

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

Mayor Garland S. Novosad declared a Regular Meeting duly open for the transaction of business at 7:05 p.m. Councilmember Bryce D. Kocian 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.

Councilmember absent was: None.

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

Visitors present were: Ron Sanders with Wharton Journal-Spectator, Paul Daly with KULP, David Schroeder with WEDCo, Anthony Rachunek with Rachunek and Associates, I.O. Coleman, Jr., Jeffrey Blair, Arthur Araguz, David Copeland, Alfred Sablatura, Ellis Hurd, Lynda Nichols, Glenn Eldert, Ben Muhlhausen, Collette Jones, Vivian Garza, Sandra Vaughn, Gilbert Palacios, Bernice Jackson, Carl Nichols, Chester Houston, Priscilla Metcalf, Chip Doetsch, and Barbara Stephenson.

The third item on the agenda was Public Comments. Mr. Ellis Hurd addressed the City Council regarding the weedy lots in the westend area. He said that he spoke with Mr. Jimmy Nickolyn and the problems have been corrected. Mr. Hurd then stated that Mattie Street was not being used by the citizens or the school buses to take the children to Dawson Elementary School. He stated that Branch Street was being used, and it had become a safety issue to the residents and children on that street. No action was taken.

Mr. Alfred Sablatura addressed the City Council regarding drainage. He presented pictures of flood water he received at his residence. He said he resides on Montgomery Road between Baughman Slough and Peach Creek. Mr. Sablatura stated that he built his house in 1970, and every time a building was constructed additional water would drain towards his house and there was no outlet for the County water. Mayor Garland S. Novosad informed Mr. Sablatura that since he lived outside the city limits, he would need to speak to the Wharton County Commissioners. No action was taken.

Mr. I.O. Coleman, Jr. addressed the City Council commending the City Staff on Harris Park. He then publicly invited the Mayor and City Council to attend the Boys & Girls Club Golf Tournament on Saturday, October 19, 2002. He also stated that he was supporting item number 6 on the agenda regarding waiving the fees for renting the Civic Center to non-profit organizations.

The fourth item on the agenda was the Wharton Moment. Mayor Garland S. Novosad presented a Proclamation for the Wharton Chamber of Commerce and Agriculture, which proclaimed the week of October 21st as Chamber of Commerce week.

Mayor Garland S. Novosad then stated that Mr. Robert Sliva would be receiving an award for playing, coaching football and his business endeavors this weekend at halftime during the Stephen F. Austin University homecoming football game. No action was taken.

Councilmember Domingo Montalvo, Jr. stated that the U. S. Army Corp. of Engineers requested funding of \$2,000,000 from the federal budget, but was reduced to \$600,000; however, by working with elected officials, LCRA, and the TERFC the funding was reinstated to the original request of \$2,000,000. He stated that by working together funding to address flood issues and drainage problems could be developed. No action was taken.

The fifth item on the agenda was to review and consider reading of the minutes from the Regular Meetings held September 9, 2002 and September 23, 2002. After some discussion, Councilmember Don Mueller made a motion to approve the minutes from the Regular Meetings held September 9, 2002 and September 23, 2002 as written. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider a request by Mr. Ben Muhlhausen to address the City Council regarding non-profit organizations being charged fees for renting the Civic Center. City Manager Andres Garza, Jr. presented a copy of the letter dated October 8, 2002 from Mr. Ben Muhlhausen requesting to address the City Council regarding non-profit organizations being charged fees for renting the Civic Center to the City Council. He then presented a copy of the City of Wharton Code or Ordinances, Section 2-171. Fee Schedule for the Civic Center. Mr. Ben Muhlhausen addressed the City Council regarding waiving of fees or providing a discount for renting the Civic Center to non-profit organizations. He stated that the Babe Ruth League wanted to hold an annual event at the Civic Center that would bring with people to Wharton and would show them what a nice facility Wharton has. Mr. I.O. Coleman, Jr. addressed the City Council and stated that they would like for this to be an annual event and provide an opportunity for every boy or girl to play Babe Ruth baseball. Mayor Garland S. Novosad requested the item be referred to the City Council Finance Committee for discussion. He also requested Community Services Director Jo Knezek attend the scheduled meeting. Councilmember V. L. Wiley, Jr. stated that the City Council needed to address all non-profit organizations and set a standard to follow. After some discussion, the item was referred to the City Council Finance Committee for them to report back to the City Council within three weeks with a recommendation. No action was taken.

