

**MINUTES
OF
CITY OF WHARTON
CITY COUNCIL REGULAR MEETING
MAY 23, 2022**

Mayor, Tim Barker declared a Regular Meeting duly open for the transaction of business at 7:03 P.M. at City Hall 120 E. Caney Street Wharton, TX. Councilmember, Clifford Jackson, led the opening devotion and Mayor Pro-Tem, Don Mueller, led the pledge of allegiance.

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

Councilmember absent was: Tim Barker.

Staff members present were: City Manager, Joseph R. Pace; City Attorney, Paul Webb; Finance Director, Joan Andel; City Secretary, Paula Favors, TRMC, CPM, MMC; Assistant to the City Manager, Brandi Jimenez; Director of Planning and Development, Gwyn Teves, CPM; Planning & Development Specialist, Krystal Hasselmeier; Finance Accountant, London Davis; Finance Clerk, Theresa Wittig; Customer Service Clerk, Lynette Masek; and Lead Customer Service Clerk, Selena Rios.

Visitors present were: Joe Southern with the Wharton Journal Spectator.

Roll Call and Excused Absences.

Councilmember, Russell Machann, moved to excuse Mayor, Tim Barker. Councilmember, Terry Freese, seconded the motion. All voted in favor.

Public Comments.

Mayor Pro-Tem Don Mueller, called for Public Comments. No comments were given.

Wharton Moment.

City Attorney, Paul Webb, swore in Councilmember, Steve Schneider, who was reelected on May 7, 2022.

1. Certificate of Achievement for Excellence in Financial Reporting for the Fiscal Year ended September 30, 2020.

Finance Director, Joan Andel, stated the City received the Certificate of Achievement for Excellence in Financial Reporting for the Fiscal Year ended September 30, 2020. Mrs. Andel presented her department's staff, Finance Accountant, London Davis; Finance Clerk, Theresa Wittig; Customer Service Clerk, Lynette Masek; and Lead Customer Service Clerk, Selena Rios. She thanked them for their hard work which contributed to the City receiving the award.

Review and Consider:

The first item on the agenda was to review and consider the appointment of Mayor Pro-Tem. After some discussion, Councilmember, Russell Machann, moved to appointment Councilmember, Don Mueller, to Mayor Pro-Tem. 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 April 2022. Finance Director, Joan Anandel, presented the City of Wharton Financial Report for April 2022. After some discussion, Councilmember, Terry Freese, moved to approve the City of Wharton Financial Report for April 2022. Councilmember, Steve Schneider, seconded the motion. All voted in favor.

The third item on the agenda was to review and consider Annual Drinking Water Quality Report (Consumer Confidence Report-CCR). Finance Director, Joan Anandel, stated the U.S. Environmental Protection Agency (EPA) required that all community water systems provide an annual Drinking Water Quality Report (Consumer Confidence Report – CCR) to their customers by July 1st of each year. Mrs. Anandel said the City Staff was recommending that a link be established on the City of Wharton website and instructions on how to access this site be printed on the reverse side of customer utility bills which will be mailed on May 31, 2022. She said the City Staff would also like to schedule a Public Meeting on June 16, 2022, at 5:00 p.m. at City Hall to allow an opportunity for citizens to ask questions regarding the report. After some discussion, Councilmember, Russell Machann, moved to approve scheduling a Public Meeting on June 16, 2022, at 5:00 p.m. at City Hall for the Annual Drinking Water Quality Report (Consumer Confidence Report-CCR). Councilmember, Clifford Jackson, seconded the motion. All voted in favor.

The fourth item on the agenda was to review and consider a request from The Brooks at Caney Creek for sidewalk replacement on North Richmond Road. City Secretary, Paula Favors, stated the item would be placed on a future City Council agenda for review. After some discussion, no action was taken.

