

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
JANUARY 28, 2002**

Mayor Joel D. Williams declared a Regular Meeting duly open for the transaction of business at 7:03 p.m. Councilmember Ken Freese led the opening devotion then Mayor Joel D. Williams led the pledge of allegiance.

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

Councilmember absent was: Domingo Montalvo, Jr.

Staff members present were: City Manager Andres Garza, Jr., Finance Director Joyce Vasut, Assistant to City Manager Jackie Wheeler, Community Services Director Jo Knezek and City Attorney Paul Webb; Police Chief Tim Guin, Fire Chief David Copeland, Interim EMS Supervisor John Kowalik, and Public Works Director Phil Bush.

Visitors present were: Ron Sanders with Wharton Journal Spectator, Paul Daly with KULP, David Schroeder Executive Director of Wharton Economic Development Corporation (WEDCo), Billie Jones Executive Director of Wharton Chamber of Commerce and Agriculture, Dr. Merrell "Doc" Barfield, Loretta Craft, Richard Arnold, William Loocke, David Bucek, Sr., and Lonnie Phillip, Jr.

The second item on the agenda was Roll Call and Excused Absences. Mayor Joel D. Williams stated that the City Council would take action on roll call and excused absences pending Councilmember V. L. Wiley, Jr.'s arrival. He said that Councilmember Domingo Montalvo, Jr. had notified him that he would be absent during the meeting. No action was taken.

The third item on the agenda was Public Comments. Mr. Lonnie Phillip, Jr. addressed the City Council regarding the sewage line located at his residence at 410 Wilkes Street. He said that the City installed the line many years ago and has had problems with it through out that time. He said that the line installed was too small to drain properly. He said that he called a plumber and he was also unable to unclog the line due to the line being too small. After some discussion, Mayor Joel D. Williams stated that City Manager Andres Garza, Jr. would research the situation and contact Mr. Phillip regarding a solution to his problem. No action was taken.

The fourth item on the agenda was Wharton Moment. No comments were offered during Wharton Moment. No action was taken.

The fifth item on the agenda was to review and consider the Financial Reports for the City of Wharton for the months of November and December 2001. Finance Director Joyce Vasut presented the financial reports for the months of November and December 2001 and stated that she would skip the November report and move to the report for December which was three months into the fiscal year and was at 25%. Mrs. Vasut stated that the general fund revenues

were at 20.17% and the expenditures were at 25.89%. She told the Councilmembers that a new page was added to the report which listed all checks issued over \$5,000.00. The total ad valorem taxes collected were \$290,870.00. The sales tax for the month of January 2002 was \$79,059 with \$52,705.85 to the City and \$26,353 to WEDCo. The TexPool balance for January 2002 was \$2,869,552.58 with an average monthly yield of 2.3597%. After some discussion, Councilmember Bryce D. Kocian made a motion to approve the financial reports for the months of November and December 2001 as presented. Councilmember Don Mueller seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider the Wharton Volunteer Fire Department Annual Report for 2001. Fire Chief David Copeland addressed the City Council and presented the Wharton Volunteer Fire Department Annual Report for 2001. He told the Councilmembers that the Fire Department responded to 420 calls of which 191 were fire calls and 229 were rescue/Haz-Mat calls. He said that the Wharton Fire Department requested Mutual Aid on 9 calls and responded to 146 calls with neighboring departments. He said the total dollar loss for the fire department was estimated at \$361,700 with \$72,200 within the City of Wharton. Mr. Copeland reported 1,933 hours of training and said that those hours represented training received locally in the monthly training program, the rookie academy, Texas A&M Municipal Fire Rescue, Lower Colorado River Authority, National Fire Academy, Wharton County Firefighters Association, and Hermann Hospital Life Flight. He said the department ended 2001 with 40 active firefighters and 6 probationary firefighters that were waiting for membership in the department. He said that the department had 24 certified firefighters consisting of 11 basic firefighters, 3 intermediate firefighters, and 10 advanced firefighters with 6 firefighters certified by the Texas Commission on Fire Protection as paid firefighters. He stated that Mr. Bobby Barnett has done an excellent job leading the charge with the Rookie Academy which has a total of 16 personnel attending. Mr. Copeland said that the National Fire Prevention Week was held during October 2001 which focuses on family awareness of home fire prevention and the Wharton Volunteer Fire Department provided 20 fire prevention programs during that week. He said that the Wharton Volunteer Fire Department continues to serve the community of Wharton and Wharton County by participating in local events by providing volunteer assistance with involvement in the Wharton Holiday Parade, Fiesta Hispano Parade and the Wharton Freedom Festival. He said the department continues to provide traffic control for high school football games and the Wharton County Your Fair. He said that the department Swift Water Rescue Team was involved with rescue efforts during Tropical Storm Allison in Houston which totaled 48 hours of rescue efforts to assist victims of the flood. Mr. Copeland said that the Wharton Volunteer Fire Department received a grant for \$10,000 which funded the purchase of a Bullard Thermal Imaging Camera. He said that fire district funds were used to purchase needed personal protective gear for firefighters and to outfit the rescue team with extrication coveralls plus continue to retire the debt on Unit 1130 and plans to add an additional brush truck.

