

**MINUTES  
OF  
CITY OF WHARTON  
REGULAR CITY COUNCIL MEETING  
OCTOBER 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.

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, Police Chief Tim Guin, Public Works Director Phillip Bush, Community Services Director Jo Knezek, Fire Chief David Copeland and City Attorney Paul Webb.

Visitors present were: Ron Sanders Wharton Journal-Spectator, Paul Daly with KULP, David Schroeder with WEDCo, Anthony Rachunek, Carlos Cotton, Louis Marshall, I.O. Coleman, Jr., Lewis Fortenberry, Elsten Echardt, Martha Juch, John McLeod, and Debra Medina.

The third item on the agenda was Public Comments. Debra Medina with Prudential addressed the City Council and stated that she had opened an office on the square in January that specialized in medical claims processing and was requesting the City Council consider Prudential to provide EMS Billing services for the City of Wharton. Councilmember Darryl Darnell requested that this item be placed on the next City Council meeting. Mayor Garland S. Novosad requested Ms. Debra Medina present information for the City Council packet. No action was taken.

The fourth item on the agenda was the Wharton Moment. Councilmember Domingo Montalvo, Jr. stated that he had been appointed to the TML Resolution Committee and had attended the TML Annual Conference in Fort Worth, Texas. He stated that TML had developed its legislative agenda for the upcoming session. Councilmember Ken Freese publicly expressed his appreciation to all the City of Wharton employees and stated that the City was fortunate to have the good employees that were working for the City. No action was taken.

The fifth item on the agenda was to review and consider the City of Wharton Financial Report for the month of September 2002. Finance Director Joyce Vasut presented a financial report for the month of September 2002 to the City Council and stated that the auditors would be reviewing the year end financials. She said the sales tax receipts for the month of September was \$97,428 with \$64,952 going to the City and \$324,769 going to WEDCo. The TexPool balance for September was \$2,870,197.87 with an average monthly yield of 1.8693%. After some discussion, Councilmember Bryce D. Kocian made a motion to approve the financial report for

the month of September 2002 as presented. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The sixth item discussed on the agenda was the report on the "Wharton Interim Feasibility Study" Technical Kick-off meeting held October 22, 2002. City Manager Andres Garza, Jr. informed the City Council that on October 22, 2002, the Wharton Interim Feasibility Study Technical meeting was held at City Hall. Representatives from the U.S. Army Corp of Engineers (Ft. Worth and Galveston Districts), Lower Colorado River Authority (LCRA), Texas Colorado River Floodplain Coalition (TCRFC) had met with the City Council Streets and Drainage Committee, City Staff and Wharton County Commissioners. The meeting "kicked off" the Flood Mitigation planning study for the City of Wharton and surrounding area. He stated that Mr. Elston Echardt, Project Manager from the U.S. Army Corp of Engineers, Mr. John McLeod, P.E. of LCRA, and Ms. Martha Juch, P.E. of the TCRFC would present a report regarding the meeting and project. Mr. Elston Echardt addressed the City Council regarding the "Wharton Interim Feasibility Study" Technical Kick-off meeting held October 22, 2002. He stated that this was a unique situation in which Wharton was receiving experience from both the Galveston and Fort Worth Corp. of Engineers Districts. He then stated that at the Kick-off meeting concerns regarding the San Bernard River, Baughman Slough, and Peach Creek were heard from the City and Wharton County. Mr. Echardt stated that the project would begin with a sensitivity analysis, which would be completed within three to four months. Councilmember Darryl Darnell stated that since the San Bernard River did not have a river authority, who would be responsible for cleaning out the river. Mr. Elston Echardt stated that Wharton County and the property owners would be responsible. Councilmember Domingo Montalvo, Jr. stated that a quarterly meeting would be conducted to kept the City Council informed as to the progress of the study. Mr. John McLeod with LCRA addressed the City Council and stated that he had confidence in the Corp. of Engineers, however LCRA would provide backup and support for the project. Ms. Martha Juch addressed the City Council and stated that she was the liaison between the Corp. of Engineers and the City of Wharton. After some discussion, no action was taken.

