

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

Mayor Garland S. Novosad declared a Regular Meeting duly open for the transaction of business at 7:02 p.m. Councilmember V. L. Wiley, Jr. led the opening devotion and then Mayor Garland S. Novosad led the pledge of allegiance.

Councilmembers present were: Mayor Garland S. Novosad, Councilmembers V. L. Wiley, Jr, Darryl Darnell, Ken Freese, Don Mueller, Domingo Montalvo, Jr., and Bryce D. Kocian.

Councilmembers absent were: 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, City Attorney Paul Webb; Police Chief Tim Guin, Building Official Assistant Melissa Salas, Public Works Director Phillip Bush, and EMS Director John Kowalik.

Visitors present were: Larry Jackson with Wharton Journal Spectator, Paul Daly with KULP, David Schroeder Executive Director with Wharton Economic Development Corporation, Dan Marks with Waste Management, Sue Salyer with Waste Management, Johnnie Lee Roberts, Ellis Hurd, Eddie Brinkley, Brooke Novosad, Cindy Rachunek, and Anthony Rachunek.

The third item on the agenda was Public Comments. Mr. I.O. Coleman, Jr. addressed the City Council regarding Harris Park. Mr. Coleman applauded the City Council, Mayor, and City Staff on the actions taken at Harris Park and requested the efforts continue to keep the people safe. No action was taken.

The fourth item on the agenda was Wharton Moment. Councilmember Darryl Darnell publicly thanked Wharton Independent School District on the beautification efforts on FM 1301. Councilmember V. L. Wiley, Jr. informed the City Council that Ms. Gloria Williams-Smith had passed away. He said she was a member of the City of Wharton Beautification Commission and requested a moment of silence in her honor. 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 April 2002. Finance Director Joyce Vasut presented the financial report for the month of April 2002 and stated that the fiscal year and was at 58%. Mrs. Vasut stated that the general fund revenues were at 68.94% and the expenditures were at 61.81%. She said the total ad valorem taxes collected were \$1,760,822 and the sales tax for the month of May 2002 was \$114,698 with \$76,465 to the City and \$38,223 to WEDCo. She said the TexPool balance for April 2002 was \$3,555,142.01 with an average monthly yield of 1.8341%. After some discussion, Councilmember Bryce D. Kocian made a motion to approve the financial report for the month of April 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 the City of Wharton City Charter Section 17. Powers, enumerated. Councilmember Darryl Darnell informed the City Council that he requested this item to be placed on the agenda for clarification. City Attorney Paul Webb informed the City Council that Mayor Garland S. Novosad and Councilmember Darryl Darnell met with him on May 17, 2002 for approximately 1 1/2 hours discussing the City of Wharton City Charter Section 17. Powers, enumerated, and suggested that City Council adopt a policy for all Department Heads appointments and removals to be approved by the City Council until the Charter Review Committee could make a recommendation for the May 2003 election. After some discussion, Councilmember Darryl Darnell made a motion to adopt a City of Wharton Policy regarding Department Heads appointments and removals be approved by City Council until the Charter Review Committee could make a recommendation for the May 2003 election. Councilmember Ken Freese seconded the motion. All voted in favor.

The seventh item discussed on the agenda was to review and consider the use of Harris Park. Councilmember V. L. Wiley, Jr. informed the City Council that he requested this item be placed on the agenda. City Manager Andres Garza, Jr. informed the City Council that Councilmembers V. L. Wiley, Jr. and Darryl Darnell, City Attorney Paul Webb, Mr. I.O. Coleman, Jr., Mr. Chester Houston, Mr. Johnnie Roberts, and himself had met on Friday, May 24, 2002 to discuss what action could be taken in Harris Park to eliminate the negative actions. Councilmember V. L. Wiley, Jr. publicly thanked Police Chief Tim Guin, and City Manager Andres Garza, Jr. for their efforts and requested continued extra patrol in the area. Police Chief Tim Guin also stated the City Council could close the Milam Street entrance into Harris Park and allow a pedestrian entrance only. Chief Guin also stated that no parking along Milam Street could be enforced. After some discussion, no action was taken.

The eighth item discussed on the agenda was to review and consider the City of Wharton Code of Ordinances:

A. Chapter 82, Traffic, Article III Processions and Parades.

Councilmember Darryl Darnell informed the City Council that he requested this item be placed on the Agenda. Councilmember Darryl Darnell stated that the City of Bellville recently had a KKK parade, and the City Council needed to look at adopting an ordinance limiting the issuance of one parade permit per day, which the Police Chief could determine if security would be needed. After some discussion, no action was taken.

