

**MINUTES
OF
CITY OF WHARTON
CITY COUNCIL REGULAR MEETING
APRIL 22, 2019**

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.

Councilmember's present were: Mayor Tim Barker and Councilmembers Al Bryant, Terry Freese, Alice Heard-Roberts, Don Mueller, Russell Machann.

Councilmember absent was: Steve Schneider.

Staff members present were: City Manager Andres Garza, Jr, Finance Director Joan Andel, City Attorney Paul Webb, City Secretary Paula Favors, TRMC, CPM, Assistant to the City Manager Brandi Jimenez, Community Development Director Gwyn Teves, Interim Public Works Director Robert Ewart and Public Works Director John Plaia.

Visitors present were: Mary Barnes, Alexander Durgan, Karen Vannerson with Linebarger Goggan Blair & Sampson, LLP, Albert Villegas with the Wharton Journal Spectator.

Roll Call and Excused Absences. After some discussion, Councilmember Al Bryant moved to excuse Councilmember Steve Schneider. Councilmember Terry Freese seconded the motion. All voted in favor.

Public Comments. No comments were made.

Wharton Moment. Councilmember Alice Heard-Roberts stated that she was a member of Ladies' Group that hosted an Easter Extravaganza that was blessed with nice weather and lots of attendance in Harris Park.

The first item on the agenda was to review and consider the City of Wharton Financial Report for March 2019. Finance Director Joan Andel presented the financial report for the month of March 2019. Mrs. Andel stated that the TexPool balance for March was \$3,487,439.37 with an average monthly yield of 2.42%. She said the Prosperity Bank balance for March 2019 was \$6,337,202.62 with an average monthly yield of .25%. After some discussion, Councilmember Al Bryant moved to approve the City of Wharton Financial Report for the month of March 2019. Councilmember Terry Freese seconded the motion. All voted in favor.

The second item on the agenda was to review and consider a request by Mr. Alexander Durgan for water utility services outside the City limits. City Manager Andres Garza, Jr.

presented a copy of the application for water utility services from Mr. Alexander Durgan requesting water service at 2926 CR 166, Wharton, Texas. Finance Director Joan Anzel stated that City Ordinance required the City Council to approve any utility service outside city limits. After some discussion, Councilmember Russell Machann moved to approve the request by Mr. Alexander Durgan for water utility services outside the City limits at 2926 CR 166, Wharton, Texas. Councilmember Alice Heard-Roberts seconded the motion. All voted in favor.

The third item on the agenda was to review and consider a resolution by the City of Wharton, Texas (“City”) suspending the effective date for ninety days in connection with the rate increase filing made on or about April 5, 2019 by Centerpoint Energy Houston Electric LLC; authorizing the City’s continued participation in a coalition of cities known as the “Texas Coast Utilities Coalition”; authorizing participation in proceedings at the Public Utility Commission of Texas; authorizing the hiring of attorneys and consultants; requiring reimbursement of reasonable legal and consultant expenses; requiring proof of notice; finding that the meeting complies with the Open Meetings Act; making other findings and provisions related to the subject; and declaring an effective date. City Manager Andres Garza, Jr. stated that on April 5, 2019, CenterPoint Energy Houston Electric, LLC (“CEHE”) filed an application to increase its retail rates by approximately \$154 million in annual revenue, or 7.4% in comparison to current retail revenues. City Manager Garza said that CEHE requested that its rates become effective on May 10, 2019 and it was CEHE’s first comprehensive base rate proceeding since 2010. City Attorney Paul Webb stated it was his recommendation that the City Council consider approving the item. After some discussion, Councilmember Don Mueller moved to approve City of Wharton Resolution No. 2019-46, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2019-46**

RESOLUTION BY THE CITY OF WHARTON, TEXAS (“CITY”) SUSPENDING THE EFFECTIVE DATE FOR NINETY DAYS IN CONNECTION WITH THE RATE INCREASE FILING MADE ON OR ABOUT APRIL 5, 2019 BY CENTERPOINT ENERGY HOUSTON ELECTRIC LLC; AUTHORIZING THE CITY’S CONTINUED PARTICIPATION IN A COALITION OF CITIES KNOWN AS THE “TEXAS COAST UTILITIES COALITION;” AUTHORIZING PARTICIPATION IN PROCEEDINGS AT THE PUBLIC UTILITY COMMISSION OF TEXAS; AUTHORIZING THE HIRING OF ATTORNEYS AND CONSULTANTS; REQUIRING REIMBURSEMENT OF REASONABLE LEGAL AND CONSULTANT EXPENSES; REQUIRING PROOF OF NOTICE; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, CenterPoint Energy Houston Electric (“CEHE” or “Company”) filed a Statement of Intent with the City on or about April 5, 2019, to change its rates within the corporate limits of this municipality, specifically to increase its annual revenue for its retail

transmission and distribution services by approximately \$154 million, which equates to an increase of approximately 7.4 percent, and by about \$6.8 million for its wholesale transmission service, which equates to an increase of approximately 1.8 percent; and

