

**MINUTES  
OF  
CITY OF WHARTON  
REGULAR CITY COUNCIL MEETING  
JANUARY 14, 2002**

Mayor Joel D. Williams declared a Regular Meeting duly open for the transaction of business at 7:03 P.M. Singing of the National Anthem was by Monica Sedillo. Mayor Joel D. Williams led the opening devotion and then led the pledge of allegiance.

Councilmembers present were: Mayor Joel D. Williams, Councilmembers V. L. Wiley, Jr., Jimmy Schulz, Ken Freese, Don Mueller, Domingo Montalvo, Jr., and Bryce D. Kocian.

Councilmember absent was: None.

Staff members present were: City Manager, Andres Garza, Jr., Finance Director Joyce Vasut, Deputy City Secretary Lisa Stavena, Assistant to City Manager Jackie Wheeler, Community Services Director Jo Knezek, Building Official Ronnie Bollom and City Attorney Paul Webb.

Visitors present were: Ron Sanders Wharton Journal-Spectator, Paul Daly KULP, Anthony Rachunek, Monica Sedool, Merrell "Doc" Barfield, Jr., David Schroeder, Glenn Hegar, and Carlos Cotton.

The third item discussed on the agenda was Public Comments. Merrell "Doc" Barfield, Jr. addressed the City Council regarding the Railroad Depot. Mr. Barfield stated that \$257,759 were needed to be raised as a match for the restoration of the railroad depot, however if the City would request the depot property to be transferred it would provide \$60,000 of in-kind contributions towards the match. He said it would leave \$197,759 that would need to be raised for the grant match. Councilmember Bryce D. Kocian requested the item be placed on the Regular City Council Agenda on January 28, 2002. Mr. Glenn Hegar addressed the City Council and introduced himself and stated he was running for State Representative. No other comments were made. No action was taken.

The fourth item discussed on the agenda was the Wharton Moment. Mayor Joel D. Williams presented the U.S. Flag to Monica Sedillo. Councilmember Domingo Montalvo, Jr. stated he was selected to go to Georgia for training and would be absent from the Regular City Council Meeting on January 28, 2002. City Manager Andres Garza, Jr. informed the City Council that Street Superintendent Robert Garza was in St. Luke's Hospital and that on Saturday, January 12, 2002 he had heart bypass surgery. No action was taken.

The fifth item discussed on the agenda was to review and consider reading of the minutes from the Regular Meetings held December 10, 2001. After some discussion, Councilmember Don Mueller made a motion to approve the minutes from the Regular Meetings held December 10, 2001 as written. Councilmember Bryce D. Kocian seconded the motion. All voted in favor.

The sixth item on the agenda was an announcement on the Shanghai Days Cowboy Gathering to be held Saturday, March 23, 2002. Wharton Economic Development Corporation Executive Director David Schroeder addressed the City Council and informed them that Shanghai Days

Cowboy Gathering would held Saturday, March 23, 2002. He said that a good group of performers would be participating in the event. Mr. Schroeder asked the City Council for their support in promoting the event. After some discussion, no action was taken.

The seventh item on the agenda was to review and consider a resolution authorizing Mayor Joel D. Williams to execute a contract with Jones & Carter, Inc. for professional engineering services for the City of Wharton Wastewater Treatment Plant No. 2 Improvement Project. City Manager Andres Garza, Jr. informed the City Council that the Consultant Selection Committee met on January 11, 2002 with Mr. Carlos Cotton, P.E. And Mr. Tobin Synatschk, P.E. of Jones & Cater, Inc. to negotiate the professional engineering services fee for the City of Wharton Wastewater Treatment Plant No. 2 Improvement Project. He stated that the committee was recommending approval of the payment schedule which included basic engineering services for a lump sum of \$130,000 and special services such as influent sampling, surveying topo, material testing and field project representation for \$77,000. Councilmember Jimmy Schulz asked about the completion date. Mr. Carlos Cotton addressed the City Council and advised that the construction phase would be approximately ten (10) months, and that the field inspections would be conducted at the City's request. Councilmember Don Mueller requested a hourly statement be provided to the City Council. After some discussion, Councilmember Bryce D. Kocian made a motion to approve authorization for professional engineering services not to exceed \$207,000 and approve Resolution No. 2002-01, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2002 - 01**