B. Chapter 54, Parks and Recreation:

1. Possession and Consumption Alcoholic Beverages.

Police Chief Tim Guin publicly acknowledged City Manager Andres Garza, Jr. for recalling the needed information that Harris Park was on Wharton Independent School District property, which the Texas Education Code prohibited the consumption of alcohol on school property. Mr. Guin stated that the City obtained and erected the signage from Wharton Independent School District, and Police Officers were handing out flyers to the citizens advising them of the prohibition of alcohol consumption and possession of alcohol in Harris Park. Police Chief Tim Guin suggested the City Council adopt an ordinance to not allow any consumption of alcoholic beverages in all City parks in order to make the parks a family atmosphere, since playground equipment was at all the City parks. City Attorney Paul Webb stated that the City Council could

adopt an ordinance with an exception for special events approved by the City Council. After some discussion, no action was taken.

2. Pleasure Park Insurance Requirements and Restroom Facilities.

Councilmember Darnell stated that he was approached regarding a million dollar insurance coverage requirement to use the Pleasure Park Softball field. Councilmember Bryce D. Kocian stated that \$1,000,000 was a standard dollar amount for an entity to request liability coverage. City Manager Garza stated that the million dollar insurance requirement only applied to softball tournaments or leagues. Ms. Jo Knezek informed the City Council that tournament or league promoters charged each team in the league \$200 per season and the insurance coverage costs approximately \$600.00 for six months. Ms. Knezek stated that Mr. Al Aprea and Mr. Robby Gonzales had a league the previous year, but they had indicted the cost was too high, therefore they went to the City of El Campo. She stated that the City of El Campo had the players sign a waiver, and no insurance coverage was required. After some discussion, no action was taken.

Councilmember Darryl Darnell questioned why the restrooms were locked at Pleasure Park. Ms. Jo Knezek informed the City Council that the restrooms were locked due to vandalism. She also said that when the parks were rented a key would be given to the rentor. Councilmember Darryl Darnell stated that the City Council needed to look at closing the City parks after 10:00 p.m. Police Chief Tim Guin stated that the City Council could look at a curfew for all City parks. After some discussion, no action was taken.

The ninth item on the agenda was to review and consider Waste Management of Southeast Texas – Notice of Termination of Contracts:

- A. Solid Waste Collections and Disposal Contract.
- B. Transfer Station Contract.

City Manager Andres Garza, Jr. presented the memorandum dated May 16, 2002 to the City Council, which stated the following:

City Manger Garza said the City's contracts with Waste Management of Southeast Texas for solid waste collection and disposal and the operation of the solid waste Transfer Station will expire September 30, 2002.

City Manager Garza said that on January 23, 2002, the Wharton Intergovernmental Relations Committee and El Campo Intergovernmental Relations Committee met to discuss the possibility of both cities seeking proposals for the service jointly. He said the two Committees felt that by joining together, some economies of sale could be realized and that it would allow for better competition by attracting more companies because of the two accounts. He also said the Committees discussed the terms of the current contracts, and with El Campo's contract not expiring until September 30, 2003, the Wharton Intergovernmental Relations Committee requested the City Staff to pursue Waste Management's consideration of a one year extension to the current contract under the same terms and conditions.

City Manager Garza stated the committees also discussed the possibility of pursuing the joint venture with the City of Wharton requesting a five-year contract and El Campo a four-year

agreement that would begin October 1, 2003. He said that the Committees decided that this option would be considered after the Waste Management's response.

City Manager Garza said the two cities Intergovernmental Relations Committee's would meet on May 24, 2002 to further discuss options. He said that if the City of Wharton and El Campo could work and develop a joint venture, then competitive proposals could be received. He said he had been contacted by several solid waste companies that have shown great interest in submitting a proposal to the City of Wharton.

He said the City Staff had prepared a draft agreement and proposal packet that could be presented to the City Council for formal adoption on May 28th. He further stated that the anticipated time line for the proposals would be as follows:

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|-----------------------------------|-------------------|
| 1. Proposal requested | June 1, 2002 |
| 2. Pre-Bid Conference | June 13, 2002 |
| 3. Proposal Due | July 1, 2002 |
| 4. Proposal Reviewed by City(ies) | July 1 – 18, 2002 |
| 5. Contract Award | July 22, 2002 |
| 6. Contract Begins | October 1, 2002 |

