

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
MARCH 25, 2002**

Mayor Joel D. Williams declared a Regular Meeting duly open for the transaction of business at 7:01 p.m. Councilmember Domingo Montalvo, Jr. led the opening devotion. Junior Girl Scout Troop 201 presented a flag ceremony and led the pledge of allegiance.

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

Councilmember absent was: V. L. Wiley, Jr.

Staff members present were: City Manager Andres Garza, Jr., Finance Director Joyce Vasut, Assistant to City Manager Jackie Wheeler, City Attorney Paul Webb; Police Chief Tim Guin, Building Official Ronnie Bollom, and Interim EMS Director John Kowalik.

Visitors present were: Ron Sanders with Wharton Journal Spectator, Paul Daly with KULP, Darrin Acost with Charter Communications, Alan Boyd with Charter Communications, David Schroeder Executive Director for Wharton Economic Development Corporation, Lynda Nichols, Randy Hill, Raymond Fisher, Britney White, Amanda Evanicky, and Christine Evanicky.

The second item on the agenda was Roll Call and Excused Absences. Councilmember Don Mueller made a motion to excuse Councilmember V. L. Wiley, Jr. from the Regular City Council meeting held March 25, 2002. Councilmember Ken Freese seconded the motion. All voted in favor.

The third item on the agenda was Public Comments. No comments were given. No action was taken.

The fourth item on the agenda was Wharton Moment. Councilmember Domingo Montalvo, Jr. informed the City Council that the City had sent letters to various United States Congressmen requesting their support for \$2 million be included in the FY 2003 appropriations for the U.S. Army Corps of Engineers flood control feasibility study for the lower Colorado River basin. He said that he had received a copy of a letter sent by the Congressman Lloyd Doggett encouraging the congressional delegation to approve the appropriation of the funds for the study. No action was taken.

The fifth item on the agenda was to review and consider the Financial Report for the City of Wharton for the month of February 2002. Finance Director Joyce Vasut presented the financial report for the month of February 2002 and stated that the fiscal year and was at 42%. Mrs. Vasut stated that the general fund revenues were at 57.77% and the expenditures were at 47.01%. The total ad valorem taxes collected were \$1,728,150. The sales tax for the month of March 2002 was \$80,317 with \$53,545 to the City and \$26,772 to WEDCo. The TexPool balance for February 2002 was \$4,028,692.77 with an average monthly yield of 1.8577%. After some

discussion, Councilmember Bryce D. Kocian made a motion to approve the financial report for the month of February 2002 as presented. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The sixth item discussed on the agenda was to review and consider the Charter Communications Customer Service Issues. City Manager Andres Garza, Jr. presented the City Council an email he had sent to Mr. Pat Marrow with Charter Communications informing him of the Customer Services Issues placed on the City Council agenda on Monday, March 25, 2002. Councilmember Ken Freese asked Mr. Hill to address the City Council with the problem he approached him with previously regarding Charter Communications Customer Service Issues. Mr. Randy Hill addressed the City Council and stated that he became a Charter Communications customer six (6) months ago, and that he had signed up for a package costing \$32.68 monthly. Mr. Hill stated that he was not expecting the cost to go up from \$32.68 to \$86.00. He stated that he called for four (4) days, four (4) times a day and was not able to get through. Mr. Hill stated that the service was good, but the customer service was poor. Mayor Joel D. Williams stated that he also tried to get through, but was unsuccessful. City Manager Andres Garza, Jr. informed the City Council that he had also submitted a letter to Mr. Morrow regarding the Customer Service, however he had not heard from him as of this date. Mr. Alan Boyd with Charter Communications addressed the City Council and stated he would take the City Council concerns back to Charter. Councilmember Domingo Montalvo, Jr. stated that the then franchise was in jeopardy. City Manager Andres Garza, Jr. stated that he would be contacting Mr. Pat Morrow. Mayor Joel D. Williams stated that Mr. Pat Morrow and Terry Kenedy should have attended the City Council meeting. Finance Director Joyce Vasut asked for a local number for customers to call. Darrin Acosta with Charter Communications stated to inform the customers that they should call (979) 532-5555. After some discussion, no action was taken.

