

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
JANUARY 13, 2003**

Mayor Garland S. Novosad declared a Regular Meeting duly open for the transaction of business at 7:07 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, 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 Captain Richard Coleman, Municipal Court Judge Mary Garcia, Building Official Ronnie Bollom, EMS Director John Kowalik, Community Services Director Jo Knezek, City Attorney Paul Webb, and Fire Chief David Copeland.

Visitors present were: Ron Sanders Wharton Journal-Spectator, David Schroeder with WEDCo, Anthony Rachunek, Aaron Freudensprung, Lewis Fortenberry, Robert R. Vineyard, Cindy Boeger, Carlos Cotton, Ray Linsinsen, I. O. Coleman, Jr., Bernice Jackson, Henry Thiele, John Schmermand, Brandon Freudensprung, David Allen, Chester Houston, and Johnnie Lee Roberts.

The third item on the agenda was Public Comments. Mr. Brandon Freudensprung addressed the City Council regarding an Eagle Scout Project. He stated that he would like to place blue reflective markings on the street to locate fire hydrants. He said it would cost the City of Wharton approximately \$2,300.00. City Manager Andres Garza, Jr. stated that he reviewed the project, and the funds could be taken from the Water/Sewer Fund. He stated that the item could be placed on the next City Council meeting or he could take administrative action. Mayor Garland S. Novosad stated that placement on the City Council agenda would not be necessary, administrative action would suffice. Mayor Garland S. Novosad informed Mr. Brandon Freudensprung to contact City Manager Andres Garza, Jr. No action was taken.

Mr. I.O. Coleman, Jr. addressed the City Council and stated that Waste Management had picked up the garbage in a timely manner until last week; however, there were times when the garbage was not picked up until after 8:00 and 9:00 p.m. He also stated that there were stray animals on the west side of town, however on Sunday he contacted the City of Wharton and within ten minutes, someone was there taking care of the problem. He publicly thanked the Police Department. No action was taken.

Mr. Johnnie Roberts addressed the City Council to show his support for a resolution awarding grants to certain applicants under the Owner Occupied Assistance Grant Program through the Texas Department of Housing and Community Affairs, 2001 HOME Program Contract No. 531067 HOME Investment Partnerships Program. No action was taken.

Mr. Chester Houston addressed the City Council and commended the City on the input and support for the Drainage Projects within the City of Wharton. No action was taken.

The fourth item discussed on the agenda was to review and consider the recommendation from the Planning Commission:

A. Request by Mr. Ali Qattam for a rear yard setback variance for the construction of a strip shopping center located at FM 1301, William Kincheloe League, Abstract No. 38 and being 1.767 acres of a called 6.02 acre tract (Parcel No. 1.) City Manager Andres Garza, Jr. presented a copy of the memorandum of recommendation from Planning Commission Chairman A. J. Rath dated January 8, 2003 recommending approval of the variance. He also presented a copy of the Commission Communications from the meeting held December 16, 2002 for City Council review. Mr. Ali Qattam addressed the City Council and stated that he would like to construct the building on the property line, however he was willing to move back five feet and construct a fire wall as recommended by the Planning Commission. Mr. Robert R. Vineyard addressed the City Council and stated that he was not present at the Planning Commission meeting, however he objected to the construction of the building five feet from his property. He stated that he was concerned about the encroachment and future development on his property. He also questioned if the five feet would allow enough distance for fire protection and utilities placement. Mr. Vineyard asked the City Council if he would be allowed to construct a building five feet from his property line. Councilmember Ken Freese stated that he would have to address the City Council at the time of the request. John Schmermand, contractor for Mr. Qattam addressed the City Council and stated that the State allowed three entrances off Boling Highway, however no entrances on Richmond Road (Business 59) and one entrance on Fulton Street. Mr. Qattam stated that nothing would be allowed on the five feet on the rear of the building. John Schmermand stated that the building would be constructed in two phases. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to grant the variance for the five feet rear yard setback variance for the construction of a strip shopping center located at FM 1301, William Kincheloe League, Abstract No. 38 and being 1.767 acres our of a called 6.02 acre tract (Parcel No. 1.). Councilmember Ken Freese seconded the motion. All voted in favor.

B. Request by Mr. and Mrs. John Hatton for two side yard setback variances for the construction of a 30' x 50' metallic building located at 616 East Caney, Dickson, Lot 23. City Manager Andres Garza, Jr. presented a copy of the memorandum from Planning Commission Chairman A. J. Rath dated January 8, 2003 recommending approval of a variance. He also presented a copy of the Commission Communications from the meeting held December 16, 2002 for the City Council review. Building Official Ronnie Bollom stated that Mr. and Mrs. John Hatton with Gooden-Hatten Funeral Home (commercial property) was requesting construction of a metallic building abutting a residential neighbor. Councilmember Domingo Montalvo, Jr. asked if the abutting residential property was occupied. Building Official Ronnie Bollom informed the City Council that the property was occupied, and the abutting residential property was in compliance with the setback requirements. After some discussion, Councilmember Ken Freese made a motion to approve the variance for five feet and fifteen feet side yard setback for the construction of a 30' x 50' metallic building located at 616 East Caney, Dickson, Lot 23. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The fifth item on the agenda was to review and consider reading of the minutes from the Regular Meetings held December 9, 2002 and the special meeting held December 18, 2002. After some discussion, Councilmember Bryce D. Kocian made a motion to approve the minutes from the