The seventh item discussed on the agenda was to review and consider recommendation from the City Council Streets & Drainage Committee:

1. To request Technical Assistance from the Texas Colorado River Floodplain Coalition for project management and technical review services by the Coalition Engineer for the duration of the Wharton Interim Feasibility Study.

City Manager Andres Garza, Jr. presented a draft letter to the Texas Colorado River Floodplain Coalition requesting their assistance. City Manager Andres Garza, Jr. stated that there would be no cost to the City of Wharton. After some discussion, Councilmember Don Mueller made a motion to request the assistance from the Texas Colorado River Floodplain Coalition (TCRFC). Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

2. To engage the professional engineering services of Jones & Carter, Inc., Consulting Engineers to address drainage improvements to areas in the City of Wharton and to send notice to the Wharton County Commissioners Court requesting their assistance.

City Manager Andres Garza, Jr. told the City Council that the City of Wharton Streets and Drainage Committee met on October 25, 2002 and discussed the engagement of an engineering firm to address improvements to drainage areas in the City of Wharton. The

City of Wharton Streets and Drainage Committee voted and approved the following two recommendations to the City Council:

- To engage the engineering services of Jones and Carter, Inc. regarding improvements to drainage areas within the City of Wharton. Jones and Carter, Inc. should be compensated based upon an agreed upon hourly rate.
- To request technical assistance from the Texas Colorado River Floodplain Coalition by having the Coalition Engineer provide project management and technical review services for the City of Wharton for the duration of the Wharton Interim Feasibility Study.

City Manager Andres Garza, Jr. informed the City Council that the Committee recommended writing letter from the entire City Council to members of the Commissioners Court asking for assistance in drainage improvements from the County in certain areas around the City. The Committee also recommended writing letter to various property owners in order to obtain the necessary easements in order to construct or maintain the drainage channels within the City. Councilmember Darryl Darnell asked if the hourly rate would include driving time. Mr. Carlos Cotton stated that most of the work would be conducted from their office, however they would bill for drive time. After some discussion, Councilmember Don Mueller made a motion to engage in professional engineering services with Jones & Carter, Inc. Consulting Engineers to address drainage improvements to areas in the City of Wharton and to send notice to the Wharton County Commissioners Court requesting their assistance. Councilmember Ken Freese seconded the motion. All voted in favor.

The eighth item discussed on the agenda was to review and consider the request by Mr. James B. Faetche to address the City Council regarding the following:

1. Sidewalk on Richmond Road.
2. Heating/Covering the Municipal Swimming Pool.

City Manager Andres Garza, Jr. presented a copy of the letter dated October 22, 2002 by Mr. James B. Faetche requesting to address the City Council. Mr. James B. Faetche was not present at the City Council Meeting. No action was taken.

The ninth item discussed on the agenda was to review and consider the request by Louis Marshall of Nan Ya Plastics USA for a permit to consume and possess alcoholic beverages for an employee/family picnic at Pleasure Park on November 2, 2002. City Manager Andres Garza, Jr. presented a copy of the application by Mr. Louis Marshall for the use of Pleasure Park from Friday, November 1, 2002 to November 4, 2002. He then presented a copy of Louis Marshall's letter dated October 24, 2002 to the City Staff requesting a permit to consume and possess alcoholic beverages at Pleasure Park during the weekend of November 1<sup>st</sup> and 2<sup>nd</sup>, 2002. The request was submitted to Wharton Police Chief Tim Guin for review. City Manager Andres Garza, Jr. presented a copy of Mr. Guin's letter dated October 24, 2002 requesting City Council consideration of Mr. Marshall's request and a copy of the City of Wharton Ordinance No. 2002-22 regarding Chapter 10 – Alcoholic Beverages, Section 10-5 Sale, Possession or consumption in certain parks. Mr. Louis Marshall addressed the City Council and stated that on the 1<sup>st</sup> of November 2002, the volleyball, softball and horseshoes would be set up. On the 2<sup>nd</sup> of November the private Family Day would be from 10:00 a.m. through 4:00 p.m. with the families participating in the raffle, rides and games. He stated that management provided the alcoholic beverages for the employees and was requesting a permit for the event. After some discussion, Councilmember Darryl Darnell made a motion to approve the request by Louis Marshall of Nan

