

**MINUTES
OF
CITY OF WHARTON
CITY COUNCIL REGULAR MEETING
MAY 09, 2022**

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

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

Councilmember absent was: Alice Heard-Roberts.

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; Planning & Development Specialist, Krystal Hasselmeier; Police Chief, Terry David Lynch and Facilities Maintenance Director; Bob Baker.

Visitors present were: Kodi Kieler; Jason Villarreal; Jimmy Shelton; Stephanie Konvicka; Adraylle Watson and Joe Southern with the Wharton Journal Spectator.

Roll Call and Excused Absences.

After some discussion, Councilmember, Clifford Jackson, moved to excuse Councilmember, Alice Heard-Roberts. Councilmember, Steve Schneider, seconded the motion. All voted in favor.

Public Comments.

Mayor, Tim Barker, called for Public Comments. No comments were given.

Wharton Moment.

Councilmember, Terry Freese, congratulated Police Chief, Terry David Lynch, on a job well done with hosting the Cop's and Rodder's Car Show, which he said was a very nice event.

Mayor, Tim Barker, stated he wanted to thank Councilmember, Alice Heard-Roberts, for her service on the Wharton City Council.

Public Hearing:

1. Public Hearing #1: Proposed Annexation.

Mayor, Tim Barker, opened the Public Hearing at 7:04 p.m.

No Comments were given.

Mayor, Tim Barker, closed the Public Hearing at 7:05 p.m.

Review and Consider:

The first item on the agenda was to review and consider reading of the minutes from the regular meetings held April 11, 2022 and April 25, 2022. City Manager, Joseph R. Pace, presented a copy of the minutes from the regular meetings held April 11, 2022, and April 25, 2022. After some discussion, Councilmember, Russell Machann moved to approve the minutes from the regular meetings held April 11, 2022, and April 25, 2022. Councilmember, Steve Schneider, seconded the motion. All voted in favor

The second 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 April 11, 2022, regular Wharton City Council meeting, the City Council accepted a petition for voluntary annexation from the City of Wharton's Planning and Development Director, Gwyn Teves. City Attorney, Paul Webb, stated the first and only public hearing was held during this regular May 9, 2022, Wharton City Council meeting. Mr. Webb said that since the requirements of the public hearing had been satisfied, the City Council may now consider the ordinance annexing the properties owned by the City of Wharton listed below:

1. 17.31 acres or 753,916 square feet of land, situated in the Alexander Jackson Timber League, Abstract No. 34 and the William Kincheloe League, Abstract No. 38, Wharton County, Texas
2. 2.931 acres or 127,671 square feet of land, situated in the Alexander Jackson Timber League, Abstract No. 34, Wharton County, Texas
3. 2.950 acres or 128,519 square feet of land, situated in the Alexander Jackson Timber League, Abstract No. 34, Wharton County, Texas
4. 0.9058 acres or 39,456 square feet of land, situated in the Alexander Jackson Timber League, Abstract No. 34, Wharton County, Texas
5. 0.2055 acres or 8,952 square feet of land, situated in the Alexander Jackson Timber League, Abstract No. 34, Wharton County, Texas
6. 5.495 acre tract of land situated in the Alexander Jackson Timber League, Abstract No. 34 in Wharton County, Texas
7. 3.686 acre tract of land situated in the Alexander Jackson Timber League, Abstract No. 34 in Wharton County, Texas
8. 3.852 acre tract of land situated in the Alexander Jackson Timber League, Abstract No. 34 in Wharton County, Texas

After some discussion, Councilmember, Russell Machann, moved to approve City of Wharton Ordinance No. 2022-06, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2022-06**

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. 17.31 acres or 753,916 square feet of land, situated in the Alexander Jackson Timber League, Abstract No. 34 and the William Kincheloe League, Abstract No. 38, Wharton County, Texas
2. 2.931 acres or 127,671 square feet of land, situated in the Alexander Jackson Timber League, Abstract No. 34, Wharton County, Texas
3. 2.950 acres or 128,519 square feet of land, situated in the Alexander Jackson Timber League, Abstract No. 34, Wharton County, Texas
4. 0.9058 acres or 39,456 square feet of land, situated in the Alexander Jackson Timber League, Abstract No. 34, Wharton County, Texas
5. 0.2055 acres or 8,952 square feet of land, situated in the Alexander Jackson Timber League, Abstract No. 34, Wharton County, Texas
6. 5.495-acre tract of land situated in the Alexander Jackson Timber League, Abstract No. 34 in Wharton County, Texas
7. 3.686-acre tract of land situated in the Alexander Jackson Timber League, Abstract No. 34 in Wharton County, Texas
8. 3.852-acre tract of land situated in the Alexander Jackson Timber League, Abstract No. 34 in 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 9th day of May 2022.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

