

**MINUTES  
OF  
CITY OF WHARTON  
CITY COUNCIL MEETING  
AUGUST 10, 2020**

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 Terry Freese, Clifford Jackson, Russell Machann, Don Mueller, Steve Schneider and Alice Heard-Roberts.

Councilmember absent was: None.

Staff members present were: City Manager Andres Garza, Jr, Assistant City Attorney Amy Rod, City Secretary Paula Favors, TRMC, CPM, MMC, Via Zoom – Finance Director Joan Andel, Assistant to the City Manager Brandi Jimenez, Community Development Director Gwyn Teves, EMS Director John Kowalik and Emergency Management Coordinator Steve Johnson.

Visitors present were: Albert Villegas with the Wharton Journal Spectator and Natalie Frels with The County Gin.

**Roll Call and Excused Absences.**

All Councilmembers were present.

**Public Comments.**

Mayor Tim Barker called for Public Comments. No comments were made.

**Wharton Moment.**

Mayor Tim Barker called for Wharton Moments. No comments were made.

**Review and Consider:**

The first item on the agenda was to review and consider the reading of the minutes from the regular meetings held July 13, 2020 and July 27, 2020 and special meeting held July 20, 2020. After some discussion, Councilmember Russell Machann moved to approve the minutes from the regular meetings held on July 13, 2020 and July 27, 2020 and special meeting held July 20, 2020. Councilmember Steve Schneider seconded the motion. All voted in favor.

The second item on the agenda was to review and consider an ordinance amending Ordinance No. 2020-03 in accordance with Governor Greg Abbott's Proclamation suspending provisions of

the May 2, 2020 Election due to the COVID-19 Pandemic. Ordenanza: Una Ordenanza que enmendando la Ordenanza No 2020-03 de acuerdo con la Proclamación del Gobernador Greg Abbott suspendiendo las disposiciones de la Elección del 2 de mayo de 2020 debido a la Pandemia de COVID-19. Las enmiendas serán para que la orden de la elección de funcionarios de la ciudad a celebrarse de forma conjunta con el Departamento de Elecciones del Condado de Wharton con el propósito de elegir puestos de Alcalde y Concejales; asignando la fecha, horas, y lugar de la elección, El aviso de la elección, Votación anticipada y Entrega de los resultados de la Elección.

City Manager Andres Garza, Jr. stated the amendments would be for the order of the City Officers Election to be held as a joint election with Wharton County Elections Department for the purpose of electing the positions of Mayor and Councilmembers; providing for the date, time and place of the Election, Notice of the Election, Early Voting, and making Election returns. City Manager Andres Garza, Jr. presented a memorandum from City Secretary Paula Favors to him and a copy of the draft ordinance amending Ordinance No. 2020-03 in accordance with Governor Greg Abbott's Proclamation suspending provisions of the May 2, 2020 election and listing new Election Day and Early Voting locations and dates. City Manager Garza stated the Wharton City Council voted to approve the postponement of the May 2, 2020 election on April 13, 2020, with Governor Greg Abbott's proclamation suspending provisions of the Texas Election Code due to the COVID-19 Pandemic. Mrs. Favors stated the City of Wharton contracted with the Wharton County Elections department to conduct its election and the Elections Administrator Cindy Richter issued a memorandum with the revised dates and locations for the November 3, 2020 election. She said that she was requesting the City Council consider approving the draft Ordinance as presented amending the date, time and place of the Election, Notice of the Election, Early Voting and making Election returns. Mrs. Favors said City Attorney Paul Webb had reviewed the draft Ordinance and was recommending the City Council consider approving it. After some discussion, Councilmember Terry Freese moved to approve City of Wharton Ordinance No. 2020-10A and City of Wharton Ordinance No. 2020-10B, which read as follows:

**CITY OF WHARTON, TEXAS  
ORDINANCE NO. 2020-10A**

**AN ORDINANCE AMENDING ORDINANCE NO. 2020-03 IN ACCORDANCE WITH GOVERNOR GREG ABBOTT'S PROCLAMATION SUSPENDING PROVISIONS OF THE MAY 2, 2020 ELECTION DUE TO THE COVID-19 PANDEMIC. THE AMENDMENTS WILL BE FOR THE ORDER OF CITY OFFICERS ELECTION TO BE HELD AS A JOINT ELECTION WITH WHARTON COUNTY ELECTIONS DEPARTMENT FOR THE PURPOSE OF ELECTING THE POSITIONS OF MAYOR AND COUNCILMEMBERS; PROVIDING FOR THE DATE, TIME, AND PLACE OF THE ELECTION, NOTICE OF THE ELECTION, EARLY VOTING, AND MAKING ELECTION RETURNS.**