The fifth item on the agenda was to review and consider a resolution of the Wharton City Council approving the development of a new location highway, to be designated as an extension of FM 1301, from SH 60 in Wharton to US 59 and authorizing the Mayor of the City of Wharton to execute all documents related to said consideration. Director of Planning & Development, Gwyn Teves, stated the City Staff met with Texas Department of Transportation (TxDOT), Yoakum District Engineer, JohnPaul Clark, and was advised that the Texas Transportation Commission would require a resolution from the City of Wharton supporting the FM 1301 Extension. Mrs. Teves said the proposed changes to the state highway system were approved by the Texas Transportation Commission and no highway is designated without the Texas Transportation Commission's approval. After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Resolution No. 2022-39, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2022-50**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE DEVELOPMENT OF A NEW LOCATION HIGHWAY, TO BE DESIGNATED AS AN EXTENSION OF FM 1301, FROM SH 60 IN WHARTON TO US 59 AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID CONSIDERATION.

WHEREAS, The City of Wharton is developing a new location highway, to be designated as an extension of FM 1301, from SH 60 in Wharton to US 59; and,

WHEREAS, The new location highway would facilitate the flow of traffic; and,

WHEREAS, The City of Wharton agrees to provide one hundred percent of the right of way and utility adjustments and provide for the development of the project including the environmental document and the plans, specifications and estimate; and,

WHEREAS, In conjunction with the 1301 Project, the Texas Department of Transportation will convey to the City of Wharton those portions of right of way underlying FM 102 from US 59 to SH 60 upon completion of construction of the project and making the project open for public use; and,

WHEREAS, The City of Wharton shall accept jurisdiction, control, and maintenance of FM 102 from US 59 to SH 60 upon removal of FM 102 from the state highway system and renaming of this section of roadway thus removing the FM 102 designation upon completion of construction of the project and making the project open for public use; and,

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

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

Section I. The Wharton City Council hereby supports the request of the Texas Department of Transportation to designate FM 1301 the proposed highway on the new location.

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

Passed, Approved, and Adopted this 23rd day of May 2022.

CITY OF WHARTON, TEXAS

By: _____

DON MUELLER
Mayor Pro-Tem

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 2021-2022 Texas Community Development Block Grant-Downtown Revitalization Program/Main Street (TX CDBG DRP-MS):

- A. Resolution: A resolution of the Wharton City Council adopting a resolution regarding civil rights for the Texas Community Development Block Grant Downtown Revitalization-Main Street (TX CDBG DRP-MS) Program and authorizing the Mayor of the City of Wharton to execute all documents related to said resolution.
- B. Resolution: A resolution of the City Council of Wharton, Texas, designating authorized signatories for contractual documents and documents for requesting funds pertaining to the Texas Community Development Block Grant Downtown Revitalization-Main Street (TX CDBG DRP-MS) Program Grant Agreement Number CDM21-0262.

City Manager, Joseph R. Pace, stated the City Council, on December 14, 2020, authorized the City Staff to issue Requests for Proposals (RFP) for administrative services and Requests for Qualifications (RFQ) for engineering services related to the 2021-2022 Texas Community Development Block Grant-Downtown Revitalization Program/Main Street (TX CDBG DRP-MS) Programs administered by the Texas Department of Agriculture (TDA) and establish consultant selection committees for both administrative services and engineering services for the program. Planning and Development Specialist, Krystal Hasselmeier, stated the City Council, on February 8, 2021, awarded the administrative contract to GrantWorks and the engineering contract to KSA Engineers Inc. for the 2021 TX CDBG DRP-MS Grant. Ms. Hasselmeier said the City, on July 19, 2021, was notified of the award of the 2021 TX CDBG DRP-MS Grant in the amount of \$350,000.00 with a City match of \$52,500.00 and part of the TX CDBG DRP-MS requirements was that the City have the following in place:

1. Resolution designating authorized signatories for the 2021 Texas CDBG program, grant agreement number CDM21-0262
2. Resolution adopting required CDBG Civil Rights policies
 - Citizen Participation Plan & Grievance Procedures (Form A1013).
 - Excessive Force Policy (Form A1003).
 - Section 504 Policy and Grievance Procedures (Form A1004).
 - Code of Conduct Policy (Form A1002).
 - Fair Housing Policy (Form 1015).

After some discussion, Councilmember, Clifford Jackson, moved to approve City of Wharton Resolutions No. 2022-50 and 2022-51, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2022-50**

A RESOLUTION OF THE WHARTON CITY COUNCIL ADOPTING A RESOLUTION REGARDING CIVIL RIGHTS FOR THE TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT DOWNTOWN REVITALIZATION-MAIN STREET (TX CDBG DRP-MS) PROGRAM AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID RESOLUTION.