The seventh item discussed on the agenda was a report on the Town Hall Meeting regarding Flood Related Issues and the Texas Water Development Board Grant Application. City Manager Andres Garza, Jr. informed the City Council that a Town Hall Meeting was held Thursday, March 21, 2002 at the Wharton County Junior College Outlar Auditorium to discuss flood related issues regarding Wharton County and the surrounding areas. He stated that Representatives from the Lower Colorado River Authority (LCRA), Texas Colorado River Floodplain Coalition, Texas Water Development Board, Elected Officials and Wharton I.S.D. were in attendance. Councilmember Domingo Montalvo, Jr. informed the City Council that the City's grant request was approved by the Texas Water Development Board for the fiscal years 2002 and 2003 in the amount of \$128,750 for each fiscal year for a total of \$257,500.00. He said the funding would pay for one fourth of the cost for the U.S. Army Corps of Engineers feasibility study for flood protection for the City of Wharton. He recognized LCRA, U.S. Army Corps of Engineers, and the Texas Water Development Board for their assistance. City Manager Andres Garza, Jr. informed the City Council that he met with Mr. John McCloud with LCRA and the Mr. Gilbert Ward of the Texas Water Development Board to discuss the City of Wharton's agreement with each entity for the funding of the study. After some discussion, no action was taken.

The eighth item discussed on the agenda was to review and consider the approval of Sanitary Control Easements and Utility Easements. City Manager Andres Garza, Jr. informed the City Council that on April 18, 2001, the City of Wharton was notified by the Texas Natural Resource

Conservation Commission (TNRCC) that a 150 feet sanitary control easement was required around each water well within the City. The sanitary control easements would ensure that the property owners would not place any type of hazard that would contaminate the water wells. He stated that the City Staff has been working to obtain individual easements from property owners whose property fell within the 150 feet radius of each well and if a property owner did not agree to execute an agreement with the City, then an exception or variance to the easement requirements must be filed with TNRCC. Also, since the City of Wharton owns property around all of the wells, an exception for the city's property must be filed since the City Council could not give an easement to itself. He provided a list of the property owners within 150' of each well. The list was as follows:

1. Water Well No. 1 – The City of Wharton owns all of the property around Well No. 1. An Exception or Variance to the easement requirements would need to be applied for.
2. Water Well No. 2:
 - a. City of Wharton – An Exception or Variance would be applied for.
 - b. Mr. Doug Moses – 5088.83 Square feet, Lot 20 Hamilton Place.
 - c. Mr. Brian Bremser – 3877.29 Square feet, Lot 11 B-1, Block 32 City of Wharton.
 - d. Mr. Johnny Rosniak, Jr. – 1202.83 Square feet, Lot 11-B, Block 32, City of Wharton.
 - e. Mr. Ben and Mrs. Billie Evans – 4601.14 Square feet, Lot 11 B-2, Block 32, City of Wharton.
3. Water Well No. 3:
 - a. City of Wharton – An Exception or Variance would be applied for.
 - b. Mr. Roy Jenson – 131.88 Square feet, Lot 8, Block 1, Mayfair Addition.
 - c. Mr. Carlton Hlavinka – 2368.06 Square feet, Lot 9, Block 1, Mayfair Addition.
 - d. Mr. & Mrs. Simon & Elizabeth Rodriquez – 2820.29 Square feet, Lot 10, Block 1, Mayfair Addition.
 - e. Mr. & Mrs. Terry & Carol Lynch – 608.32 Square feet, Lot 11, Block 1, Mayfair Addition.
4. Water Well No. 4:
 - a. City of Wharton – An Exception or Variance would be applied for.
 - b. Ms. Myrtis Outlar – 34,962.86 Square feet, Alexander Jackson League, Abstract No. 34 – Ms. Outlar has indicated to the City Staff that the easement would not be granted and an exception must be applied for.
 - c. Gulf Coast Medical Center – 6,743.73 square feet, Alexander Jackson League, Abstract 34.
5. Wharton Regional Airport Water Well – The City of Wharton owns all of the property around the well at the airport. An Exception or Variance to the easement requirements would be applied for.

Mr. Garza then stated that Utility Easements were also being sought by the City Staff for the Hinze's Waterline Project. A fifteen feet utility easement was needed to be granted to the City by Hinze's Bar-B-Q and Maks Corporation, Inc. (Texaco Station) for the City to be able to complete the project. He stated that City Council acceptance of the easements granted by the property owners for the Sanitary Control Easements was being requested by the City Staff. Ms.

Jackie Wheeler, Assistant to City Manager informed the City Council that the agreements with Mr. Doug Moses and Mr. Brian Bremser were pending. However, the rest of the property owners had executed the necessary easements or given the City notice of non-participation. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to authorize the acceptance of the Sanitary Control Easements. Councilmember Ken Freese seconded the motion. All voted in favor.

