

**MINUTES  
OF  
CITY OF WHARTON  
REGULAR CITY COUNCIL MEETING  
DECEMBER 9, 2002**

Mayor Garland S. Novosad declared a Regular Meeting duly open for the transaction of business at 7:00 p.m. Councilmember Don Mueller 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, Bryce D. Kocian, and Domingo Montalvo, Jr.

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, EMS Director John Kowalik, Municipal Court Judge John Murrile, Municipal Court Clerk Mary Garcia, Municipal Court Clerk Olga Mireles, and City Attorney Paul Webb.

Visitors present were: Ron Sanders with Wharton Journal-Spectator, David Schroeder with Wharton Economic Development Corporation, Carlos Cotton, Wayne Adams, Sam Harrell, Lynda Nichols, Carl Nichols, Sandy Sanders, Lewis Fortenberry, Walter Garrett, Johnnie Roberts, Chester Houston, Frank Stains, Hazel Taylor, Byron Nelson, Louis Edwards, Jamie King and Dwight King.

The third item on the agenda was Public Comments. Carl Nichols addressed the City Council regarding drainage in the City of Wharton. He stated that he read the article in the Wharton Journal Spectator regarding drainage work costing \$5.58 million. He stated that the City needed to fix the problems now. He also questioned how long the excavator was in need of repairs. He stated that the City would not need to hire a contractor, the employees could provide the maintenance. He also asked if there was money in the budget for street repair. City Manager Andres Garza, Jr. stated that the City of Wharton had \$100,000 in Capital Improvement for street repairs. No action was taken.

The fourth item on the agenda was the Wharton Moment. Mayor Garland S. Novosad stated that an appreciation gathering would be held for Tom Uher, State Representative on December 16, 2002 from 5:30 to 6:30 p.m. Mayor Garland S. Novosad publicly thanked Mr. Tom Uher for serving in the Texas House of Representatives. No action was taken.

Councilmember V. L. Wiley, Jr. informed the City Council that Mrs. Dorothy Edwards passed away and the funeral would be held on Wednesday, December 11, 2002 at St. James Baptist Church. Mrs. Edwards worked at Sivells Elementary. No action was taken.

Councilmember Ken Freese commended the American Cancer Society and publicly recognized the families that hosted the event, which were Don Jennings, Doc Blakely, Gary Pekar, and Clinton White, who opened their homes to the public for Christmas. No action was taken.

The fifth item on the agenda was to review and consider reading of the minutes from the Regular Meetings held November 11, 2002 and November 25, 2002 and the Special Meeting held November 19, 2002. After some discussion, Councilmember Don Mueller made a motion to approve the minutes from the Regular Meetings held November 11, 2002 and November 25, 2002 and the Special Meeting held November 19, 2002 as written. Councilmember Ken Freese seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider the acquisition of a Grade-All from the State of Texas Surplus Property Purchasing Program. City Manager Andres Garza, Jr. informed the City Council that during the November 25, 2002 Wharton City Council meeting, Public Works Director Phil Bush informed the City Council that the Public Works Department Grade-All had broken down. After research was conducted by the department, it was concluded that the cost to repair the equipment would exceed the cost to purchase a used grade-all from the State of Texas Surplus Property Program. He said that on Tuesday, December 3, 2002, Mr. Bush had traveled to Waco, Texas to look at the equipment. City Manager Andres Garza, Jr. presented a copy of the memorandum dated December 5, 2002 by Mr. Bush requesting authorization to purchase a 1992 Grade-All Excavator from the Texas Department of Transportation in the amount of \$21,500.00. He then presented photographs of the grade-all. He stated that the funding for the equipment would come from the Water/Sewer System Fund, and this equipment would allow the Public Works Department to have two ditch cleaning crews working at the same time. Public Works Director Phillip Bush informed the City Council that the 1983 Grade-All had a rotating bucket motor that could not be replaced. He stated that the City purchased the 1983 Grade-All from the Texas Department of Transportation in 1993 and had been utilizing the equipment until it broke down. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the purchase of a 1992 Grade-All Excavator from the Texas Department of Transportation in the amount of \$21,500.00. Councilmember Don Mueller seconded the motion. All voted in favor.