WHEREAS, the City is a regulatory authority under the Public Utility Regulatory Act (“PURA”) and under Chapter 33, §33.001 et seq. of PURA has exclusive original jurisdiction over CEHE’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 CEHE’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 CEHE to change rates, has in the past joined with other local regulatory authorities to form an alliance of cities known as Texas Coast Utilities Coalition (“TCUC”), and hereby continues its participation in TCUC; and

WHEREAS, in CEHE’s prior general rate case submitted in June, 2010, in Docket No. 38339 before the Public Utility Commission of Texas (“PUCT”), CEHE requested an increase of about \$110 million and the PUCT approved an increase of about \$15 million in large part due to the City’s participation in TCUC and coordination with other cities and their review of CEHE’s application; and

WHEREAS, CEHE’s rate request consists of a voluminous amount of information including CEHE’s rate-filing package, exhibits, schedules, and workpapers; and

WHEREAS, CEHE’s rate application is the Company’s first general rate case since about 2010; and

WHEREAS, CEHE proposed May 10, 2019, as the effective date for its requested increase in rates; and

WHEREAS, it is not reasonably possible for the City to complete its review of CEHE’s filing by May 10, 2019; and

WHEREAS, the City will need an adequate amount of time to review and evaluate CEHE’s rate application to enable the City to adopt a final decision as a local regulatory authority with regard to CEHE’s requested rate increase.

WHEREAS, the City will require the assistance of specialized legal counsel and rate experts to review the merits of CEHE’s application to increase rates; and

WHEREAS, CEHE submitted a corresponding application with the Public Utility Commission of Texas on the same date as it filed its application with the City and the Public Utility Commission’s decision could have a direct impact on the City and its citizens who are customers of CEHE and in order for the City’s participation to be meaningful it is important that the City intervene in any such proceedings at the Public Utility Commission related to

CEHE's application to increase rates, including any appeals taken from the Commission's final order.

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. CEHE's proposed effective date for its proposed increase in rates is hereby **SUSPENDED** for ninety days beyond May 10, 2019.

Section 3. The statutory suspension period may be further extended if CEHE does not provide proper public notice of its request to increase rates, if its rate-filing package is materially deficient, or by agreement.

Section 4. The City shall continue to participate in a coalition of cities known as the Texas Coast Utilities Coalition ("TCUC"), and authorizes intervention in proceedings related to CEHE's Statement of Intent before the Public Utility Commission of Texas and related proceedings in courts of law; and

Section 5. The City hereby orders CEHE to reimburse the City's rate case expenses consistent with the Public Utility Regulatory Act and that CEHE shall 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 related to proceedings involving CEHE before the City, the Public Utility Commission of Texas, or any court of law.

Section 6. Subject to the right to terminate employment at any time, the City retains and authorizes the law firm of Herrera Law & Associates, PLLC to act as Special Counsel with regard to rate proceedings involving CEHE before the City, the Public Utility Commission of Texas, or any court of law, and to retain such experts as may be reasonably necessary for review of CEHE's rate application subject to approval by the steering committee of the TCUC.

Section 7. The City, in coordination with the Steering Committee, delegates to the City Manager and/or the City Attorney, or designee of such office, review of the invoices of the lawyers and rate experts for reasonableness before submitting the invoices to CEHE for reimbursement.

Section 8. A copy of this resolution shall be sent to Mr. Alfred R. Herrera, Herrera Law & Associates, PLLC, 816 Congress Ave., Suite 950, Austin, Texas 78701, and a courtesy copy to CEHE's local representative.

Section 9. 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 10. This resolution supersedes any prior inconsistent or conflicting resolution or ordinance.

Section 11. This resolution shall become effective from and after its passage.

PASSED AND APPROVED this 22nd day of April, 2019.

TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

Councilmember Al Bryant seconded the motion. All voted in favor.