**BE IT ORDAINED by the City Council of the City of Wharton, Texas:**

"Section 32 of the City Charter provides that regular elections to elect members of the city council shall be held on the first Saturday of May each year. At the regular election in each even-numbered year, the voters shall elect a mayor and three councilmen. At the regular election in each odd-numbered year, the voters shall elect three (3) councilmen. The mayor and

councilmen shall serve for terms and numbered places as provided in Article II of this charter. The city council may, by ordinance or resolution, order special elections, fix the dates, give notice, and provide all means for holding such special elections.”

### **Joint Election**

Wharton County Elections Department will be conducting the duties as described in the Joint Election Agreement with the following modifications.

### **Date**

An election shall be held in the City of Wharton, Texas, on **November 3, 2020.**

### **Time**

The polls shall open for voting at **7 a.m.** and shall close at **7 p.m.**

### **Location**

The Election Day Voting Locations will be as follows:

- Wharton Civic Center – Main Hall, 1924 N. Fulton St., Wharton, Texas.
- Boling Fire Station – 6735 FM 442 Rd., Boling, Texas.
- East Bernard Library - 746 Clubside Dr., East Bernard, Texas.
- Hungerford Fire Station – 8018 Houston St., Hungerford, Texas.
- Wharton County Library – El Campo Branch – 200 W. Church St., El Campo, Texas.
- El Campo Civic Center – Myatt Rm. – 2350 N. Mechanic St., El Campo, Texas.
- Justice of the Peace 3 Courtroom – 340 W. North St., Louise, Texas.
- St. Robert’s Catholic Church – 512 Tegner, El Campo, Texas.

### **Early Voting**

Wharton County Elections Administrator is Cindy Richter appointed early voting clerk and is authorized to appoint other deputies to serve as early voting clerks.

The early voting by personal appearance for the above-designated election shall take place at the following locations:

- Wharton County Annex D, Suite 116, 315 E. Milam, Wharton, Texas.
- Wharton County Library – El Campo Branch, 200 W. Church St. El Campo, Texas.
- East Bernard Library – 746 Clubside Dr., East Bernard, Texas.

The places for early voting shall remain open on each day that is not a Saturday, Sunday, or an official state holiday, between the hours of **8 a.m.** and **5 p.m.**, beginning on **Monday, October 19, 2020 through Friday, October 23, 2020** and continuing **Monday, October 26, 2020** through

**Wednesday, October 28, 2020; Thursday, October 29, 2020** and continuing through **Friday, October 30, 2020** between the hours of **7 a.m. to 7 p.m.**

Voters may send ballot applications and mailed ballots to the Wharton County Elections Administrator's office at P.O. Box 390, Wharton, TX 77488.

### **Returns**

"Section 41 of the City Charter provides that city elections shall be canvassed within one (1) week after the election; however, pursuant to changes in the Texas Election Code, Section 67.003, the local canvass shall convene not earlier than the third day or later than the 11<sup>th</sup> day after the election day." The period for official canvass shall be from November 6-17, 2020. The officers holding the election shall make returns of the results thereof to the Mayor of this City, as required by the Election Code of the State of Texas.

### **Order**

The City Council of the City of Wharton, Texas, shall order the election, in accordance with the foregoing provisions.

### **Severability**

If any court of competent jurisdiction rules that any section, subsection, sentence, clause, phrase, or portion of this ordinance is invalid or unconstitutional, any such portion shall be deemed to be a separate, 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, on this 10th day of August, 2020.

