webb; Finance Director, Joan Anandel; Assistant City Manager, Paula Favors, TRMC, CPM, MMC, IPMA-CP; Assistant to the City Manager, Brandi Jimenez; Planning and Development Director, Gwyn Teves; Police Chief, Terry David Lynch, and Fire Chief, Hector Hernandez.

Visitors present were: Ryan Salazar; Tommy L. Wells; Bubba Carroll; Jim Maddox; Bryan Jarrard with Jarrard Development and Al Dube with the Wharton Journal Spectator.

Roll Call and Excused Absences.

After some discussion, Councilmember, Russell Machann, moved to excuse Councilmember, Larry Pittman. Councilmember, Terry Freese, seconded the motion. All voted in favor.

Public Comments.

Mayor, Tim Barker, called for Public Comments.

Wharton Moment.

Mayor, Tim Barker, called for Wharton Moments.

Public Hearing

1. Public Hearing #1: Proposed Annexation

The proposed annexation of certain properties owned by the City of Wharton is listed below:

51.6733 acres of land in the Randal Jones 1/2 League, Abstract No. 36, Partially in the City of Wharton, Wharton County, Texas. This will be the only public hearing required to annex the property as requested by Wharton 55, LLC.

Mayor Tim Barker opened the Public Hearing #1 at 7:03 p.m.

1. Tommy Wells addressed the City Council regarding his concerns with the proposed annexation and how it would impact the City.
2. Bryan Jarrard discussed the impacts of the future development on the City of Wharton.
3. Ryan Salazar addressed the City Council regarding the 2017 flood and how property elevation is going to change the area.

Mayor, Tim Barker, closed the Public Hearing at 7:19 p.m.

Review and Consider:

The first item on the agenda was to review and consider the reading of the minutes from the regular meeting held on December 11, 2023. After some discussion, Councilmember, Russell Machann, moved to approve the reading of the minutes from the regular meetings held December 11, 2023. Councilmember, Terry Freese, 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 2023. Finance Director, Joan Andel presented the City of Wharton Financial Report for the month of November 2023. After some discussion, Councilmember, Russell Machann, moved to approve the City of Wharton Financial Report for November 2023. Councilmember, Burnell Neal, seconded the motion. All voted in favor.

The third item on the agenda was to review and consider a request from Ms. Joan Hawes to address the City Council regarding a variance for a hay permit and also obtaining said hay permit after the date of December 31, 2023. Building Official Claudia Velasquez presented a copy of a memorandum regarding a request from Ms. Joan Hawes for a variance for a hay permit and information for each property, the percentage of each individual's ownership, and maps. After some discussion, Councilmember, Terry Freese, moved to approve the request from Ms. Joan Hawes for a variance for one year for a hay permit and also for obtaining a hay permit after the date of December 31, 2023. Councilmember, Russell Machann, 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 written service agreement with the property owners of Wharton 55, LLC for the provision of services under Local Government Code 43.0672; and authorizing the Mayor of the City of Wharton to execute all documents relating to said agreement. City Secretary Paula Favors presented a copy of her memorandum stating it was required that a City that wants to annex an area of land until Subchapter C-3. Annexation of Area on Request of Owners, under the Local Government Code, must first negotiate and enter into a written agreement with the owners of the land in the area. Mrs. Favors stated Wharton 55, LLC had requested that a certain 51.6733 acres of land in the Randal Jones 1/2 League, Abstract No. 36, Partially in the City of Wharton, Wharton County, Texas be annexed by the City. She said that the property owners had also agreed to the City of Wharton Annexation Agreement of Services. City Secretary Favors stated Assistant City Attorney, Amy Rod, reviewed the City of Wharton Annexation Agreement of Services and was recommending the City Council consider approving it. After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Resolution No. 2024-01, which read as follows:

CITY OF WHARTON

RESOLUTION NO. 2024-01

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A WRITTEN SERVICE AGREEMENT WITH THE PROPERTY OWNERS OF WHARTON 55, LLC FOR THE PROVISION OF SERVICES UNDER LOCAL GOVERNMENT CODE 43.0672; AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID AGREEMENT.

WHEREAS, the City of Wharton wishes to enter into a written service agreement with the property owners of Wharton 55, LLC for a certain 51.6733 acres of land in the Randal Jones 1/2 League, Abstract No. 36, Partially in the City of Wharton, Wharton County, Texas; and

WHEREAS, the City of Wharton under Local Government Code 43.0672, shall negotiate and enter into a written agreement with the owners of the land that is being requested to be annexed; and

WHEREAS, the City of Wharton; and the owners of Wharton 55, LLC for a certain 51.6733 acres of land in the Randal Jones 1/2 League, Abstract No. 36, Partially in the City of Wharton, Wharton County, Texas, are in agreement with City of Wharton Annexation Agreement of Services, attached as Exhibit "A"; and

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 written service agreement with the property owners of Wharton 55, LLC for the provision of services under Local Government Code 43.0672.