WHEREAS, The City of Wharton, Texas, (hereinafter referred to as “City of Wharton”) has been awarded TxCDBG funding through a TxCDBG grant from the Texas Department of Agriculture (hereinafter referred to as “TDA”); and,

WHEREAS, The City of Wharton, in accordance with Section 109 of the Title I of the Housing and Community Development Act. (24 CFR 6); the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107); and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and for construction contracts greater than \$10,000, must take actions to ensure that no person or group is denied benefits such as employment, training, housing, and contracts generated by the CDBG activity, on the basis of race, color, religion, sex, national origin, age, or disability; and,

WHEREAS, The City of Wharton, in consideration for the receipt and acceptance of federal funding for the Contract, agrees to comply with all federal rules and regulations including those rules and regulations governing citizen participation and civil rights protections; and,

WHEREAS, The City of Wharton, in accordance with Section 3 of the Housing and Urban Development Act of 1968, as amended, and 24 CFR Part 75, is required, to the greatest extent feasible, to provide training and employment opportunities to lower income residents and contract opportunities to businesses in the TxCDBG project area; and,

WHEREAS, The City of Wharton, in accordance with Section 104(1) of the Housing and Community Development Act, as amended, and State’s certification requirements at 24 CFR 91.325(b)(6), must adopt an excessive force policy that prohibits the use of excessive force against non-violent civil rights demonstrations; and,

WHEREAS, The City of Wharton, in accordance with Executive Order 13166, must take reasonable steps to ensure meaningful access to services in federally assisted programs and activities by persons with limited English proficiency (LEP) and must have an LEP plan in place specific to the locality and beneficiaries for each TxCDBG project; and,

WHEREAS, The City of Wharton, in accordance with Section 504 of the Rehabilitation Act of 1973, does not discriminate on the basis of disability and agrees to ensure that qualified individuals with disabilities have access to programs and activities that receive federal funds; and,

WHEREAS, The City of Wharton, in accordance with Section 808(e)(5) of the Fair Housing Act (42 USC 3608(e)(5)) that requires HUD programs and activities be administered in a manner affirmatively to further the policies of the Fair Housing Act, agrees to conduct at least one activity during the contract period to affirmatively further fair housing; and,

WHEREAS, The City of Wharton, agrees to maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts.

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 and adopts the resolution regarding Civil Rights for the Texas Community Development Block Grant Downtown Revitalization-Main Street (TX CDBG DRP-MS), including:

1. Citizen Participation Plan and Grievance Procedures (Form A1013).
2. Excessive Force Policy (Form A1003).
3. Section 504 Policy and Grievance Procedures (Form A1004).
4. Code of Conduct Policy (Form A1002).
5. Fair Housing Policy (Form 1015).

Section II. The City of Wharton affirms its commitment to conduct a project-specific analysis and take all appropriate action necessary to comply with program requirements for the following:

6. Section 3 economic opportunity.
7. Limited English Proficiency.
8. Affirmatively Further Fair Housing.

Section III. The Wharton City Council hereby authorizes the Mayor or the City of Wharton to execute all documents related to said plan.

Passed, Approved and Adopted this 23rd day of May 2022.

CITY OF WHARTON, TEXAS

By: _____
DON MUELLER
Mayor Pro-Tem

ATTEST:

PAULA FAVORS
City Secretary

**CITY OF WHARTON
RESOLUTION NO. 2022-51**

A RESOLUTION OF THE CITY COUNCIL OF WHARTON, TEXAS, DESIGNATING AUTHORIZED SIGNATORIES FOR CONTRACTUAL DOCUMENTS AND DOCUMENTS FOR REQUESTING FUNDS PERTAINING TO THE TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT DOWNTOWN REVITALIZATION-MAIN STREET (TX CDBG DRP-MS) PROGRAM GRANT AGREEMENT NUMBER CDM21-0262.

WHEREAS, The City of Wharton has received a 2021 Texas Community Development Block Grant award to provide sidewalks, curbs and ADA ramps; and,

WHEREAS, It is necessary to appoint persons to execute contractual documents, environmental review documents and documents requesting grant funds from the Texas Department of Agriculture; and,

WHEREAS, All funds will be used in accordance with all applicable federal, state, local and programmatic requirements including but not limited to procurement, environmental review, labor standards, real property acquisition and civil rights requirements.