The seventh item on the agenda was to report by Jones & Carter, Inc., Consulting Engineers regarding the Drainage Issues in the City of Wharton. City Manager Andres Garza, Jr. informed the City Council that Mr. Carlos Cotton, P.E. of Jones & Carter, Inc., Consulting Engineers would provide a report regarding the drainage issues in the City of Wharton. He then stated that a City Council Streets and Drainage Committee meeting had been scheduled for Thursday, December 12, 2002 at 12:00 Noon to discuss the drainage issues and options available to the City. Mr. Carlos Cotton presented a map to the City Council highlighting the west side near Nan Ya, Hughes Road, Alhdag's major outfalls, Mahan, and areas in the Mayfair addition. He stated that at the Streets and Drainage Meeting, he would discuss the lay out options. Councilmember Domingo Montalvo, Jr. requested Mr. Carlos Cotton contact Wes Birdwell with LCRA regarding the issues and options on the west side, and how quickly the water receded after the Flood of 1998. After some discussion, no action was taken.

The eighth item on the agenda was to review and consider the Recommendation from the Wharton Regional Airport Board:

A. Authorization to submit a Letter of Interest to the Texas Department of Transportation-Aviation Division regarding the Airport Action Plan.

City Manager Andres Garza, Jr. presented a copy of the letter of recommendation dated December 6, 2002 from the Wharton Regional Airport requesting the City Council approve the submittal of letters of in interest to the Texas Department of Transportation-Aviation Division for the Airport Action Plan and the Automated Weather Observing System. He then presented a copy of the email dated November 18, 2002 from Mr. Jim Cummins of O'Malley Engineers, L.L.P. regarding an Airport Action Plan, and a draft letter to be submitted to the State. He stated that the cost of the project would be \$50,000, with the city matching 10%. He stated that the funds were available from the Airport Fund. After some discussion, Councilmember Ken Freese made a motion to submit a letter of interest to the Texas Department of Transportation-Aviation Division regarding the Airport Action Plan. Councilmember Bryce D. Kocian seconded the motion. All voted in favor.

B. Authorization to submit a Letter of Interest to the Texas Department of Transportation-Aviation Division regarding an Automated Weather Observing System (AWOS).

City Manager Andres Garza, Jr. presented to the City Council information that was taken from the internet regarding the Automated Weather Observing System (AWOS) and a copy of the email dated December 6, 2002 from Ms. Allison Martin, Grant Manager regarding the AWOS system and grant programs available from the Texas Department of Transportation. He stated that the cost would be approximately \$95,000, with the City's cost of 25% plus a monthly fee of \$195.00. He stated that the funds were available from the Airport Fund. After some discussion, Councilmember Ken Freese made a motion to submit a letter of interest to the Texas Department of Transportation-Aviation Division regarding an Automated Weather Observing System (AWOS). Councilmember Bryce D. Kocian seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider the City of Wharton Elevated Water Storage Tank Rehabilitation Project – Pay Estimate No. 2 N.G. Painting, L. P. City Manager Andres Garza, Jr. presented a copy of the letter dated November 25, 2002 from Mr. Jimmy D. Dunham, P.E. of Dunham Engineering recommending payment of the Pay Request No. 2 for N.G. Painting, L.P. in the amount of \$24,510.00 for work completed on the City of Wharton Elevated Water Storage Tank Rehabilitation Project, and a copy of the pay request. After some discussion, Councilmember Don Mueller made a motion to authorize payment to N.G. Painting, L.P. for Pay Estimate No. 2 in the amount of \$24,510.00 for work completed on the City of Wharton Elevated Water Storage Tank Rehabilitation Project. Councilmember Darryl Darnell seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider the Recommendation from the City Council Finance Committee:

A. **Resolution:** A resolution adopting the City of Wharton Investment Policy.  
City Manager Andres Garza, Jr. presented a copy of the memorandum from the City Council Finance Committee, which stated the following:

The City Council Finance Committee Members met December 9, 2002 and voted to recommend the following to the City Council for consideration:

1. Approval of the resolution adopting the City of Wharton Investment Policy.

2. Approval to write-off the remaining \$135,136.30 of EMS delinquent accounts and \$9,190.94 in delinquent utility accounts.
3. Approval for the City to proceed with Phase III of the Hinze's Waterline Project and to allocate \$110,000 from the 2000 bond fund to assist with funding Phase III.
4. Approval to allocate \$135,000 from the 2000 bond fund for sanitary sewer improvements in the City of Wharton and to prioritize the improvements to be made.

City Manager Andres Garza, Jr. then presented a draft copy of the resolution adopting the City of Wharton Investment Policy and a copy of the policy. He stated that State Law required the investment policy be reviewed and adopted by the governing body on an annual basis. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2002-73, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2002-73**

**A RESOLUTION ADOPTING THE CITY OF WHARTON INVESTMENT POLICY.**

**WHEREAS,** the Public Funds Investment Act, requires the City Council to review and adopt, by resolution, the investment policies and strategies for the City of Wharton on an annual basis; and

**WHEREAS,** the City of Wharton designates the City Manager and the Finance Director as investment officers; and

**WHEREAS,** the City of Wharton approves the training courses sponsored or endorsed by the Texas Municipal League, the Government Finance Officers Association of Texas, the Government Treasurers Organization of Texas, or the North Central Texas Council of Governments as adequate to meet the investment training requirements; and

**WHEREAS,** the attached investment policy, including no revisions since last years approval, complies with the Public Funds Investment Act and authorizes the investment of City funds in safe and prudent investments.

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

Section I. The City of Wharton has complied with the requirements of the Public Funds Investment Act and the Investment Policy attached hereto as "Exhibit A" is hereby adopted as the Investment Policy of the City of Wharton effective December 9, 2002.

Section II: That this resolution shall be come effective immediately upon its passage.

**Passed, Approved, and Adopted** this 9<sup>th</sup> day of December 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. Write-off delinquent accounts for Emergency Medical Services and Utilities. City Manager Andres Garza, Jr. stated that the City Council Finance Committee met and recommended approval to write-off delinquent accounts for Emergency Medical Services and Utilities. He said the write-offs would be for the September 30, 2002 fiscal year. He then presented a copy of the list of delinquent accounts.

Finance Director Joyce Vasut stated that in January 2002, EMS submitted a list of accounts totaling \$164,163.47 from the 1999-2000 fiscal year that needed to be written-off. She stated that the accounts had been through the EMS collection process and still remained unpaid. She then stated that the Finance Department submitted a follow-up letter and reduced the balance due by approximately \$39,000, therefore the remaining \$135,136.30 would need to be approved for write-off. Finance Director Joyce Vasut stated that the Utility Department was requesting \$9,190.94 of uncollected balances from October 2001 through September 2002 for non-payment. Mayor Garland S. Novosad asked if the amount would still be collectible if it was a write-off. Finance Director Joyce Vasut stated the amount would still be collectible, however the write-off would allow the closing of the accounting period of September 30, 2002. After some discussion, Councilmember V. L. Wiley, Jr. made a motion for approval to write-off delinquent accounts for Emergency Medical Services and Utilities. Councilmember Bryce D. Kocian seconded the motion. All voted in favor.

- C. Water/Sewer Proposed Improvement Projects – Hinze’s Waterline Project Phase III.
1. Phase III of the Hinze’s Waterline Project.
  2. Sewer System Improvements.