Regular Meetings held December 9, 2002 and the special meeting held December 18, 2002. Councilmember Don Mueller seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider the City of Wharton Financial Report for the month of November 2002. Finance Director Joyce Vasut presented the financial report for the month of November 2002, and stated that the City was two months into the fiscal year or 17%. Mrs. Vasut stated that the general fund revenues were at 12.18% and the expenditures were at 15.21%. The total ad valorem taxes collected were \$168,230.00. The sales tax for the month of October 2002 was \$92,855 with \$61,903.10 to the City and \$30,952 to WEDCo. The TexPool balance for November 2002 was \$2,249,888.24 with an average monthly yield of 1.5622%. After some discussion, Councilmember Bryce D. Kocian made a motion to approve the financial report for the month of November 2002 with the correction on the EMS Fund Revenue Charges for Services Current Period \$29,000 and the Year-to-Date \$69,000. Councilmember Ken Freese seconded the motion. All voted in favor.

The seventh item discussed on the agenda was the Wharton Moment. Mayor Garland S. Novosad publicly extended appreciation to Beverly Baker and the citizens that decorated the City of Wharton for the holiday season. No action was taken.

City Manager Andres Garza, Jr. stated that he wanted to commend city employee Jimmy Nickolyn who had produced a music CD entitled "During These Times" with all the sale proceeds going to the Women's Battered Center in Rosenberg. He also congratulated Jackie Wheeler on her marriage to Rick Jansky. No action was taken.

Councilmember V. L. Wiley, Jr. stated that Reverend John Mack, Pastor of St. Stephen's Church passed away on Sunday. No action was taken.

The eighth item discussed on the agenda was to review and consider a resolution implementing an Amnesty Order for the City of Wharton Municipal Court. City Manager Andres Garza, Jr. presented a copy of the memorandum dated January 9, 2003 from Municipal Court Judge Mary Garcia requesting the City Council approve a resolution for the adoption of an annual Amnesty Program not to exceed five (5) years from the date of adoption. He then presented a copy of the Amnesty Order. Municipal Court Judge Mary Garcia addressed the City Council and requested the City Council approve the Resolution for the adoption of an annual Amnesty Program not to exceed (5) years from the date of adoption. Councilmember Bryce D. Kocian asked about the Amnesty Program in 1999. Municipal Court Judge Garcia stated that the program brought in approximately \$12,000, and closed about one half of the pending cases. Councilmember Ken Freese requested a summary report be submitted to the City Council once the program was complete for the current year. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2003-01, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003-001**

A RESOLUTION IMPLEMENTING AN AMNESTY ORDER FOR THE CITY OF WHARTON MUNICIPAL COURT.

WHEREAS, the Municipal Court Judge has indicated a desire to implement an Annual Amnesty Program not to exceed five (5) years from the date of adoption; and

WHEREAS, the City Council recognizes the need for an Amnesty Order for the City of Wharton Municipal Court; and

WHEREAS, the City Council wishes to authorize an Amnesty Order for the City of Wharton Municipal Court on an annual basis for five years beginning February 3, 2003.

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

Section I. The City Council hereby authorizes the Municipal Court Judge to implement an Amnesty Order on an annual basis beginning February 3, 2003.

Section II. The Annual Amnesty Order shall be implemented at the discretion of the Municipal Court Judge.

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

Passed, Approved, and Adopted this 13th day of January 2003.

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 ninth item discussed on the agenda was to review and consider a resolution authorizing the Mayor of the City of Wharton to execute the Interlocal Agreement between the County of Wharton and the City of Wharton to assist in the paving of a parking lot for the Boys and Girls Club of Wharton. City Manager Andres Garza, Jr. presented a copy of the email dated December 4, 2002 from Mr. Dwight King, President of Team Wharton requesting the City's assistance in entering into an interlocal agreement with Wharton County to pave a parking lot at the Wharton Boys and Girls Facility. He stated that at the request of Commissioner Chris King, the City Staff had prepared an interlocal agreement and draft resolution for City Council consideration. He stated that the interlocal agreement would consist of Wharton County providing the equipment and labor to pave the parking lot with the City through the Boys & Girls Club providing the materials necessary. Since the facility was located on City-owned property, City Council approval was required. City Manager Andres Garza, Jr. stated that Wharton County Commissioner's Court had approved the agreement at their meeting. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2003-02, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003-002**

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE INTERLOCAL AGREEMENT BETWEEN THE COUNTY OF WHARTON AND THE CITY OF WHARTON TO ASSIST IN THE PAVING OF A PARKING LOT FOR THE BOYS & GIRLS CLUB OF WHARTON.

WHEREAS, the City of Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute an interlocal agreement between the County of Wharton and the City of Wharton to assist in the paving of a parking lot for the Boys & Girls Club of Wharton; and

WHEREAS, the County of Wharton and the City of Wharton hereby agrees to be bound by the conditions as set forth in Attached "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 of the City of Wharton to execute an interlocal agreement between the County of Wharton and the City of Wharton to assist in the paving of a parking lot for the Boys & Girls Club of Wharton.