The seventh item on the agenda was to review and consider a request by the Southern Pacific Railroad Depot Restoration Committee to place City Sponsored Signs at the entrances of the City of Wharton, Texas. City Manager Andres Garza, Jr. presented a copy of the application for placement of City sponsored signs submitted by the Southern Pacific Railroad Depot Restoration Committee to the City Council. He stated that the Committee was requesting to place the 2' x 8' signs at the entrances to the City. He then presented a copy of a map indicating the proposed locations and a sample of the proposed signs requesting support of the railroad depot project. City Manager Andres Garza, Jr. informed the City Council that he met with Mr. Merrell "Doc" Barfield on placement of the signs. Councilmember Bryce D. Kocian stated that a time limit needed to be set on how long the signs could remain. After some discussion, Councilmember Bryce D. Kocian made a motion to approve placement of the Southern Pacific Railroad Depot

Restoration City Sponsored Signs at the entrances of the City of Wharton, Texas for a period of six months. Councilmember Ken Freese seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider an ordinance approving the 2002 Chamber of Commerce & Agriculture Holiday Parade Permit and authorizing the Police Department to redirect traffic. City Manager Andres Garza, Jr. presented a draft copy of the ordinance approving the 2002 Chamber of Commerce & Agriculture Holiday Parade Permit and authorizing the Police Department to redirect traffic and a map indicating the parade route to the City Council. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Ordinance No. 2002-23, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2002 - 23**

AN ORDINANCE APPROVING THE 2002 CHAMBER OF COMMERCE & AGRICULTURE HOLIDAY PARADE PERMIT AND AUTHORIZING THE POLICE DEPARTMENT TO REDIRECT TRAFFIC.

WHEREAS, the Wharton Chamber of Commerce and Agriculture has filed an application for a parade permit with the City of Wharton Police Department as required under the City of Wharton Code of Ordinances, Chapter 82, Article III, Sec. 82-91; and

WHEREAS, the requested parade route requires the City of Wharton to close State Highway 60 (Burlson Street and Milam Street) from its intersection with Alabama Road and Polk Street; and

WHEREAS, the closure of State Highway 60 will be for a time of less than four (4) hours; and

WHEREAS, the closure will require the detouring of all traffic according to the map (Attachment A) attached to this ordinance; and

WHEREAS, the routing of all traffic will include truck traffic to Alabama Road which is prohibited by ordinance; and

WHEREAS, the City Council wishes to suspend for the duration of the parade the enforcement of said ordinance of trucks traveling on Alabama Road; and

WHEREAS, if there are any other ordinances that would be violated because of the re-routing of all traffic their suspension is hereby authorized.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS, that:

Section I. The parade permit for the Wharton Chamber of Commerce and Agriculture is hereby approved.

Section II. The parade route is hereby approved as detailed in the attached map (Attachment A) which is hereby made part of this ordinance.

Section III. The closure of all streets as indicated in said map identified in Section II are hereby authorized.

Section IV. The traffic detour plan as identified in Section III above is hereby approved.

Section V. The Chief of Police and City Staff are hereby authorized to make the necessary expenditures needed to ensure the safety of the public.

Section VI. This ordinance shall become effective on the 26th day of November 2002 and remain in effect until such time that the parade concludes.

Passed, Approved and Adopted this 14th day of October 2002.

CITY OF WHARTON, TEXAS

By: _____
GARLAND S. NOVOSAD
Mayor

ATTEST

JOYCE VASUT
City Secretary

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

The ninth item on the agenda was to review and consider City Staff request to waive building permit fees for City residents whose homes were flooded due to Tropical Storm Fay. City Manager informed the City Council that on September 26, 2002, President Bush declared Wharton County as a major disaster area as a result of the severe flooding caused by Tropical Storm Fay. He said the City Staff was working with the Federal Emergency Management Agency (FEMA) in setting up a Disaster Recovery Center (DRC) to assist the City residents who were affected by flood damage due to Tropical Storm Fay. He then presented a copy of the memorandum dated October 7, 2002 regarding the DRC. City Manager Andres Garza, Jr. stated he had been in contact with FEMA in regards to Tropical Storm Fay. He said FEMA would be setting up a DRC at the Wharton Civic Center Thursday, October 17, 2002 until Saturday, October 19, 2002. The Center would be open from 8:00 a.m. to 6:00 p.m. Any person that was affected by the storm would be able to visit with FEMA regarding assistance. He stated that the City Staff would be setting up along with FEMA to ensure City residents are informed of the City's codes and permitting requirements. The City would also be able to assist residents with any additional information they may need. Mr. Garza stated that after the 1998 Flood, the City Council waived the building permit fees for City residents that were affected by that flood. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to waive the building

permit fees for City residents whose homes were flooded due to Tropical Storm Fay. Councilmember Don Mueller seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider Office of Rural Community Affairs:

A. Resolution: A resolution accepting the Texas Community Development Program Contract No. 722057 for Housing Rehabilitation Assistance – Unmet Housing Needs; Authorizing the Mayor of the City of Wharton to execute all documents relating to said contract. City Attorney Paul Webb recommended the City Council approve the contract. City Manager Andres Garza, Jr. informed the City Council that the contract was from the results of the Flood of 1998. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve Resolution No. 2002-61, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2002 - 61**

A RESOLUTION ACCEPTING THE TEXAS COMMUNITY DEVELOPMENT PROGRAM CONTRACT NO. 722057 FOR HOUSING REHABILITATION ASSISTANCE – UNMET HOUSING NEEDS; AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID CONTRACT.

WHEREAS, the City of Wharton City Council hereby authorizes Garland S. Novosad, Mayor to execute the Texas Community Development Program Contract No. 722057 for Housing Rehabilitation Assistance with the Office of Rural Community Affairs; and

WHEREAS, the City of Wharton and the Office of Rural Community Affairs hereby agrees 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 City Council of the City of Wharton hereby authorizes the Mayor Garland S. Novosad of the City of Wharton to the Texas Community Development Program Contract No. 722057 for Housing Rehabilitation Assistance with the Office of Rural Community Affairs.

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

Passed, Approved, and Adopted this 14th of October 2002.

CITY OF WHARTON, TEXAS

By: _____
GARLAND S. NOVOSAD
Mayor

ATTEST:

JOYCE VASUT
City Secretary

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

B. Resolution: A resolution accepting the Texas Community Development Program Contract No. 722067 for elevation of homes under the Hazard Mitigation Grant Program; Authorizing the Mayor of the City of Wharton to execute all documents relating to said contract. City Manager Andres Garza, Jr. presented a copy of the Office of Rural Community Affairs Texas Community Development Program Contract No. 722057 for housing rehabilitation assistance – Unmet Housing Needs and Contract No. 722067 for the elevation of homes under the Hazard Mitigation Grant Program. He then presented the draft resolutions authorizing Mayor Garland S. Novosad to execute the contracts. City Attorney Paul Webb recommended the City Council approve the contract. City Manager Andres Garza, Jr. informed the City Council that the contract was from the results of the Flood of 1998. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve Resolution No. 2002-62, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2002 - 62**

A RESOLUTION ACCEPTING THE TEXAS COMMUNITY DEVELOPMENT PROGRAM CONTRACT NO. 722067 FOR ELEVATION OF HOMES UNDER THE HAZARD MITIGATION GRANT PROGRAM; AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID CONTRACT.

WHEREAS, the City of Wharton City Council hereby authorizes Garland S. Novosad, Mayor to execute the Texas Community Development Program Contract No. 722067 for the elevation of homes under the Hazard Mitigation Grant Program with the Office of Rural Community Affairs; and

WHEREAS, the City of Wharton and the Office of Rural Community Affairs hereby agrees 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 City Council of the City of Wharton hereby authorizes the Mayor Garland S. Novosad of the City of Wharton to execute the Texas Community

Development Program Contract No. 722067 for the elevation of homes under the Hazard Mitigation Grant Program with the Office of Rural Community Affairs.

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

Passed, Approved, and Adopted this 14th of October 2002.