City Manager Garza informed the City Council that the Wharton City Council Intergovernmental Relations Committee had met with the City of El Campo Intergovernmental Relations Committee on May 24, 2002 to discuss the possibility of the City of Wharton and City of El Campo joint venture for solid waste collections and disposal, however City of El Campo had indicated they had a good relationship with their contractor (BFI) and they intended to renew the following year. Mr. Dan Martz with Waste Management addressed the City Council and stated that Waste Management would be interested in signing a contract if a rate increase would be received. Mayor Garland S. Novosad stated that according to the property valuation, Waste Management's valuations were \$650,510 for the 1998 year, \$671,870 for the 1999 year, \$764,780 for the 2000 year, \$1,222,870 for the 2001 year, and \$633,330 for the 2002 year and that they contributed to the City's ad valorem tax. Councilmember Darryl Darnell requested Waste Management provide the City of Wharton rates of all serviced cities and services provided. Councilmember Ken Freese stated that seeking proposals would be an advantage to taxpayers. City Manager Andres Garza, Jr. informed the City Council that if the City Council did not taken any action, then the contract would automatically renew. He further stated that Waste Management could request an increase and if City Council did not accept the increase, then Waste Management could give 90 days termination notice. After some discussion, no action was taken.

The tenth item on the agenda was to review and consider the Authorization for City Staff to solicit Request For Proposals:

- A. Solid Waste Collections and Disposal Services.
- B. Operation of the Transfer Station.

No action was taken.

The eleventh item on the agenda was to review and consider Texas Colorado River Floodplain Coalition:

- A. **Resolution:** A resolution authorizing the Mayor of the City of Wharton to execute an Interlocal Agreement between the City of Wharton and The Texas Colorado River Floodplain Coalition.

City Manager Andres Garza, Jr. presented Resolution No. 2001-16 and 2001-18, which authorized the interlocal agreement between the City and the Texas Colorado River Floodplain Coalition (TCRFC) and appointed members to the TCRFC Executive and Technical Committees for the 2001 year. He stated that the agreement with the TCRFC would expire on June 30, 2002, and that in order for the City to continue as a member of the TCRFC, a new agreement would need to be approved by the City Council.

After some discussion, Councilmember Bryce D. Kocian made a motion to approve Resolution No. 2002-25, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2002 - 25**

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF WHARTON AND THE TEXAS COLORADO RIVER FLOODPLAIN COALITION.

WHEREAS, an Interlocal Agreement between the City of Wharton, Texas Colorado River Floodplain Coalition and other cities, counties, special districts and other legally constituted political subdivision of the State of Texas relating to the creation and implementation of the Texas Colorado River Floodplain Coalition for the pursuit of common goals for the lower Colorado River basin including flood protection and damage reduction and other appropriate floodplain management goals; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute an interlocal agreement effective July 1, 2002 between the City of Wharton and the Texas Colorado River Floodplain Coalition.

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

Section I. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute an interlocal agreement between the City of Wharton and the Texas Colorado River Floodplain Coalition.

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

Passed, Approved, and Adopted this 28th day of May 2002.

CITY OF WHARTON, TEXAS

By: _____

GARLAND S. NOVOSAD
Mayor

ATTEST:

JOYCE VASUT
City Secretary

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

B. **Resolution:** A resolution of the City of Wharton City Council to appoint members to the Executive and Technical Committees of the Texas Colorado River Floodplain Coalition. City Manager Andres Garza, Jr. informed the City Council that the Executive Committee representatives for the City were Councilmember Domingo Montalvo, Jr., who was the chairman of the Texas Colorado River Floodplain Coalition (TCRFC) and former Mayor Joel D. Williams. He said that the Technical Committee representatives were Mr. Larry Hollingsworth, Emergency Management Coordinator and Mr. Ronnie Bollom, Floodplain Administrator. After some discussion, Councilmember Bryce D. Kocian made a motion to approve Resolution No. 2002-26, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2002 - 26**

A RESOLUTION TO APPOINT MEMBERS OF THE EXECUTIVE AND TECHNICAL COMMITTEES OF THE TEXAS COLORADO FLOODPLAIN COALITION.

WHEREAS, the City of Wharton has agreed to participate in the Texas Colorado River Floodplain Coalition; and

WHEREAS, the Interlocal Agreement creating the Texas Colorado River Floodplain Coalition provided for each participating community to appoint representatives to the Executive and Technical Committees of the Coalition.

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

Section I. Appoints the following City of Wharton representatives to serve on two committees, one executive and one technical, to carry out the duties and responsibilities of these committee members as provided when the Interlocal Agreement creates the Texas Colorado River Floodplain Coalition; and

Executive Committee
Elected Officials

Domingo Montalvo, Jr.
Administrator
(Primary Member)

Technical Committee
EMC/FPA

Ronnie Bollom, Floodplain
(Primary Member)

V. L. Wiley, Jr.
(Alternate Member)

Emergency Management Coordinator
(Alternate Member)

Section II. Assures the other committee members that the above representatives will strive to diligently represent the City and will faithfully attend and contribute to the scheduled working committee meetings of the Coalition.