**A RESOLUTION AUTHORIZING MAYOR JOEL D. WILLIAMS TO EXECUTE A CONTRACT WITH JONES & CARTER, INC. FOR PROFESSIONAL ENGINEERING SERVICES FOR THE CITY OF WHARTON WASTEWATER TREATMENT PLANT NO. 2 IMPROVEMENT PROJECT.**

**WHEREAS**, the City of Wharton City Council wishes to authorize Mayor Joel D. Williams to execute a professional engineering services contract with Jones & Carter, Inc. for the City of Wharton Wastewater Treatment Plant No. 2 Improvement Project; and

**WHEREAS**, Jones & Carter wishes to accept a contract for professional engineering services with the City of Wharton for the Wastewater Treatment Plant No. 2 Improvement Project; and

**WHEREAS**, the City of Wharton and Jones & Carter, Inc. wish to be bound by the conditions as set forth in Attached "A".

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

**Section I.** That the City Council of the City of Wharton hereby authorizes Mayor Joel D. Williams to execute a contract with Jones & Carter, Inc. for professional engineering services for the City of Wharton Wastewater Treatment Plant No. 2 Improvement Project.

**Section II.** That the City of Wharton and Jones & Carter, Inc. are hereby bound by the conditions as set forth in Attached "A".

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

**Passed, Approved, and Adopted** this 14<sup>th</sup> day of January 2002.

**CITY OF WHARTON, TEXAS**

**By:**

**JOEL D. WILLIAMS**  
Mayor

**ATTEST:**

**JOYCE VASUT**  
City Secretary

Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The eighth item on the agenda was a request by the City Staff for City of Wharton Project Plans and Specifications from Anthony Rachunek & Associates, Inc. City Manager Andres Garza, Jr. informed the City Council the Mayor Joel D. Williams requested this item be placed on the agenda to update the City Council on the City Staff's progress in obtaining copies of the plans and specifications from Anthony Rachunek & Associates, Inc. He also stated that Mr. Rachunek had advised him that the first set of plans would be submitted to A & E Products Co., Inc. for the digitalization on Tuesday, January 15, 2002. Mr. Anthony Rachunek addressed the City Council regarding the requested information from his office. He stated that the list was reduced from nine to four. He then stated that he had agreed for Engineering Technician Amber Karasek to go through the projects in his office one by one and whatever she needed copies of, the city would receive. Mr. Rachunek stated that no original plans would leave his office, he would have control over the plans. After some discussion, no action was taken.

The ninth item on the agenda was to review and consider the Transition of In-house Engineering Projects to an outside Engineering Consultant.

**A.** Proposal by Anthony Rachunek & Associates, Inc.

**B. Resolution:** A resolution authorizing Mayor Joel D. Williams to execute a contract with Anthony Rachunek & Associates, Inc. for engineering services for the City of Wharton's on-going projects. City Manager Andres Garza, Jr. presented the proposal by Mr. Anthony Rachunek, P.E. to the City Council for the Hinze Water Line Project for the amount of \$11,500, Wastewater Treatment Plant No. 1 for the amount of \$5,580, Wastewater Treatment Plant No. 1 Bank Stabilization Project for the amount of \$31,700. Councilmember Bryce D. Kocian asked

Mr. Rachunek if the amounts were fixed and the deadline to complete projects. Mr. Anthony Rachunek stated the amounts were lump sum amounts and the only project that had a deadline, which would need to be extended was the Wastewater Treatment Plant No. 1 Bank Stabilization Project. Mr. Rachunek stated that the grant project had a completion date of April 2, 2002, which would need to be expended for six (6) additional months. He also stated that the City of Wharton was awaiting on a soil report. City Manager Andres Garza, Jr. stated that he received the soil report on Friday, January 11, 2002. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve Resolution No. 2002-02, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2002 - 02**

**A RESOLUTION AUTHORIZING MAYOR JOEL D. WILLIAMS TO EXECUTE A CONTRACT WITH ANTHONY RACHUNEK & ASSOCIATES, INC. FOR ENGINEERING SERVICES FOR THE CITY OF WHARTON'S ON-GOING PROJECTS.**

**WHEREAS**, the City of Wharton City Council wishes to authorize Mayor Joel D. Williams to execute a contract with Anthony Rachunek & Associates for engineering services for the City of Wharton's on-going projects; and

**WHEREAS**, the City Attorney Paul Webb will draft the contract, outlining the City's on-going projects as consisting of the following:

- a. Wastewater Treatment Plant No. 1 Rehabilitation Project.
- b. Bank Stabilization Project, TCDP Contract No. 718127.
- c. Hinze's Waterline Project.