Section II. That Wharton City Council hereby approves the negotiated written agreement with the owners of said property.

Section III. That the Mayor of the City of Wharton is hereby authorized to sign any documents relating to the aforementioned agreement.

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

Passed, Approved, and Adopted this 8th day of January 2024.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS

City Secretary

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

The fifth item on the agenda was to review and consider an ordinance annexing the hereinafter described territory, owned by the City of Wharton, Wharton County, Texas, and extending the boundary limits of said City so as to include said hereinafter described property within said City limits, and granting to all the inhabitants of said property all the rights and privileges of other citizens and binding said inhabitants by all of the acts, ordinances, resolutions, and regulations of said City, and adopting a service plan. City Secretary, Paula Favors, stated that during the regular November 27, 2023, regular Wharton City Council meeting, the City Council accepted a petition for voluntary annexation from Wharton 55, LLC. Mrs. Favors said the first and only public hearing was held during this regular January 8, 2024, Wharton City Council meeting, and since the requirements of the public hearing have been satisfied, the City Council could consider the ordinance annexing the properties owned by the City of Wharton listed below:

1. 51.6733 acres of land in the Randal Jones 1/2 League, Abstract No. 36, Partially in the City of Wharton, Wharton County, Texas.

After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Ordinance No. 2024-01, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2024-01**

AN ORDINANCE ANNEXING THE HEREINAFTER DESCRIBED TERRITORY, OWNED BY THE CITY OF WHARTON, WHARTON COUNTY, TEXAS, AND EXTENDING THE BOUNDARY LIMITS OF SAID CITY SO AS TO INCLUDE SAID HEREINAFTER DESCRIBED PROPERTY WITHIN SAID CITY LIMITS, AND GRANTING TO ALL THE INHABITANTS OF SAID PROPERTY ALL THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING SAID INHABITANTS BY ALL OF THE ACTS, ORDINANCES, RESOLUTIONS, AND REGULATIONS OF SAID CITY, AND ADOPTING A SERVICE PLAN.

WHEREAS, Article I. Incorporation; Form of Government; Corporate and General Powers of the City of Wharton City Charter; Section 8 Extending city limits upon petition and Section 9 Extending and fixing city limits by ordinance as restricted by law, of the City Charter, of the City of Wharton, Texas, an incorporated city, authorizes the annexation of territory, subject to the laws of this state; and,

WHEREAS, The procedures prescribed by the City Charter of the City of Wharton, Texas, and the laws of this state have been duly followed with respect to the following described territory, to wit:

1. 51.6733 acres of land in the Randal Jones 1/2 League, Abstract No. 36, Partially in the City of Wharton, Wharton County, Texas. (Exhibit A).

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

Section I. That the heretofore described property is hereby annexed to the City of Wharton, Wharton County, Texas, and that the boundary limits of the above described territory within the city limits of the City of Wharton, and the same shall hereafter be included within the territorial limits of said city, and the inhabitants thereof shall hereafter be entitled to all the rights and privileges of other citizens of the City of Wharton and they shall be bound by the acts, ordinances, resolutions, and regulations of said city.

Section II. A service plan for the area is adopted and attached as Exhibit B.

Section III. The City Secretary is hereby directed to file with the County Clerk of Wharton, Texas, a certified copy of this ordinance.

Section IV. This ordinance shall become effective immediately upon its passage.

PASSED, APPROVED, and ADOPTED by the City Council of the City of Wharton, Texas, on the 8th day of January 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 proposed City of Wharton Write-Offs:

- A. City of Wharton EMS.
- B. Utilities.

A. City of Wharton EMS.

Finance Director, Joan Andel, presented a copy of the memorandum dated December 20, 2023, recommending the write-offs for the EMS accounts.