NOW THEREFORE, on this the 28th day of May 2002, in a meeting of the City Council of Wharton, Texas, duly convened and acting in its capacity as governing body of the City of Wharton, on motion of Councilmember Bryce D. Kocian seconded by Councilmember Don Mueller, duly put and carried, this Resolution is hereby adopted.

CITY OF WHARTON, TEXAS

By: _____
GARLAND S. NOVOSAD
Mayor

ATTEST:

JOYCE VASUT
City Secretary

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

The twelfth item on the agenda was to review and consider a resolution authorizing the Mayor of the City of Wharton to execute all documents for the application of the Annual Bureau of Justice-Local Law Enforcement Block Grant; and Authorizing the Mayor of the City of Wharton to act on the City's behalf in all matter pertaining to this application. City Manager Andres Garza, Jr. presented a draft copy of the resolution authorizing the Mayor of the City of Wharton to execute all documents for the application of the Annual Bureau of Justice – Local Law Enforcement Block Grant; and authorizing the Mayor of the City of Wharton to act on the City's behalf in all matters pertaining to this application. Police Chief Tim Guin addressed the City Council stating that the documents would need to reflect the change of Mayors for the City of Wharton. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2002-27, which read as follows:

**City of Wharton
Resolution No. 2002-27**

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS FOR THE APPLICATION OF THE ANNUAL BUREAU OF JUSTICE – LOCAL LAW ENFORCEMENT BLOCK GRANT; AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO ACT ON THE CITY'S BEHALF IN ALL MATTERS PERTAINING TO THIS APPLICATION.

WHEREAS, the City of Wharton to wishes to apply for the annual Bureau of Justice- Local Law Enforcement Block Grant; and

WHEREAS, the City of Wharton is eligible to receive funds to supplement the Wharton Police Departments budget; and

WHEREAS, the City Council wishes to authorize the Mayor of the City of Wharton to act on the City's behalf in all matters pertaining to the application.

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 submission of an application for the annual Bureau of Justice- Local Law Enforcement Block Grant.

Section II. That the Wharton City Council hereby authorizes Garland S. Novosad, Mayor of the City of Wharton to act on the City's behalf in all matters pertaining to this application.

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

Passed, Approved and Adopted this the 28th of May 2002.

CITY OF WHARTON, TEXAS

By: _____

**Garland S. Novosad
Mayor**

ATTEST:

Joyce Vasut
City Secretary

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

The thirteenth item on the agenda was to review and consider the Consumer Confidence Report (CCR) - 2001 Drinking Water Quality Report. City Manager Andres Garza, Jr. presented a copy of the letter dated May 15, 2002 from Ms. Alicia Diehl, Ph.D. of the Texas Natural Resource Conservation Commission (TNRCC) informing the City of Wharton of the Consumer Confidence Report (CCR) or Drinking Water Quality Report, which indicated the City of Wharton must provide all utility customers with a copy of the report. He said the City Staff would reproduce the reports for distribution during the month of June 2002. He then presented a copy of the press release that would be published in the Wharton Journal Spectator informing the utility customers that a Public Meeting would be held on Thursday, June 27, 2002 at 7:00 p.m.

City Manager Garza said the public meeting was being held to provide an opportunity for public participation should anyone have questions or concerns regarding the report. He said TNRCC rules and regulations required the City to distribute the CCR reports to all utility customers by July 1, 2002. After some discussion, no action was taken.

The fourteenth item on the agenda was to review and consider the Plumbing and Mechanical Board Recommendation:

- A. **Ordinance:** An ordinance amending the City of Wharton Code of Ordinances, Chapter 18, Building and Construction, Article III, Construction Codes and Article VII Plumbing and Mechanical Appeals and Advisory Board; 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 a savings clause and revoking all ordinances or parts of ordinances in conflict herewith only to the extent same are in conflict herewith otherwise provided herein.

City Manager Andres Garza, Jr. presented a copy of the letter of recommendation by the Plumbing and Mechanical Board, which recommended amending Chapter 18, Building and Construction, Article III, Construction Codes and Article VII, Plumbing and Mechanical Appeals and Advisory Board. Building Official Assistance Melissa Salas addressed the City Council regarding clarification of amending Chapter 18, Building and Construction, Article III, Construction Codes and Article VII, Plumbing and Mechanical Appeals and Advisory Board. She stated that the ordinance would delete Appendix A and add insurance requirements for plumbers. City Attorney Paul Webb stated that he reviewed the ordinance and recommended approval. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Ordinance No. 2002-11, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2002-11**

**AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF
ORDINANCES, CHAPTER 18, BUILDING AND CONSTRUCTION, ARTICLE III
CONSTRUCTION CODES AND ARTICLE VII PLUMBING AND MECHANICAL
APPEALS AND ADVISORY BOARD; 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 A SAVINGS CLAUSE AND REVOKING ALL ORDINANCES OR
PARTS OF ORDINANCES IN CONFLICT HEREWITH ONLY TO THE EXTENT
SAME ARE IN CONFLICT HEREWITH OTHERWISE PROVIDED HEREIN.**

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

Section I. Amendment

The Code of Ordinances of the City of Wharton, Texas, Chapter 18, Building and Construction, Article III Construction Codes Section 18-66, Codes adopted, number four (4) is hereby amended to be enforced by the City of Wharton as follows:

Sec. 18-66. Codes adopted.