The ninth item discussed on the agenda was to review and consider a Resolution authorizing Mayor Joel D. Williams to enter into a contract with Wharton County regarding House Bill 1445 - Jurisdiction to regulate subdivisions in the extra-territorial jurisdiction. City Manager Andres Garza, Jr. informed the City Council that during the February 11, 2002 regular City Council meeting, the City Council authorized the City Staff to submit a proposed interlocal agreement to Wharton County for consideration regarding House Bill 1445 granting the City of Wharton authority to regulate subdivisions in the extraterritorial jurisdiction. He stated that the City of Wharton and the City of El Campo have been working with Wharton County on the interlocal agreement, which the County Commissioner's approved during their meeting held March 11, 2002 contingent upon an amendment to Section I of the proposed agreement. He stated that the City Staff concurred with the letter from El Campo City Attorney Ronnie Collins regarding the "road construction" criteria. City Attorney Paul Webb told the City Council that the City's requirements for "road construction" standards were more stringent, therefore, that item should be deleted from the County approved language. City Manager Garza presented the proposed agreement as amended, deleting the "road construction" from the County language and a resolution authorizing the Mayor to execute the agreement. After some discussion, Councilmember Jimmy Schulz made a motion to approve Resolution No. 2002-15, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2002 - 15**

**A RESOLUTION AUTHORIZING MAYOR JOEL D. WILLIAMS TO
EXECUTE A CONTRACT WITH WHARTON COUNTY REGARDING
HOUSE BILL 1445 – JURISDICTION TO REGULATE SUBDIVISIONS IN
THE EXTRA-TERRITORIAL JURISDICTION.**

WHEREAS, the City of Wharton City Council wishes to authorize Mayor Joel D. Williams to execute a contract with Wharton County regarding House Bill 1445 – Jurisdiction to regulate subdivisions in the extra-territorial jurisdiction; and

WHEREAS, Wharton County wishes to accept the contract allowing the City of Wharton to regulate subdivisions in the extra-territorial jurisdiction; and

WHEREAS, the City of Wharton and Wharton County 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 to authorizes Mayor Joel D. Williams to execute a contract with Wharton County regarding House Bill 1445 – jurisdiction to regulate subdivisions in the extra-territorial jurisdiction.

Section II. That the City of Wharton and Wharton County 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 ____ day of March 2002.

CITY OF WHARTON, TEXAS

By: _____
JOEL D. WILLIAMS
Mayor

ATTEST:

JOYCE VASUT
City Secretary

INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT (“Agreement”) is entered into and in accordance with the provisions of the Interlocal Cooperation Act, Chapter 791, Texas Government Code, and House Bill 1445 (“H.B. 1445”), enacted by the Texas Legislature during its 77th Legislative Session, by and between the **CITY OF WHARTON, TEXAS** (“Wharton”), a political subdivision of the State of Texas, and **WHARTON COUNTY, TEXAS** (“Wharton County”), also a political subdivision of the State of Texas.

WHEREAS, the Interlocal Cooperation Act allows local governments to contract with one another to perform governmental functions such as platting an approval of related permits; and

WHEREAS, Wharton and Wharton County mutually desire to be subject to the provisions of the Texas Government Code, Chapter 791, the Interlocal Cooperation Act, specifically § 791.011 regarding contracts to perform governmental functions and services; and

WHEREAS, H.B. 1445 requires Wharton and Wharton County to enter into a written agreement that identifies the governmental entity authorized to regulate subdivision plats and approve related permits in the extraterritorial jurisdiction (“ETJ”) of Wharton; and

WHEREAS, H.B. 1445 allows Wharton and Wharton County to agree that Wharton may be granted exclusive jurisdiction to regulate subdivision plats and approve related permits in the

ETJ and may regulate subdivisions under Subchapter A of Chapter 212 of the Texas Local Government Code and other statutes applicable to municipalities; and

WHEREAS, both Wharton and Wharton County desire that Wharton be granted such exclusive jurisdiction to regulate subdivision plats and approve related permits in Wharton's ETJ, all of which is provided for in the Interlocal Cooperation Act and H.B. 1445.

NOW, THEREFORE, Wharton and Wharton County, for the mutual consideration stated herein, agree and understand as follows:

Section I. *Wharton Granted Exclusive Jurisdiction.* Wharton shall be granted exclusive jurisdiction to regulate all subdivision plats and approve all related permits in Wharton's ETJ and may regulate subdivisions under Subchapter A of Chapter 212 of the Texas Local Government Code and other statutes applicable to municipalities, and Wharton County shall no longer exercise any of these functions in Wharton's ETJ. Wharton County's requirements regarding septic systems, flood plain management, drainage, 911 addressing and related permits, standards and specification shall continue to apply. The City shall coordinate with appropriate county officials regarding such matters prior to plat approval.