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

Passed, Approved, and Adopted this 13th of January 2003.

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

A. Summary of Emergency Medical Services (EMS) Billing and Collection Services Proposals.

B. Resolution: A resolution awarding an agreement for the City of Wharton Emergency Medical Services (EMS) Billing and Collection Services.

City Manager Andres Garza, Jr. stated that the City Staff had reviewed five bid proposals and met with the City Council Finance Committee on Friday, January 10, 2003. He stated that the Finance Committee heard presentations from the companies who submitted proposals for the City of Wharton Emergency Medical Services (EMS) Billing and Collection Services. He then presented a copy of the summary of the proposals received, and a copy of the memorandum dated January 10th from the Finance Committee recommending the contract be awarded to Prudentia, Inc. He stated that the fee would be 8.5% and Prudentia, Inc. would need to have the required software prior to the transfer of the contract. City Manager Andres Garza, Jr. stated that the fee could increase to 10% for collections over \$500,000 per year. He stated that termination of Computer Concepts agreement would need to be placed on the next City Council meeting in order to give 30 day notice. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the contract from Prudentia, Inc. at a fee of 8.5% or 10% for collections over \$500,000 annually and approve Resolution No. 2003-03, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003 - 03**

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF WHARTON, TEXAS TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF WHARTON AND PRUDENTIA, INC. FOR EMERGENCY MEDICAL SERVICE BILLING AND COLLECTION SERVICES.

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton, Texas to execute an Agreement for Emergency Medical Service billing and collection services with Prudentia, Inc.; and

WHEREAS, the City of Wharton and Prudentia, Inc. wishes to be bound by the conditions as set forth in Attached "A".

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

Section I. That the Wharton City Council hereby authorizes the Mayor of the City of Wharton, Texas to execute an agreement for Emergency Medical Service billing and collection services with Prudentia, Inc.

Section. II. That Prudential, Inc. and the City of Wharton are hereby bound by the conditions as set forth in the Attached "A".

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

Passed, Approved, and Adopted this the 13th day of January 2003.

CITY OF WHARTON

By: _____
GARLAND S. NOVOSAD
Mayor

ATTEST:

JOYCE VASUT
City Secretary

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

The eleventh item on the agenda was to review and consider a resolution authorizing the installation of an Automated Weather Observing System (AWOS) at the Wharton Regional Airport. City Manager Andres Garza, Jr. informed the City Council that during the regular City Council meeting held December 9, 2002, the City Council approved the submission of a letter of interest to the Texas Department of Transportation (TxDOT) for the installation of an Automated Weather Observing System (AWOS) at the Wharton Regional Airport. He then presented a copy of memorandum dated January 2, 2003 from Ms. Allison Martin, Grant Manager from TxDOT regarding the AWOS system and the forms required by TxDOT to file for the grant. Also included was a list of the two options available. He stated that the Airport Board Members voted to recommend the City pursue the grant application for Option II, which included the basic system with the NADIN Interface, Present Weather Sensor and Strike Alert included. He said since the NADIN Interface was included there would be a monthly maintenance fee of \$195.00 that could be partially funded through the Routine Airport Maintenance Program (RAMP), which was a 50/50 grant. He then presented a draft resolution, which was also required by TxDOT, to authorize the installation of the Automated Weather Observing System at the Wharton Regional Airport. City Manager Andres Garza, Jr. stated that Mr. David Allen from the Wharton Regional Airport Board was present. Mayor Garland S. Novosad asked Mr. Allen about the wattage output. Mr. Allen stated that Bay City had the system, which you can pick up 1,500 feet radius. Councilmember Bryce D. Kocian asked if the equipment would be purchased under the state contract. City Manager Andres Garza, Jr. stated that the State would handle all required bidding for the project. After some discussion, Councilmember Bryce D. Kocian made a motion to approve Resolution No. 2003-04, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003-004**

**A RESOLTIUON AUTHORIZING THE INSTALLATION OF AN AUTOMATED
WEATHER OBSERVING SYSTEM (AWOS) AT THE WHARTON REGIONAL
AIRPORT.**

WHEREAS, the City of Wharton desires to install an automated weather observing system at the Wharton Regional Airport; and

WHEREAS, the City of Wharton hereby offers 25% of project costs to match 75% federal funds, currently estimated to be \$22,223.00 in local funds; and

WHEREAS, local funds will be available to meet project expenditures; and

WHEREAS, the City of Wharton agrees to operate and maintain the installed automated weather observation system for the useful life of the asset; and

WHEREAS, the City of Wharton hereby requests financial assistance from the Texas Department of Transportation for installation of the automated weather observing system; and

WHEREAS, the City of Wharton intends to name the Texas Department of Transportation as its agent for the purposes of applying for, receiving and disbursing all funds for these improvements and for the administration of contracts necessary for the implementation of these improvements.

NOW, THEREFORE, BE IT RESOLVED, that the City of Wharton hereby directs Mayor Garland S. Novosad to execute on behalf of the City of Wharton, at the appropriate time, and with the appropriate authorizations of this governing body, all contracts and agreements with the State of Texas, represented by the Texas Department of Transportation, and such other parties as shall be necessary and appropriate for the implementation of the improvements to the Wharton Regional Airport.

