

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
FEBRUARY 10, 2003**

Mayor Garland S. Novosad declared a Regular Meeting duly open for the transaction of business at 7:00 p.m. Mayor Garland S. Novosad led the opening devotion and then 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 Jansky, Building Official Ronnie Bollom, Public Works Director Phillip Bush, EMS Director John Kowalik, Community Services Director Jo Knezek, EMS Supervisor Frank Giesie and City Attorney Paul Webb.

Visitors present were: Ron Sanders Wharton Journal-Spectator, David Schroeder with WEDCo, Anthony Rachunek, I. O. Coleman, Jr., Merrell "Doc" Barfield, Jr., Lewis Fortenberry, Bernice Jackson, Ellis Hurd, Billie Jones, Wayne Adams, Carlos Cotton, Jimmy Schulz, Chad Schulz, Frank Graves, Roger Garris, Chester Houston, Bryon Nelson, A.B. Allen, Raymond Fisher, and Johnnie Lee Roberts.

The third item on the agenda was Public Comments. Mr. Frank Graves addressed the City Council regarding drainage. Mr. Graves stated that his house flooded in September 2002, due to the culverts being clogged up on University and Carter. He also stated that he had requested cleaning of these culverts but as of this date, he had not received an answer from City Manager Andres Garza, Jr. or Public Works Director Phillip Bush. No action was taken.

Mr. I.O. Coleman, Jr. addressed the City Council and publicly thanked the City Council for inviting Wharton Economic Development Corporation (WEDCo) Board of Directors to the Strategic Planning Session and then he requested that the City Council request feedback from the citizens. He also stated that the garbage pick up had returned to the normal operating hours and he thanked the City for taking the appropriate steps to resolve the matter. He then stated that there were numerous stray cats and dogs in the westend area and numerous junk vehicles that have been tagged but not removed. No action was taken.

Mr. Johnnie Roberts addressed the City Council regarding gate placement at the entrance to Harris Park at the end of Milam Street. He stated that the gate should have been installed when the signs were installed. No action was taken.

The fourth item on the agenda was Wharton Moment. No comments were given. No action was taken.

The fifth item on the agenda was to review and consider reading of the minutes from the Regular Meetings held January 13, 2003 and January 27, 2003. After some discussion, Councilmember Don Mueller made a motion to approve the minutes from the Regular Meetings held January 13, 2003 and January 27, 2003. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider the Wharton Chamber of Commerce & Agriculture Schedule of Events. City Manager Andres Garza, Jr. presented a copy of the letter dated February 5, 2003 from Ms. Billie H. Jones, Executive Director of the Wharton Chamber of Commerce & Agriculture regarding the four festivals that would be scheduled to be held during the year 2003. Mr. I.O. Coleman, Jr. stated that the Wharton Training High School Alumni and Ex-Students Association was scheduling its annual Juneteenth Celebration/Festival and should be added to the list of festivals. After some discussion, Councilmember Don Mueller made a motion to approve the Wharton Chamber of Commerce & Agriculture Schedule of Events, which included the following:

- Shanghai Days Cowboy Gathering - March 29, 2003
- Juneteenth - June 14, 2003
- Wharton County Freedom Festival - June 27 - 28, 2003
- Fiesta Hispano Americana - September 6, 2003
- Chamber Lighted Holiday Parade - November 25, 2003

Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The seventh item on the agenda was the request by Wharton Economic Development Corporation Board Member I. O. Coleman, Jr. for City Council consideration of a Colorado River Boat Access Study. City Manager Andres Garza, Jr. presented a copy of the fax dated January 21, 2003 from Wharton Economic Development Corporation Board Member I. O. Coleman, Jr. for City Council consideration of a Colorado River Boat Access Study. He then presented a copy of related information regarding the proposed boat ramp. Mr. I.O. Coleman, Jr. addressed the City Council and stated Mr. John King consultant for Freese & Nichols Engineering submitted estimates of \$22,400.00 for the grant application, preliminary design and site plan. Mr. Coleman stated that he was requesting \$5,600.00 from the City of Wharton to start the project. Councilmember Darryl Darnell asked if the \$5,600.00 could be requested from LCRA or WEDCo. Mr. Coleman stated they could be from another entity, however WEDCo requested the City's participation with the project. Councilmember Don Mueller stated that the Corp. of Engineers had not presented the results of the flood study, which could have an impact on this project. Mr. Coleman stated that Phase I would be to gain river access with a boat ramp. Mayor Garland S. Novosad stated that the flood study should not be a hindrance on the approval of the Colorado River Boat Access Study. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the Colorado River Boat Access Study. Councilmember Darryl Darnell seconded the motion. Councilmembers V. L. Wiley, Jr., Darryl Darnell, and Mayor Garland S. Novosad voted for the motion. Councilmembers Ken Freese, Don Mueller, Domingo Montalvo, Jr., and Bryce D. Kocian voted against the motion. The motion failed.

The eighth item on the agenda was to review and consider a resolution naming the Wharton Regional Airport Entrance Road. City Manager Andres Garza, Jr. presented a draft resolution naming the Wharton Regional Airport entrance road. He stated that Mr. Jim Guin, Wharton County 911 Addressing Coordinator, had requested the City name the airport entrance road due to the Wharton County 911 addressing system. Mayor Garland S. Novosad stated that former

Mayor Robert VonDerAu made an incredible contribution in building the Wharton Regional Airport and recommended the entrance road be named in his honor. He said Mr. Robert VonDerAu was Mayor from 1964-1972 and Councilmember from 1951-1962. Councilmember Don Mueller stated that the road should also have a number. City Attorney Paul Webb stated that the name would suffice. Public Works Director Phillip Bush stated that he had spoke with Mr. Jim Guin and was informed that the City could either name the road or give the road a number. After some discussion, Mayor Garland S. Novosad made a motion to approve Resolution No. 2003-09, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003 – 09**

A RESOLUTION NAMING THE WHARTON REGIONAL AIRPORT ENTRANCE ROAD.