**WHEREAS**, Anthony Rachunek & Associates, Inc. wishes to accept the contract for engineering services: and

**WHEREAS**, the City of Wharton and Anthony Rachunek & Associates, Inc. wish to be bound by the conditions as set forth in Attached "A".

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

**Section I.** That the City Council of the City of Wharton hereby authorizes Mayor Joel D. Williams to execute a contract with Anthony Rachunek & Associates, Inc. for engineering services for the City of Wharton's afore-mentioned on-going projects.

**Section II.** That the City of Wharton and Anthony Rachunek & Associates, Inc. are hereby bound by the conditions as set forth in the Attached "A".

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

**Passed, Approved, and Adopted** this 14<sup>th</sup> day of January 2002.

**CITY OF WHARTON, TEXAS**

By:

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**JOEL D. WILLIAMS**  
Mayor

**ATTEST:**

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**JOYCE VASUT**  
City Secretary

Councilmember Bryce D. Kocian seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider an ordinance amending the City of Wharton Code of Ordinances, Chapter 34 Health and Sanitation, Article I - In General, Section 34-7. Same--Enumeration relating to Noise and Nuisance of Amplified Sound. City Manager Andres Garza, Jr. presented to City Council a memorandum from Police Chief Tim Guin regarding the Noise Ordinance. He stated that the amendment to the ordinance was a result of public input at the public hearings held during process of obtaining information for the Empowerment Zone application. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Ordinance No. 2002-01, which read as follows:

**CITY OF WHARTON  
ORDINANCE NO. 2002 - 01**

**AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 34 HEALTH AND SANITATION, ARTICLE I - IN GENERAL, SECTION 34-7. SAME -- ENUMERATION RELATING TO NOISE AND NUISANCE OF AMPLIFIED SOUND.**

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

Chapter 34, Health and Sanitation, Article I - In General, is amended to read as follows:

Sec. 34-7. Same--Enumeration.

The following acts, among others, are declared to be nuisances in violation of the noise prohibitions of this chapter, but such enumeration shall not be deemed to be exclusive:

- (1) The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates another meaning:
  - a. *Daytime hours* shall mean the hours from 7:00 a.m. on one day and 10:00 p.m. the same day.
  - b. *Property line* shall mean, with respect to single occupancy properties, the line along the ground surface and its vertical extension that separates the real

property owned, leased, or occupied by one person from that owned, leased, or occupied by another person. With respect to shared occupancy properties the term shall mean the imaginary line that represents the legal limits of occupancy of any person who owns, leases, or otherwise occupies an apartment, condominium, hotel or motel room, office, or any other type of occupancy from that of other occupants.

(2) Amplified Sound.

- (a) It shall be unlawful for any person to make, assist in making, permit, continue, cause to be made or continued, or permit the continuance of any sound using any sound amplifier that is part of or connected to any speaker system, radio, stereo receiver, compact disc player, cassette tape player, microphone, or any other sound source, when operated: (i) in such a manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants, or (ii) at any time with louder volume than is necessary for convenient hearing for persons who are in the vehicle or within the property or premises in which such sound amplifier is operated and who are voluntary listeners thereto. The operation of any such sound amplifier in such a manner as to be plainly audible at a distance of 50 feet from a vehicle shall be presumed to violative to this section. The operation of any such sound amplifier in such a manner that bass sounds are plainly audible at a distance of 50 feet from the property line of a property or premises in which the amplification is located shall be presumed to be violative of this section.
- (b) It is an affirmative defense to prosecution under this section that the sound source is a motor vehicle and that (i) the motor vehicle is a mobile sound stage or studio that is being used on a stationary basis at a location not situated upon any street for the purpose of providing sound, during daytime hours, for an event or function and (ii) the use is in compliance with all other provisions of this chapter.