CITY OF WHARTON

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 recommendation from the City Council Charter Review Committee, an ordinance providing that certain proposed amendments to the Charter of the City of Wharton, Texas be submitted to the Voters at the regular City Officers Election to be held on May 3, 2003. City Manager Andres Garza, Jr. informed the City Council that the City Council Charter Review Committee met January 6, 2003 to discuss the City of Wharton City Charter. He presented a copy of the memorandum dated January 8, 2003 from the Charter Review Committee recommending the City Council approve the proposed changes to the City Charter. He said if the City Council approved the changes, the amendments would be presented to the City of Wharton voters during the next

City Official Election to be held May 3, 2003. He then presented a draft ordinance providing the amendments that would be presented to the voters during the election.

City Attorney Paul Webb informed the City Council that the Charter Review Committee was recommending rewriting Sections 109 and 110. After some discussion, Councilmember Don Mueller made a motion to approve Ordinance No. 2003-01, which read as follows:

**CITY OF WHARTON, TEXAS
ORDINANCE NO. 2003-001**

**AN ORDINANCE PROVIDING THAT CERTAIN PROPOSED AMENDMENTS
TO THE CHARTER OF THE CITY OF WHARTON, TEXAS BE SUBMITTED TO
THE VOTERS AT THE REGULAR CITY OFFICERS ELECTION TO BE HELD
ON MAY 3, 2003.**

WHEREAS, on January 6, 2003 the Charter Study Commission, previously appointed by the City Council of the City of Wharton, Texas, having met and recommended to the City Council, and a determination made that it would be in the best interest of the people of the City of Wharton to submit certain proposed amendments to the city charter; and

WHEREAS, the City Council has reviewed the recommendation of the Charter Study Commission;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wharton, Texas that the following proposed amendments be submitted to the qualified voters of the City of Wharton, Texas at the regular city officers' election to be held on Saturday, May 3, 2003.

1. Shall **Art. X, Sec. 109 (RECALL PROCEDURE)** be amended to read as follows:

Any qualified voter of the city may make and file with the city secretary an affidavit containing the name or names of the mayor or councilman whose removal is sought and a clear and concise statement of the grounds for removal. Should the councilman subject to recall be from a single district, then and only then shall qualified voters from that councilman's district be allowed to follow the recall procedure. The secretary shall thereupon deliver to the qualified voter making such affidavit, copies of petition blanks demanding such removal. The city secretary shall keep a sufficient number of such printed blanks on hand for distribution. Such blanks when issued by the city secretary shall bear the signature of the city secretary and be addressed to the city council, and shall be numbered, dated, and indicate the name of the person to whom issued. The petition blanks when issued shall also indicate the number of such blanks issued, the name of the mayor or councilman whose removal is sought, and the statement of the grounds for removal. The city secretary shall keep a record of the name of the qualified voter to whom the petition blanks were issued and the number issued to said person.

(This proposed amendment would allow for a recall procedure for a single district councilman.)

1. Shall **Art. X, Sec. 110 (RECALL PETITIONS)** be amended to read as follows:

The recall petition to be effective must be returned and filed with the city secretary within thirty (30) calendar days after filing of the affidavit required in section 109. For the removal of the

mayor or any councilman at-large, said petition must be signed by qualified voters of the city equal in number to at least thirty (30) percent of the total number of votes cast at the last contested regular city election at which the mayor or one or more councilmen were elected, or four hundred (400) qualified voters, whichever is greater. For the removal of a single district councilman said petition must be signed by qualified voters of the councilman's district equal in number to thirty (30) percent of the total number of votes cast in that district's last regular election or 75 qualified voters whichever is greater. Should there have been no election as the councilman had no opponent and the election having been canceled then a petition with 75 qualified voters from that district would qualify for a recall election. All recall petitions shall conform to the applicable provisions of section 99, and no petition paper shall be accepted as a part of a recall petition unless it bears the signature of the city secretary as required in section 109. A recall election for the mayor or a councilman at-large shall be of all qualified voters of the city while a single district councilman would be limited to that of the qualified voters of that councilman's district.

(This proposed amendment would allow for a recall petition for a single district councilman.)

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.

Passage and Approval

PASSED AND APPROVED by the City Council of the City of Wharton, Texas this 13th day of January 2003.

CITY OF WHARTON, TEXAS

By: _____
GARLAND S. NOVOSAD
Mayor

ATTEST:

Joyce Vasut
City Secretary

APPROVED AS TO LEGAL FORM:

Paul Webb
City Attorney

Published in the Wharton Journal Spectator Saturday, January 18, 2003 and Saturday, January 25, 2003.

Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor. Councilmember Bryce D. Kocian requested that thank you notes be sent to the Committee members.

