

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
January 27, 2003**

Mayor Garland S. Novosad declared a Regular Meeting duly open for the transaction of business at 7:03 p.m. Councilmember Bryce D. Kocian led the opening devotion and then Mayor Garland S. Novosad led the pledge of allegiance.

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

Councilmember absent was: None.

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

Visitors present were: Ron Sanders Wharton Journal-Spectator, David Schroeder with WEDCo, I.O. Coleman, Jr., Carlos Cotton, R.S., Judson, Skip Holman, A. J. Rath, Lewis Fortenberry, Arthur Araguz, Sr., David Copeland, Bobby Barnett, Scott Weisinger, Aaron Prihoda, Carlos Ortiz, and Johnnie Roberts.

The third item on the agenda was Public Comments. No comments were given. No action was taken.

The fourth item on the agenda was the Wharton Moment. Councilmember Ken Freese publicly thanked the Wharton Fire Department for their hospitality during the Wharton Fire Department Extravaganza held on Saturday, January 18, 2003. 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 December 2002. Finance Director Joyce Vasut presented the financial report for the month of December 2002, which was at 25% or three months into the fiscal year. Mrs. Vasut stated that the general fund revenues were at 21.30% and the expenditures were at 22.17%. The total ad valorem taxes collected were \$446,695.00. The sales tax for the month of November 2002 was \$82,333 with \$54,888.41 to the City and \$27,444 to WEDCo. The TexPool balance for December 2002 was \$2,027,300.98 with an average monthly yield of 1.4629%. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the financial report for the month of December 2002. Councilmember Bryce D. Kocian seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider a resolution urging the Texas Congressional Delegation to Support Funding for President Bush's \$3.5 Billion First Responder Initiative During the 108th Session of Congress. City Manager Andres Garza, Jr. informed the City Council that in the Texas Municipal League Legislative Update – Number 2 issued January

17, 2003, Cities were urged to ask for First Responder funding. He then presented a draft resolution urging the Congressional Delegation to support funding for President Bush's \$3.5 Billion First Responder Initiative during the 108th Session of Congress. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to Resolution No. 2003-07, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003-07**

A RESOLUTION URGING THE TEXAS CONGRESSIONAL DELEGATION TO SUPPORT FUNDING FOR PRESIDENT BUSH'S \$3.5 BILLION FIRST RESPONDER INITIATIVE DURING THE 108TH SESSION OF CONGRESS.

WHEREAS, the 107th Congress passed legislation creating the Department of Homeland Security; and

WHEREAS, the legislation creating the new department did not provide funding for President Bush's \$3.5 billion First Responder Initiative; and

WHEREAS, the First Responder Initiative was intended to provide funding to help cities pay for planning, training, equipment, and other resources to meet the challenges of preparing for and responding to terrorist attacks; and

WHEREAS, Texas cities have been required to spend millions of dollars to implement heightened security measures since September 11, 2001; and

WHEREAS, many Texas cities are experiencing severe budget shortfalls.

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

Section I. the City of Wharton strongly encourages members of the Texas Congressional Delegation to actively support passage of an appropriations bill that includes the \$3.5 billion First Responder Initiative to provide funds to help cities pay for some of the resources needed to meet the cities' new responsibilities for homeland security.

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

Passed, Approved, and Adopted this 27th 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 seventh item on the agenda was to review and consider providing notice of termination of agreement - Computer Concepts, Inc. City Manager Andres Garza, Jr. stated that during the regular City Council meeting held January 13, 2003, the City Council voted to award a contract to Prudentia, Inc. for Emergency Medical Services (EMS) Billing and Collection service. He stated that the projected start date with Prudential, Inc. was March 1, 2003, and the contract the City currently has with Computer Concepts, Inc. required a thirty (30) days notice to terminate. He then stated that the City Staff was requesting City Council authorization to submit the thirty (30) day notice of contract termination to Computer Concepts, Inc. for EMS Billing and Collection services. After some discussion, Councilmember Bryce D. Kocian made a motion to authorize City Manager Andres Garza, Jr. to submit a 30-day letter of contract termination to Computer Concepts, Inc. Councilmember Ken Freese seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider Highway 59 Elevated Water Storage Tank Signage. City Manager Andres Garza, Jr. presented a copy of the email message dated January 13, 2003 from Mr. Mike Murphy regarding signage on the elevated water storage tanks. He stated that he contacted Ms. Billie H. Jones, Executive Director of the Wharton Chamber of Commerce and Agriculture for some suggestions on what could be placed on the tank. He then presented her e-mail dated January 24, 2003 regarding the suggestion to add "Discover" to the tank. He said the City Staff had also contacted the Texas Department of Transportation to inquire about billboard rules to see if they would apply to signage on the City's tank. He said their response was that if it was advertising the City, their rules would not apply. City Manager Andres Garza, Jr. stated that the agreement with N. G. Painting allowed for them to place what was currently there, therefore the cost to add the word "Discover" would be approximately \$1,000. Councilmember Darryl Darnell asked if the funds could be allocated from the Hotel/Motel Fund. City Manager Andres Garza, Jr. stated that the Hotel/Motel Fund was dedicated to the Chamber of Commerce and the Civic Center operations. He stated that the original cost of the project was at \$450,000, however the current cost was projected at \$423,500. Finance Director Joyce Vasut stated that the funds could be allocated from the Bond Fund interest. After some discussion, Councilmember Don Mueller made a motion to approve the word "Discover" and authorize a Change Order not to exceed \$1,000.00. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider Vahala Water Well Rework Project.