- (4) International Plumbing Code, 2000 Edition, with its latest revisions including Appendices B, C, D, E, F and G.

Section II. Amendment

The Code of Ordinances of the City of Wharton, Texas, Chapter 18, Building and Construction, Article VII Plumbing and Mechanical Appeals and Advisory Board is hereby amended to be enforced by the City of Wharton as follows:

Article VII. Plumbing and Mechanical Rules and Regulations

Division 1. Appeals and Advisory Board

- Sec. 18-326. Creation.
Sec. 18-327. Membership.
Sec. 18-328. Organization.
Sec. 18-329. Powers and duties.
Secs. 18-330-18-355. Reserved.

Division 2. Plumbing Contractors

- Sec. 18-356. Compliance.
Sec. 18-357. Master Plumbing License Holder.
Sec. 18-358. Permit Fees.
Sec. 18-359. Required Inspections.
Secs. 18-360-18-410. Reserved.

Division 3. Mechanical Contractors

- Sec. 18-411. Compliance.
Sec. 18-412. Master Mechanical License Holder.
Sec. 18-413. Permit Fees.
Sec. 18-414. Required Inspections.
Secs. 18-415-18-465. Reserved.

Division 1. Appeals and Advisory Board

Sec. 18-326. Creation.

There is hereby created a plumbing and mechanical appeals and advisory board, which shall consist of five members. Members of the board shall be appointed by the mayor with the approval of the city council at any regular council meeting date between the election date set for the mayor's election and June 30 of the same year. Board members' appointments shall be for a

period of two years, and any or all members may be removed by the mayor with council approval for reasons considered justifiable by the city council. Continued absence of any member from regular or called meetings of the board may render any such member subject to immediate removal from office. The chairman of the plumbing and mechanical appeals and advisory board shall be elected by a majority vote of the board. Members of the plumbing and mechanical appeals and advisory board shall be selected as follows.

Sec. 18-327. Membership.

- A. Two members shall be selected from state licensed master plumbers, one of which shall own or be employed full time in an established plumbing contracting firm whose principal business office is located within the city.
- B. Two members shall be selected from state licensed air conditioning and refrigeration contractors, one of which shall own or be employed full time in an established air conditioning and refrigeration contracting firm whose principal business office is located within the city.
- C. One member shall be a full time employee of the local gas utility company, such utility company holding a franchise to furnish natural gas within the city.
- D. The city building official shall be an ex-officio, non-voting member of the board.
- E. The city utilities director shall be an ex-officio, non-voting member of the board.

Sec. 18-328. Organization.

- A. Three members of the plumbing and mechanical appeals and advisory board shall constitute a quorum. In varying the application of any provisions of this Code or in modifying an order of the building official, affirmative votes of the majority present, but not less than three affirmative votes, shall be required. No board member shall act in a case in which he has a personal interest.
- B. The city attorney shall be the plumbing and mechanical appeals and advisory board's legal consultant.
- C. The chairman of the plumbing and mechanical appeals and advisory board shall appoint a secretary to keep the official records of the board's actions, such records to be open for public inspection upon request of any taxpayer.

Sec. 18-329. Powers and duties.

- A. The board may establish rules and regulations for its own procedure not inconsistent with the provisions of this Code. The board shall meet at regular intervals, to be determined by the chairman, or in any event, the board shall meet within ten days after notice of appeal has been received.
- B. Any person, firm or corporation aggrieved by any interpretation of this Code or by any decision or ruling by the building official under this Code shall have the right to make an appeal to the plumbing and mechanical appeals and advisory board.
- C. Within a period of ten days from the filing of the appeal the board shall hear the appeal, together with the testimony of all parties concerned, and render a decision thereon within three days thereafter. In hearing such an appeal, the board shall not have the power to waive or set aside the requirements of this Code but shall have the power to interpret its provisions and in case of alternate types of construction or material, shall determine

whether or not such alternate types of construction or material is in fact equal to the standards of this Code, considering adequacy, stability, strength, sanitation and safety to the public health and welfare.