The thirteenth item on the agenda was to review and consider an ordinance of the City of Wharton declaring a public purpose and necessity for a Moratorium on the enforcement of the City of Wharton Code of Ordinances Chapter 82 Traffic, Article II Operation of Vehicles, Section 82-135 Three Hour Parking Zones in order to promote economic growth in the City of Wharton, Providing for Severability; and setting an effective date. City Manager Andres Garza, Jr. stated that during the regular City Council meeting held November 11, 2002, the City Council approved Ordinance No. 2002-26 placing a moratorium on the enforcement of the City of Wharton Code of Ordinances Chapter 82 Traffic, Article II Operation of Vehicles, Section 82-135 Three Hour Parking Zones in order to promote economic growth in the City of Wharton. He stated that Ordinance No. 2002-26 expired at 12:01 a.m. on January 6, 2003. He then stated that he had been contacted by downtown merchants who indicated that they would like for the moratorium to be kept in place. He said that since Wharton County offices had moved to Milam Street, parking had not proven to be an issue. He then presented a draft ordinance placing a moratorium on the three-hour parking ordinance that could be effective until further action by the City Council. Mayor Garland S. Novosad stated that he felt it would be a good idea to extend the moratorium due to the construction phase of the courthouse. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Ordinance No. 2003-02, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2003 - 02**

AN ORDINANCE OF THE CITY OF WHARTON DECLARING A PUBLIC PURPOSE AND NECESSITY FOR A MORATORIUM ON THE ENFORCEMENT OF THE CITY OF WHARTON CODE OF ORDINANCES CHAPTER 82 TRAFFIC, ARTICLE II OPERATION OF VEHICLES, SECTION 82-135 THREE HOUR PARKING ZONES IN ORDER TO PROMOTE ECONOMIC GROWTH IN THE CITY OF WHARTON; PROVIDING FOR SEVERABILITY; AND SETTING AND EFFECTIVE DATE.

WHEREAS, the City of Wharton City Council wishes to promote a economic growth in the City of Wharton; and

WHEREAS, the City Council wishes to declare a moratorium on the enforcement of the City of Wharton Code of Ordinances Chapter 82 Traffic, Article III Operation of Vehicles, Section 82-135 Three Hour Parking Zones in order to promote economic growth; and

WHEREAS, the City Council wishes the moratorium be effective for the period beginning January 14, 2003 at 12:01 a.m. and extending until further consideration and action by the City Council.

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF WHARTON, TEXAS, AS FOLLOWS:

Section 1. That it is hereby officially declared that there is a public purpose and necessity to promote economic growth in the City of Wharton, Texas.

Section 2. That it is hereby officially declared that a moratorium on the enforcement of the City of Wharton Code of Ordinances Chapter 82 Traffic, Article III Operation of Vehicles, Section 82-135 Three Hour Parking Zones in order to promote economic growth is hereby established.

Section 3. That it is hereby established that the moratorium would be in effect for the period beginning January 14, 2003 at 12:01 a.m. and extending until further consideration and action by the City Council.

Section 4. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid by a Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

PASSED, APPROVED AND ADOPTED by the City Council of Wharton on this the 13th day of January 2003.

CITY OF WHARTON

Garland S. Novosad, Mayor

ATTEST:

Joyce Vasut, City Secretary

Published in the Wharton Journal Spectator Saturday, January 18, 2003.

Councilmember Ken Freese seconded the motion. All voted in favor.

The fourteenth item on the agenda was to review and consider a resolution awarding grants to certain applicants under the Owner Occupied Assistance Grant Program through the Texas Department of Housing and Community Affairs, 2001 HOME Program Contract No. 531067 HOME Investment Partnerships Program. City Manager Andres Garza, Jr. informed the City Council that the City of Wharton was awarded a housing rehabilitation and reconstruction grant through the Texas Department of Housing and Community Affairs, 2001 HOME Program (Contract No. 531067), HOME Investment Partnerships Program., and as a requirement of the grant, nine homes would be either reconstructed or rehabilitated. He then presented a copy of the memorandum dated January 8, 2003 from Community Services Director Jo Knezek recommending that the following homes be reconstructed:

- a. Eugene Aubrey, 604 Murphy.
- b. Roman Rodriquez, 624 Murphy.
- c. Mollie Garza, 505 South Sunset.
- d. Ethel Formby, 327 Lincoln.
- e. Rosalie Bryant, 613 ½ Mattie.

He stated that the four remaining grant awards would be determined at a later date. He then presented a draft resolution approving the reconstruction of the five afore-mentioned homes. Community Services Director Jo Knezek informed the City Council that the City was awarded a grant for nine homes, which she submitted a list of five owners that met the requirements and their homes would be ready to be demolished on January 21, 2003. She stated that Love Building was the contractor and would complete the construction of the five homes by the end of March 2003. Ms. Knezek stated that all Southern Building Codes and State Codes would be abided by. She also stated that the homes would be ADA compliant, have central air conditioning, and new appliances. City Manager Andres Garza, Jr. stated that the homes would be at or above base flood elevation. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2003-05, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003-05**

A RESOLUTION AWARDDING GRANTS TO CERTAIN APPLICANTS UNDER THE OWNER OCCUPIED ASSISTANCE GRANT PROGRAM THROUGH THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, 2001 HOME PROGRAM CONTRACT NO. 531067 HOME INVESTMENT PARTNERSHIPS PROGRAM.