WHEREAS, the City of Wharton City Council wishes to assist Wharton County with the 911 Addressing System; and

WHEREAS, the City of Wharton City Council wishes to name the Wharton Regional Airport entrance road; and

WHEREAS, the City of Wharton City Council wishes to name the Wharton Regional Airport entrance road as “Robert VonDerAu Drive.”

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 names the Wharton Regional Airport entrance road “Robert VonDerAu Drive.”

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

Passed, Approved, and Adopted this 10th day of February 2003.

CITY OF WHARTON, TEXAS

By: _____
GARLAND S. NOVOSAD
Mayor

ATTEST:

JOYCE VASUT
City Secretary

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

The ninth item on the agenda was to review and consider a request by Colorado Valley Transit for use of City of Wharton property located at the corner of Caney and North Cloud Street for use as a transit field office and bus staging area. City Manager Andres Garza, Jr. presented a copy of the letter dated February 4, 2003 from Ms. Vastene Olier, Executive Director of Colorado Valley Transit requesting the City's assistance in relocating the transit field office to the corner of Caney and North Cloud Street. Dr. Merrell "Doc" Barfield, Jr. addressed the City Council and stated that Colorado Valley Transit was located on H.E.B.'s property, however HEB's policy was not to donate any land. He stated that Gaylan Segrest purchased the property where Colorado Valley Transit was stationed, therefore he requested the City allow Colorado Valley Transit to locate their office and bus staging area to the corner of Caney and N. Cloud Street. He also requested gravel for the bus area. He stated that the location would be a block from the Railroad Depot, which in the future would serve as Colorado Valley Transit's hub. Mayor Garland S. Novosad stated in order to comply with the City Charter, the City of Wharton would have to advertise the land for lease. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to advertise for the lease of the 150' X 250" tract of land, Wharton, Block 32, Lot 12, Corner of Caney and N. Cloud Street. Councilmember Don Mueller seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider Planning Commission Recommendation:

A. Request by Mr. Frank D. Sorrel, Jr. to replat a 2.91 acre tract of land in the William Kincheloe league, Abstract 38, known as Wharton, Block 40, Lot 6A, to abolish existing property lines on Lot 6B to increase the size of the said lot and decrease the size of Lot A. City Manager Andres Garza, Jr. presented a copy of the memorandum dated February 6, 2003 from Planning Commission Chairman A. J. Rath regarding the Planning Commissions recommendation. He then presented a copy of the Planning Commission's Communications from the meeting held February 3, 2003. Building Official Ronnie Bollom informed the City Council that Mr. Frank D. Sorrel wanted to sell the property to different business owners and requested a replat of the property. After some discussion, Councilmember Bryce D. Kocian made a motion to approve the request by Mr. Frank D. Sorrel, Jr. to replat a 2.91 acre tract of land in the William Kincheloe league, Abstract 38, known as Wharton, Block 40, Lot 6A, to abolish existing property lines on Lot 6B to increase the size of the said lot and decrease the size of Lot A. Councilmember Ken Freese seconded the motion. All voted in favor.

The eleventh item on the agenda was to review and consider a request by Mr. & Mrs. Willie Moore, 909 Spanish Camp Road for two (2) eight (8) feet interior side yard set back variances from the required ten (10) feet for the construction of new home under the City of Wharton HOME Program. City Manager Andres Garza, Jr. presented a copy of the variance request filed by Mr. & Mrs. Willie Moore, 909 Spanish Camp Road for two (2) eight (8) feet interior side yard set back variances from the required ten (10) feet for the construction of new home under the City of Wharton's HOME Program. He stated that Mr. & Mrs. Willie Moore had been determined by the City's program guidelines to be eligible to participate in the HOME Program. However, their present lot was only 25' x 75', and they did not own the adjacent lots. Therefore,

the new house would have to be constructed on a small lot. In order to accomplish this, an interior side yard variances would need to be granted. He stated that Building Official Ronnie Bollom had informed him that the method and material used for the construction would meet the City Code of Ordinances (Fire, Building, etc.). Building Official Ronnie Bollom informed the City Council that contractor Bud Love had already downsized the house, however a variance was still needed for placement on the 25' lot. He stated that both sides would have hardi plank siding, which was non flammable. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the request by Mr. & Mrs. Willie Moore, 909 Spanish Camp Road for two (2) eight (8) feet interior side yard set back variances from the required ten (10) feet for the construction of new home under the City of Wharton HOME Program. Councilmember Darryl Darnell seconded the motion. All voted in favor.

The twelfth item on the agenda was to review and consider a request by the City Council Youth Advisory Commission for funding to attend the 2003 Youth Summit to be held in Killeen, Texas scheduled for March 1 - 2, 2003. City Manager Andres Garza, Jr. presented a copy of the information provided the City of Wharton regarding the 3rd Annual Texas Youth Advisory Commission (YAC) Summit to be held March 1 – 2, 2003. The City of Wharton Youth Advisory Commission voted to request the Wharton City Council for assistance with funding to enable Wharton YAC members to attend the summit. He stated that a total of six (6) members have indicated that they would like to attend the conference. The total estimated cost for the six members to attend the conference would be approximately \$500.00. Committee Chairman Chad Schulz addressed the City Council and requested funding to attend the 2003 Youth Summit to be held in Killeen, Texas scheduled for March 1 - 2, 2003. City Attorney Paul Webb asked if the Committee requested donations from the local businesses. Chad Schulz stated that the Committee members had not contacted anyone for donations. City Attorney Paul Webb stated that he would donate \$500.00 for the conference. After some discussion, no action was taken.