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

Section I. The Mayor shall serve as the Chief Executive Officer and Authorized Representative to execute contractual documents.

Section II. The Mayor is authorized to review and execute environmental review documents between the Texas Department of Agriculture and the City of Wharton.

Section III. The Mayor, City Manager and City Finance Director are authorized to execute the Request for Payment Form documents and/or other forms required for requesting funds to reimburse project costs.

Passed, Approved, and Adopted this 23rd day of May 2022.

CITY OF WHARTON, TEXAS

By: _____
DON MUELLER
Mayor Pro-Tem

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 a resolution of the Wharton City Council approving Change Order No. 3, due to material cost increases 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 and Development, Gwyn Teves, presented a copy of the Wharton Well & Water Plant – Contract #2 (Water Well), Change Order No. 3 from Weisinger, Inc., due to increase in both well and pump equipment material price. Mrs. Teves stated the Change Order was for an increase in the amount of \$98,595.11. After some discussion, Councilmember, Russell Machann, moved to approve City of Wharton Resolution No. 2022-52, which read as follows:

CITY OF WHARTON
RESOLUTION NO. 2022-52

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING CHANGE ORDER NO. 3, DUE TO MATERIAL COST INCREASES 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. 3, due to material cost increases 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. 3, due to material cost increases with E Contractors 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 23rd day of May 2022.

CITY OF WHARTON, TEXAS

By: _____
DON MUELLER
Mayor Pro-Tem

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. 3, from Aranda Industries for the Colorado River Flood Control Public Utility Abandonment Hughes Street. Director of Planning & Development, Gwyn Teves, presented a copy of Pay Request No. 3, from Aranda Industries for the Colorado River Flood Control Public Utility Abandonment Hughes Street in the amount of \$266,660.25. After some discussion, Councilmember, Clifford Jackson, moved to approve Pay Request No. 3, from Aranda Industries for the Colorado River Flood Control Public Utility Abandonment Hughes Street in the amount of \$266,660.25. Councilmember, Terry Freese, seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider Pay Request No. 3 and Final from JTM Construction, LLC, for the Colorado River Flood Control Public Utility Abandonment. Director of Planning & Development, Gwyn Teves, presented a copy of Pay Request No. 3 and Final from JTM Construction, LLC, for the Colorado River Flood Control Public Utility Abandonment in the amount of \$35,180.10. After some discussion, Councilmember, Clifford Jackson, moved to approve Pay Request No. 3 and Final from JTM Construction, LLC, for the Colorado River Flood Control Public Utility Abandonment in the amount of \$35,180.10. Councilmember, Russell Machann, seconded the motion. All voted in favor.

The tenth item on the agenda to review and consider was Pay Request No. 4, from E-Contractors for the Wharton Well and Water Plant Contract No. 1-General Construction. Director of Planning & Development, Gwyn Teves, presented a copy of Pay Request No. 4, from E-Contractors for the Wharton Well and Water Plant Contract No. 1-General Construction in the amount of \$980,737.37. After some discussion, Councilmember, Clifford Jackson, moved to approve Pay Request No. 4,

from E-Contractors for the Wharton Well and Water Plant Contract No. 1-General Construction in the amount of \$980,737.37. Councilmember, Russell Machann, seconded the motion. All voted in favor.

The eleventh item on the agenda was to review and consider an update of City of Wharton Grant Programs. City Manager, Joseph R. Pace, presented a copy of a memorandum from Director of Planning & Development, Gwyn Teves, providing an update on the City of Wharton Grant Programs. After some discussion, no action was taken.

The twelfth item on the agenda was to review and consider an update of City of Wharton on-going Projects. City Manager, Joseph R. Pace, presented a copy of his memorandum dated May 10, 2022, which stated the following:

FLOOD REDUCTION (LEVEE) PROJECT:

The U.S. Army Corp of Engineers (USACE) Lower Colorado River Phase I Report - City of Wharton Flood Prevention Project and Recommended report is located at the Wharton County Library and the office of the City of Wharton City Secretary for viewing or the report may be viewed on line at <http://www.cityofwharton.com/information-a-notices/lcrb-feasibility-study>. The Project Participation Agreement (PPA) has been executed. The City has hired HDR for Right-of-Way Acquisition and Jones & Carter for City and private company utility relocations. The City has acquired all but 1 property for Phase 1 and is currently proceeding with Eminent Domain on the last property. Utility relocations for City utilities is near completion and all private utilities have been relocated or abandoned. All asbestos abatement has been completed. Phase 1 construction award anticipated late May.