B. Utilities.

Finance Director, Joan Andel, presented a copy of the memorandum dated December 20, 2023, indicating the Utility Department's request for the uncollected balances for the Fiscal Year 2022-2023 to be written off due to non-payment. Mrs. Andel stated the City Council Finance Committee met on Monday, January 8, 2024, and recommended the City Council consider approving the proposed write-offs for the EMS and Utility Departments. After some discussion, Councilmember, Russell Machann, moved to approve the City of Wharton Write-Offers for City of Wharton EMS and Utilities. Councilmember, Don Mueller, seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider an ordinance approving an Amendment to the City of Wharton, Texas, Budget for the 2022-2023 Fiscal Year. City of Wharton Finance Director, Joan Andel, presented a copy of a memorandum from her regarding the amendment to the City of Wharton, Texas, Budget for the 2022-2023 Fiscal Year. After some discussion, Councilmember, Steve Schneider, moved to approve City of Wharton Ordinance No. 2024-02, which read as follows:

**CITY OF WHARTON, TEXAS
ORDINANCE NO. 2024-02**

**AN ORDINANCE APPROVING AN AMENDMENT TO
THE CITY OF WHARTON, TEXAS, BUDGET FOR
THE 2022-2023 FISCAL YEAR.**

WHEREAS, The City Council of the City of Wharton, Texas finds and determines it necessary to revise the 2022-2023 Budget to better reflect actual revenues and expenditures in operations and activities during the fiscal year; and,

WHEREAS, The City Council finds and determines that these adjustments to the budget are for municipal purposes.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Wharton, Texas that the 2022-2023 Budget be amended as per Attachment "A"; and is adopted by the following favorable majority of votes of the members of the City Council of the City of Wharton, Texas in a duly assembled city council meeting by the following majority:

Burnell Neal Councilmember District No. 1	Voted YES	Steven Schneider Councilmember District No. 2	Voted YES
Terry Freese Councilmember District No. 3	Voted YES	Donald Mueller Councilmember District No.4	Voted YES
Russell Machann Councilmember at Large No. 5	Voted YES	Larry Pittman Councilmember at Large No. 6	Absent
Tim Barker Mayor	Voted YES		

Separability

If any court of competent jurisdiction rules that any section, subsection, sentence, clause, or portion of this ordinance is invalid or unconstitutional, any such portion shall be deemed to be a 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, this 8th day of January 2024.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

APPROVED AS TO FORM:

ADMISSION:

PAUL WEBB
City Attorney

JOAN ANDEL
Director of Finance

Councilmember, Don Mueller, seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider the City of Wharton Vehicle Purchase:

A. Resolution: A resolution of the Wharton City Council rescinding Resolution 2023-102.

Finance Director, Joan Andel, stated that on November 27, 2023, the City Council approved Resolution No. 2023-102. Mrs. Andel said this resolution was to enter into a lease agreement with Enterprise Fleet Management for the Public Works Department, Code Enforcement Department, and the Police Department but after further review, it was necessary to purchase Police Department Vehicles directly from an outside source and not through a lease program. She said that the City Staff would like the City Council to rescind Resolution No. 2023-102 and approve the draft resolution to enter into a lease agreement with Enterprise Fleet Management for only the Public Works Department and the Code Enforcement Department. After some discussion, Councilmember, Russell Machann, moved to approve the aforementioned item A and City of Wharton Resolution No. 2024-02, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2024-02**

A RESOLUTION OF THE WHARTON CITY COUNCIL RESCINDING RESOLUTION 2023-102.

WHEREAS, The Wharton City Council wishes to rescind Resolution 2023-102; and,

WHEREAS, The Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute any and all documents related to the rescindment of Resolution 2023-102.

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 rescinds Resolution 2023-102.

Section II. That the Mayor of the City of Wharton is hereby authorized to execute any and all documents related to said rescindment of Resolution 2023-102.

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

PASSED, APPROVED, and ADOPTED this 8th day of January 2024.

CITY OF WHARTON, TEXAS

By: _____

TIM BARKER

Mayor

ATTEST:

PAULA FAVORS
City Secretary

Councilmember, Don Mueller, seconded the motion. All voted in favor.

- B. Resolution: A resolution of the Wharton City Council authorizing the Mayor of the City of Wharton to enter into a Lease Agreement with Enterprise Fleet Management, Inc. for the Public Works Department and Code Enforcement Department and authorizing the Mayor of the City of Wharton to execute all documents related to said agreement.

After some discussion, Councilmember, Terry Freese, moved to table item B. to allow City Staff more time to look into better options. Councilmember, Burnell Neal, seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider a resolution of the Wharton City Council authorizing the City Manager to purchase two (2) patrol vehicles and one (1) CID vehicle from Caldwell Country through the Buy Board Cooperative Purchasing Program. Police Chief, Terry David Lynch, stated that on November 27, 2023, the City Council approved Resolution No. 2023-102. Chief Lynch said that this resolution was to enter into a lease agreement with Enterprise Fleet Management for the Public Works Department, Code Enforcement Department, and the Police Department. He said that after further review, it was necessary to purchase Police Department Vehicles directly from an outside source and not through a lease program. After some discussion, Councilmember, Russell Machann, moved to approve City of Wharton Resolution No. 2024-04, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2024-04**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE CITY MANAGER TO PURCHASE TWO (2) PATROL VEHICLES AND ONE (1) CID VEHICLE FROM CALDWELL COUNTRY THROUGH THE BUY BOARD COOPERATIVE PURCHASING PROGRAM.