The thirteenth item on the agenda was to review and consider the recommendation by the Wharton Regional Airport Board:

- A. Authorization to submit the Wharton Regional Airport Stormwater Permit.
- B. Resolution: A resolution authorizing the Mayor of the City of Wharton to execute the Wharton Regional Airport Stormwater Permit and all related documents.

City Manager Andres Garza, Jr. stated that during the regular Wharton Regional Airport Board meeting held February 4, 2003, the Airport Board Members voted to request the City Council consider authorizing the submission of the Wharton Regional Airport Stormwater Permit as prepared by O'Malley Engineers. He then presented a draft resolution authorizing the Mayor to execute the permit and all related documents. He also presented a copy of a summary of the stormwater permit that was presented to the Airport Board by Mr. Ed Addicks of O'Malley Engineers and a copy of the Notice of Intents (NOI) for the City of Wharton, Pioneer Aviation, Inc., and Charlie's Flying Service. He stated that the Stormwater Permit was required by the TCEQ and had a deadline of March 10, 2003. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2003-10, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003 – 10**

**A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO
SUBMIT THE WHARTON REGIONAL AIRPORT NOTICE OF INTENT FOR STORM**

WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITY UNDER THE TPDES MULTI-SECTOR GENERAL PERMIT (TXR050000) AND ALL RELATED DOCUMENTS.

WHEREAS, the Wharton City Council wishes to submit for the Notice of Intent for Storm Water Discharges Associated with Industrial Activity under the TPDES Multi-Sector General Permit (TXR050000); and

WHEREAS, the Notice of Intent is required for the City of Wharton, Pioneer Aviation, Inc. and Charlie's Flying Service; and

WHEREAS, the City of Wharton wishes to maintain the requirement of the TPDES Multi-Sector General Permit for Storm Water Discharges for the Wharton Regional Airport.

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 City Manager to submit the Notice of Intent for Storm Water Discharges Associated with Industrial Activity under the TPDES Multi-Sector General Permit (TXR050000).

Section II. That the City Council of the City of Wharton hereby authorizes the Mayor of the City of Wharton to execute the Notice of Intent and all related documents.

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

Passed, Approved, and Adopted this 10th day of February 2003.

CITY OF WHARTON, TEXAS

By: _____
GARLAND S. NOVOSAD
Mayor

ATTEST:

JOYCE VASUT
City Secretary

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

The fourteenth item on the agenda was to review and consider City of Wharton Emergency Medical Services:

A. Resolution: A resolution authorizing the Mayor of the City of Wharton to execute an Emergency Medical Services Mutual Aid Agreement between the City of Wharton and the City of El Campo. City Manager Andres Garza, Jr. presented a copy of the draft resolution authorizing the Mayor to execute an Emergency Medical Services Mutual Aid agreement

between the City of El Campo and the City of Wharton. He stated that the mutual aid agreement should be in place prior to the submission of the City's EMS Provider's License Renewal Application. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to Resolution No. 2003-11, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003 – 11**

A RESOLUTION APPROVING THE EMERGENCY MEDICAL SERVICES MUTUAL AID AGREEMENT BETWEEN THE CITY OF WHARTON AND THE CITY OF EL CAMPO; AUTHORIZING THE MAYOR OF THE CITY OF TO EXECUTE ALL DOCUMENTS RELATING TO SAID AGREEMENT.

WHEREAS, the City of Wharton City Council wishes to approve the Emergency Medical Services Mutual Aid Agreement between the City of Wharton and the City of El Campo; and

WHEREAS, the City of Wharton and the City of El Campo wishes to be bound by the conditions as set forth in Attachment "A".

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

Section I. That the City Council of the City of Wharton hereby approves the Emergency Medical Services Mutual Aid Agreement between the City of Wharton and the City of El Campo.

Section II. That the City Council of the City of Wharton hereby authorizes Mayor Garland S. Novosad to execute all documents relating to said agreement.

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

Passed, Approved, and Adopted this 10th day of February 2003.

CITY OF WHARTON, TEXAS

By: _____
GARLAND S. NOVOSAD
Mayor

ATTEST:

JOYCE VASUT
City Secretary

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

B. Resolution: A resolution authorizing the Mayor of the City of Wharton to execute an Emergency Medical Services Mutual Aid Agreement between the City of Wharton and Colorado County. City Manager Andres Garza, Jr. presented a copy of the draft resolution authorizing the Mayor to execute an Emergency Medical Services Mutual Aid agreement between the Colorado County with the City of Wharton. He stated that the mutual aid agreement should be in place prior to the submission of the City's EMS Provider's License Renewal Application. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to Resolution No. 2003-12, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003 – 12**

A RESOLUTION APPROVING THE EMERGENCY MEDICAL SERVICES MUTUAL AID AGREEMENT BETWEEN THE CITY OF WHARTON AND COLORADO COUNTY; AUTHORIZING THE MAYOR OF THE CITY OF TO EXECUTE ALL DOCUMENTS RELATING TO SAID AGREEMENT.

WHEREAS, the City of Wharton City Council wishes to approve the Emergency Medical Services Mutual Aid Agreement between the City of Wharton and Colorado County; and

WHEREAS, the City of Wharton and Colorado County wishes to be bound by the conditions as set forth in Attachment "A".

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

Section I. That the City Council of the City of Wharton hereby approves the Emergency Medical Services Mutual Aid Agreement between the City of Wharton and Colorado County.