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

The third item on the agenda was to review and consider a request from the Wharton County Farmer's Market requesting permission for the placement of portable restrooms for the remainder of the Spring Season, May 14, 2022- June 25, 2022 at Guffey Park. City Manager, Joseph R. Pace

presented a copy of the request from the Wharton County Farmers Market requesting permission for the placement of portable restrooms for the remainder of the Spring Season, May 14, 2022- June 25, 2022 at Guffey Park. Mrs. Kodi Kieler, with the Wharton County Farmer's Market, stated the Farmer's Market was requesting for one male restroom, one female restroom and one hand-washing station to be allowed at Guffey Park during the Spring Season of the Farmer's Market. Mrs. Kieler said the restrooms would be cleaned weekly and once the restrooms were replaced, they would be locked when on the premises of Guffey Park. After some discussion, Councilmember, Terry Freese, moved to approve the request from the Wharton County Farmer's Market requesting permission for the placement of portable restrooms for the remainder of the Spring Season, May 14, 2022- June 25, 2022 at Guffey Park. Councilmember, Steve Schneider, seconded the motion. All voted in favor.

The fourth item on the agenda was to review and consider a request from Beer:30, LLC for a variance of the City of Wharton Code of Ordinances, Section 34-7 (2) Amplified Sound for an outdoor concert on May 21, 2022 from 1:00 p.m. to 7:00 p.m. for an outdoors event. City Manager, Joseph R. Pace, presented a copy of the request from Beer:30, LLC for a variance of the City of Wharton Code of Ordinances, Section 34-7 (2) Amplified Sound for an outdoor concert on May 21, 2022 from 1:00 p.m. to 7:00 p.m. for an outdoors event. Mr. Jason Villarreal, owner of Beer:30, stated the music was only take place from 2:00 p.m. to 6:00 p.m. After some discussion, Councilmember, Clifford Jackson, moved to approve the the request from Beer:30, LLC for a variance of the City of Wharton Code of Ordinances, Section 34-7 (2) Amplified Sound for an outdoor concert on May 21, 2022 from 1:00 p.m. to 7:00 p.m. for an outdoors event. Councilmember, Terry Freese, seconded the motion. All voted in favor.

The fifth item on the agenda was to review and consider a request by Mr. Jimmy Shelton on behalf of Emerson Heights, LLC for a replat of Gallaher, Lots 4, 5, 6, 7, 8 & 9 and Godsey, Lots 7B, 8A, 8B, 9, 10, 11 & 12 for a multi-family development. City Manager, Joseph R. Pace, presented a copy of a request by Mr. Jimmy Shelton on behalf of Emerson Heights, LLC for a replat of Gallaher, Lots 4, 5, 6, 7, 8 & 9 and Godsey, Lots 7B, 8A, 8B, 9, 10, 11 & 12 for a multi-family development. Director of Planning & Development, Gwyn Teves, stated the Planning Commission met on Monday, May 2, 2022 and voted to recommend this item to the City Council for consideration. After some discussion, Councilmember, Clifford Jackson, moved to approve the request by Mr. Jimmy Shelton on behalf of Emerson Heights, LLC for a replat of Gallaher, Lots 4, 5, 6, 7, 8 & 9 and Godsey, Lots 7B, 8A, 8B, 9, 10, 11 & 12 for a multi-family development. Councilmember, Russell Machann, seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider a request by Mr. Marshall Francis at 704 North Richmond Road, Cloud, Block 51, Lots 13A-1, 5 & 6 for a replat. City Manager, Joseph R. Pace, presented a copy of a request by Mr. Marshall Francis at 704 North Richmond Road, Cloud, Block 51, Lots 13A-1, 5 & 6 for a replat. Director of Planning & Development, Gwyn Teves, stated the Planning Commission met on Monday, May 2, 2022 and voted to recommend this item to the City Council for consideration. After some discussion, Councilmember, Russell Machann, moved to approve the request by Mr. Marshall Francis at 704 North Richmond Road, Cloud, Block

51, Lots 13A-1, 5 & 6 for a replat. Councilmember, Terry Freese, seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider a request from the Beautification Commission to pursue a Mini Mural Project at Pleasure Park. City Manager, Joseph R. Pace, presented a copy of a request from the Beautification Commission to pursue a Mini Mural Project at Pleasure Park. City Manager Pace stated that on March 9, 2022, the City of Wharton Beautification Commission approved the Art Subcommittee to pursue the project proposal for a mini mural at one of the City of Wharton Parks. He said the Art subcommittee had identified a location and design approved by the Facilities Maintenance Director, Bob Baker. Beautification Commission Art Subcommittee Lead, Ms. Stephanie Konvicka, stated the Commission was requesting permission to paint a mural on the exterior bathroom wall facing the entrance to Pleasure Park for this proposed volunteer event. After some discussion, Councilmember, Terry Freese, moved to approve the request from the Beautification Commission to pursue a Mini Mural Project at Pleasure Park which would include painting a mural on the exterior bathroom wall facing the entrance to Pleasure Park for this proposed volunteer event. Councilmember, Clifford Jackson, seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider a resolution of the Wharton City Council approving an Industrial District Agreement with CN Colorado Bend, LLC; authorizing an Industrial District Payment to the City of Wharton; making various findings and provisions related to the subjects; and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager, Joseph R. Pace, presented a copy of an Industrial District Agreement with CN Colorado Bend, LLC and the City of Wharton. City Attorney, Paul Webb, stated section 42.044 of the Texas Local Government Code enabled cities and private entities to establish Industrial Districts and the City of Wharton desired that the property was owned by Colorado Bend II/Exelon power generating facilities and that CN Colorado Bend LLC desired to lease a portion of Colorado Bend II/Exelon property. After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Resolution No. 2022-46, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2022-46**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN INDUSTRIAL DISTRICT AGREEMENT WITH CN COLORADO BEND LLC; AUTHORIZING AN INDUSTRIAL DISTRICT PAYMENT TO THE CITY OF WHARTON; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECTS; AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, Section 42.044 of the Texas Local Government Code enables cities and private entities to establish Industrial Districts; and,