Mayor Joel D. Williams publicly thanked Fire Chief Copeland and the Volunteer Firefighters of the Wharton Fire Department for providing service, safety and volunteerism. Mayor Williams also offered condolences to Fire Chief Copeland for the loss of his brother.

Councilmember Bryce Kocian asked Mr. Copeland how many volunteer hours were documented for 2001. Mr. Copeland said that in working with the workers compensation insurance, approximately 5,000 hours were logged. City Manager Andres Garza, Jr. inquired about the fire inspection progress. Mr. Copeland said that Fire Inspector Scott Stewart was working in

conjunction with the Code Enforcement Department, which has proven to be positive by aiding in preventing fire hazards. After some discussion, Councilmember Ken Freese made a motion to accept the Wharton Volunteer Fire Department Annual Report for 2001. Councilmember Bryce Kocian seconded the motion. All voted in favor.

After the report, Mayor Joel D. Williams then returned to Agenda Item 2 and noted that Councilmember V. L. Wiley, Jr. arrived at 7:10 p.m. Mayor Joel D. Williams then stated that action could be taken to excuse Councilmember Domingo Montalvo, Jr. After some discussion, Councilmember Don Mueller made a motion to excuse Councilmember Domingo Montalvo, Jr. Councilmember Bryce Kocian seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider the Southern Pacific Railroad Depot Restoration Project - Acquisition of Building from the Texas Mexican Railway Company. City Manager Andres Garza, Jr. stated that during the regular City Council meeting held January 14, 2002, Dr. Merrell Barfield provided an update regarding the Southern Pacific Railroad Depot Restoration Project and requested City Council support in acquiring the building from the Texas-Mexican Railway Company (Tex-Mex). Mr. Garza said that Councilmember Bryce Kocian requested this item be placed on the agenda for further discussion by the City Council. Mr. Garza also presented the letter dated May 30, 2001 from Mr. Arturo J. Dominguez, Manager of Real Estate & Industrial Development for Tex-Mex which indicated Tex-Mex's willingness to assist the City of Wharton in obtaining the building and property. Mr. Garza also stated that he spoke with Mr. Dominguez on Friday, January 25, 2002 and notified him of the City's selection by the Texas Department of Transportation for funding under the Enhancement Grant Program. Mr. Garza said that Mr. Dominguez said that when the City was ready to accept the property, the City should submit a letter of request that could be presented to the Tex-Mex Board of Directors for action to be taken regarding the donation of the building and property. Mr. William Loocke addressed the City Council and stated that the donation of the building would need to be on the agenda for Tex-Mex's next quarterly meeting. Mr. Loocke also stated that Mr. Phil Stephenson was working on the fundraising campaign for the City's match for the Enhancement Grant and that the Restoration Committee was working on several other applications for grants including one from the Meadows Foundation. He said that a grant could be applied for from the Great American Station Foundation in the amount of \$30,000 but that grant required a 50% match. Mayor Joel D. Williams said that the City could not proceed without the Enhancement Grant in place but was agreeable to write the letter to Tex-Mex for the donation of the building. After some discussion, Councilmember Ken Freese made a motion to proceed with the receiving of the building and property from the Texas Mexican Railway Company by submitting a letter to the Board of Directors. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The eight item on the agenda was to review and consider a resolution of the City Council authorizing Mayor Joel D. Williams to execute the Texas Department of Housing and Community Affairs Application Number 20010048 under the Owner Occupied Housing Assistant Contract #531067. Community Services Director Jo Knezek stated that the grant would allow the building of nine new homes. She said for this application, the City would need to secure an administrator as required by the agreement. Councilmember Bryce Kocian asked how the administrator would be paid. City Manager Andres Garza, Jr. stated that the administrator would be paid from the grant fund and that the City's match for the funding would be in the form of in-kind services by demolishing the houses. Community Services Director Jo Knezek said that she would advertise for applicants to participate in the program and that the

houses could be located anywhere in the City of Wharton. She said that the program was for very low-income people and that the homes would be completely demolished and new houses built. After some discussion, Councilmember Bryce Kocian made the motion to approve the resolution as follows:

**CITY OF WHARTON
RESOLUTION NO. 2002-03**

A RESOLUTION OF THE CITY COUNCIL AUTHORIZING MAYOR JOEL D. WILLIAMS TO EXECUTE THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS APPLICATION NUMBER 20010048 UNDER THE OWNER OCCUPIED HOUSING ASSISTANCE CONTRACT #531067.