The fourth item on the agenda was to review and consider a resolution by the City of Wharton, Texas, ("City") responding to the application of CenterPoint Energy Resources Corp., Texas Coast Division, to increase rates under the Gas Reliability Infrastructure Program; suspending CenterPoint's proposed effective date for forty-five days; authorizing the City to continue to participate in a coalition of cities known as the "Texas Coast Utilities Coalition" of cities; determining that the meeting at which the resolution was adopted complied with the Texas Open Meetings Act; making such other findings and provisions related to the subject; and declaring an effective date. City Manager Andres Garza, Jr. stated the City was a member of the Texas Coast Utilities Coalition ("TCUC") of cities. TCUC was organized by a number of municipalities served by CenterPoint Energy Resources Corp., Texas Coast Division ("CenterPoint") and had been represented by the law firm of Herrera Law & Associates, PLLC (through Mr. Alfred R. Herrera) to assist in reviewing applications to change rates submitted by CenterPoint. City Attorney Paul Webb stated it was his recommendation that the City Council consider approve the resolution. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Resolution No. 2019-47, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2019-47**

A RESOLUTION BY THE CITY OF WHARTON, TEXAS, ("CITY") RESPONDING TO THE APPLICATION OF CENTERPOINT ENERGY RESOURCES CORP., TEXAS COAST DIVISION, TO INCREASE RATES UNDER THE GAS RELIABILITY INFRASTRUCTURE PROGRAM; SUSPENDING CENTERPOINT'S PROPOSED EFFECTIVE DATE FOR FORTY-FIVE DAYS; AUTHORIZING THE CITY TO CONTINUE TO PARTICIPATE IN A COALITION OF CITIES KNOWN AS THE "TEXAS COAST UTILITIES COALITION" OF CITIES; DETERMINING THAT THE MEETING AT WHICH THE RESOLUTION WAS ADOPTED COMPLIED WITH THE TEXAS OPEN MEETINGS ACT; MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.

WHEREAS: on or about March 28, 2019 CenterPoint Energy Resources Corp., Texas Coast Division ("CenterPoint") filed for an increase in gas utility rates under the Gas Reliability Infrastructure Program ("GRIP"), resulting in a requested increase in the monthly customer charges as shown in the table below:

Rate Schedules	Current Customer Charge	Proposed 2018 Interim Adjustment	Proposed Customer Charge	Increase to Each Bill
R-2096-I-GRIP 2019; R-2096-U-GRIP 2019 Residential	\$15.96 Per customer per month	\$1.15 per customer per month	\$17.11 per customer per month	\$1.15 per customer per month
GSS-2096-I-GRIP 2019; GSS-2096-U-GRIP 2019 General Service Small	\$18.77 Per customer per month	\$1.75 per customer per month	\$20.52 per customer per month	\$1.75 per customer per month
GSLV-627-I-GRIP 2019; GSLV-627-I-GRIP 2019 General Service Large Volume	\$197.27 per customer per month	\$43.10 per customer per month	\$240.37 per customer per month	\$43.10 per customer per month

and

WHEREAS: the City has a responsibility to exercise due diligence with regard to rate increases of monopoly utilities who operate within its boundaries; and

WHEREAS: the application to increase rates by CenterPoint is complex; and

WHEREAS: it is necessary to suspend the effective date for the increase in rates for forty-five days, so that the City can assure itself that the data and calculations in CenterPoint's rate application are in accordance with the Section 104.301 of the Gas Utility Regulatory Act; and

WHEREAS: the effective date proposed by CenterPoint is May 27, 2019 but a suspension by the City will mean that the rate increase cannot go into effect prior to July 11, 2019.

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

Section 1. That the statements and findings set out in the preamble to this resolution are hereby in all things approved and adopted.

Section 2. The City suspends the requested effective date by CenterPoint for forty-five days pursuant to the authority granted the City under Section 104.301 of the Texas Utilities Code. The City finds that additional time is needed in order to review the data and calculations that provide the basis for the rate increase application.

Section 3. The City shall continue to act jointly with other cities that are part of a coalition of cities known as the Texas Coast Utilities Coalition (“TCUC”) of cities.

Section 4. The City authorizes the law firm of Herrera Law & Associates, PLLC, to act (through Alfred R. Herrera) on its behalf in connection with CenterPoint’s application to increase rates.

Section 5. To the extent allowed by law, CenterPoint is ordered to pay the City's reasonable rate case expenses incurred in response to CenterPoint’s rate increase application within 30 days of receipt of invoices for such expenses to the extent allowed by law.

Section 6. The meeting at which this resolution was approved was in all things conducted in compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 7. This resolution shall be effective immediately upon passage.

PASSED AND APPROVED this 22nd day of April 2019.

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 the Street Improvement Project.