CITY OF WHARTON, TEXAS

By: _____
GARLAND S. NOVOSAD
Mayor

ATTEST:

JOYCE VASUT
City Secretary

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

The eleventh item on the agenda was to review and consider the City of Wharton Civic Center Restroom Renovation Project:

A. Bid Tabulation.

B. Resolution: A resolution awarding a contract(s) for the electrical, mechanical, and plumbing phase for the City of Wharton Civic Center Restroom Renovation Project; Authorizing the Mayor of the City of Wharton to execute all documents relating to said contract(s). City Manager Andres Garza, Jr. informed the City Council that on October 1, 2002, bids were received for the Civic Center Restroom Renovation Project. He presented a copy of the bid tabulation, and a copy of the letter of recommendation dated October 10, 2002 from Mr. Barnaby Evans of Fatter and Evans Architects recommending that the bids be awarded to Penner Electric, Eldridge Air Conditioning, and Rath Plumbing. He then presented a copy of the draft resolution awarding the contract(s). City Manager Andres Garza, Jr. stated that the carpet, tile, drop ceiling and other items would be completed in-house or the city would hire specialized contractors. After some discussion, Councilmember Bryce D. Kocian made a motion to approve the Base Bid and Alternate Bid # 1 and Resolution No. 2002-63, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2002-63**

**A RESOLUTION TO AWARDING A CONTRACT(S) FOR THE ELECTRICAL,
MECHANICAL, AND PLUMBING PHASE FOR THE CIVIC CENTER RESTROOM**

RENOVATION PROJECT; AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID CONTRACT(S).

WHEREAS, competitive, sealed bids were received on October 1, 2002 for the electrical, mechanical, and plumbing phase for the City of Wharton Civic Center Restroom Renovation Project; and

WHEREAS, Penner Electric was deemed to be the best and lowest qualified bidder as per bid specifications for the electrical phase of the project in the amount of \$21,000 for the base bid and \$150.00 for Bid Alternate No. 1; and

WHEREAS, Eldridge Air Conditioning, Inc. was deemed to be the best and lowest qualified bidder as per bid specifications for the mechanical phase of the project in the amount of \$15,831.00 for the base bid; and

WHEREAS, Rath Plumbing was deemed to be the best and lowest qualified bidder as per bid specifications for the plumbing phase of the project in the amount of \$38,515.90 for the base bid and \$1,687.50 for Bid Alternate No. 1; and

WHEREAS, this resolution is passed in accordance with this bid.

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

- Section I. The City Council of the City of Wharton hereby awards the bid(s) to aforementioned companies for the electrical, mechanical, and plumbing phase Civic Center Restroom Project in accordance with bid specifications.
- Section II. Garland S. Novosad, Mayor of the City of Wharton is authorized to execute all documents relating to said contracts.
- Section III. That this resolution shall become effective immediately upon its passage.

Passed, Approved, and Adopted this 14th day of October 2002.

CITY OF WHARTON, TEXAS

By: _____
GARLAND S. NOVOSAD
Mayor

ATTEST:

JOYCE VASUT

City Secretary

Councilmember Darryl Darnell seconded the motion. All voted in favor.

The twelfth item on the agenda was to review and consider the City of Wharton Boards, Commissions, and Committees:

A. Wharton Regional Airport Board:

1. Acceptance of the resignation of Mr. Jim Butler. City Manager Andres Garza, Jr. presented a copy of the letter dated September 24, 2002 from Mr. Jim Butler regarding his resignation as a Board Member on the Wharton Regional Airport Board. He stated that City Council acceptance of his resignation was required. After some discussion, Councilmember Don Mueller made a motion to accept the resignation of Mr. Jim Butler from the Wharton Regional Airport Board. Councilmember Bryce D. Kocian seconded the motion. All voted in favor.

2. Appointment to the Wharton Regional Airport Board. City Manager Andres Garza, Jr. informed the City Council that they could make an appointment to fill the vacant position. Mayor Garland S. Novosad stated that he spoke to Mr. David Allen and Mr. Allen would like to serve on the Wharton Regional Airport Board. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to appoint Mr. David Allen to the Wharton Regional Airport Board for the term ending June 30, 2004. Councilmember Don Mueller seconded the motion. All voted in favor.

B. Appointments to City Council Youth Advisory Commission.

City Manager Andres Garza, Jr. informed the City Council that Youth Advisory Commissioner Jimmy Schulz was recommending the appointment of the following youths to the Youth Advisory Commission:

Seventh Grade: Sharneace Johnson and Shea Flynn

Eighth Grade: Xavier Jackson and Jessica Norrell

He stated that once these positions have been filled, the Youth Advisory Commission would have filled the 22 voting member seats on the Commission.