WHEREAS, the City of Wharton was awarded Contract No. 531067 (Attached A) under the Texas Department of Housing and Community Affairs Owner Occupied Housing Assistance Program; and

WHEREAS, the City Council wishes to authorize Mayor Joel D. Williams to execute all documents relating to said contract; and

WHEREAS, this resolution is passed in accordance with said contract.

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

Section I. That Joel D. Williams, Mayor of the City of Wharton is hereby authorized to sign any documents relating to the aforementioned contract on behalf of the City of Wharton.

Section II: That this resolution shall be come effective immediately upon its passage.

Passed, Approved, and Adopted this 28th of January 2002.

CITY OF WHARTON, TEXAS

By: _____
JOEL D. WILLIAMS
Mayor

ATTEST:

JOYCE VASUT

Councilmember V. L. Wiley, Jr. 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 respectfully requesting the Texas Department of Transportation Commission to address and consider specific guidelines related to the New Frontage Road Policy. City Manager Andres Garza, Jr. informed the City Council that on January 18, 2002, Mr. David Schroeder of Wharton Economic Development Corporation stated he had attended the public hearing held by the Texas Department of Transportation Commission regarding the Texas Transportation Commission's policy limiting the construction of frontage roads along U.W. Highway 59 (I-69 Corridor). He said the passage of this policy could be detrimental to the economic development and growth of the City of Wharton and Wharton County. He said that this policy should be reconsidered since the City of Wharton was in the planning process of development and expansion of the industrial area located along U.S. Highway 59. Councilmember Bryce Kocian asked if the policy affected cities and towns statewide. City Manager Garza said that it would along interstates and U.S. Highways. He said that he believed the Texas Department of Transportation was looking at the number of highway they have to maintain and are looking to shift the responsibility of constructing roads to the cities as "backage roads". He also said that frontage roads would be the responsibility of the State. City Manager Garza said that the State had not designated a route for Interstate I-69, however U.S. 59 has been designed as a possible corridor. He said the designation could take approximately 5 to 6 years. He said that the State was beginning to set the policies and that the City of Wharton needed to be active in those decisions. After some discussion, Councilmember Bryce Kocian made a motion to approve the resolution as follows:

**CITY OF WHARTON
RESOLUTIO NO. 2002 – 04**

A RESOLUTION OF THE WHARTON CITY COUNCIL RESPECTFULLY REQUESTING THE TEXAS DEPARTMENT OF TRANSPORTATION COMMISSION TO ADDRESS AND CONSIDER SPECIFIC GUIDELINES RELATED TO THE NEW FRONTAGE ROAD POLICY.

WHEREAS, the City of Wharton shares the obstacle with limited access to federal and state highways with many Texas cities and counties; and

WHEREAS, it is the intent under new frontage road rules by the Texas Department of Transportation Commission to limit frontage roads unless "compelling reasons" exist; and

WHEREAS, the vague definition of "compelling reasons" and the different interpretation of guidelines will limit the ability to receive consideration for frontage roads will be severely limited; and

WHEREAS, the City of Wharton joins many cities and counties along Interstate systems whose future and economic prosperity will be negatively impacted by this ruling; and

WHEREAS, cities and counties should have consistent guidelines that are not impacted by personalities or opportunities to create inconsistent responses.

NOW, THEREFORE, BE IT RESOLVED that the City of Wharton City Council hereby respectfully requested the Texas Department of Transportation Commission to address and consider specific guidelines for locations as open for consideration without personal and/or political appeals resulting in additional bureaucracy.