Ya Plastics USA for a permit to consume and possess alcoholic beverages for an employee/family picnic at Pleasure Park on November 2, 2002 and waive the 30 days notice. Councilmember Don Mueller seconded the motion. All voted in favor.

The tenth item discussed on the agenda was to review and consider rental fees for use of the Wharton Civic Center for non-profit organizations. City Manager Andres Garza, Jr. stated that during the regular Wharton City Council meeting held October 14, 2002, Mr. Ben Muhlhausen addressed the City Council regarding non-profit organizations being charged rental fees for the use of the Civic Center. The City Council referred this item to the Finance Committee for further discussion. The City Council Finance Committee met on October 28, 2002 to discuss the request for rate changes. He then presented a report on the Committee's recommendation to the City Council. After some discussion, Councilmember Bryce D. Kocian made a motion for the Civic Center rental rates to remain at the current rates and for the City Staff to conduct a survey of surrounding communities to determine the rates they charge for the use of their facilities. Councilmember Ken Freese seconded the motion. All voted in favor.

The eleventh item on the agenda was the request by Wharton Police Department to upgrade the Emergency Warning Siren System. City Manager Andres Garza, Jr. informed the City Council that the Wharton Police Department was requesting to update the Emergency Warning Siren System. He then presented a copy of the memorandum dated October 18, 2002 from Police Chief Tim Guin regarding the siren system and the cost for improvements. Police Chief Tim Guin stated that the controller for the siren system was custom build in 1991, and was not repairable. He stated that a replacement controller would cost about \$22,100.50. He also states that the current system did not cover the entire system and the cost of providing two more sirens would be an additional \$50,650.00. After some discussion, Councilmember Darryl Darnell made a motion to declare an emergency purchase and approve the purchase of the Emergency Warning Siren System in the amount of \$22,100.50 with Allied Wireless. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

Mayor Garland S. Novosad went back to item three on the agenda on public comments and recognized Mr. Carlton Norris. Mr. Norris addressed the City Council at 8:03 p.m. regarding the flooding problems currently occurring at his residence. He stated the water from the ditch was backing up into his yard, and the City needed to clean the ditches in order for the water to properly drain. Councilmember Don Mueller stated that the city limits stopped at the church and he would need to get assistance from Wharton County.

The twelfth item on the agenda was to review and consider the request by Grace Community Fellowship Church to close the intersection of West Caney and North Houston Streets and the West Caney Street toward Richmond Road for a soapbox derby race to be held Saturday, November 23, 2002 from 6:00 a.m. to 8:00 p.m. City Manager Andres Garza, Jr. presented a copy of the letter dated October 18, 2002 from Police Chief Tim Guin regarding the request by Grace Community Fellowship Church to close West Caney Street November 23, 2002. He then presented a copy of the letter dated October 8, 2002 from Mr. Myles Sweeney of Grace Fellowship Church requesting the street closure for the soapbox derby race. Police Chief Tim Guin informed the City Council that the closing of the streets would not be a problem. Councilmember Bryce D. Kocian asked about how many people would be attending the event. Police Chief Guin stated approximately 200 people. After some discussion, Councilmember Bryce D. Kocian made a motion to approve the request by Grace Community Fellowship Church

