

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
APRIL 22, 2002**

Mayor Joel D. Williams declared a Regular Meeting duly open for the transaction of business at 7:02 p.m. 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 Assistant Anne Waller, City Attorney Paul Webb; Police Chief Tim Guin, and Building Official Ronnie Bollom.

Visitors present were: Ron Sanders with Wharton Journal Spectator, Paul Daly with KULP, David Schroeder Executive Director for Wharton Economic Development Corporation, Lynda Nichols, Debbie Williams, Vivian Salinger, Johnny Cano, and Nan Ya Plastics Employees Sybil Inman, Abdel Salem, David Moore and Jerry Fink.

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. Mayor Joel D. Williams publicly thanked the citizens and tax payers for the privilege to serve as Mayor, not the becoming of Mayor but to serve as Mayor, which had been an honor. He then publicly thanked the City Council and said that even though they did not agree on some issues, the discussion were civil, and no matter how the vote went it did not transpire to the next agenda item. Mayor Williams publicly thanked the City Staff, Department Heads, and City Manager Andres Garza, Jr. for all the dedication to the Office of Mayor, which was a beacon of integrity. He then publicly thanked members of the press Larry Jackson and Ron Sanders with Wharton Journal Spectator, and Paul Daly with KULP on their professionalism. Councilmember Ken Freese expressed his gratitude to Mayor Joel D. Williams for serving with class and dignity. Councilmember Don Mueller echoed Councilmember Ken Freese remark. Councilmember V. L. Wiley, Jr. expressed that Mayor Joel D. Williams did a terrific job. Councilmember Domingo Montalvo, Jr. expressed that he enjoyed working with and the cooperation received from Mayor Joel D. Williams. Councilmember Bryce D. Kocian echoed Councilmember Domingo Montalvo, Jr. response. Mayor Joel D. Williams then presented a Certificate of Recognition to Vivian Salinger on her retirement. 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 March 2002. Finance Assistant Anne Waller presented the financial report for the month of March 2002 and stated that the fiscal year was at 50%. Mrs. Waller stated that the general fund revenues were at 61.43% and the expenditures were at 53.04%. The total ad valorem taxes collected were \$1,748,315. The sales tax for the month of April 2002 was

\$85,860 with \$57,240 to the City and \$28,620 to WEDCo. The TexPool balance for March 2002 was \$3,880,518.02 with an average monthly yield of 1.7815%. After some discussion, Councilmember Bryce D. Kocian made a motion to approve the financial report for the month of March 2002 as presented. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider an ordinance amending the City of Wharton Code of Ordinances, Chapter 82 Traffic, Article II Operations of Vehicles, Section 82-55, Article IV Parking, Section 82-135, Section 82-136; and Section 82-139; providing that a violation of the ordinance or any part of the code as adopted hereby shall constitute a penalty upon conviction of a fine; providing for separability; and setting an effective date. City Manager Andres Garza, Jr. informed the City Council that during the regular City Council meeting held April 8, 2002, the City Council referred the ordinance amending the City of Wharton Code of Ordinances, Chapter 82, Traffic to the City Council Streets and Drainage Committee for their consideration. He said the City Council Streets and Drainage Committee met on Tuesday, April 16, 2002 and was recommending approval of the proposed ordinance. Mayor Joel D. Williams informed the City Council that the City Council Streets and Drainage Committee was recommending the parking space in front of the Police Department be reserved for the Police Department. Councilmember Domingo Montalvo, Jr. asked if it would be beneficial to reserve the entire side for the Police Department. Police Chief Tim Guin stated that it would be very beneficial if the City Council so desired to reserve the space for the Police Department. Police Chief Tim Guin also stated that a parking permit would be created for the residents of the square to allow parking without receiving a citation. After some discussion, Councilmember Don Mueller made a motion to approve Ordinance No. 2002-09, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2002-09**

AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 82 TRAFFIC, ARTICLE II OPERATION OF VEHICLES, SECTION 82-55, ARTICLE IV SECTION 82-135, SECTION 82-136; SECTION 82-137 AND SECTION 82-139; PROVIDING THAT A VIOLATION OF THE ORDINANCE OR ANY PART OF THE CODE AS ADOPTED HEREBY SHALL CONSTITUTE A PENALTY UPON CONVICTION OF A FINE; PROVIDING FOR SEPARABILITY; AND SETTING AN EFFECTIVE DATE.