Section II. That the City Council of the City of Wharton hereby authorizes Mayor Garland S. Novosad to execute all documents relating to said agreement.

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

Passed, Approved, and Adopted this 10th day of February 2003.

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.

C. Resolution: A resolution of the Wharton City Council authorizing the submission of a renewal application for the Emergency Medical Services Provider's License. City Manager Andres Garza, Jr. presented a copy of the memorandum dated February 6, 2003 from EMS Director John Kowalik regarding the provider's license. He stated that the application should be submitted to the Texas Department of Health (TDH) no later than March 1, 2003. City Manager Andres Garza, Jr. stated that EMS Director John Kowalik was recommending the licensing be submitted at the BLS with MICU capability level, which he concurred with his recommendation. EMS Director John Kowalik informed the City Council the submission of the Medical Services Provider's License was required every two years. He stated that he would like to design Wharton Emergency Medical Services as BLS with MICU capability level. He stated that all the ambulances would be equipped to meet MICU capability. Therefore at the BLS level with MICU capabilities, a Paramedic and EMT could make runs at the MICU level but two EMTs could make runs at the BLS level. Councilmember Domingo Montalvo, Jr. publicly commended John Kowalik for assuring the City would be covered. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to Resolution No. 2003-13, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003 – 13**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE SUBMISSION OF A RENEWAL APPLICATION FOR THE EMERGENCY MEDICAL SERVICES PROVIDER'S LICENSE.

WHEREAS, the Wharton City Council wishes to renew the City of Wharton Emergency Medical Services Provider's License; and

WHEREAS, the Wharton City Council wishes to authorize the City Manager to submit the ambulance provider's license renewal application to the Texas Department of Health; and

WHEREAS, the Wharton City Council wishes to submit the application with the ambulances designated at the BLS with MICU Capability level.

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 City Manager to submit the ambulance provider's license renewal application to the Texas Department of Health.

Section II. That the City Council of the City of Wharton hereby authorizes the provider's license application be submitted with the ambulance designation as being at the BLS with MICU Capability level.

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

Passed, Approved, and Adopted this 10th day of February 2003.

CITY OF WHARTON, TEXAS

By: _____
GARLAND S. NOVOSAD
Mayor

ATTEST:

JOYCE VASUT
City Secretary

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

The fifteenth item discussed on the agenda was to review and consider City of Wharton Ambulance Remount:

- A. Bid Tabulation:
- B. **Resolution:** A resolution awarding the bid for the City of Wharton Ambulance Remount. City Manager Andres Garza, Jr. informed the City Council that the City Staff opened bids for the City of Wharton Ambulance Remount on January 27, 2003. He then presented a copy of the bid tabulation and a draft resolution awarding the bid. Councilmember Bryce D. Kocian asked about the cost of a new box. EMS Director John Kowalik stated that a new box would cost approximately \$20,000.00, however the City of Wharton would be reusing the current box saving the City \$20,000.00. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2003-14, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003-14**

A RESOLUTION TO AWARD THE BID FOR AMBULANCE REMOUNT.

WHEREAS, competitive, sealed bids were received on January 27, 2003, for Ambulance Remount; and

WHEREAS, Frazer, Inc. was deemed to be the best and lowest qualified bidder as per bid specifications in the amount of \$41,600.00; and

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

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

Section I. The City Council of the City of Wharton hereby awards the bid to Frazer, Inc. in accordance with bid specifications.

Section II. The Mayor of the City of Wharton is authorized to execute all necessary documents on behalf of the City of Wharton for the ambulance remount by Frazer, Inc.

Section III. The City Manager is hereby authorized to disburse funds from the respective accounts to pay for said purchases in the amount of \$41,600.00 to Frazer, Inc. for the Ambulance Remount.

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

Passed, Approved, and Adopted this 10th day of February 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 sixteenth discussed item on the agenda was to review and consider Requests for Payments:

A. City of Wharton Elevated Water Storage Tank Painting Project - Pay Estimate No. 4 – N.G. Painting, LP.

City Manager Andres Garza, Jr. presented a copy of the pay request for Estimate No. 4 from N. G. Painting, LP for the City of Wharton Elevated Water Storage Tank Painting Project.

After some discussion, Councilmember Bryce D. Kocian made a motion to approve the pay request for Estimate No. 4 from N. G. Painting, LP for the City of Wharton Elevated Water Storage Tank Painting Project in the amount of \$137,987.50. Councilmember Ken Freese seconded the motion. All voted in favor.

B. City of Wharton Wastewater Treatment Plant No. 2 Improvement Project – Pay Estimates No. 2 and No. 3 - JTR Constructors, Inc.

City Manager Andres Garza, Jr. presented a copy of the pay requests for Estimates No. 2 and No. 3 from JTR Constructors, Inc. for the City of Wharton Wastewater Treatment Plant No. 2 Improvement Project. After some discussion, Councilmember Bryce D. Kocian made a motion to approve the pay request for Estimates No. 2 in the amount of \$125,325.00 and No. 3 in the amount of \$150,750.00 from JTR Constructors, Inc. for the City of Wharton Wastewater Treatment Plant No. 2 Improvement Project. Councilmember Ken Freese seconded the motion. All voted in favor.