to close the intersection of West Caney and North Houston Streets and the West Caney Street toward Richmond Road for a soapbox derby race to be held Saturday, November 23, 2002 from 6:00 a.m. to 8:00 p.m. or November 30, 2002 from 6:00 a.m. to 8:00 p.m. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The thirteenth item on the agenda was to review and consider a resolution authorizing the Mayor of the City of Wharton to execute an agreement with Texas Mexican Railway Company for the installation and/or maintenance of an underground 12" Water Pipeline Crossing. City Manager Andres Garza, Jr. presented a copy of the letter dated October 14, 2002 from Mr. James L. Meece, Manager of Contracts for Interstate Management Group, Inc., requesting the City of Wharton to execute an agreement for the installation and/or maintenance of an underground 12" water pipeline crossing with the Texas Mexican Railway Company. He said the City of Wharton submitted an application for a permit to install the 12" pipeline crossing for Phase II of the Hinze's Waterline Project. He then presented a copy of the agreement and a draft copy of the resolution. City Manager Andres Garza, Jr. stated that approval would allow placement of the water line under the railroad property. He stated that there was an annual license fee of \$430.00. City Attorney Paul Webb stated that the insurance requirement was two million dollars per occurrence and six million dollars aggregate liability coverage. After some discussion, Councilmember Darryl Darnell made a motion to approve Resolution No. 2002-64, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2002 - 64**

**A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE AN AGREEMENT WITH TEXAS MEXICAN RAILWAY COMPANY FOR THE INSTALLATION AND/OR MAINTENANCE OF AN UNDERGROUND 12" WATER PIPELINE CROSSING.**

**WHEREAS,** the City of Wharton City Council wishes to authorize Garland S. Novosad, Mayor to execute the Agreement No. TM 021009 between the City of Wharton and the Texas Mexican Railway Company (TM) for the installation and/or maintenance of an underground 12" Water Pipeline Crossing for the Phase II Hinze's Waterline Project; and

**WHEREAS,** the City of Wharton and the Texas Mexican Railway Company 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 Garland S. Novosad, Mayor to execute the Agreement No. TM 021009 between the City of Wharton and the Texas Mexican Railway Company (TM) for the installation and/or maintenance of an underground 12" Water Pipeline Crossing for the Phase II Hinze's Waterline Project.

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

**Passed, Approved, and Adopted** this 28<sup>th</sup> of October 2002.

**CITY OF WHARTON, TEXAS**

By: \_\_\_\_\_  
**GARLAND S. NOVOSAD**  
Mayor

**ATTEST:**

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**JOYCE VASUT**  
City Secretary

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

The fourteenth item on the agenda was to review and consider a resolution authorizing the Mayor of the City of Wharton, Texas, to execute a Laboratory Services Agreement with the City of Houston Health and Human Services Department. City Manager Andres Garza, Jr. presented a copy of the letter dated October 16, 2002 from M. Des Vignes-Kendrick, MD, MPH, Director of the City of Houston Health and Human Services Department regarding a Laboratory Services Agreement. The City of Houston Department of Health and Human Services (HDHHS) laboratory has performed tests for anthrax from specimens submitted by the City of Wharton and was requesting an agreement with the City for future laboratory services. He then presented a copy of the agreement and a draft resolution authorizing the Mayor of the City of Wharton to execute the agreement. He stated that he forwarded a copy of the agreement to City Attorney Paul Webb, EMS Director John Kowalik, and Police Chief Tim Guin for their review and comment. City Attorney Paul Webb stated that he reviewed the agreement and recommended City Council approval. Councilmember Domingo Montalvo, Jr. stated that the City could also contact the Civil Support Team and would provide their service free of charge, and they could arrive within six hours. After some discussion, Councilmember Darryl Darnell made a motion to approve Resolution No. 2002-65, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2002 - 65**

**A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE AN AGREEMENT WITH THE CITY OF HOUSTON HEALTH AND HUMAN SERVICES DEPARTMENT FOR LABORATORY SERVICES.**

**WHEREAS,** the City of Wharton City Council wishes to authorize Garland S. Novosad, Mayor to execute a Laboratory Services Agreement between the City of Wharton and the City of Houston Health and Human Services Department; and

**WHEREAS,** the City of Wharton and the City of Houston Health and Human Services Department 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 Mayor Garland S. Novosad, to execute a Laboratory Services Agreement between the City of Wharton and the City of Houston Health and Human Services Department.