- D. Any person, firm or corporation who may be aggrieved by the decision of the board shall have the right to appeal. Such appeal shall be perfected by written notice addressed to the mayor and city council requesting a hearing by the council, and the action of the city council thereon shall be final to the city council within ten days from the rendition of such decision. Such appeal shall be perfected by written notice addressed to the mayor and city council within ten days after the action appealed from, stating such person's desire to appeal from such action. Upon receipt of notice of such appeal, the city council shall set the appeal down for hearing, and the city secretary shall notify the appellant and also the chairman of the plumbing and mechanical appeals and advisory board of the date of such hearing. The city council shall have the right to affirm, modify or reverse the action and/or decision complained of. The action of the city council shall be final. If no appeal is taken within the time and in the manner provided in this section, the ruling of the plumbing and mechanical appeals and advisory board shall be final.

Secs. 18-330-18-355. Reserved.

Division 2. Plumbing Contractors

Sec. 18-356. Compliance.

- A. No person shall cause or allow any plumbing work be installed, altered or changed in any building or structure within the city and/or within the extraterritorial jurisdiction, when any water or sewer is connected to the city system, unless the person doing such work has been registered under this article and has received a permit under this article to do that particular work. The master licensee is ultimately responsible for any work performed.
- B. The Building Official or Code Official shall be licensed by the Texas State Board of Plumbing Examiners as a plumbing inspector and shall enforce The Plumbing License Law and Board Rules created by the Texas State Board of Plumbing Examiners and the code currently adopted by the City of Wharton as stated in Section 18-66, Codes adopted.

Sec. 18-357. Master Plumbing License Holder.

The Master license holder shall:

- A. Provide a copy of their State Plumbing License to the Code Enforcement Department,
B. Provide a copy of their Driver's License or other source of picture identification to the Code Enforcement Department, and
C. Provide a Certificate of Insurance for the Company to the Code Enforcement Department.
- A Certificate of Insurance must:
1. have the City of Wharton as the certificate holder,
 2. be written by a company licensed to do business in this state,

3. provide for commercial general liability insurance for the master plumber for claims for property damage or bodily injury, regardless of whether the claim arises from a negligence claim or on a contract claim; and
 4. be in a coverage amount of not less than \$300,000.00 for all claims arising in any one-year period for general liability.
- D. Be required to notify the Code Enforcement Department of all employees that are working within the corporate jurisdiction of the City of Wharton city limits. This notification shall include a copy of their plumbing license and picture identification of such personnel. Also, a master licensee shall submit, in writing, notification of any personnel that is allowed to sign for a permit applied for by said company that the master licensee is responsible for.

Sec. 18-358. Permit Fees.

The holder of the master license making or supervising any installation, alteration or change within the city shall pay the city permit and inspection fees in the following amounts:

Fixtures	\$ 2.50
Floor Drain	\$ 2.50
Trap-grease/interceptor	\$ 2.50
Water Heater	\$ 2.50
Vent	\$ 5.00
Vacuum Breakers 1-5	\$ 2.50
Vacuum Breakers 6+	\$ 1.50
Irrigation System	\$ 5.00
Water Line	\$ 5.00
Sewer Line	\$ 5.00
Gas Line/Test	\$ 5.00
Fire Sprinkler (per head)	\$ 0.25
Permit Fee	\$10.00
Re-Inspection Fee	\$25.00
After Hours Inspection/Re-Inspection	\$50.00

Sec. 18-359. Required Inspections.

The Code Enforcement Department shall set forth required inspections.

Secs. 18-360-18-410. Reserved.

Division 3. Mechanical Contractors

Sec. 18-411. Compliance.

- A. No person shall cause or allow any mechanical work be installed, altered or changed in any building or structure within the city unless the person doing such work has been registered under this article and has received a permit under this article to do that particular work. The master licensee is ultimately responsible for any work preformed.

- B. The Building Official shall enforce the Texas Department of Licensing and Regulation, Texas Air Conditioning and Refrigeration Contractor License Law and the code currently adopted by the City of Wharton as stated in Section 18-66, Codes adopted.

Sec. 18-412. Master Mechanical License Holder.

The Master license holder shall:

- A. Provide a copy of their State Mechanical License to the Code Enforcement Department,
- B. Provide a copy of Driver’s License or other source of picture identification to the Code Enforcement Department, and
- C. Provide a Certificate of Insurance for the Company to the Code Enforcement Department.