WHEREAS, the City of Wharton was awarded the Texas Department of Housing Community Affairs 2001 HOME Program Contract No. 531067, Home Investment Partnerships Program; and,

WHEREAS, the City of Wharton is required to assist a minimum of nine (9) homeowners with the rehabilitation or reconstruction of their homes; and,

WHEREAS, the City Council wishes to award grants to the following qualifying five (5) applicants for the rehabilitation of their homes:

- f. Eugene Aubrey, 604 Murphy.
- g. Roman Rodriquez, 624 Murphy.
- h. Mollie Garza, 505 South Sunset.
- i. Ethel Formby, 327 Lincoln.
- j. Rosalie Bryant, 613 ½ Mattie.

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

Section I. the City Council hereby awards a grant under the Texas Department of Housing and Community Affairs 2001 HOME Program Contract No. 531067 Home Investment Partnerships Program to the following qualifying applicants for the rehabilitation of their homes:

- a. Eugene Aubrey, 604 Murphy.
- b. Roman Rodriquez, 624 Murphy.
- c. Mollie Garza, 505 South Sunset.
- d. Ethel Formby, 327 Lincoln.
- e. Rosalie Bryant, 613 ½ Mattie.

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

Passed, Approved, and Adopted this 13th day of January 2003.

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 fifteenth item on the agenda was to review and consider a recommendation from the City Council Streets and Drainage Committee regarding Drainage Projects within the City of Wharton. City Manager Andres Garza, Jr. stated that the City Council Streets and Drainage Committee had met at 12:00 Noon, January 13, 2003 to discuss the drainage projects within the City of Wharton. Mr. Carlos Cotton with Jones & Carter, Inc. addressed the City Council and presented the Summary Recommendations for Drainage Improvements Projects City of Wharton January 2003, which read as follows:

1. **WEST SIDE DRAINAGE (Nan Ya Drainage Ditch)**
The drainage ditch that begins on the south side of FM 102, runs south along the easterly fence line of Nan Ya to the end of Wilkes Road, turns west to the rear of the fenced lots (horse pens), and then south meandering across the Nan Ya site to the Colorado River should be deepened and widened to increase its capacity and to provide a better outfall for the drainage of Mattie Street. The ditch should also be realigned to eliminate the ninety-degree bends and to provide room for a future access road to trucks to reach J-M Manufacturing. We recommend that the City acquire the three lots on the west side of and at the end of Wilkes Road, the two lots on either side at the end of M.L. King Blvd., and a 40-foot drainage easement from Nan Ya and J-M Manufacturing.

2. MAHAN AVE.

The drainage problems along Mahan are aggravated by runoff coming off the field located between Mahan and Alabama Road and flowing across the lots into the Mahan road ditches. We recommend the excavation of a two to three-foot deep ditch with a three-foot bottom and three to one side slopes just west of the rear of the lots on Mahan to cut off this water and direct it to the ditches along Highway 60. A 15-foot easement needs to be obtained from the landowner. We also recommend that the road ditches on both sides of Mahan be cleaned and regraded. Certain culverts will need to be reset.

3. MAYFAIR ADDITION

Since the general fall of the ground in the area of Breezy and Merry Lane and Oriole Lane is to the east/southeast, the runoff accumulates in the northwest corner of the intersection of Breezy and Merry Lane. To provide an adequate outlet for this water during heavy rains, we recommend the deepening of the ditch along the south side of Breezy Lane from the 24-inch pipe stubbed out from under the drive at Alabama Road to the 12-inch pipe that crosses Breezy Lane just east of the intersection of Breezy and Merry Lanes. This 12-inch pipe should be replaced with an 18-inch pipe.

To resolve the high water issues in the Mayfair Addition in general, in particular the problems along Pecan and Mockingbird, a reduction in the amount of water draining to the Alabama Road box culvert is necessary. This reduction could be accomplished by constructing another large box sewer or an open ditch in the abandoned Sante Fe Railroad right-of-way from Alabama road towards the east to Highway 60 and then along one of several possible routes to the Colorado River. This would redirect some of the drainage area that goes into the Alabama Road box culvert thereby leaving more capacity for the runoff from the Mayfair Addition. This new outfall could also be used to relieve problems in the Crestmont/Briar Lane area. We recommend a detail drainage study to analyze the benefits, the location, and the costs of this project.

To also keep the water from backing out of the old Caney Creek bed and into the corner of Pecan and Mockingbird a flap-gate can be constructed on the end of the 48-inch outfall pipe and a culvert with a flap-gate constructed in the ditch on the west side of Pecan Street between Mockingbird and Sunny Lane.

4. INLET BETWEEN CRESTMONT AND CHAPEL HEIGHTS

We recommend the removal of the 18-inch corrugated metal pipe with the ninety-degree joint that protrudes from the "E" type inlet to pick up the flow from the ditch that parallels Crestmont. The throat of this inlet should then be rebuilt to its original dimensions. A small amount of slope paving should be constructed at the end of the ditch to prevent erosion as the water enters the inlet.

5. CRESTMONT/KELVING WAY AREA

The large RCP outfall pipes to Caney Creek that provide drainage to this area stay three quarters full of water because of the high water levels that are maintained in

Caney Creek. We recommend lowering the water surfaces maintained in the ponds downstream and the construction of overflow spillways on these dams. Downstream property owners who have obstructions on the creek need to be contacted by the City for their cooperation. Additional survey work and analysis will be required to determine the exact elevations for these spillways.