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

**Passed, Approved, and Adopted** this 28<sup>th</sup> of October 2002.

**CITY OF WHARTON, TEXAS**

**By:** \_\_\_\_\_  
**GARLAND S. NOVOSAD**  
Mayor

**ATTEST:**

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**JOYCE VASUT**  
City Secretary

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

The fifteenth item on the agenda was to review and consider the City of Wharton Police Vehicles:

A. Bid Tabulation.

B. **Resolution:** A resolution awarding a bid for the City of Wharton Police Vehicles.

City Manager Andres Garza, Jr. informed the City Council that bids were received for the City of Wharton Police Vehicles on October 24, 2002. He then presented a copy of the bid tabulation, the letter of recommendation dated October 25, 2002 from Police Chief Tim Guin recommending Don Elliott-East Bernard, and a copy of a draft resolution. Police Chief Tim Guin addressed the City Council and stated that one vehicle would replace an unmarked vehicle. After

some discussion, Councilmember Bryce D. Kocian made a motion to approve Resolution No. 2002-66, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2002-66**

**A RESOLUTION AWARDED A BID TO DON ELLIOTT FORD, EAST BERNARD FOR THREE (3) 2003 FOUR DOOR SEDANS POLICE PACKAGE (REAR WHEEL DRIVE); AUTHORIZING GARLAND S. NOVOSAD, MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID CONTRACT.**

**WHEREAS**, competitive, sealed bids were received on October 24, 2002, for three (3) 2003 Four Door Sedans - Police Package - Rear Wheel Drive; and

**WHEREAS**, Don Elliott Ford was deemed to be the best and lowest qualified bidder as per bid specifications for three (3) 2003 Four Door Sedans - Police Package - Rear Wheel Drive in the amount of \$19,820.00 per unit, totaling \$59,460.00; 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. That Don Elliott Ford is hereby awarded the bids for three (3) 2003 Four Door Sedans - Police Package - Rear Wheel Drive for the City of Wharton in accordance with the bid specifications.
- Section II. That Garland S. Novosad, Mayor of the City of Wharton is hereby authorized to sign any documents relating to the aforementioned contracts.
- Section III. That this resolution shall become effective immediately upon its passage.

**Passed, Approved, and Adopted** this 28<sup>th</sup> of October 2002.

**CITY OF WHARTON, TEXAS**

**By:**

\_\_\_\_\_  
**GARLAND S. NOVOSAD**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**JOYCE VASUT**  
City Secretary

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

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

1. Wharton Youth Advisory Commission meeting held October 8, 2002.
2. Building Standards Commission meeting held October 17, 2002.
3. City Council Streets & Drainage Committee meetings held October 22, 2002 and October 25, 2002.

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

The seventeenth item on the agenda was to review and consider the sale of City Owned Personal Property. City Manager Andres Garza, Jr. informed the City Council that the City of Wharton owned a small building that was located on railroad property at the intersection of Alabama Road at Sante Fe. He stated that there has been some interest by a private individual in the building, and was requesting authorization to sell the building. City Attorney Paul Webb stated that the personal property needed to be sold by sealed bids. Mayor Garland S. Novosad stated that the Department Heads should be contacted to see if the building could be utilized by their department. After some discussion, Councilmember Bryce D. Kocian made a motion to approve the sale of City owned personal property if the Department Heads could not utilize the building. Councilmember Ken Freese seconded the motion. All voted in favor.

The eighteenth item on the agenda was to review and consider 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, Jr. presented the reports to the City Council. No action was taken.

The nineteenth 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 8:31 p.m.

**CITY OF WHARTON, TEXAS**

**By:**

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**GARLAND S. NOVOSAD**  
Mayor

**ATTEST:**

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**JOYCE VASUT**  
City Secretary