After some discussion, Councilmember Bryce D. Kocian made a motion to appoint Sharneace Johnson and Shea Flynn as the seventh grade representatives, and Xavier Jackson and Jessica Norrell as the eighth grade representatives. Councilmember Darryl Darnell seconded the motion. All voted in favor.

The thirteenth item on the agenda was to review and consider an ordinance amending the City of Wharton Code of Ordinances Chapter 34 – Health and Sanitation, Article II – Cleanliness and Sanitation of Premises; Section 34-58 – Abatement of Public Nuisance; Littering and by adding Section 34-59 regarding the enforcement within 5,000 feet outside the City of Wharton City Limits; 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 the Wharton Beautification Commission had met on October 9, 2002 to discuss the public nuisance ordinance and its enforcement 5,000 feet outside the City's limits. He then presented a copy of the letter of recommendation from Beautification Commission Chairman Mr. Jeffrey Blair regarding the enforcement of the public nuisance ordinance outside the City's limits, and a draft copy of the ordinance amending the City of Wharton Code of Ordinances Chapter 34 – Health and

Sanitation, Article II – Cleanliness and Sanitation of Premises; Section 34-58 – Abatement of Public Nuisance; Littering and by adding Section 34-59 regarding the enforcement within 5,000 feet outside the City of Wharton City Limits. City Attorney Paul Webb recommended the City Council approve Ordinance and then meet with Wharton County to complete an Interlocal Agreement on its enforcement. He stated that building codes were not included in the ordinance. Councilmember Don Mueller asked if the 5,000 feet would be in all directions. Mayor Garland S. Novosad stated that the 5,000 feet would include all directions around the city. Councilmember Don Mueller stated that the City needed to clean up inside the city before going outside the city limits 5,000 feet. Mayor Garland S. Novosad stated that the City needed to clean up the entrances to the City. After some discussion, Councilmember Darryl Darnell made a motion to approve Ordinance No. 2002-24, which read as follows:

**CITY OF WHARTON, TEXAS
ORDINANCE NO. 2002 - 24**

AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OR ORDINANCES CHAPTER 34 – HEALTH AND SANITATION, ARTICLE II – CLEANLINESS AND SANITATION OF PREMISES; SECTION 34-58 – ABATEMENT OF PUBLIC NUISANCE; LITTERING AND BY ADDING SECTION 34-59 REGARDING THE ENFORCEMENT WITHIN 5000 FEET OUTSIDE THE CITY OF WHARTON CITY LIMITS; 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 that:

Chapter 34, Health and Sanitation, Article II, Cleanliness and Sanitation of Premises; Littering be amended as follows:

Section 34-58. Public Nuisance.

2. Keeping, storing, or accumulating rubbish, including newspapers, abandoned vehicles, motorized equipment, appliances, furniture, tires, and cans, on premises in a neighborhood for ten (10) days or more, unless the rubbish or object is completely enclosed in a building or is not visible from a public street, private or public properties;

Section 34-59. Enforcement.

All ordinances within this chapter shall be enforced within the city limits and outside the city limits for a distance of 5,000 feet.

Sections 34-60 – 34-80. Reserved.

Separability

If any court of competent jurisdiction rules that any section, subsection, sentence, clause, phrase, or portion of this ordinance is invalid on 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

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

Effective Date

This Ordinance shall become effective on the 31st day of October 2002 at 12:01 a.m.

PASSED AND APPROVED by the City Council of the City of Wharton, Texas on the 14th day of October 2002.

CITY OF WHARTON, TEXAS

By: _____
GARLAND S. NOVASAD
Mayor

ATTEST:

JOYCE VASUT
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

Published in the Wharton Journal Spectator on Wednesday, October 16, 2002 and Wednesday, October 23, 2002.

Councilmembers V. L. Wiley, Jr. seconded the motion. Councilmember V. L. Wiley, Jr., Darryl Darnell, Ken Freese, Domingo Montalvo, Jr., and Bryce D. Kocian voted for the motion. Councilmember Don Mueller voted against the motion. The motion carried.