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

Chapter 82 Traffic, Article II Operation of Vehicles is amended to read as follows:

Sec. 82-55. School Crossings.

- (a) Designation. The following areas are designated as school crossings, and crosswalks shall be delineated in these areas:

Alabama Road, at its intersection at Sunny Lane.

Alabama Road, at the juncture of the 1700 and 1800 blocks.

Alabama Street, at its intersection with Abell Street.

Martin Luther King Boulevard, immediately west of its intersection with Allen Street.

Martin Luther King Boulevard, approximately 35 feet east of Sanders Street.

Mattie Street, at its intersection with Hendon Street.

Milam Street, for 50 feet on either side of its intersection with East Avenue.

North Fulton, at its south side intersection of Kelly Street.

North Rusk, at its south side intersection of Kelly Street.

Tiger Avenue, at its 100 block adjacent to Wharton County Junior College.

North Abel, between Wharton High School parking lot and the field house beginning at a distance of more or less 240 feet from the intersection of Ahldag Street and North Abell.

- (b) Boundaries of crosswalks. The city shall use white markings on pavements to designate the boundaries of the crosswalks. These markings may be in lieu of or in addition to other traffic signs and signals.
- (c) Right-of-way. Pedestrians may proceed across the roadways described in subsection (a) of this section within the boundaries of the crosswalks, and drivers of all vehicles shall yield the right-of-way to any pedestrians crossing in any such areas.

Chapter 82, Article IV Parking is amended to read as follows:

Sec. 82-135. Three-hour parking zones.

- (a) Designated. Except on Saturdays, Sundays and holidays it shall be unlawful to park any vehicle on the following designated streets and areas between the hours of 8:00 a.m. and 5:00 p.m. for a period of time longer than three consecutive hours in one specific parking space:

The north and south side of the 100 block of West Burleson.

The south side of the 200 block of West Burleson.

The south side of the 100 block of East Burleson.

The east and west side of the 100 block of South Fulton.

The east and west side of the 100 block of North Fulton.

The east side of the 200 block of South Fulton beginning at a point thirty feet south of the intersection of East Burleson and South Fulton and running along the east side of Fulton in a southerly direction for a distance of sixty feet.

The east and west side of the 100 block of South Houston.

The east and west side of the 200 block of South Houston.

The west side of the 100 block of North Houston beginning at a point thirty feet north of the intersection of West Milam and North Houston and running along the west side of Houston Street in a northerly direction for a distance of forty-five feet.

The east side of the 100 block of North Houston beginning at a point of thirty feet north of the intersection of West Milam and North Houston and running along the east side of Houston street in a northerly direction for a distance of one hundred twenty-five feet.

The north and south side of the 100 block of West Milam.

The north and south sides of the 200 and 300 blocks of West Milam.

The north and south side of the 100 block of East Milam beginning at a point of seventy-five feet from the intersection of South Rusk and East Milam in front of the United States Post Office.

- (b) The Three Hour Parking Restriction shall not apply during City-wide events or festivals held in the downtown area. These events would include but is not limited to the Wharton County Freedom Festival, Hispano Americana Festival, Shanghai Days Cowboy Gathering, and the Wharton Chamber of Commerce Holiday Parade.

Sec. 82-136 Ten Minute Parking Zones

Except on Saturdays, Sundays and holidays it shall be unlawful to park any vehicle on the following designated streets and areas between the hours of 8:00 a.m. and 5:00 p.m. for a period of time longer than ten consecutive minutes:

The south side of the 100 block of West Burleson Street in front of municipal court.

The north and south side of the 100 block of East Milam Street in front of the United States post office from a distance of thirty feet from the intersection of South Rusk and East Milam and extending forty-five feet in a westernly direction.

Sec. 82-137. Police parking only.

- (a) The west side of the 200 block of South Fulton beginning at a point thirty feet south of the intersection of West Burleson and South Fulton is designated as police vehicle parking only.

- (b) Parking of any vehicles other than police vehicles is prohibited in the zone designated in subsection (a) of this section at all times, which prohibitions shall be evidenced by a sign designating these parking slots as parking for police vehicles only.
- (c) The city council authorizes the chief of police to cause signs to be erected designating the area described in subsection (a) of this section as a parking zone for police vehicles only.