6. AHLDAG ADDITION

We recommend the construction of an outfall ditch from where the two drainage ditches in the Ahldag Addition connect to Baughman. This proposed ditch would have approximately a 25-foot bottom width and three to one side slopes. A 100-foot right-of-way is recommended. The ditch can be located in several locations. The preferred location would be approximately 600 feet west of Lee's Lane. This would allow the deep ditches along Lee's Lane to be partially filled making smaller, safer ditches. We also recommend the rerouting of some of the internal road ditches to the north thereby reducing the amount of water entering the southern ditch.

Some additional sections of the southern ditch should be concrete lined to help maintain the ditch cross-sections.

7. BAUGHMAN SLOUGH DIVERSION

The elevation profile shows the feasibility of constructing a ditch from Baughman Slough to Peach Creek along the west side of the Texas/New Mexico Railroad right-of-way. The ditch could be sized and built to take some of the excess floodwaters from Baughman to Peach Creek. We recommend on waiting for the completion of the Corps of Engineers modeling of Baughman and Peach Creek. With this updated drainage study, we can analyze the impact of this proposed diversion.

8. CANEY CREEK EAST OF U.S. 59

We recommend the lowering and enlargement of the inflow and outflow pipes of the lake just north of the medical center and the establishment of an overflow spillway.

9. STORM SEWER LINE ACROSS BLOCK BOUNDED BY RICHMOND, FULTON, THIRD STREET, AND LINN STREET

Approximately 1,000 feet of 18-inch pipe runs diagonally across the above-described block and connects a 30-inch pipe upstream to a 24-inch downstream, thereby throttling the flows coming from the north. We recommend the 18-inch pipe be replaced with a 30-inch pipe, which will be an immediate improvement to the current conditions. Further analyses of the 24-inch line and the rest of the system needs to be performed to determine the most cost effective way to increase its capacity from this point on.

10. LA DELL STREET DITCH

The ditch that runs the rear of the lots on the north side of LaDell Street from east of Alabama Road to Caney Creek should be excavated to a bottom width of five

feet with three to one side slopes. A 40-foot wide drainage easement needs to be obtained for this ditch.

11. ALABAMA ROAD OUTFALL DITCH

The outfall ditch between the end of the Alabama Road box culvert and the Colorado River is being cleaned. We recommend the reshaping of the ditch cross-section to maintain an eight-foot bottom width and three to one side slopes. This will allow the ditch to be maintained with conventional mowing equipment. The stretch of ditch between East Street and the River has the capacity to carry the required flows in its current condition so it is not necessary to clean out this portion of the ditch. While some easements have been found for this ditch, the entire ditch does not appear to have easements covering it. We recommend obtaining these additional easements.

12. LAKE NET OUTFALL

We need to analyze the outfall conditions to determine what improvements may need to be made to improve the drainage of Lake Nett. The City should also continue their contract with the County on what improvements the County needs to make on the downstream channels.

After some discussion, Councilmember Don Mueller made a motion to obtain the required easements as recommended by Jones & Carter, Inc. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The sixteenth item on the agenda was to review and consider the City of Wharton Wastewater Treatment Plant No. 1 Bank Stabilization Project 2nd and Final Pay Request – Supak Construction, Inc. City Manager Andres Garza, Jr. presented a copy of the 2nd and Final pay request submitted by Supak Construction, Inc. to the City Council for the City of Wharton Wastewater Treatment Plant No. 1 Bank Stabilization Project. Mr. Anthony Rachunek, P.E. addressed the City Council and stated that the final inspection was completed. After some discussion, Councilmember Don Mueller made a motion to approve 2nd and Final Pay Request – Supak Construction, Inc. in the amount of \$114,055.50. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The seventeenth item on the agenda was to review and consider City of Wharton Highway 60 & Tex-Mex Railroad Bore Project:

A. Bid Tabulation.

B. Resolution: A resolution awarding a bid for the City of Wharton Highway 60 & Tex-Mex Railroad Bore Project. City Manager Andres Garza, Jr. stated that the bid opening for the Highway 60 & Tex-Mex Railroad Waterline Bore Project was held at 10:00 a.m. on January 6, 2003. He then presented a copy of the bid tabulation, a copy of the letter dated January 6, 2003 from Mr. Anthony Rachunek, P.E., Hinze's Waterline Project Engineer, recommending the bid be awarded to Mercer Construction in the amount of \$15,975.00, and a draft resolution awarding the bid to Mercer Construction. Mr. Anthony Rachunek with Anthony Rachunek & Associates addressed the City Council and recommended awarding the bid to Mercer Construction. He stated that Mercer Construction's bid was half the cost of the other bidders because Mercer Construction owned their equipment, that would be needed for the project. After some discussion, Councilmember Bryce D. Kocian made a motion to approve the City of Wharton

Wharton Highway 60 & Tex-Mex Railroad Bore Project to Mercer Construction in the amount of \$15,975.00. Councilmember Don Mueller seconded the motion. All voted in favor.