- A. Bid Tabulation.
- B. **Resolution:** A resolution awarding a contract for the City of Wharton Vahala Water Well Rework Project. City Manager Andres Garza, Jr. informed the City Council that the bids for the City of Wharton Vahala Water Well Rework Project were opened January 27, 2003 at 2:00 p.m. He then presented a bid tabulation, recommendation, and resolution for the City of

Wharton Vahala Water Well Rework Project. Mr. Carlos Cotton with Jones & Carter addressed the City Council and recommended the bid be awarded to Weisinger Water Well in the amount not to exceed \$76,900.00.0 Councilmember Don Mueller asks about the warranty. Scott Weisinger with Weisigner Water Well stated that the warranty would be for one year. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2003-07, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003 - 07**

A RESOLUTION OF THE WHARTON CITY COUNCIL AWARDING THE BID TO WEISINGER WATER WELL FOR THE CITY OF WHARTON VAHALA WATER WELL REWORK PROJECT; AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID CONTRACT.

WHEREAS, competitive, sealed bids were received January 27, 2003 for the City of Wharton Vahala Water Well Rework Project; and

WHEREAS, the City of Wharton City Council wishes to award the bid to Weisinger Water Well, the lowest, best qualified bidder, in the amount not to exceed \$76,900.00; and

WHEREAS, Weisinger Water Well wishes to accept a contract for the City of Wharton Vahala Water Well Rework Project for the total construction cost of \$76,900.00; and

WHEREAS, the City of Wharton and Weisinger Water Well. wish 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 a contract with Weisinger Water Well for the City of Wharton Vahala Water Well Rework Project.

Section II. That the City of Wharton and Weisinger Water Well are hereby bound by the conditions as set forth in Attached "A".

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

Passed, Approved, and Adopted this 27th 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 tenth item on the agenda was to review and consider a request by Mr. Robert Judson for a temporary permit for Possession/Consumption of Alcoholic Beverages in Riverfront Park. City Manager Andres Garza, Jr. presented a copy of the City of Wharton Application for Temporary Permit Possession/Consumption of Alcoholic Beverages in Certain Parks submitted by Mr. Robert Judson. He then presented a copy of the memorandum dated January 21, 2003 from Police Chief Tim Guin providing his comments regarding the application. City Attorney Paul Webb informed the City Council that he reviewed the application and recommended approval for the temporary permit. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the request by Mr. Robert Judson for a temporary permit for Possession/Consumption of Alcoholic Beverages in Riverfront Park on June 7, 2003 from 8:00 a.m. to 10:00 p.m. Councilmember Don Mueller seconded the motion. All voted in favor.

The eleventh item on the agenda was to review and consider resignation of Mr. Pascual Castro from the Wharton Regional Airport Board. City Manager Andres Garza, Jr. presented a copy of the letter dated January 17, 2003 from Wharton Regional Airport Board Member Pascual Castro resigning his position on the Board. He stated that Mr. Castro was resigning his position due to the Presidential military call up. City Manager Andres Garza, Jr. publicly thanked Mr. Pascual Castro for serving on the Board. Mayor Garland S. Novosad expressed his appreciation and wished for a safe return home. Councilmember Domingo Montalvo, Jr. stated that in Mr. Pascual Castro's letter, he expressed appreciation to City Staff Jackie Wheeler and Joyce Vasut. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to accept the resignation of Mr. Pascual Castro from the Wharton Regional Airport Board. Councilmember Darryl Darnell seconded the motion. All voted in favor.