**CITY OF WHARTON, TEXAS**

**ATTEST:**

By: \_\_\_\_\_

*Tim Barker*  
**Tim Barker**  
Mayor

\_\_\_\_\_  
**Paula Favors**  
City Secretary

**APPROVED AS:**

\_\_\_\_\_  
**Paul Webb**  
City Attorney

**CIUDAD DE WHARTON, TEXAS  
ORDENANZA N° 2020-10B**

**UNA ORDENANZA ENMENDANDO LA ORDENANZA NO. 2020-03 DE ACUERDO CON LA PROCLAMACION DEL GOBERNADOR GREG ABBOTT SUSPENDIENDO LAS DISPOSICIONES DE LA ELECCION DEL 2 DE MAYO DE 2020 DEBIDO A LA PANDEMIA DE COVID-19. LAS ENMIENDAS SERAN PARA LA ORDEN DE ELECCION DE FUNCIONARIOS DE LA CIUDAD A CELEBRARSE DE FORMA CONJUNTA CON EL DEPARTAMENTO DE ELECCIONES DEL CONDADO DE WHARTON CON EL PROPÓSITO DE ELEGIR PUESTOS DE ALCALDE Y CONCEJALES; ASIGNANDO LA FECHA, HORAS, Y LUGAR DE LA ELECCIÓN, EL AVISO DE LA ELECCIÓN, VOTACIÓN ANTICIPADA, Y ENTREGA DE LOS RESULTADOS DE LA ELECCION.**

**El Consejo Municipal de La Ciudad De Wharton, Texas, ORDENA:**

“La Sección 32 de la Carta Constitutiva establece que se realicen elecciones ordinarias para elegir concejales el primer sábado de mayo de cada año. En la elección regular de cada año par, los votantes elegirán un alcalde y tres concejales. En la elección regular de cada año impar, los votantes elegirán tres (3) concejales. El alcalde y los concejales desempeñarán sus puestos durante el periodo de tiempo y en los lugares numerados según se establece en el Artículo II de esta carta. El consejo municipal puede, ya sea por medio de una ordenanza o de una resolución, ordenar elecciones especiales, fijar las fechas, dar aviso y ofrecer todos los medios para realizar tales elecciones especiales”

**Elección conjunta**

El Departamento de elecciones del condado de Wharton realizará las obligaciones descritas en el Acuerdo de Elección Conjunta con las siguientes modificaciones.

**Fecha**

Se celebrará una elección en la ciudad de Wharton, Texas, el **3 de noviembre de 2020.**

**Horas**

Los lugares de votación abrirán para votar a las **7:00 a.m.** y se cerrarán a **las 7:00 p.m.**

**Lugares**

Los centros de votación el día de la elección serán los siguientes:

Centro Cívico de Wharton - Sala Principal, 1924 N. Fulton St., Wharton, Texas  
Estación de Bomberos de Boling – 6735 FM 442 Rd., Boling, Texas  
Biblioteca de East Bernard – 746 Clubside Dr., East Bernard, Texas  
Estación de Bomberos de Hungerford – 8018 Houston St., Hungerford, Texas  
Biblioteca del Condado de Wharton – Sucursal de El Campo –200 W. Church St., El Campo, Texas  
Centro Cívico de El Campo – Sala Myatt – 2350 N. Mechanic St., El Campo, Texas  
Corte 3 del Juez de Paz – 340 W. North St., Louise, Texas  
Iglesia Católica St. Robert – 512 Tegner, El Campo, Texas

### **Votación anticipada**

La administradora de elecciones del Condado de Wharton es Cindy Richter nombrada como secretaria de la votación anticipada y queda autorizada a nombrar a otros asistentes para desempeñarse como secretarías de la votación anticipada.

La votación anticipada por comparecencia personal para la elección nombrada aquí arriba se realizará en los siguientes lugares:

Anexo D del Condado de Wharton, Sala 116, 315 E. Milam, Wharton, Texas  
Biblioteca del Condado de Wharton –Sucursal de El Campo –200 W. Church St.,  
El Campo, Texas  
Biblioteca de East Bernard – 746 Clubside Dr., East Bernard, Texas

Los lugares para la votación anticipada permanecerán abiertos cada día que no sea sábado, domingo, o fiesta estatal oficial, desde las **8:00 de la mañana hasta las 5:00 de la tarde**, comenzando **el lunes, 19 de octubre de 2020 hasta e inclusive el viernes, 23 de octubre de 2020** y continuando **el lunes, 26 de octubre de 2020 hasta, e inclusive el miércoles, 28 de octubre de 2020; el jueves, 29 de octubre de 2020** y continuando **el viernes, 30 de octubre de 2020** desde las **7:00 de la mañana a las 7:00 de la noche**.

Los votantes deben enviar las solicitudes de balotas y las balotas votadas por correo a la oficina de la administradora de elecciones del Condado de Wharton: P.O. Box 390, Wharton, Texas 77488.

### **Resultados**

“La Sección 41 de la Carta Constitutiva dispone que las elecciones municipales serán escrutinadas durante una (1) semana después de la elección; sin embargo, de acuerdo con los cambios del Código de Elecciones de Texas, Sección 67.003, el escrutinio local se congregará no antes del tercer día ni más tarde del onceavo (11) día después del día de la elección.”. El periodo para los escrutinios oficiales será desde el 6 hasta el 17 de noviembre de 2020. Los oficiales que realicen la elección deberán entregar los resultados de ella al alcalde de esta Ciudad, según lo requiere el Código de Elecciones de Texas.