Signed this 28th day of January 2002, in the City of Wharton, Texas by:

Joel D. Williams
Mayor

ATTEST:

Joyce Vasut
City Secretary

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

The tenth item on the agenda was to review and consider a discussion regarding an ordinance creating a curfew for minors of fifteen (15) years of age and under in the City of Wharton. City Manager Andres Garza, Jr. stated that Councilmember Ken Freese requested this item be placed on the agenda for discussion by the City Council. City Manager Garza also presented the City Council with a copy of the curfew ordinance adopted by the city of Bay City, Texas. Councilmember Ken Freese stated that he had a concern for the students that were expelled from school and were out on the street during school hours for no reason. He said that the City Council, City Attorney Paul Webb, and Police Chief Tim Guin should come to a consensus and identify the most suitable times to allow for a curfew during school hours. Police Chief Tim Guin addressed the City Council and stated in that 1996, he submitted a sample ordinance regarding curfews to the City Council. He said that the process involved for students in the schools was lengthy before finally being expelled. He also said that problems could occur with expelled students being on the street during school hours. He said that according to State law, the ordinance would have to be reviewed every two years and there were reports that would need to be filed with the State. Chief Guin said that the Courts may not allow an ordinance to be created for a particular group such as students that were expelled only. He further said that open campuses, school lunch hours, and work programs would also have to be considered. Mr. Guin told the City Council that he reviewed the ordinance used by Bay City and said that it was a total curfew for day and night hours. He said that the Bay City ordinance creates procedures and the City Council should create policy. Mr. Guin said that he would prefer the sample ordinance he developed in 1996. After some discussion, Councilmember V. L. Wiley, Jr. stated that he was in full support of an ordinance creating a curfew and to place the responsibility on the parents. Mayor Joel D. Williams asked Police Chief Tim Guin to develop an ordinance regarding a curfew for the City of Wharton to be presented to the City Council for further consideration. After some discussion, no action was taken.

The eleventh item on the agenda was to review and consider authorization for the City Staff to solicit bids for the leasing of equipment for the City of Wharton's Hinze's Waterline Project.

City Manager Andres Garza, Jr. stated that during the Wharton City Council meeting held January 14, 2001, the City Council authorized the execution of an engineering contract with Anthony Rachunek & Associate's, Inc. for the completion of the plans and specifications for the Hinze's Waterline Project. He said the City Staff was requesting City Council approval to solicit bids for the leasing of the equipment needed for the project which included a hydraulic excavator and a wheel loader with quick couplings. He also said that the costs were included in the cost of installing the waterline. Mr. Garza said that City Council approval was required on the leasing of the equipment since the cost of the lease would exceed \$5,000. He also said that a lease with an option to purchase agreement should be sought because the City would have the option of returning the equipment or retaining it for future use. After some discussion, Councilmember Bryce Kocian made a motion to authorize the City Staff to solicit bids for leasing with an option to purchase equipment for the City of Wharton Hinze's Waterline Project. Councilmember Don Mueller seconded the motion. All voted in favor.

The twelfth item on the agenda was to review and consider recommendation from the Consultant Selection Committee:

A. Procurement of Professional Engineering Services for the City of Wharton Elevated Water Storage Tank Painting Project.

City Manager Andres Garza, Jr. stated that the Consultant Selection Committee was composed of Mayor Joel D. Williams, Councilmembers Bryce D. Kocian and Don Mueller, Public Works Director Phil Bush, and himself. He said that on January 22, 2002, the request for proposals were due for the Elevated Water Storage Tank Painting Project. He said that five of the eleven firms contacted submitted proposals. He said on January 28, 2002, the Consultant Selection Committee ranked the five firms according to the information presented in their respective proposals and the ranking were as follows:

1. Dunham Engineering, Inc.
2. O'Malley Engineers, L.L.P.
3. Jones & Carter, Inc.
4. Tank Industry Consultants
5. Anthony Rachunek & Associates, Inc.

Mr. Garza said the Consultant Selection Committee was requesting City Council approval to pursue contract negotiations with the highest ranking firm which was Dunham Engineering and that if negotiations fail, the Consultant Selection Committee would proceed with the second highest ranking firm and so forth. After some discussion, Councilmember Don Mueller made a motion to accept the ranking of the engineering firms as presented by the Consultant Selection Committee and to begin contract negotiations with Dunham Engineering, Inc. for professional engineering services for the City of Wharton Elevated Water Storage Tank Painting Project. Councilmember Bryce Kocian seconded the motion. All voted in favor.

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

A. A. Intergovernmental Relations Committee meeting held January 23, 2002.

City Manager Andres Garza presented the report to the City Council. After some discussion, no action was taken.

The fourteenth item on the agenda was the City Manager's Reports:

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

City Manager Andres Garza presented the reports to the City Council. After some discussion, no action was taken.

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

The meeting was adjourned at 8:11 p.m.

CITY OF WHARTON, TEXAS

By:

JOEL D. WILLIAMS
Mayor

ATTEST:

JOYCE VASUT
City Secretary