DRAINAGE:

1. Stavena Addition Drainage Project.

The design and construction plans are complete. The challenge on this project is to find locations to place approximately 35,000 cubic yards of soil. The ideal disposal site should be close to the project site to reduce the cost of construction. The project is one of the construction projects to be funded with the Texas Water Development Board (TWDB) Flood Infrastructure Fund Program for partial assistance.

2. Ahldag Ditch Improvement.

The project was approved by the City Council. Public Works Department is currently working out the details. The ditch improvements were proposed under the Texas General Land Office (GLO) Infrastructure Grant Program. The staff is currently working with an appraiser for ROW acquisition. The project is also listed as one of the construction projects to be funded with the Texas Water Development Board (TWDB) Flood Infrastructure Fund Program for partial assistance.

3. On-going Drainage and Maintenance Program.

The Public Works Department has continued working on cleaning residential drainage ditches that have experienced poor drainage.

4. Pecan Acres (Mahan, Kinkaid, Delmas) Drainage Project.

Installation of the drainage pipes was completed. The City Public Works Department will be regrading ditches to improve the drainage in the area. The project is listed as one of the construction projects to be funded with the Texas Water Development Board (TWDB) Flood Infrastructure Fund Program for partial assistance.

WATER/SEWER IMPROVEMENTS:

1. On-going Water and Sewer Maintenance Program.

Water leaks and sewer failures are still being seen in the month of April.

2. Water Well and Water Plant Project – CR 222 (Halford).

Half and Associates the City's engineering firm on the project has completed the construction plans. The City Council and USDA have approved the construction contracts and construction has begun with E-Contractors and Wiesinger, Inc. Monthly progress meetings are being held. Well drilling complete and pump being installed and set. Ground storage tank construction complete and coating/painting in progress. Plant construction still in progress.

STREET IMPROVEMENTS:

1. FM 1301 Extension and Overpass Project Progress Report.

IDC Inc. has submitted to TxDOT Yoakum District Office all required plans for the project. The City Staff continues to coordinate with TxDOT to ensure the project continues to move forward. The City has received the funding for the project under the State Infrastructure Bank (SIB) Program. Annexation has been completed. ROW will be turned over to TxDOT for construction letting in August 2022.

2. I-69 Project.

The City submitted the comments as approved by the City Council to TxDOT. TxDOT has informed the City that CivilCorp engineering has begun design and the City is involved in regular coordination meetings. City staff is coordinating with Jones & Carter Engineering on utility relocations of water and sewer lines along I-69 that will be impacted by the expansion.

3. NanYa Exit Ramp Project.

TxDOT has been coordinating with NanYa and JM Eagle on the exit design.

After some discussion, no action was taken.

The thirteenth item on the agenda was to review and consider appointments and resignations to the City of Wharton Boards, Commissions and Committees.

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

After some discussion, no action was taken.

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

- A. Parks & Recreation meeting held May 9, 2022.
- B. Finance Committee meeting held May 16, 2022.

After some discussion, no action was taken.

The fifteenth item on the agenda was to review and consider the City Manager's Reports:

- A. City Secretary/Personnel.
- B. Code Enforcement.
- C. Community Services Department/Civic Center.
- D. Emergency Management.
- E. E. M. S. Department.
- F. Facilities Maintenance Department/Wharton Municipal Pool.
- G. Fire Department.
- H. Fire Marshal.
- I. Legal Department.
- J. Municipal Court.
- K. Police Department.
- L. Public Works Department.
- M. Water/Sewer Department.
- N. Weedy Lots/Sign Ordinance.
- O. Wharton Regional Airport.

After some discussion, no action was taken.

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

The meeting adjourned at 7:27 p.m.

CITY OF WHARTON, TEXAS

By: 

TIM BARKER
Mayor

ATTEST:



PAULA FAVORS
City Secretary