The seventeenth item on the agenda was to review and consider City of Wharton Pipeline Materials and Accessories Project:

A. Bid Tabulation.

B. Resolution: A resolution awarding the bid for the City of Wharton Pipeline Materials and Accessories Project.

City Manager Andres Garza, Jr. informed the City Council that the City Staff opened bids for the City of Wharton Pipeline Materials and Accessories on February 4, 2003. He then presented a copy of the bid tabulation and a draft resolution awarding the bid. He also presented a copy of the memorandum dated February 5, 2003 from Public Works Director Phil Bush recommending the bid for the pipeline materials be awarded to Municipal Pipe in the amount of \$47,040.00 and the pipe accessories bid be awarded to National Water Works in the amount of \$21,016.45. Public Works Director Phillip Bush stated that the estimates for the PVC pipe was \$57,200 and for the pipeline accessories were \$20,930.00. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2003-15, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003-15**

A RESOLUTION TO AWARD THE BID FOR PIPELINE ACCESSORIES.

WHEREAS, competitive, sealed bids were received on February 4, 2003, for Pipeline Accessories; and

WHEREAS, Municipal Pipe was deemed to be the best and lowest qualified bidder as per bid specifications for PVC pipe in the amount of \$47,040.00; and

WHEREAS, National Water Works was deemed to be the best and lowest qualified bidder as per bid specifications for pipeline accessories in the amount of \$21,016.45; and

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

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

Section I. The City Council of the City of Wharton hereby awards the bid to Municipal Pipe in accordance with bid specifications for PVC pipe, and National Water Works in accordance with bid specifications for pipeline accessories.

Section II. The Mayor of the City of Wharton is authorized to execute all necessary documents on behalf of the City of Wharton for the pipeline accessories with Municipal Pipe and National Water Works.

Section III. The City Manager is hereby authorized to disburse funds from the respective accounts to pay for said purchases in the amount of \$47,040.00 to Municipal Pipe for the PVC pipe, and National Water Works in the amount of \$21,016.45 for the pipeline accessories.

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

Passed, Approved, and Adopted this 10th day of February 2003.

CITY OF WHARTON, TEXAS

By: _____
GARLAND S. NOVOSAD
Mayor

ATTEST:

JOYCE VASUT
City Secretary

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

The eighteenth item on the agenda was to review and consider City of Wharton Wastewater Treatment Plant No. 1 Wet Well Rehabilitation Project:

A. Bid Tabulation.

B. Resolution: A resolution awarding the bid for the City of Wharton Wastewater Treatment Plant No. 1 Wet Well Rehabilitation Project.

City Manager Andres Garza, Jr. informed the City Council that Mr. Anthony Rachunek, P.E., engineer on the City's Wastewater Treatment Plant No. 1 Rehabilitation Project and the City Staff opened bids for the Wastewater Treatment Plant No. 1 Wet Well Rehabilitation Project on February 3, 2003. He then presented a copy of the bid tabulation and a draft resolution awarding the bid. He also presented a copy of the letter dated February 6, 2003 from Mr. Rachunek recommending the bid be awarded to F & L Concrete Services, Inc. in the amount of \$13,285.00. Councilmember Bryce D. Kocian asked if references were checked on F & L Concrete Services, Inc. Anthony Rachunek with Anthony Rachunek & Associates informed the City Council that references were checked from several municipalities, and he was recommending approval. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve Resolution No. 2003-16, which read as follows:

CITY OF WHARTON
RESOLUTION NO. 2003-16

**A RESOLUTION AWARDING THE BID FOR THE CITY OF WHARTON
WASTEWATER TREATMENT PLANT NO. 1 WET WELL REHABILITATION
PROJECT.**

WHEREAS, competitive, sealed bids were received on February 3, 2003, for Wastewater Treatment Plant No. 1 Wet Well Rehabilitation project; and

WHEREAS, F & L Concrete Services, Inc. was deemed to be the best and lowest qualified bidder as per bid specifications in the amount of \$13,285.00 Wastewater Treatment Plant No. 1 Wet Well Rehabilitation project; and

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

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

Section I. The City Council of the City of Wharton hereby awards the bid to F & L Concrete Services, Inc. in accordance with bid specifications for Wastewater Treatment Plant No. 1 Wet Well Rehabilitation project.

Section II. The Mayor of the City of Wharton is authorized to execute all necessary documents on behalf of the City of Wharton for the Wastewater Treatment Plant No. 1 Wet Well Rehabilitation project.

Section III. The City Manager is hereby authorized to disburse funds from the respective accounts to pay for said purchases in the amount of \$13,285.00 to F & L Concrete Services, Inc. for the Wastewater Treatment Plant No. 1 Wet Well Rehabilitation project.

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

Passed, Approved, and Adopted this 10th day of February 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 nineteenth item on the agenda was Executive Session: City Council may adjourn into an Executive Session in accordance with Section 551.072 & 551.086 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 regarding the acquisition of real property (easement) – Rust Property FM 102 & Hwy. 59.
- B. Discussion regarding Economic Development Project – Wal-Mart – FM 102 & Hwy. 59.

Mayor Garland S. Novosad adjourned the City Council into Executive Session at 7:43 p.m.
Mayor Garland S. Novosad returned the City Council to Open Sesseion at 8:27 p.m.

The twentieth item on the agenda was return to Open Session: Action on items discussed in Executive Session:

- A. Review & Consider:** Acquisition of real property (easement) – Rust Property FM 102 & Hwy. 59.

City Attorney Paul Webb stated that he received two letters dated February 10, 2003 regarding the acquisition of a 100' drainage easement from the Rust family. Councilmember Ken Freese made a motion to accept the terms as specified in the two letters dated February 10, 2003 as presented to the City Council. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

- B. Review & Consider:** Economic Development Project – Wal-Mart – FM 102 & Hwy. 59. City Attorney Paul Webb stated that he recommend the City Council approve the utility construction agreement with Wal-Mart and to give him the authority to negotiate and submit the agreements for execution to Wal-Mart. After some discussion, no action was taken.