City Manager Andres Garza, Jr. presented information that was provided to the City Councilmembers during the regular City Council meeting held July 8, 2002 regarding the Hinze’s Waterline Project. He said Phase II of the project was nearing completion with the exception of the railroad boring to Highway 60 and the City Staff was requesting authorization to pursue Phase III of the project. He stated that Phase III would continue the twelve (12) inch waterline from Highway 60 and Halford Road along Maude Street to Walters Road then south to Highway 60 then along the west side of Highway 60 south. The line would then be looped with

the Richmond Road line project. He then presented a map indicating the route. He stated that if the City Council approved Phase III, then the City Staff would proceed to seek bids on the necessary materials for the projects. City Manager Andres Garza, Jr. stated that the City Staff would need to pursue engineering services for Phase III. The engineering on Phase I & II was done by Anthony Rachunek & Associates. He stated that the project line item would need approximately \$110,000.00 from the 2000 Bond Fund balance for completion. He said there was approximately \$245,000.00 of unappropriated funds in the bond fund account. The remaining \$135,000.00 could be used for other expenditures identified in the bond ordinance. City Manager Andres Garza, Jr. stated that for the portion of Phase III on Walters Road, the City staff would need to contact the property owners to obtain a 15' easement. Councilmember Don Mueller asked about placement of the fire plugs. Public Works Director Phillip Bush stated that placement of the fire plugs would be every 1,000 feet. After some discussion, Councilmember Don Mueller made a motion to approve the continuation of the Hinze's Waterline Project Phase III and to allocate \$110,000.00 from the 2000 Bond Fund unappropriated fund for the completion of Phase III. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

City Manager Andres Garza, Jr. then stated that Public Works Director Phil Bush had informed him that a section of sewer line had collapsed and was in need of repair at an estimated cost of \$225,472.00. This line, along with the lines mentioned to the City Council at the budget workshop meeting, needs to be addressed. The City Staff recommends the use of the unappropriated 2000 Bond Funds to make these improvements. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to replace the identified sewer line, with the \$135,000.00 of unappropriated funds from the 2000 Bond Fund on a priority basis. Councilmember Ken Freese seconded the motion. All voted in favor.

The eleventh item on the agenda was to review and consider the proposal by Justice Courts of Wharton County regarding charges for Magistrating. City Manager Andres Garza, Jr. presented a copy of the memorandum dated December 5, 2002 to the City Council regarding the letter dated November 26, 2002 from the Justice Courts of Wharton County concerning magistrating for the City. He stated that he forwarded a copy of the letter to City Attorney Paul Webb to review the information and to advise him of what action the City should take. City Attorney Paul Webb stated that Wharton County was reconsidering the charges and he stated that he would update City Council. After some discussion, no action was taken.