A. Bid Tabulations.

City Manager Andres Garza, Jr. stated bids were received on Tuesday, April 2, 2019 with only one bid being received from DIJ Construction in the amount of \$1,195,849.50. City Manager Garza said the construction budget for the project was \$825,000.00-\$850,000.00. Community

Development Director Gwyn Teves stated that after discussions with the engineers, BEFCO Engineering, it was recommended that the City of Wharton reject the bid. Mrs. Teves said the City Staff would then meet with BEFCO Engineering to review the scope of work, associated costs and time frame for re-bidding the project. After some discussion, Councilmember Russell Machann moved to reject the bid received from DIJ Construction in the amount of \$1,195,849.50 and direct City Staff to advertise for bids again. Councilmember Don Mueller seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider the NRCS Alabama Channel Repair Project:

A. Pay Request No. 2 and Final from Fort Bend Excavation for the NRCS Alabama Channel Repair Project.

City Manager Andres Garza, Jr. presented a copy of the Engineers recommendation and Pay Request No. 2 and Final in the amount of \$20,821.75 from Fort Bend Excavation for the NRCS Alabama Channel Repair Project. Community Development Director Gwyn Teves stated the repair had been completed and she was recommending the City Council consider approving the request. After some discussion, Councilmember Al Bryant moved to approve Pay Request No. 2 and Final in the amount of \$20,821.75 from Fort Bend Excavation for the NRCS Alabama Channel Repair Project. Councilmember Terry Freese seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider the Linwood/Crestmont Curb Repair Project:

A. Pay Request No. 4 and Final from HTI Construction Inc. for the Linwood/Crestmont Curb Repair Project.

City Manager Andres Garza, Jr. presented a copy of the Engineers Recommendation and Pay Request No. 4 and Final in the amount of \$41,028.10 from HTI Construction Inc. for the Linwood/Crestmont Curb Repair Project. Interim Public Works Director Robert Ewart stated the project had been completed and he was recommending the City Council consider approving the request. After some discussion, Councilmember Al Bryant moved to approve Pay Request No. 4 and Final from HTI Construction Inc. for the Linwood/Crestmont Curb Repair Project. Councilmember Terry Freese seconded the motion. All voted in favor.

The eighth item on the agenda to review and consider City Manager Travel Reimbursement. After some discussion, Councilmember Russell Machann moved to approve the City Manager Travel Reimbursement request. Councilmember Terry Freese seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider the update of City of Wharton on-going Projects. City Manager Andres Garza, Jr. presented copy of his memorandum dated April 17, 2019 providing an update on the City of Wharton current projects as of March 31, 2019.

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 begun the process to acquire the property necessary to construct the project. The City Staff will begin meeting with the property owners.

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.

2. Ahldag Ditch Improvement.

The project was approved by the City Council. Public Works Director is currently working out the details.

3. On-going Drainage and Maintenance Program.

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

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

The Public Works Department is working with JTM, the contractor, installation of the drainage pipes was completed. The junction boxes have been installed by the contractor, the project has been completed by the contractor. The City Public Works Department will be regrading ditches to improve the drainage in the area.

WATER/SEWER IMPROVEMENTS:

1. On-going Water and Sewer Maintenance Program.

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

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 is awaiting TxDOT announcement of the project to be funded in Wharton County.

2. I-69 Project.

The City submitted the comments as approved by the City Council to TxDOT.

3. NanYa Exit Ramp Project.

TxDOT has been coordinating with NanYa on the exit design.

4. 2019 City Street Improvement Project.

The City has begun the planning process for the 2019 Street Improvement Project. The City Staff is working with the City Council Public Works Committee to develop the program and present it to the City Council for consideration by early spring.

After some discussion, no action was taken.

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

1. Appointments:

- A. Beautification Commission.
- B. Building Standards Commission.
- C. Plumbing and Mechanical Board.

2. Resignations: None.

After some discussion, no action was taken.

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

- A. Mayor's Committee on People with Disabilities meeting held April 10, 2019.
- B. Beautification Commission meeting held April 10, 2019.
- C. Annexation Committee meeting held on April 15, 2019.

After some discussion, no action was taken.

The twelfth item on the agenda was to review and consider the City Manager's Reports. City Manager Andres Garza, Jr. presented the following reports:

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

After some discussion, no action was taken.

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

The meeting adjourned at 7:33 p.m.

City of Wharton
Regular City Council Meeting
April 22, 2019

CITY OF WHARTON, TEXAS

By: _____
Tim Barker
Mayor

ATTEST:

Paula Favors
City Secretary