Section II. *ETJ Expansion or Reduction.* Should Wharton expand or reduce its ETJ, Wharton shall promptly notify Wharton County of such expansion or reduction so that this Agreement may be amended to take into account the expansion or reduction in Wharton's ETJ. In the event that Wharton's ETJ should expand or reduce such that the expansion or reduction of ETJ necessitates the amendment to this Agreement, Wharton and Wharton County agree that Wharton shall continue to be granted exclusive jurisdiction to regulate subdivision plats and approve related permits in its ETJ, and to regulate subdivisions under Subchapter A of Chapter 212 of the Texas Local Government Code and other statutes applicable to municipalities, until this Agreement is amended to take into account such ETJ expansion or reduction.

Section III. *Miscellaneous.*

- a. This Agreement expresses the entire agreement between the parties hereto regarding the subject matter contained herein and may not be modified or amended except by written agreement duly executed by both parties.
- b. This Agreement has been duly and properly approved by each party's governing body and constitutes a binding obligation on each party.
- c. This Agreement shall be construed in accordance with the laws of the State of Texas and venue for all purposes hereunder shall be in Wharton County, Texas.
- d. If any provision hereof is determined by any court of competent jurisdiction to be invalid, illegal, or unenforceable, such provision shall be fully severable herefrom and this Agreement shall be construed and

enforced as if such invalid, illegal or unenforceable provision never comprised a part hereof; and the remaining provisions shall continue in fullforce and effect.

- e. The Agreement is not intended to extend the liability of the parties beyond that provided by law. Neither Wharton nor Wharton County waves any immunity or defense that would otherwise be available to it against claims by third parties.
- f. This Agreement shall be effective as of _____, 2002.

APPROVED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS,
in its meeting held on the _____ day of _____, 2002, and executed by
its authorized representative.

CITY OF WHARTON, TEXAS

JOEL D. WILLIAMS
Mayor

ATTEST:

JOYCE VASUT
City Secretary

APPROVED BY THE COMMISSIONERS COURT OF WHARTON
COUNTY, in its meeting held on the _____ day of _____, 2002, and
executed by its authorized representative.

WHARTON COUNTY, TEXAS

LAWRENCE E. NAISER
County Judge

ATTEST:

SANDRA K. SANDERS
County Clerk

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

The tenth item on the agenda was to review and consider the United States Postal Delivery Service. Councilmember Ken Freese stated that his concern with the Wharton Post Office was that at certain times there were long lines of people waiting for service. Councilmember Freese stated that an automated machine would reduce the time spent at the post office. He said a scale for weighing packages like other post offices would be beneficial. He stated that citizens were not satisfied standing in line, and that the City Council needed to send letters to see if something could be done. Mayor Joel D. Williams stated that he would meet with the Post Master and express the City Council's concerns. After some discussion, no action was taken.

The eleventh item on the agenda was to review and consider the Animal Control Ordinance. City Manager Andres Garza, Jr. informed the City Council that during the regular City Council meeting held March 11, 2002, a draft of the proposed amendments to the City of Wharton Code of Ordinances, Chapter 14 Animals and Fowls was provided for their review. He stated that he received comments from Bryce D. Kocian and written comments from Mayor Joel D. Williams. He gave the City Council a copy of Mayor Williams comments. Mayor Joel D. Williams stated that 1) "City Veterinarian" should be changed to "Chief of Police or his designee", 2) the language on "having the right to enter upon or on the premises" should be refined, 3) give "Exotic Animals" six months deadline for removal, 4) time limits established by dates should be created for FFA – 4H projects, and 5) shift notification duties of FFA – 4H projects from school to city with school providing a list of students having projects. Police Chief Tim Guin address the City Council and stated that Dr. Bonnet reviewed the ordinance and his comments were that the ordinance was well thought out. Councilmember Domingo Montalvo, Jr. asked if the enforcement would be enforced across the board. Tim Guin stated that the proposed ordinance would be easier to enforce since the changes to the ordinance would make enforcement better. City Manager Andres Garza, Jr. stated that the proposed comments would be incorporated into the ordinance and presented at the next meeting for City Council consideration. After some discussion, no action was taken.

The twelfth item on the agenda was to review and consider the Appointment to Building Standards Commission. After some discussion, no action was taken.

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

- A. Wharton Economic Development Corporation meeting held March 19, 2002.
- B. Building Standards Commission meeting held March 21, 2002.

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

The twenty-third 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 fifteenth item on the agenda was adjournment. Councilmember Jimmy Schulz made a motion to adjourn the meeting. Councilmember Don Mueller seconded the motion. All voted in favor.

The meeting was adjourned at 8:10 p.m.

CITY OF WHARTON, TEXAS

By:

JOEL D. WILLIAMS
Mayor

ATTEST:

JOYCE VASUT
City Secretary