The fourteenth item on the agenda was to review and consider an ordinance amending the City of Wharton Code of Ordinances Chapter 82 Traffic, Article II Operation of Vehicles, by adding Section 82-66 designating a pedestrian crosswalk across South Alabama Road at its intersection with Avenue C and Hodges Lane. City Manager Andres Garza, Jr. informed the City Council that during the regular City Council meeting held September 23, 2002 the City Council approved amending the City of Wharton Code of Ordinances Chapter 82 Traffic, Article II Operation of Vehicles, by adding Section 82-66 designating a pedestrian crosswalk across South Alabama Road at its intersection with Avenue C and Hodges Lane. He then presented a draft ordinance that would amend the ordinance by adding the pedestrian crosswalk. Councilmember Don Mueller asked if a sign would be installed saying "Stop for Pedestrians." City Manager Andres Garza, Jr. stated that the signs would be in accordance with the Texas Uniform Traffic Manual. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve Ordinance No. 2002-25, which read as follows:

**CITY OF WHARTON, TEXAS
ORDINANCE NO. 2002 - 25**

AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES CHAPTER 82 TRAFFIC, ARTICLE II OPERATION OF VEHICLES, BY ADDING SECTION 82-66 DESIGNATING A PEDESTRIAN CROSSWALK ACROSS SOUTH ALABAMA ROAD AT ITS INTERSECTION WITH AVENUE C AND HODGES LANE; 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 that:

Chapter 82, Traffic, Article II Operation of Vehicles be amended as follows:

Section 82-66. Designating a Pedestrian Crosswalk.

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

South Alabama Road at its intersection with Avenue C and Hodges Lane.

- b. The operator of a vehicle shall yield the right-of-way to a pedestrian crossing a roadway in a crosswalk if:
1. no traffic control signal is in place or in operation; and

2. the pedestrian is:
 - A. on the half of the roadway in which the vehicle is traveling; or
 - B. approaching so closely from the opposite half of the roadway as to be in danger.
- c. Notwithstanding Subsection (b), a pedestrian may not suddenly leave a curb or other place of safety and proceed into a crosswalk in the path of a vehicle so close that it is impossible for the vehicle operator to yield.
- d. The operator of a vehicle approaching from the rear of a vehicle that is stopped at a crosswalk to permit a pedestrian to cross a roadway may not pass the stopped vehicle.
- e. 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 pedestrian crosswalk.

Sections 82-67 – 82-90. Reserved.

Separability

If any court of competent jurisdiction rules that any section, subsection, sentence, clause, phrase, or portion of this ordinance is invalid on 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

Any person adjudged guilty of an offense under this Chapter shall be guilty of a misdemeanor punishable by a fine not to exceed Two Thousand Dollars and No Cents (\$2,000.00). Each day that a violation continues shall constitute a separate offense.

Effective Date

This Ordinance shall become effective on the 31st day of October 2002 at 12:01 a.m.

PASSED AND APPROVED by the City Council of the City of Wharton, Texas on the 14th day of October 2002.

CITY OF WHARTON, TEXAS

By: _____
GARLAND S. NOVOSAD
Mayor

ATTEST:

By: _____
JOYCE VASUT
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

Published in the Wharton Journal Spectator on Wednesday, October 16, 2002 and Wednesday, October 23, 2002.

Councilmember Darryl Darnell seconded the motion. Councilmembers V. L. Wiley, Jr., Darryl Darnell, Don Mueller, and Bryce D. Kocian voted for the motion. Councilmembers Ken Freese, and Domingo Montalvo, Jr. voted against the motion. The motion carried.

The fifteenth item on the agenda was to review and consider the Drainage Improvements within the City of Wharton, Texas:

- A.** Authorization to solicit professional engineering services from an engineering firm for said drainage improvements.
- B.** Authorizing the City Manager to pursue the acquisition of the necessary easements and/or right-of-way for said improvements.

City Manager Andres Garza, Jr. presented a memorandum from him to the City Council dated October 11, 2002 regarding the drainage improvements within the City of Wharton, which stated the following:

"The recent flooding event has made us all realize that there are no areas within the City of Wharton that are immune to the effects of flooding. The storm delivered over 14 inches of rain within a 3-4 hour period, causing a greater than 100-year flooding event. This event, I believe, confirmed the need for the U.S. Army Corp of Engineers Flood Protection Study, which was recently approved by the City Council and is currently underway. Also, this event confirmed that the City must look at local drainage areas that need to be improved to eliminate some of the drainage problems that may cause flooding in certain areas of the City.