The eighteenth item on the agenda was to review and consider Procurement of Engineering Services for Phase III of the Hinze's Waterline Project – Amending existing contract with Anthony Rachunek and Associates, Inc. City Manager Andres Garza, Jr. stated that during the regular City Council meeting held December 9, 2002, the City Council approved the City Staff to proceed with Phase III of the Hinze's Waterline Project. He said 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 stated that the City Staff was requesting to amend the Hinze's Waterline Project engineering contract with Mr. Anthony Rachunek, P.E. to include Phase III of the Project. He then presented a copy of the letter dated December 6, 2002 from Mr. Rachunek stating he would provide the engineering services for Phase III, for a cost of \$17,000.00. City Manager Andres Garza, Jr. presented a copy of the current contract and its amendment. Mr. Anthony Rachunek with Anthony Rachunek & Associates addressed the City Council and stated if TexMex Railroad Company would decide to hold up the permit, the City could start on the east side and then make the connection when TexMex Railroad approved the permit. After some discussion, Councilmember Ken Freese made a motion to approve to amend the existing contract with Anthony Rachunek and Associates, Inc. for the Procurement of Engineering Services for Phase III of the Hinze's Waterline Project in the amount of \$17,000.00. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The nineteenth item on the agenda was to review and consider the City of Wharton Wastewater Treatment Plant No. 2 Improvement Project Pay Request No. 1 – JTR Constructors, Inc. City Manager Andres Garza, Jr. presented a copy of the Pay Request No. 1 for the City of Wharton Wastewater Treatment Plant No. 2 Improvement Project submitted by JTR Constructors, Inc. to the City Council for the amount of \$90,225.00. Carlos Cotton with Jones & Carter, Inc. addressed the City Council and stated the project was moving forward. After some discussion, Councilmember Don Mueller made a motion to approve the City of Wharton Wastewater Treatment Plant No. 2 Improvement Project Pay Request No. 1 – JTR Constructors, Inc. in the amount of \$90,225.00. Councilmember Bryce D. Kocian seconded the motion. All voted in favor.

The twentieth item on the agenda was to review and consider the City of Wharton Elevated Water Storage Tanks Rehabilitation Project – Pay Request No. 3 – N.G. Painting, L.P. City Manager Andres Garza, Jr. presented a copy of the Pay Request No. 3 for the City of Wharton Elevated Water Storage Tanks Rehabilitation Project submitted by N.G. Painting, L.P. in the amount of \$72,627.50 to the City Council. He stated that he received an email from Mike Murphy with Gulf Coast Medical Center regarding signage on the water storage tanks. He stated that he could obtain the cost for different writing on the water storage tanks from the contractor would seek, and WEDCo's and the Chamber of Commerce's input. Councilmember Darryl Darnell suggested to obtain feedback from the public. Mayor Garland S. Novosad stated that there was a limited amount of time for the project. City Manager Andres Garza, Jr. stated that he would get with WEDCo and the Chamber and provide cost for the signage at the next City Council meeting. After some discussion, Councilmember Bryce D. Kocian made a motion to approve the City of Wharton Elevated Water Storage Tanks Rehabilitation Project – Pay Request

No. 3 – N.G. Painting, L.P. for the amount of \$72,627.50. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The twenty-first item on the agenda was to review and consider the AMCC 38th Association of Mayors, Councilmembers, and Commissioners Institute / Legislative Briefing, Austin, Texas, February 7-10, 2003. City Manager Andres Garza, Jr. presented a copy of the brochure and registration form for the AMCC 38th Associated of Mayors, Councilmembers, and Commissioners Institute / Legislative Briefing to be held in Austin, Texas, February 7-10, 2003 to the City Council. He stated that the conference was held in El Paso in July 2002, which Councilmember Darryl Darnell and Mayor Garland S. Novosad attended. After some discussion, Councilmember Ken Freese made a motion to approve Councilmembers V. L. Wiley, Jr. and Domingo Montalvo, Jr. to attend the AMCC 38th Associated of Mayors, Councilmembers, and Commissioners Institute / Legislative Briefing to be held in Austin, Texas, February 7-10, 2003. Councilmember Darryl Darnell seconded the motion. All voted in favor.

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

- A. Mayor's Local Committee on People with Disabilities.
- B. Planning Commission meeting held December 16, 2002.
- C. Wharton Economic Development Corporation Meeting held December 17, 2002.
- D. Building Standards Commission meeting held December 19, 2002.
- E. Charter Review Committee meeting held January 6, 2003.
- F. Wharton Regional Airport Board meeting held January 7, 2003.
- G. Beautification Commission meeting held January 8, 2003.

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

The twenty-third item on the agenda was to review and consider the City Manager's Reports:

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| A. Police Department. | I. Engineer/Planning Department. |
| B. City Secretary/Personnel. | J. Facilities Maintenance Department. |
| C. Municipal Court. | K. Community Services Department/
Civic Center. |
| D. E.M.S. Department. | L. Wharton Municipal Pool. |
| E. Fire Department Incidents/Inspections. | M. Wharton Regional Airport. |
| F. Code Enforcement Department. | N. Legal Department. |
| G. Water & Sewer Department. | O. Weedy Lots/Sign Ordinance. |
| H. Public Works Department. | |

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

The twenty-fourth 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.

City of Wharton
Regular City Council Meeting
January 13, 2003

The meeting was adjourned at 8:48 p.m.

CITY OF WHARTON, TEXAS

By:

GARLAND S. NOVOSAD
Mayor

ATTEST:

JOYCE VASUT
City Secretary