Sec. 82-139 Defense to Prosecution

Any person whose primary residence is located in the buildings whose addresses are listed on the streets mentioned in Sec. 82-135 shall file an application with the Chief of Police and provide verifiable proof of residency. Once the application is approved, the resident shall be issued a permit to be placed in a visible location in their vehicle and shall be exempt from the parking restriction. Permits will be issued on a yearly basis.

Sec. 82-140 – 82-160 RESERVED.

Penalty and Fines for Violations

Any person who shall violate any parking provision shall be fined not more than \$30.00 for each violation.

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 May 3, 2002 at 12:01 a.m.

Passed and Approved by the City Council of the City of Wharton, Texas this 22nd day of April 2002.

CITY OF WHARTON

By: _____
JOEL D. WILLIAMS
Mayor

ATTEST

JOYCE VASUT
City Secretary

APPROVED AS TO FORM

PAUL WEBB
City Attorney

Published in the Wharton Journal Spectator Wednesday, April 24, 2002 and Wednesday, May 1, 2002.

Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The seventh item discussed on the agenda was to review and consider request by the Wharton Economic Development Corporation (WEDCo) Board for amendments to the Fiscal Year 2001 - 2002 Budget as requested by the Board. City Manager Andres Garza, Jr. presented the budget adjustments for the Wharton Economic Development Corporation for the Fiscal Year 2001-2002 budget. Mr. David Schroeder Executive Director of Wharton Economic Development Corporation (WEDCo) addressed the City Council and stated that the amendments would include transferring \$3,400 from budget line item Community Improvement Projects to budget line item Professional Services for auditing and reporting purposes. After some discussion, Councilmember Bryce D. Kocian made a motion to approve the Wharton Economic Development Corporation (WEDCo) Board for amendments to the Fiscal Year 2001 -2002 Budget. Councilmember Ken Freese seconded the motion. All voted in favor.

The eighth item discussed on the agenda was to review and consider a resolution authorizing the City Manager of the City of Wharton to execute an extension to the Compliance Agreement between the City of Wharton and Nan Ya Plastics Corporation dated April 2, 1998. City Manager Andres Garza, Jr. presented the letter from Mr. W. T. Lin, Plant Manager of Nan Ya Plastics Corporation regarding the Compliance Agreement between the City of Wharton and Nan Ya Plastics. Mr. Garza stated that the City Council granted two 6-month extensions to the original Compliance Agreement dated April 2, 1998, which the second extension expired on April 2, 2002. Mayor Joel D. Williams informed the City Council that a timeline was submitted and the City Council could have check points and progress reports submitted by Nan Ya Plastics Corporation. After some discussion, Councilmember Bryce D. Kocian made a motion to approve the extension until December 31, 2002 with the submittal of monthly progress reports and Resolution No. 2002-19, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2002-19**

A RESOLUTION AUTHORIZING THE CITY MANAGER OF THE CITY OF WHARTON TO EXECUTE AN EXTENSION TO THE COMPLIANCE AGREEMENT BETWEEN THE CITY OF WHARTON AND NAN YA PLASTICS CORPORATION DATED APRIL 2, 1998.

WHEREAS, Nan Ya Plastics Corporation wished to extend the Compliance Agreement dated April 2, 1998 with the City of Wharton in order to construct the new pre-treatment plant; and

WHEREAS, the Wharton City Council wishes to authorize the City Manager of the City of Wharton to execute the extension of the agreement; and

WHEREAS, the City of Wharton and Nan Ya Plastics Corporation wishes to be bound by the conditions as set forth in Attachment "A".

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 City Manager Andres Garza, Jr. to execute an extension of the Compliance Agreement dated April 2, 1998 with Nan Ya Plastics Corporation.

Section II. That the City of Wharton and Nan Ya Plastics Corporation hereby agree to be bound by the conditions as set forth in Attachment "A".

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

Passed, Approved, and Adopted this 22nd day of April 2002.

CITY OF WHARTON, TEXAS

By: _____
JOEL D. WILLIAMS
Mayor

ATTEST:

JOYCE VASUT
City Secretary

STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF WHARTON §

EXTENSION OF COMPLIANCE AGREEMENT BETWEEN THE CITY OF WHARTON AND NAN YA PLASTICS CORPORATION USA

This Extension is entered into by and between the City of Wharton, a Texas Municipality and Municipal Corporation, hereinafter referred to as "CITY", and Nan Ya Plastics Corporation USA, a Corporation, hereinafter referred to as "NAN YA;"

WHEREAS, Nan Ya has previously entered into a Compliance Agreement between the City of Wharton; and

WHEREAS, Nan Ya has requested from the City an extension of the Compliance Agreement; and

WHEREAS, the City is of the opinion that the extension should be granted with the submittal of monthly progress reports by Nan Ya to the City.