WHEREAS, The Wharton City Council approved Ordinance No. 2019-30 creating the City of Wharton Industrial District No. 2 as described in the Exhibit “A” attached hereto; and,

WHEREAS, The Wharton City Council desires that the Property described in the attached Exhibit “A” is owned by Colorado Bend II/Exelon power generating facilities and that CN Colorado Bend LLC desires to lease a portion of Colorado Bend II/Exelon property and the City Council further desires to enter into this contractual agreement with CN Colorado Bend LLC for this purpose; and,

WHEREAS, The Wharton City Council has determined that it is in the best interest of the City and its citizens to enter into an Industrial District Agreement with CN Colorado Bend, LLC, a copy of which is attached hereto as Exhibit “A” (the “Agreement”); and,

WHEREAS, The City of Wharton and CN Colorado Bend LLC, wishes to be bound by the conditions outlined in the Agreement; and,

WHEREAS, The Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute the Agreement.

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

Section I. That the facts and recitations in the preamble and recitals of this resolution and the referenced Agreement are found and declared to be true and correct and are hereby approved as part of this resolution.

Section II. That the Wharton City Council hereby approves the Industrial District Agreement between the City of Wharton and CN Colorado Bend, LLC.

Section III. That the Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute the Agreement.

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

Passed, Approved, and Adopted this 9th day of May 2022.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS

City Secretary

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

The ninth item on the agenda was to review and consider a resolution of the Wharton City Council awarding a contract for the construction of DR 4332-105 HMGP Generator Addition Construction Project and authorizing the Mayor of the City of Wharton to execute all documents related to said contract. City Manager, Joseph R. Pace, stated that on April 26, 2022, proposals were received for the HMGP DR-4332-105 Generator Addition Construction. Director of Planning & Development, Gwyn Teves, stated the proposals received were from three companies:

1. McDonald Municipal & Industrial
2. Wingo Service Co., Inc.
3. WW Payton Corporation

Mrs. Teves said Quiddity Engineering had reviewed the submitted proposals and had provided a recommendation to award the contract to McDonald Municipal & Industrial in the amount of \$1,518,269.00 for the base bid & alternate. After some discussion, Councilmember, Terry Freese, moved to approve City of Wharton Resolution No. 2022-47, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2022-47**

A RESOLUTION OF THE WHARTON CITY COUNCIL AWARDING A CONTRACT FOR THE CONSTRUCTION OF DR 4332-105 HMGP GENERATOR ADDITION CONSTRUCTION PROJECT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID CONTRACT.

WHEREAS, Proposals were received for the DR 4332-105 HMGP Generator Addition Construction Project, on April 26, 2022; and,

WHEREAS, McDonald Municipal & Industrial was deemed the best lowest qualified bidder for the base bid amount of \$1,518,269.00; and,

WHEREAS, The Wharton City Council wishes to award a contract to McDonald Municipal & Industrial for the base bid amount of \$1,518,269.00; and,

WHEREAS, The City of Wharton and McDonald Municipal & Industrial wish to be bound by the conditions as set forth in the agreement; and,

WHEREAS, The Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute the contract.

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

- Section I.** The Wharton City Council hereby authorizes the Mayor to execute the DR 4332-105 HMGP Generator Addition Construction Project contract.
- Section II.** The City of Wharton and McDonald Municipal & Industrial are hereby bound by the conditions as set forth in the contract.
- Section III.** That this resolution shall become effective immediately upon its passage.

Passed, Approved, and Adopted this 9th day of May 2022.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

Councilmember, Clifford Jackson, seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider appointments and resignations to the City of Wharton Boards, Commissions and Committees. After some discussion, no action was taken.

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

- A. Beautification Commission meeting held April 13, 2022.
- B. Finance Committee meeting held April 25, 2022.

After some discussion, no action was taken.

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

The meeting adjourned at 7:17 p.m.

CITY OF WHARTON, TEXAS

By: *Tim Barker*
TIM BARKER
Mayor

ATTEST:

Paula Favors
PAULA FAVORS
City Secretary