The twenty-first item discussed on the agenda was to review and consider a Resolution authorizing the Mayor of the City of Wharton to execute on behalf of the City of Wharton a utility service (water/sewer) and drainage agreement for the proposed Wal-Mart Stores, Inc. Project located at FM 102 and Hwy. 59. City Manager Andres Garza, Jr. stated that the City Staff was currently working with Wal-Mart Stores, Inc. on a utility construction agreement . He then presented the agreement along with the resolution authorizing the Mayor of the City of Wharton to execute the agreement. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2003-17, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003 - 17**

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE A DRAINAGE EASEMENT BETWEEN THE CITY OF WHARTON AND RUST FAMILY LIMITED PARTNERSHIP.

WHEREAS, the City of Wharton wishes to provide utility service (water/sewer) and drainage improvements for the proposed Wal-Mart Stores, Inc. located at FM 102 and Hwy. 59; and

WHEREAS, the Wharton City Council wishes to authorize Mayor Garland S. Novosad to execute a Drainage Easement between the City of Wharton and Rust Family Limited Partnership; and

WHEREAS, the City of Wharton and Rust Family Limited Partnership wish bound by the conditions as set forth in the attached “A” and is made part of this resolution.

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

Section I. The Wharton City Council hereby authorizes the Mayor Garland S. Novosad to execute a Drainage Easement between the City of Wharton and Rust Family Partnership.

Section II. The City of Wharton and Rust Family Limited Partnership 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 10th day of February 2003.

CITY OF WHARTON, TEXAS

By: _____
GARLAND S. NOVOSAD
Mayor

ATTEST:

JOYCE VASUT
City Secretary

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

The twenty-second item discussed on the agenda was to review and consider the Texas Department of Agriculture Office of Rural Community Affairs, Texas Community Development Program (TCDP) – Texas Capital Fund grant application:

A. Setting a Public Hearing Date – February 20, 2003.

City Manager Andres Garza, Jr. presented a copy of the public notice for the City of Wharton Texas Community Development Program. He stated that the City Staff was requesting to set the public hearing for February 20, 2002 at 7:00 p.m. After some discussion, Councilmember Bryce D. Kocian made a motion to approve the public notice for the City of Wharton Texas Community Development Program and set the public hearing for February 20, 2002 at 7:00 p.m. Councilmember Ken Freese seconded the motion. All voted in favor.

B. Solicitation for Management Services for a Texas Capital Fund Project.

City Manager Andres Garza, Jr. stated that the City Staff was requesting City Council authorization to solicit management services for a Texas Capital Fund Project. After some discussion, Councilmember Bryce D. Kocian made a motion to approve the Solicitation for Management Services for a Texas Capital Fund Project. Councilmember Ken Freese seconded the motion. All voted in favor.

The twenty-third item discussed on the agenda was to review and consider a resolution authorizing the Mayor of the City of Wharton to execute an engineering services agreement with Jones & Carter, Inc. for engineering services related to Wal-Mart Stores, Inc. Project for drainage and water/sewer system improvements. City Manager Andres Garza, Jr. presented a copy of a draft resolution authorizing the Mayor of the City of Wharton to execute an engineering services agreement with Jones & Carter, Inc. for engineering services related to Wal-Mart Stores, Inc. Project for drainage and water/sewer system improvements. He then presented a proposed agreement for the engineering services. City Manager Andres Garza, Jr. informed the City Council that the agreement with Jones & Carter would allow the City to meet the deadline with Wal-Mart. Councilmember Darryl Darnell stated that the citizens of Wharton believe in quality and fairness, therefore he would like to amend the agreement and use Anthony Rachunek & Associates for water and sewer services and the drainage engineering to be done by Jones & Carter. After some discussion, Councilmember Darryl Darnell made a motion to amend the project for water and sewer services to be awarded to Anthony Rachunek & Associates and drainage services to be awarded to Jones & Carter. Councilmember V. L. Wiley, Jr. seconded the motion. Councilmember V. L. Wiley, Jr., and Darryl Darnell voted for the motion. Councilmembers Ken Freese, Don Mueller, Domingo Montalvo, Jr., and Bryce D. Kocian voted against the motion. The motion failed. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2003-18, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003 - 18**

A RESOLUTION APPROVING A PROFESSIONAL ENGINEERING SERVICES AGREEMENT WITH JONES & CARTER, INC. FOR ENGINEERING SERVICES RELATED TO WAL-MART STORES, INC. FOR DRAINAGE AND WATER/SEWER SYSTEM IMPROVEMENTS; AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS.

WHEREAS, the Wharton City Council wishes to authorize Mayor Garland S. Novosad to execute a professional engineering services contract between the City of Wharton and Jones & Carter, Inc. for the drainage and water/sewer system improvements related to the Wal-Mart Stores, Inc. project; and

WHEREAS, the City of Wharton and Jones & Carter, Inc. wish to be bound by the conditions as set forth in the attached "A" and is made part of this resolution.

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

Section I. The Wharton City Council hereby authorizes the Mayor Garland S. Novosad to execute a professional engineering services contract between the City of Wharton and Jones & Carter, Inc. for the drainage and water/sewer system improvements related to the Wal-Mart Stores, Inc. project.

Section II. The City of Wharton and Jones & Carter, Inc. 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 10th day of February 2003.