The twelfth item on the agenda was to review and consider Wharton Volunteer Fire Department:

A. Annual Report.

Fire Chief David Copeland addressed the City Council and Fire Captain Arthur Araguz presented the Annual Report to the City Council for their review. Mr. Copeland stated that the department had 427 calls. Of those, 238 were fire calls and 189 were Rescue/Haz-Mat calls. The Fire Department requested Mutual Aid on 9 calls and responded to 146 calls with neighboring departments. The total loss estimate was \$155,200 with \$59,500 loss within the City of Wharton, and \$95,700 in the County. There was 1 civilian fire injury, no fire casualties. Training hours were 2,130 hours. During Fire Prevention Week the Department educated 1,500 people. The Wharton Fire Department made its annual payment to the City of Wharton in the amount of \$50,000 leaving a balance of \$100,000 on the note for the Pumper, which was purchased in 1999. Chief Copeland publicly thanked the City Council for the Day Crew. He then introduced the Fire Department Officers, which are as follows:

Michael Etheridge, President

Eric Quintanilla, Vice-President
A.J. Rath, Secretary/Treasurer
Scott Stewart, Deputy Fire Chief
Carlos Ortiz, Assistant Fire Chief
Bobby Barnett, Assistant Fire Chief
Anthony Abbott, Fire Captain
Robert Abbott, Fire Captain
Arthur Araguz, Fire Captain
Aaron Prihoda, Fire Captain

After some discussion, no action was taken.

B. Confirming appointment of Fire Chief.

After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to accept the appointment of Fire Chief David Copeland. Councilmember Ken Freese seconded the motion. All voted in favor.

C. Request for Support Vehicles.

City Manager Andres Garza, Jr. presented a letter and supporting documents dated January 23, 2003 from Wharton Volunteer Fire Chief David Copeland to the City Council. Chief Copeland stated that the 1996 & 1997 Ford Crown Victorians have approximately 95,500 and 100,200 miles. The 1996 Chevrolet Lumina had 65,000 Miles. He stated that the City Vehicle Maintenance Department had inspected the two Fords and estimated the repairs in excess of \$8,000.00, which would not include the time and labor required to complete the repairs. He stated that the 1996 Chevrolet Lumina had over \$1,000.00 in repairs completed this month to prevent an overheating problem. He stated that the current vehicles were adequate to meet some of their needs, but with the amount of equipment that would be required to be carried by each command vehicle it is evident that a utility vehicle would best suit the needs both now and in the future. In addition to the equipment storage requirements, there has been a routine need to be able to travel in rough terrain, which requires a heavier-duty suspension and higher ground clearance. The current vehicles, Crown Victorians, are designed for hard surface use only and not really designed for the type of responses sometime required in a Fire/Rescue Command Vehicle. After research of the current vehicles available that fit the Department's needs it has been determined that the Chevrolet Tahoe, Chevrolet Suburban, or the Ford Expedition would match the specifications that would best suit the Departments needs. These vehicles would be expected to provide a longer time in service with less down time for repairs because they are better suited to the type of response required. Mr. Copeland requested the City Council approve the purchase of four SUV's for the Fire Department, which would be utilized by the Fire Chief, Fire Inspector, and two Assistant Chiefs. He stated that the cost of the SUV's range from \$19,581.00 to \$ 24,949.00

Councilmember Darryl Darnell asked if he considered replacement an emergency. Chief Copeland stated that the current vehicles needed to be replaced. After some discussion, Councilmember Darryl Darnell made a motion to authorize the Finance Director to submit options for financing to the Finance Committee. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The thirteenth item on the agenda was to review and consider Recommendation from the Mayor's Local Committee on People with Disabilities:

A. Appointment to Committee.

City Manager Andres Garza, Jr. presented a copy of the letter of recommendation dated January 24, 2003 from Mr. Skip Holman, Chairman of the Mayor's Local Committee on People with Disabilities. He stated that the Committee was recommending the City Council appoint Dr. Raymond Torp as a Committee Member. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to appoint Dr. Raymond Torp to the Mayor's Local Committee on People with Disabilities. Councilmember Don Mueller seconded the motion. All voted in favor.