WHEREAS, The Wharton City Council has appropriated funds for the purchase of two (2) patrol vehicles and one (1) CID vehicle from Caldwell Country through the Buy Board Cooperative Purchasing Program; and,

WHEREAS, The City of Wharton is a member of and participates in the Buy Board Cooperative Purchasing Program; and,

WHEREAS, The Wharton City Council wishes to authorize the City Manager to purchase two (2) marked 2024 Ford Explorers in the amount of \$140,310.00 and one (1) 2024 Chevrolet Silverado Pickup CID vehicle in the amount of \$46,980.00 from Caldwell Country through Buy Board Cooperative Purchasing Program; and,

WHEREAS, The Wharton City Council wishes to authorize the City Manager to execute the agreement related to the purchase of the vehicles.

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 purchase two (2) marked 2024 Ford Explorers in the amount of \$140,310.00 and one (1) 2024 Chevrolet Silverado Pickup CID vehicle in the amount of \$46,980.00 from Caldwell Country through Buy Board Cooperative Purchasing Program.

SECTION II. The Wharton City Council hereby authorizes the City Manager to execute the agreement related to the purchase of the vehicles.

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

PASSED AND APPROVED this 8th day of January 2024.

CITY OF WHARTON

TIM BARKER

Mayor

ATTEST:

PAULA FAVORS

City Secretary

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

The tenth item on the agenda was to review and consider a resolution of the Wharton City Council accepting a donation from Nan Ya Plastics Corporation USA to the Wharton Police Department and authorizing the Mayor of the City of Wharton to execute all documents related to said donations. Police Chief, Terry David Lynch, presented a copy of his memorandum regarding a donation from Nan Ya Plastics Corporation USA to the Wharton Police Department in the amount of \$7,000.00 to be used towards equipment. After some discussion, Councilmember, Russell Machann, moved to approve City of Wharton Resolution No. 2024-05, which read as follows;

**CITY OF WHARTON
RESOLUTION NO. 2024-05**

**A RESOLUTION OF THE WHARTON CITY COUNCIL ACCEPTING A DONATION
FROM NAN YA PLASTICS CORPORATION USA TO THE WHARTON POLICE**

DEPARTMENT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID DONATIONS.

WHEREAS, The Wharton Police Department has received a donation from Nan Ya Plastics Corporation USA in the amount of \$7,000.00 to be used for equipment; and,

WHEREAS, The City of Wharton City Council wishes to accept said donation from Nan Ya Plastics Corporation USA; and,

WHEREAS, The said donation will cover the cost of equipment; and,

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

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

SECTION I. The Wharton City Council hereby accepts the donation from Nan Ya Plastics Corporation USA in the amount of \$7,000.00.

SECTION II. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute all documents related to said donations.

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

PASSED, APPROVED, and ADOPTED this 8th day of January 2024.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The eleventh item on the agenda was to review and consider a resolution of the Wharton City Council authorizing the purchase of a transfer switch for the Wharton Fire Department and authorizing the City Manager of the City of Wharton to execute all documents related to said purchase. Fire Chief, Hector Hernandez, stated the transfer switch for the backup generator at the Fire Station is out of service. Chief Hernandez said the City Staff received one quote from

Waukesha-Pearce Industries in the amount of \$14,496.00 to replace the transfer switch. After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Resolution No. 2024-06, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2024-06**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE PURCHASE OF A TRANSFER SWITCH FOR THE WHARTON FIRE DEPARTMENT AND AUTHORIZING THE CITY MANAGER OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID PURCHASE.

WHEREAS, The transfer switch at the Fire Department is out of service for the backup generator; and,

WHEREAS, The total cost of the transfer switch is \$14,496.00; and,

WHEREAS, The Wharton City Council wishes to approve the purchase of a transfer switch for the Wharton Fire Department in the amount of \$14,496.00; and,

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

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 City Manager of the City of Wharton to execute all documents related to the purchase of a transfer switch for the Wharton Fire Department in the amount of \$14,496.00.

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

Passed, Approved, and Adopted this 8th day of January 2024.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

Councilmember, Don Mueller, 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, no action was taken.

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

- A. Tax Increment Reinvestment Zone No. 1 Board of Directors meeting held December 11, 2023.

After some discussion, no action was taken.

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

The meeting adjourned at 7:45 p.m.

CITY OF WHARTON, TEXAS

By: *Tim Barker*
TIM BARKER
Mayor

ATTEST:

Paula Favors
PAULA FAVORS
City Secretary