CITY OF WHARTON, TEXAS

By: _____
GARLAND S. NOVOSAD
Mayor

ATTEST:

JOYCE VASUT
City Secretary

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

The twenty-fourth item on the agenda was to review and consider Request by Wharton Economic Development Corporation (WEDCo):

A. **Resolution:** A resolution authorizing an agreement between the City of Wharton and WEDCo for reimbursement to the City for any engineering service, preparation and installation of water, sewer, drainage, site preparation, acquisition of real estate or easements, and for improvements to the property for proposed commercial development at FM 102 and Hwy. 59, as mentioned in the amended 2002 – 2003 budget for infrastructure on this Special Project. City Manager Andres Garza, Jr. presented a draft resolution and agreement to the City Council. City Attorney Paul Webb stated that legal fees would need to be included in the agreement. After some discussion, Councilmember Ken Freese made a motion to approve the Resolution No. 2003-19, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003 - 19**

A RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN THE CITY OF WHARTON AND THE WHARTON ECONOMIC DEVELOPMENT CORPORATION FOR REIMBURSEMENT TO THE CITY FOR ANY ENGINEERING SERVICE, PREPARATION AND INSTALLATION OF WATER, SEWER, DRAINAGE, SITE PREPARATION,

ACQUISITION OF REAL ESTATE OR EASEMENTS, LEGAL FEES, AND FOR IMPROVEMENTS TO THE PROPERTY FOR THE PROPOSED COMMERCIAL DEVELOPMENT AT FM 102 AND U.S. HIGHWAY 59.

WHEREAS, the City of Wharton has undertaken certain utility & drainage improvements for the Special Project located at FM 102 and U.S. Highway 59; and

WHEREAS, the Wharton Economic Development Corporation will reimburse the City of Wharton for all costs associated with engineering services, preparation and installation of water, sewer, drainage, site preparation, acquisition of real estate or easements, legal fees, and for improvements to the property for the proposed commercial property; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute the agreement between the City of Wharton and the Wharton Economic Development Corporation for the certain utility & drainage improvements for the Special Project located at FM 102 and U.S. Highway 59.

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

Section I. The Wharton City Council hereby authorizes the Mayor Garland S. Novosad to execute the agreement between the City of Wharton and the Wharton Economic Development Corporation for the certain utility & drainage improvements for the Special Project located at FM 102 and U.S. Highway 59.

Section II. The City of Wharton and Wharton Economic Development Corporation 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 10th day of February 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.

B. Approve amending the WEDCo 2002 –2003 budget to include Special Project for Infrastructure at FM 102 and Hwy. 59. City Manager Andres Garza, Jr. presented a copy of the WEDCo proposed amendment to the 2002 – 2003 budget to include Special Project for

Infrastructure at FM 102 and Hwy. 59. After some discussion, Councilmember Ken Freese made a motion to approve amending the WEDCo 2002 –2003 budget to include Special Project for Infrastructure at FM 102 and Hwy. 59.

C. Approve the use of WEDCo existing funds, not to exceed \$250,000 for any engineering services, acquisition of real estate or easements and associated cost with this Special Project. City Manager Andres Garza, Jr. informed the City Council that WEDCo was requesting City Council approval to use existing funds not to exceed \$250,000 for any engineering services, acquisition of real estate or easements and associated cost for the Special Project. After some discussion, Councilmember Ken Freese made a motion to approve the use of WEDCo existing funds, not to exceed \$250,000 for any engineering services, acquisition of real estate or easements and associated cost with this Special Project. Councilmember Don Mueller seconded the motion. All voted in favor.

D. Approve WEDCo funding through various sources, including buy not limited to, Banks and Issuance of Long Term Obligations for the Special Project of infrastructure at FM 102 and Hwy. 59 and assist in all public notices or resolutions acquired. City Manager Andres Garza, Jr. informed the City Council that WEDCo was requesting City Council approval to use funding through various sources, including by not limited to Banks and Issuance of Long Term Obligations for the Special Project. He then presented a copy of the WEDCo Resolution No. 2003-01 expressing intent to finance expenditures to be incurred and also a copy of a Notice of Intention to issue revenue bonds. After some discussion, Councilmember Ken Freese made a motion to approve WEDCo funding through various sources, including buy not limited to, Banks and Issuance of Long Term Obligations for the Special Project of infrastructure at FM 102 and Hwy. 59 and assist in all public notices or resolutions acquired. Councilmember Don Mueller seconded the motion. All voted in favor.

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

A. Wharton Economic Development Corporation meetings held January 21, 2003 and February 3, 2003.

B. Wharton Regional Airport Board meeting held February 4, 2003.

City Manager Andres Garza, Jr. presented the reports to the City Council. After some discussion, Councilmember Don Mueller made a motion to approve the reports as presented. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The twenty-sixth item on the agenda was to review and consider an ordinance calling for a Regular City Officers Election and a Special Charter Amendment Election, Providing for the Date, Time, and Place of the Election, the Appointment of Election Officers and Clerks, Early Voting, Notice of Election, Drawing for Ballot Positions, Filing Applications, and Making Election Returns. City Manager Andres Garza, Jr. presented a draft ordinance calling for a City Officers and Charter Amendment Election, Providing for the Date, Time, and Place of the Election, the Appointment of Election Officers and Clerks, Early Voting, Notice of Election, Drawing for Ballot Positions, Filing Applications, and Making Election Returns. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Ordinance No. 2003-03, which read as follows:

ORDINANCE NO. 2003-03

AN ORDINANCE CALLING FOR A REGULAR CITY OFFICERS ELECTION AND A SPECIAL CHARTER AMENDMENT ELECTION, PROVIDING FOR THE DATE, TIME, AND PLACE OF THE ELECTION, THE APPOINTMENT OF ELECTION OFFICERS AND CLERKS, EARLY VOTING, NOTICE OF THE ELECTION, DRAWING FOR BALLOT POSITIONS, FILING APPLICATIONS, AND MAKING ELECTION RETURNS.