A Certificate of Insurance must:

- 1. have the City of Wharton as the certificate holder,
- 2. be written by a company licensed to do business in this state,
- 3. provide for commercial general liability insurance for the master plumber for claims for property damage or bodily injury, regardless of whether the claim arises from a negligence claim or on a contract claim; and
- 4. be in a coverage amount required by the Texas Air Conditioning and Refrigeration Contractor License Law according to the type of license held, Class A or Class B.
- D. Be required to notify the Code Enforcement Department of all employees that are working within the corporate jurisdiction of the City of Wharton city limits. This notification shall include a copy of their mechanical license and picture identification of such personnel. Also, a master licensee shall submit, in writing, notification of any personnel that is allowed to sign for a permit applied for by said company that the master licensee is responsible for.

Sec. 18-413. Permit Fees.

- A. The holder of the master license making or supervising any installation, alteration or change within the city shall pay the city permit and inspection fees in the following amounts:

Permit Fee	\$10.00	
New Installation	\$10.00 for the first \$1,000 value	
Plus	\$ 2.00 for each \$1,000 or fraction thereof	
Existing Systems	\$ 5.00 for the first \$1,000 value	
Plus	\$ 2.00 for each \$1,000 or fraction thereof	
Boilers		
33,000 BTU (1BHP) to 165,000 (5BHP)		\$ 5.00
165,001 BTU (5BHP) to 330,000 (10BHP)		\$10.00
330,001 BTU (10BHP) to 1,165,000 (52BHP)		\$15.00
1,165,001 (52BHP) to 3,300,00 (98BHP)		\$25.00
Over 3,300,001 BTU (98BHP)		\$35.00

Re-inspection	\$25.00
After Hours Inspection	\$50.00
After Hours Re-inspection	\$50.00

Sec. 18-414. Required Inspections.

The Code Enforcement Department shall set forth required inspections.

Secs. 18-415-18-465. Reserved.

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

Fine and Penalty for Violations

Section 18-145 Any person violating any of the terms or provisions of this article shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than \$100.00 nor more than the maximum provided in Section 1-5 for each offense. If the terms or provisions of this article are violated by any corporation or firm, the officers and agents actively in charge of the business of such corporation or firm and person actually performing the work for such corporation or firm shall be subject to the penalties provided in this section.

Effective Date

This Ordinance shall become effective on the 12TH day of June 2002.

Passage and Approval

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, on the 28th day of May 2002.

CITY OF WHARTON, TEXAS

By: _____
GARLAND S. NOVOSAD
Mayor

ATTEST:

JOYCE VASUT
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

Published in the Wharton Journal Spectator on Saturday, June 1, 2002 and Saturday, June 8, 2002.

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

B. Resignation of Boardmember Leland Buenger.
City Manager Andres Garza, Jr. presented a copy of the resignation letter dated May 15, 2002 from Mr. Leland Buenger, Plumbing and Mechanical Board-Board Member to the City Council. He stated that the City Ordinance required a representative from the local gas company to serve on the Board. He said Reliant Energy/Entex had named Mr. J. P. Pickens as their representative to replace Mr. Buenger. He said that City Council acceptance of Mr. Buenger's resignation and the appointment of Mr. Pickens was required. Mr. Pickens' would serve the position's remaining term, which would expire on June 30, 2003. After some discussion, Councilmember Don Mueller made a motion to accept the resignation of Boardmember Leland Buenger from the Plumbing and Mechanical Board. Councilmember Darryl Darnell seconded the motion. All voted in favor.

The fifteenth item on the agenda was to review and consider the Acceptance of Utility Easements.

- A. Hinze's Bar-B-Que.
- B. Maks Corporation (Texaco Station).
- C. Mrs. Eulalia Scott, Property Owner.

City Manager Andres Garza, Jr. presented copies of the utility easement agreements for a 15' utility easement needed for the City's Hinze's Waterline project to the City Council. He stated that upon acceptance by the City Council, the easements would be recorded at the Wharton County Courthouse. City Attorney Paul Webb stated that the easements would need to be changed to reflect the name change to Mayor Garland S. Novosad. After some discussion, Councilmember Don Mueller made a motion to accept to utility easements from Hinze's Bar-B-Que, Maks Corporation, and Mrs. Eulalia Scott. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The sixteenth item on the agenda was to review and consider the Wharton County Central Appraisal District Fiscal Year 2003 Proposed Budget. City Manager Andres Garza, Jr. presented the Wharton County Central Appraisal District Fiscal Year 2003 Proposed Budget to the City Council. Councilmember Bryce D. Kocian informed the City Council that the budget was the same as the previous year, however if the tax levy would increase then the budget would then be reflected for the increase. After some discussion, Councilmember Bryce D. Kocian made a

motion to approve the Wharton County Central Appraisal District Fiscal Year 2003 Proposed Budget. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The seventeenth item on the agenda was to review and consider the request for assistance by the Wharton County Freedom Festival Committee to be held June 28 - 29, 2002:

A. Security.

B. Donation for Festival Activities.

City Manager Andres Garza, Jr. informed the City Council that during the regular City Council meeting held June 12, 2000, the Wharton City Council voted to authorize the City's participation in the Wharton County Freedom Festival held July 1, 2000 by providing security through the Wharton Police Department with six (6) officers consisting of fifty (50) hours of security and a \$1,000.00 sponsorship to the event. He said the second annual Wharton County Freedom Festival was held on June 29 - 30, 2001 and the Freedom Festival Committee requested the City to provide security for the event. City Manager Garza stated the City Council authorized \$1,200.00 from the City's Hotel and Motel Fund, to fund the security personnel and \$1000.00 towards sponsorship of the event. He said the City Staff met with Police Chief Tim Guin who indicated that the security needs would be the same as the 2001 event. Councilmember Domingo Montalvo, Jr. informed the City Council that last year the committee raised \$24,000 for the event. After some discussion, Councilmember Bryce D. Kocian made a motion to approve the assistance of security not to exceed \$1,200 and \$1,000 donation for the festival activities for the Wharton County Freedom Festival to be held June 28 - 29, 2002. Councilmember Darryl Darnell seconded the motion. All voted in favor.

The eighteenth item on the agenda was to review and consider the appointments to the City of Wharton Boards & Commissions:

- A. Wharton Regional Airport Board.
- B. Beautification Commission.
- C. Building Standards Commission.
- D. Electrical Board.
- E. Holiday Lighting Commission.
- F. Planning Commission.
- G. Plumbing and Mechanical Board.
- H. Wharton Economic Development Corporation.
- I. Youth Activities Committee.
- J. Municipal Court Judge.
- K. Health Officer.
- L. Veterinarian.
- M. City Council Committees:
 - 1. Annexation Committee.
 - 2. Finance Committee.
 - 3. Street & Drainage Committee.
 - 4. Telecommunications Committee.
 - 5. Intergovernmental Relations Committee.
 - 6. Legislative Committee.

City Manager Andres Garza, Jr. informed the City Council that during the City Council meeting held Monday, May 13, 2002, the City Council authorized the City Staff to contact the members

of the Boards and Commissions whose terms were due to expire on June 30, 2002 to determine if they would wish to renew their terms for an additional two years. He then presented a list that indicated who would and who would not have an interest in renewing their terms. Mr. Garza stated that there was currently two vacancies on the Wharton Regional Airport Board, one vacancy on the Building Standards Commission, and a vacancy for a Chair for the Holiday Decorating Committee. City Manager stated that action by the City Council on the appointment of Mr. J. P. Pickens to fill the unexpired term on the Plumbing and Mechanical Board was required. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to appoint:

AIRPORT BOARD

Garland Mann

BEAUTIFICATION CITY COMMISSION

Merrell "Doc" Barfield
Jeffrey Blair
Larry Jackson
Barbara Stephenson
Barbara Young

BUILDING STANDARDS COMMISSION

Gary Nunez
Howard Singleton

ELECTRICAL BOARD

Wayne Adam
Max Barbee
Scott Stewart

PLANNING COMMISSION

A.J. Rath
Naomi Kemp
Michael Wootton
Walter Garrett

PLUMBING & MECHANICAL

Reyes Olivarez
Gary Eldridge

Councilmember Ken Freese seconded the motion. All voted in favor. Mayor Garland S. Novosad informed the City Council that he would submit the names for the Airport Board and requested the City Staff provide copies of the policies creating the Airport Board to the City Council.

The nineteenth item on the agenda was Executive Session: City Council may adjourn into an Executive Session in accordance with Section 551.071 of the Government Code, Revised Civil Statutes of Texas. Final action, decision or vote, if any with regard to any matter considered in Executive Session shall be made in Open Meeting.

A. Discussion: Pending Litigation with F. W. Walton, Inc. regarding the Civic Center Improvement Project.

Mayor Garland S. Novosad adjourned to Executive Session at 9:12 p.m.
Mayor Garland S. Novosad returned to open meeting at 9:37 p.m.

The twentieth item on the agenda was Return to Open Meeting: Action on items discussed in Executive Session:

A. Review and Consider: Pending Litigation with F. W. Walton, Inc. regarding the Civic Center Improvement Project.

Mayor Garland S. Novosad stated that no action would be taken.

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

A. Plumbing and Mechanical Board meeting held May 23, 2002.

B. Intergovernmental Relations Committee meeting held May 24, 2002.

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

The twenty-second 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 twenty-third 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 9:43 p.m.

CITY OF WHARTON, TEXAS

By:

GARLAND S. NOVOSAD
Mayor

ATTEST:

JOYCE VASUT
City Secretary