### **Orden**

El Consejo Municipal de la Ciudad de Wharton, Texas, ordenará la elección de acuerdo con las siguientes disposiciones.

### **Divisibilidad**

Si algún tribunal de jurisdicción competente dicta que cualquier sección, subsección, oración, cláusula, frase, o parte de esta orden sea inválida o inconstitucional, dicha parte será considerada como disposición separada, distinta e independiente, y dicho dictamen no afectará a la validez de las partes restantes de esta.

### **Promulgación y Aprobación**

**PASADO Y APROBADO** por El Consejo Municipal de la Ciudad de Wharton, Texas, este día 10 de agosto de 2020.

**CIUDAD DE WHARTON, TEXAS**

**ATESTIGUACIÓN:**

Por: \_\_\_\_\_

**Tim Barker**  
Alcalde

Por: \_\_\_\_\_

**Paula Favors**  
Secretaria Municipal

**APROBADO:**

\_\_\_\_\_  
**Paul Webb**  
Abogado Municipal

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

The third item on the agenda was to review and consider resolution of the Wharton City Council approving an agreement between the City of Wharton and Oakbend Medical Group for testing services and authorizing the Mayor or the City of Wharton to execute all documents related to said agreement. City Manager Andres Garza, Jr. stated the City of Wharton had received funding through the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) for COVID-19 expenditures. City Manager Garza said the City Staff had been in negotiations with Oakbend Medical Group for COVID-19 testing for City of Wharton residents and had been developing criteria for testing. He said that Oakbend representatives met with the City Staff on July 21, 2020 to work out the details of said agreement. EMS Director John Kowalik presented information on PCR tests and SARS COS Antigen tests. Emergency Management Coordinator Steve Johnson presented the City Council with an update on COVID-19 testing in Wharton County. After some discussion, Councilmember Russell Machann moved to approve City of Wharton Resolution No. 2020-77, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2020-77**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING AN AGREEMENT BETWEEN THE CITY OF WHARTON AND OAKBEND MEDICAL GROUP FOR TESTING SERVICES AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID AGREEMENT.**

**WHEREAS,** The City of Wharton wishes to authorize the Mayor of the City of Wharton to authorize an agreement between the City of Wharton and Oakbend Medical Group for testing services; and,

**WHEREAS,** The Wharton City Council approved Resolution No. 2020-68 designating a PCR Test be administered; and,

**WHEREAS,** The Wharton City Council wishes to change the PCR Test to a SARS COS Antigen Test; and,

**WHEREAS,** The City of Wharton and Oakbend Medical Group wishes to be bound by the conditions as set forth in the agreement; and,

**WHEREAS,** The Wharton City Council wishes this resolution to become effective immediately upon its passage.

**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 authorizes the Mayor of the City of Wharton to execute, on behalf of the City of Wharton, an agreement with Oakbend Medical Group for testing services.

**Section II.** That the PCR Test as stated in Resolution 2020-68 is hereby changed to a SARS



COS Antigen Test.

**Section III.** That the City of Wharton and Oakbend Medical Group are hereby bound by the conditions as set forth in the agreement.

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

**Passed, Approved, and Adopted** this 10<sup>th</sup> day of August 2020.

**CITY OF WHARTON, TEXAS**

By: \_\_\_\_\_

**TIM BARKER**

Mayor

**ATTEST:**

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

City Secretary

Councilmember Terry Freese 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 grant agreement with the Texas Department of Emergency Management (TDEM) through its Hazard Mitigation Grant Program (HMGP) for critical facility generators and authorizing the Mayor to execute all documents relating to said agreement. City Manager Andres Garza, Jr. stated the Wharton City Council approved the submission of an application for the Texas Department of Emergency Management (TDEM) through its Hazard Mitigation Grant Program (HMGP). Community Development Director Gwyn Teves said the City had received notification of the award in the amount of \$1,785,122.00 (\$1,338,841.50 federal cost share and \$446,280.50 local cost share) for the purchase and installation of four (4) critical facility generators as identified in the grant application. After some discussion, Councilmember Clifford Jackson moved to approve City of Wharton Resolution No. 2020-78, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2020-78**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A GRANT AGREEMENT WITH THE TEXAS DEPARTMENT OF EMERGENCY MANAGEMENT (TDEM) THROUGH ITS HAZARD MITIGATION GRANT PROGRAM (HMGP) FOR CRITICAL FACILITY GENERATORS AND AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS RELATING TO SAID AGREEMENT.**