BE IT ORDAINED by the City Council of the City of Wharton, Texas:

Date and Position

An Regular Election shall be held in the City of Wharton, Texas on **May 3, 2003**, for the purpose of electing the following officials for the City:

Councilmember - District No. 1
Councilmember - District No. 3
Councilmember at Large - Place No. 5

A Special Election shall also be held for the purpose of voting on the following charter amendments proposed by City of Wharton Ordinance No. 2003-01

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.)

2. 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.)

Location

The election shall be held at the City of Wharton Civic Center at 1924 North Fulton Street, Wharton, Texas.

Time

The polls shall open for voting at **7 a.m.** and shall close at **7 p.m.**

Election Officers

The following-named persons are appointed officers for the election:

Presiding Judge: Loretta Craft
Alternate Presiding Judge: Henry Thiele

The presiding judge shall appoint not more than 12 clerks to assist her.

Ballots

Paper ballots shall be used for voting on election day and for early voting by personal appearance and by mail in each of the elections.

Early Voting

The Deputy City Secretary is appointed early voting clerk and the Deputy City Secretary is authorized to appoint by written order one or more temporary deputies to serve as early voting clerks.

The early voting by personal appearance for the above-designated election shall take place at the Wharton Community/Civic Center at 1924 North Fulton Street, Wharton, Texas. The place for early voting shall remain open on each day that is not a Saturday, Sunday, or an official state holiday, between the hours of **8 a.m.** and **5 p.m.**, those days and hours being the days and hours that the City Secretary's main office is open for business, beginning on **April 16, 2003** and continuing through **April 29, 2003**.

An Early Voting Ballot Board is hereby established for the purpose of early voting results. Loretta Craft is appointed the Presiding Judge of the Early Voting Ballot Board. The Presiding Judge shall appoint not less than two (2) nor more than four (4) resident qualified voters of the City to serve as members of the Early Voting Ballot Board. The Deputy City Secretary shall act as Early Voting Ballot Board Clerk.

Voters may send ballot applications and mailed ballots to the City Secretary's office at 120 East Caney, Wharton, Texas 77488.

Compensation for Election Officials and Clerks

The election officials and clerks shall be compensated in the following manner:

The Election Judge for the May 3, 2003 General Election shall be paid \$6.00 per hour. The Election Judge shall also be paid \$25.00 for delivering the precinct records, keys to ballot box or other election equipment and unused election supplies after the election.

The Early Voting Ballot Board Presiding Judge for the May 3, 2003 General Election shall not be paid.

The members of the Early Voting Ballot Board for the May 3, 2003 General Election shall not be paid.

The Early Voting Ballot Board Clerk for the May 3, 2003 General Election shall not be paid.

The Election Clerk(s) for the May 3, 2003 General Election shall be paid \$6.00 per hour.

The Deputy City Secretary shall, in accordance with the terms and provisions of the Texas Election Code, order the candidate names to be printed on the ballots for said General Election.

Eligibility to Vote

The election shall be held in accordance with the Election Code of the State of Texas. Only qualified resident voters of the City of Wharton, Texas shall be eligible to vote in the election.

Notice of City Officers' Election

The Mayor shall cause a notice by publication of this election to be published at least once in a newspaper that is published in the City of Wharton, Texas and that is in the jurisdiction of the City of Wharton, Texas, which publication shall be not earlier than the **30th day** nor later than the **10th day** before election day.

The Mayor shall also give notice of the election by causing a copy of the notice of election to be posted not later than the **21st day** before election day on the bulletin board located at the City Hall, 120 East Caney, Wharton, Texas and used for posting notices of meetings of the Wharton City Council. The notice shall include the location of the polling place.

Notice of Charter Amendment Election

The Mayor shall give notice of the election of the submission of the charter amendments by publishing these proposed amendments in a newspaper of general circulation published in the City of Wharton, Texas. This notice shall include a substantial copy of the proposed amendments and shall be published on the same day in each of two successive weeks, with the first publication occurring before the **14th day** before the date of the election.

Returns

Immediately after the election, the officers holding the election shall make returns of the results thereof to the Mayor of this City, as required by the Election Code of the State of Texas.

Writ of Election

A copy of this ordinance shall also serve as a writ of election, which shall be delivered to the above-appointed presiding judge for the election not later than the **15th day** before election day or the **7th day** after the date the election is ordered, whichever is later.

Filing

Candidates must file applications for a place on the ballot with the City Secretary of the City of Wharton, Texas beginning on **February 17, 2003** and continuing through **5 p.m.** on **March 19, 2003**. A declaration of write-in candidacy must be filed not later than 5:00 P.M. on **March 24, 2003**, the 5th day after an application for a place on the ballot is required to be filed.

Candidates for City Councilmember must designate the position filed for, either Councilmember - District No. 1, Councilmember - District No .3, or Councilmember at Large - Place No.5.

Ballot Positions

On **March 24, 2003 at 10:00 a.m.**, a drawing will take place in the office of the City Secretary for the purpose of determining the order of the candidates' names as they are to appear on the ballot.

The Deputy City Secretary shall post in her office a notice of the date, hour, and place of the drawing and this notice shall remain posted continuously for at least 72 hours immediately preceding the scheduled time of the drawing.

Order

The City Council of the City of Wharton, Texas shall order the election, in accordance with the foregoing provisions.

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, on this **10th** day of **February, 2003**.

ATTEST:

CITY OF WHARTON, TEXAS

Joyce Vasut
City Secretary

By: _____
Garland S. Novosad
Mayor

APPROVED AS:

Paul Webb
City Attorney

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

The twenty-seventh 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 8:40 p.m.

CITY OF WHARTON, TEXAS

By:

GARLAND S. NOVOSAD

Mayor

ATTEST:

JOYCE VASUT
City Secretary