(3) Animals and birds. The keeping or harboring of any animal or bird which by any sound or cry shall disturb the peace, comfort or property of the inhabitants of the neighborhood.

(4) Horns and signal devices. The continued or frequent sounding of any horn or signal device of any automobile, motorcycle, bus or other vehicle, except as a danger or warning signal, or the creation by means of any such signal device of any unreasonably loud or harsh noise for any unreasonable period of time so as to disturb persons of ordinary sensibilities in the immediate vicinity.

(5) Steam whistles on stationary boilers. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of danger so as to disturb persons of ordinary sensibilities in the immediate vicinity.

(6) Discharge of exhaust from engines. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or boat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom, so as to disturb persons of ordinary sensibilities in the immediate vicinity.

- (7) Noise near school or hospital. The creation of any excessive noise on any street adjacent to any school or institution of learning while the school or institution is in session or adjacent to any hospital which unreasonably interferes with the workings of such institution, provided conspicuous signs are displayed in such manner indicating that the street is a school or hospital street, so as to disturb persons of ordinary sensibilities in the immediate vicinity.
- (8) Loading and unloading operations; opening or destruction of containers. The creation of any loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates and containers so as to disturb persons of ordinary sensibilities in the immediate vicinity.
- (9) Shouting and crying of peddlers, hawkers and vendors. The raucous shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.
- (10) Drums or loudspeakers calling attention to performance, show or sale. The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by the creation of noise to any performance, show or sale of merchandise so as to disturb persons of ordinary sensibilities in the immediate vicinity.

### **Penalty and Fines for Violations**

Section 1-5 (a). The maximum fine for violating any ordinance, rule or police regulation that governs fire safety, zoning, or public health and sanitation, including dumping of refuse, shall not exceed \$2,000.00; for all other violations, the maximum fine shall not exceed \$500.00. Each day any violation of this Code or of any ordinance, shall continue shall constitute a separate offense.

### **Separability**

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 a separate, distinct, and independent provision, and any such ruling shall not affect the validity of the remaining portions hereof.

### **Effective Date**

This ordinance shall be effective on January 25, 2002 at 12:01 a.m.

### **Passage and Approval**

**PASSED AND APPROVED** by the City Council of the City of Wharton, Texas this 14<sup>th</sup> day of January 2002.

**CITY OF WHARTON, TEXAS**

**JOEL D. WILLIAMS**  
Mayor

**ATTEST:**

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**JOYCE VASUT**  
City Secretary

**APPROVED AS TO FORM:**

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**PAUL WEBB**  
City Attorney

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

The eleventh item on the agenda was to review and consider the Building Standards Commission:

**A.** Resignation of Mr. J. Mark Gresham as Commissioner. After some discussion, Councilmember Ken Freese made a motion to accept the resignation of Mr. J. Mark Gresham from the Building Standards Commission. Councilmember Bryce D. Kocian seconded the motion. All voted in favor.

**B.** Appointment to fill vacant position. After some discussion, no action was taken.

The twelfth item on the agenda was to review and consider the Travel Reimbursement for City Manager Andres Garza, Jr. After some discussion, Councilmember Bryce D. Kocian made a motion to approve the travel reimbursement for City Manager Andres Garza, Jr. in the amount of \$210.14 for the period October 17, 2001 - January 8, 2002. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

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

- A.** Beautification Commission meeting held December 12, 2001.
- B.** Wharton Regional Airport Board meeting held December 18, 2001.
- C.** Wharton Economic Development Corporation meeting held December 18, 2001.
- D.** Building Standards Commission meeting held December 20, 2001.
- E.** City Council Finance Committee meeting held January 7, 2002.

City Manager Andres Garza, Jr. presented the report to the City Council to review. No action was taken.

The fourteenth item on the agenda was adjournment. After some discussion, Councilmember Don Mueller made a motion to adjourn. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

City of Wharton  
Regular City Council Meeting  
January 14, 2002

The meeting was adjourned at 7.45 P.M.

**CITY OF WHARTON, TEXAS**

**By:**

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**BRYCE D. KOCIAN**  
Mayor Pro-Tem

**ATTEST:**

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**JOYCE VASUT**  
City Secretary