**WHEREAS,** The City of Wharton submitted to TDEM through its HMGP a grant application for critical facility generators; and,

**WHEREAS,** The TDEM approved the grant application in the amount of \$1,785,122.00 (\$1,338,841.50 federal cost share and \$446,280.50 local cost share) for the purchase and installation of four (4) critical facility generators as identified in the grant application; and,

**WHEREAS,** The Wharton City Council wishes to accept the grant agreement with TDEM and comply with the requirements of the grant agreement.

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

**Section I:** The Wharton City Council hereby accepts the grant and approves the grant agreement with the Texas Department of Emergency Management in the amount of \$1,785,122.00 (\$1,338,841.50 federal cost share and \$446,280.50 local cost share) for the purchase and installation of four (4) critical facility generators as identified in the grant application.

**Section II:** The Wharton City Council hereby authorizes the Mayor to execute all documents relating to the grant agreement.

**Section III:** That this resolution shall take effect immediately upon its passage.

**PASSED, APPROVED AND ADOPTED** this 10<sup>th</sup> day of August 2020.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

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

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

The fifth item on the agenda was to review and consider a resolution authorizing the sale of City of Wharton Surplus Personal Property in accordance with the City Charter Section 75. City Manager Andres Garza, Jr. presented a copy of photos from Airport Manager David Allen of a tug that the Airport was requesting City Council approval to advertise for bids and a copy of a

draft resolution authorizing the surplus personal property to be auctioned through a sealed bidding process and authorizing the City Manager to sell the item if not sold through the bidding process on a first come first serve basis. City Secretary Paula Favors stated the City Charter Section 75 Sale of City personal property; procedures, required that items that are valued at \$1,000 or more must be sold through the bidding process. After some discussion, Councilmember Russell Machann moved to City of Wharton Resolution No. 2020-79, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2020-79**

**A RESOLUTION AUTHORIZING THE SALE OF CITY OF WHARTON SURPLUS PERSONAL PROPERTY IN ACCORDANCE WITH THE CITY CHARTER SECTION 75 SALE OF CITY PERSONAL PROPERTY; PROCEDURES.**

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

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

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

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

**Section I.** The City Council of the City of Wharton hereby authorizes the City Manager to sell the City of Wharton surplus personal property in accordance with the City Charter Section 75 Sale of City personal property; procedures.

**Section II.** The City Council of the City of Wharton hereby authorizes the sale of this personal property by publication notification.

**Section III.** The Wharton City Council hereby authorizes the City Manager to sell City personal property out right on a first come first serve basis if said property did not sell through the bidding process.

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

**Passed, Approved, and Adopted** this 10th day of August 2020.

**CITY OF WHARTON, TEXAS**

**By:**

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**TIM BARKER**

Mayor

**ATTEST:**

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**PAULA FAVORS**

City Secretary

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

The sixth item on the agenda was to review and consider appointments and resignations to the City of Wharton Boards, Commissions and Committees. City Manager Andres Garza, Jr. presented the list of persons serving on the various City Boards, Commissions and Committees that were up for re-appointment. Assistant to the City Manager Brandi Jimenez stated that there were still vacancies that needed to be filled but there were not any appointments or resignations.

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

- A. Wharton Economic Development Corporation Regular Meeting held June 22, 2020.
- B. Wharton Economic Development Corporation Special Meeting held June 29, 2020.
- C. Wharton Economic Development Corporation Personnel Committee meeting held July 15, 2020.
- D. Wharton Economic Development Corporation Special Meeting held July 15, 2020.
- E. Wharton Economic Development Corporation Annual Meeting held July 20, 2020.
- F. Finance Committee Meeting held July 27, 2020.
- G. Parks and Recreation Meeting held July 27, 2020.

After some discussion, no action was taken.

**Adjournment.** 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 7:27 p.m.

**CITY OF WHARTON, TEXAS**

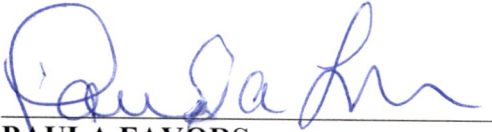
By: 

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**TIM BARKER**

Mayor

**ATTEST:**



**PAULA FAVORS**  
City Secretary