NOW THEREFORE, on this 22nd day of April 2002, the City of Wharton hereby agrees to extend the Compliance Agreement between the City of Wharton and Nan Ya Plastics Corporation USA until December 31, 2002.

WHEREAS, both parties agree that all the terms of the original Compliance Agreement between the City of Wharton and Nan Ya Plastics Corporation USA will be abided by and this extension will not alter any of those terms, conditions, or responsibilities.

SIGNED AND EXECUTED this _____ day of April 2002.

NAN YA PLASTICS CORPORATION

USA CITY OF WHARTON

By: _____

Name: W. T. Lin

Title: Plant Manager

By: _____

Name: Andres Garza, Jr

Title: City Manager

ACKNOWLEDGMENTS

STATE OF TEXAS §

COUNTY OF WHARTON §

This instrument was acknowledged before me on the _____ day of _____ 2002, by W. T. Lin, Plant Manager of Nan Ya Plastics Corporation USA on behalf of said organization.

Notary Public, State of Texas

STATE OF TEXAS §

COUNTY OF WHARTON §

This instrument was acknowledged before me on the _____ day of _____ 2002, by Andres Garza, Jr., as City Manager of the City of Wharton, Texas.

Notary Public, State of Texas

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

The eighth item discussed on the agenda was to review and consider designation of a City of Wharton Representative for the Coastal Bend Groundwater Conservation District. City Manager Andres Garza, Jr. presented the email dated April 8, 2002 from Mr. John Cospers of the Coastal Bend Groundwater Conservation District requesting a representative for the City of Wharton be designated to serve on the Groundwater District Advisory Board, which would be created to allow governmental entities, business, and water utility districts the opportunity to provide input in the formulation of policies and rules and regulations that many have effect on them. Mayor Joel D. Williams asked the City Council to submit names to be on the Committee. After some discussion, no action was taken.

The tenth item on the agenda was to review and consider the Wharton Municipal Pool Schedule for 2002. City Manager Andres Garza, Jr. presented the memorandum from Community Services Director Jo Knezek regarding the Wharton Municipal Pool Schedule for 2002 to the City Council. Mr. Garza stated that the City would work with the Boys & Girls Club to see if they needed additional days for their swimming program. Councilmember Ken Freese stated that 4 days was not enough. Mr. Garza stated that Ms. Jo Knezek was unable to attend the meeting due to laryngitis. After some discussion, no action was taken.

The eleventh item on the agenda was to review and consider the request by Mr. Craig Buck c/o Mr. Juan Cano for a side yard setback variance for the construction of a room addition at 222 W. Alabama Street; Wharton, Block 29, Lot 7C, 7D. City Manager Andres Garza, Jr. presented a letter dated April 18, 2002 from Mr. Craig Buck requesting a side yard setback variance for the construction of a room addition at 222 W. Alabama Street. Mr. Buck was contracted by Mr. Juan Cano who resides at 222 W. Alabama Street. He stated that in October 2001, the Planning Commission adopted a policy that if the request for a setback variance exceeds more than 50% of the standard setback requirements the Planning Commission would not consider the request, therefore Mr. Buck was requesting City Council consideration of the request. Building Official Ronnie Bollom informed the City Council that the pre-existing structure was 3'8" off the property line and the addition would maintain the same setback. After some discussion, Councilmember Don Mueller made a motion to approve the request by Mr. Craig Buck c/o Mr. Juan Cano for a side yard setback variance for the construction of a room addition at 222 W. Alabama Street; Wharton, Block 29, Lot 7C, 7D. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

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

- A. Beautification Commission meeting held April 10, 2002.
- B. Wharton Economic Development Corporation meeting held April 16, 2002.
- C. City Council Streets & Drainage Committee meeting held April 16, 2002.
- D. Wharton Regional Airport Board meeting held April 17, 2002.

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

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

The meeting was adjourned at 7:40 p.m.

CITY OF WHARTON, TEXAS

By:

JOEL D. WILLIAMS
Mayor

ATTEST:

JOYCE VASUT
City Secretary