B. Downtown Parking for handicap accessibility.

City Manager Andres Garza, Jr. presented a copy of the letter of recommendation dated January 24, 2003 from Mr. Skip Holman, Chairman of the Mayor's Local Committee on People with Disabilities. He stated that the Committee was recommending the City Council contract with an architect/engineer to evaluate the downtown parking for handicap accessibility. City Manager Andres Garza, Jr. informed the City Council that he was working with Mr. Glen Dvorak with Texas Department of Transportation on evaluation of the street and sidewalks. He stated that the City would also be working with Wharton County for some additional spaces needed for downtown parking. Councilmember Domingo Montalvo, Jr. stated that the City Council could address this issue on Saturday, February 1, 2003 at the Strategic Planning Session. Councilmember Montalvo then commended WEDCo for the business grants for ADA accessibility. City Manager Andres Garza, Jr. stated that Building Official Ronnie Bollom and Facilities Maintenance Director Bob Baker had conducted ADA assessments on all city owned buildings. He stated that the Fire Department building would need to be addressed for accessibility. No action was taken.

C. Notification to the Governor's Committee on People with Disabilities of the establishment and progression of the Mayor's Local Committee on People with Disabilities. City Manager Andres Garza, Jr. presented a copy of the letter of recommendation dated January 24, 2003 from Mr. Skip Holman, Chairman of the Mayor's Local Committee on People with Disabilities. He stated that the Committee was recommending City Council approval to notify the Governor's Committee on People with Disabilities of the establishment and progression of the Mayor's Local Committee on People with Disabilities in the City of Wharton. After some discussion, Councilmember Bryce D. Kocian made a motion to authorize the City Staff to submit notification to the Governor's Committee on People with Disabilities of the establishment and progression of the Mayor's Local Committee on People with Disabilities. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The fourteenth item on the agenda was to review and consider an ordinance amending the City of Wharton Code of Ordinances Chapter 34 – Health and Sanitation, Article II – Cleanliness and Sanitation of Premises; Section 34-51 Accumulation or Growth of Weeds or Brush; Providing that a violation of the ordinance or any part of the Code as adopted hereby shall constitute a penalty upon conviction of a fine; Providing for separability; and setting an effective date. City Manager Andres Garza, Jr. presented a copy of Councilmember Darryl Darnell's e-mail regarding the application of the City's weedy lot ordinance outside the City limits. He stated that the draft ordinance would allow for the enforcement of the ordinance outside the City limits. He then presented a draft ordinance amending the City of Wharton Code of Ordinances Chapter 34 – Health and Sanitation, Article II – Cleanliness and Sanitation of Premises; Section 34-51 Accumulation or Growth of Weeds or Brush by adding the enforcement of the ordinance within the 5000 feet of extraterritorial jurisdiction outside the city limits. City Attorney Paul Webb

informed the City Council that under the current Code of Ordinances, the City of Wharton has the authority to enforce weedy lots outside the city limits within the extraterritorial jurisdiction. No action was taken.

The fifteenth item on the agenda was to review and consider Travel Reimbursement for City Manager. City Manager Andres Garza, Jr. presented a copy of the travel reimbursement request for himself in the amount of \$373.32 for the period December 10, 2002 through January 22, 2003. After some discussion, Councilmember Bryce D. Kocian made a motion to approve the travel reimbursement to City Manager Andres Garza, Jr. for the period December 10, 2002 through January 22, 2003 in the amount of \$373.32. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

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

- A. Wharton Youth Advisory Commission meeting held January 14, 2003.
 - B. Building Standards Commission meeting held January 16, 2003.
 - C. Mayor's Local Committee on People with Disabilities held January 23, 2003.
- 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 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. Councilmember Darryl Darnell questioned why the EMS transfers were down. EMS Director John Kowalik stated that Wharton Manor contracted with a private company to conduct transfers for patients. Mr. Kowalik stated that he contacted Wharton Manor, Quality Elite, and Med Life and informed the companies that a City of Wharton Ambulance Provider Permit was required. City Attorney Paul Webb requested Mr. Kowalik contact him with the names and addresses so he could submit a letter to the companies on the City permit requirements. He stated that two ambulances were available Wednesday through Sunday, however he would turn down a transfer if one ambulance was on a call and only one was at the station awaiting an emergency. No action was taken.

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

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

CITY OF WHARTON, TEXAS

By:

GARLAND S. NOVOSAD
Mayor

ATTEST:

JOYCE VASUT
City Secretary