The twelfth item on the agenda was to review and consider the appointment to the Fire Fighters' Pension Commission for the Local Board of the Texas Statewide Emergency Services Personnel Retirement Fund. City Manager Andres Garza, Jr. presented a copy of the Annual Report 2001 for the Local Board of Texas Statewide Emergency Services Personnel Retirement Fund to the City Council. He stated that Deputy City Secretary Lisa Stavena has served as a representative from the Governing Body, City of Wharton, for four – two year terms, and recommended that the City Council consider approval of the reappointment of Ms. Stavena as the representative for the City of Wharton Fire Department Local Pension Board. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to appoint Ms. Lisa Stavena to the Fire Fighters' Pension Commission for the Local Board of the Texas Statewide Emergency Services Personnel Retirement Fund for the term ending December 31, 2004. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The thirteenth item on the agenda was to review and consider the cancellation of the December 23, 2002 regular City Council meeting. City Manager Andres Garza, Jr. informed the City Council that due to the Holiday Season, he was requesting the Mayor and City Council consider canceling the December 23, 2002 Regular City Council Meeting. He stated that should the need arise, a Special meeting would be scheduled. After some discussion, Councilmember Darryl Darnell made a motion to cancel the Regular City Council meeting to be held on December 23, 2002. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The fourteenth item on the agenda was to review and consider the resignation of Wharton Municipal Court Judge John W. Murrile. City Manager Andres Garza, Jr. presented a copy of the letter of resignation dated November 18, 2002 from Wharton Municipal Court Judge John W. Murrile. He stated that City Council acceptance of Judge Murrile's resignation was required, and the effective date of the resignation should be December 31, 2002. John W. Murrile addressed the City Council and stated that he felt he was leaving family. He stated that the City of Wharton had made his job enjoyable and that as County Judge his door would always be open to discuss any matters with the City. Councilmember Don Mueller publicly thanked Judge Murrile for doing an outstanding job for the City of Wharton. Mayor Garland S. Novosad publicly commended Judge Murrile for being fair, and stated that he would take demeanor to the Wharton County Commissioner's Court. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to accept the resignation of Wharton Municipal Court Judge John W. Murrile effective December 31, 2002. Councilmember Ken Freese seconded the motion. All voted in favor.

The fifteenth item discussed on the agenda was Executive Session: City Council may adjourn into an Executive Session in accordance with Section 551.074 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:** Appointment of City of Wharton Municipal Court Judge.  
Mayor Garland S. Novosad adjourned the City Council into Executive Session at 7:43 p.m.

Mayor Garland S. Novosad called the City Council meeting back into open session at 8:10 p.m. The sixteenth item discussed on the agenda was return to open meeting: Action on items discussed in Executive Session:

**A. Review and Consider:** Appointment of City of Wharton Municipal Court Judge.  
After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to call a Special City Council Meeting on Wednesday, December 18, 2002 at 6:00 p.m. to conduct interviews with the thirteen applicants for Municipal Court Judge. Councilmember Bryce D. Kocian seconded the motion. All voted in favor.

The seventeenth item discussed on the agenda was to review and consider the Interstate 69 Initiative – Annual Meeting of the Alliance for I-69 Texas to be held Tuesday, December 10, 2002. City Manager Andres Garza, Jr. presented a copy of the registration form for the Interstate 69 Initiative Alliance for I-69 Texas meeting to be held December 10, 2002 at 11:30 a.m. to the City Council. He stated that the meeting would be held at the Reliant Center in Houston, Texas and City Council approval was required for City Councilmembers to attend the meeting, which was a \$30.00 registration fee for elected officials. City Manager Andres Garza, Jr. stated that he would not be able to attend. Councilmember Domingo Montalvo, Jr. stated that he would be able to attend the meeting. After some discussion, Councilmember Darryl Darnell made a motion to

authorize Councilmember Domingo Montalvo, Jr. to attend the Interstate 69 Initiative – Annual Meeting of the Alliance for I-69 Texas to be held Tuesday, December 10, 2002. Councilmember Ken Freese seconded the motion. All voted in favor.

The eighteenth item discussed on the agenda was to review and consider the Travel Reimbursement for City Manager Andres Garza, Jr. City Manager Andres Garza, Jr. presented a copy of the travel reimbursement request to the City Council for the period October 21, 2002 through November 4, 2002 in the amount of \$219.19. After some discussion, Councilmember Bryce D. Kocian made a motion to approve the travel reimbursement for City Manager Andres Garza, Jr. for the period October 21, 2002 through November 4, 2002 in the amount of \$219.19. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

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

A. Wharton Regional Airport Board meeting held December 3, 2002.

B. Charter Review Committee meeting held December 5, 2002.

C. City Council Finance Committee meeting held December 9, 2002.

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

The twentieth 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 8:13 p.m.

CITY OF WHARTON, TEXAS

By:

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**GARLAND S. NOVOSAD**  
Mayor

ATTEST:

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**JOYCE VASUT**  
City Secretary