After the flood, the City's Public Works Department began the task of cleaning out debris from the main drainage ditches that were clogged during the storm. Some ditches have not been cleaned because they are still too wet to get City equipment in them. The latest rain has also hindered the ability to clean them. However, as soon as the ground allows equipment to be used, the ditches will be cleaned.

The City staff identified areas of concern that need to be addressed. Although this is not an exclusive list, we tried to identify some of the major areas that are considered local drainage areas. They are as follows:

1) Ahldag Addition – This addition has two major drainage ditches that converge on North Texas Street. Some discussions have been held to divert the north ditch to Lee's Lane and then on to Baughman Slough. On October 10, 2002, I met with John McLeod, P.E. from LCRA to discuss the proposed diversion of the ditch. Mr. McLeod is the LCRA representative working with the City on the Corp of Engineers (COE) Study. My question to him was, would this ditch fall into the scope of the COE study or be what the COE considers a local drainage issue. His response to me was that it would be a local drainage issue. However, he said the COE would look at Baughman Slough in their study. Therefore, if the City wanted to divert the ditch, then it would be up to the City to do the necessary engineering and construction. An engineering firm should be engaged by the City for this work.

2) Crestmont Street – This part of the City drains to Caney Creek. When this subdivision was developed a storm drainage system was put in place. We have the construction plans for the storm sewer system for this area, but we have found no additional records or studies to indicate the design criteria of the storm sewer. We do know that the system was operating at full capacity. The outfall pipe drains into Caney Creek. Rumors were circulating that the check valve on the system was not working. There is no check valve on this system. This area must also be studied by an engineer to determine if the current system is adequate or needs to be improved.

3) LaDelle Street Drainage Ditch – A drainage ditch runs behind the houses on LaDelle Street. This ditch was constructed by the City on private property in the 1980's. The City has never obtained a drainage easement on the Mill's property. Every time the city needs to clean this ditch, the property owner must be notified and permission must be granted. The City needs to obtain the drainage easement, but an engineer must first determine what size easement or right-of-way should be obtained.

4) Caney Creek Storm Sewer – Dr. Robert Vineyard has requested that the City address the storm sewer under Caney Creek. Again, an engineer must determine the system sizing.

5) Mahan Street – Ms. Wilma Randall (311 Mahan Street) has requested assistance to alleviate the flooding of her house. Public Works Director, Phil Bush has reviewed the request; however, an engineering solution must be developed."

He stated that he was recommending the City Council authorize the solicitation of professional engineering services to look at these areas along with other areas that would be considered local drainage issues. Also, he would send a letter to Wharton County Commissioners Mickey Reynolds, Precinct No. 1 and Chris King, Precinct No. 2 requesting their assistance in clearing and improving the outfalls that were in the County. Mayor Garland S. Novosad stated that Anthony Rachunek with Anthony Rachunek and Associates had previously addressed the City Council regarding the Ahldag Drainage Proposal and requested Mr. Rachunek readdress the City Council. Mayor Garland S. Novosad also stated that he took pictures that identified problem areas in need of improvements. Anthony Rachunek addressed the City Council and stated that the Ahldag Drainage was constructed in 1970 with O'Malley and Clay, and the City received the first grant to install concrete box culverts, concrete lining to Lees Lane and Jr. College Blvd. He

also stated that another project completed closing in ditches and installing culverts on Richmond Road. After some discussion, Councilmember Ken Freese made a motion to refer the drainage improvement projects to the City Council Streets & Drainage Committee to discuss the scope of work with Public Works Director Phillip Bush and City Manager Andres Garza, Jr., and for the committee to submit a recommendation to the City Council. Councilmember Bryce D. Kocian seconded the motion. Mayor Garland S. Novosad stated that drainage was a city wide problem and City Council needed to address the issues instead of the City Council Streets and Drainage Committee. Councilmembers Ken Freese, Don Mueller, Domingo Montalvo, Jr., and Bryce D. Kocian voted for the motion. Councilmembers V. L. Wiley, Jr., Darryl Darnell, and Mayor Garland S. Novosad voted against the motion. The motion carried. Councilmember Darryl Darnell requested City Manager Andres Garza, Jr. provide a timetable for maintaining the existing ditches.

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

A. Beautification Commission meeting held October 9, 2002.

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

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

The meeting was adjourned at 8:22 p.m.

CITY OF WHARTON, TEXAS

By:

GARLAND S. NOVOSAD
Mayor

ATTEST:

JOYCE VASUT
City Secretary