

**MINUTES  
OF  
CITY OF WHARTON  
REGULAR CITY COUNCIL MEETING  
FEBRUARY 24, 2003**

Mayor Garland S. Novosad declared a Regular Meeting duly open for the transaction of business at 7:03 p.m. Reverend Eddie Brinkley 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-Jansky, 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, Leroy Barnes, Loretta Craft, Bernice Jackson, Anthony Rachunek, Johnnie Roberts, Eddie Brinkley, Mary Nell Wiley, Ethel Garrett, Walter Garrett, Sylvia Cordero, Kim Lacey, Charlie Mayes, Jr., Collette Jones, Joyce Hodges, Bill Coleman, Wilma White, Bryon Nelson, Arvis Brown, and Shep Poland.

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 Domingo Montalvo, Jr. publicly thanked the congressional staff of Congressman Ron Paul, Eric Rittberg, Jamie Moore, Damon Wells, John Wyatt, Josh Winegarner, Chris Devaney, Mrs. Travis from Congressman Tom Delay's office, and the congressional staff from Congressman Bonilla's office for their efforts in assisting in securing the federal funding for the U.S. Army Corp of Engineers Interim Feasibility Study, which included the Wharton Interim Feasibility Study. No action was taken.

Councilmember V. L. Wiley, Jr. stated that February was Black History Month and recognized Mr. Charlie Mayes, Jr. as the black community leader for the 2003 year. Mayor Garland S. Novosad presented Mr. Charlie Mayes, Jr. with a proclamation, which read as follows:

**WHEREAS,** February has been designated as Black History Month, and will be observed in our community with a series of special presentations and exhibits; and

**WHEREAS,** this observance affords the special opportunity to become more knowledgeable about the black heritage, and to honor the many black leaders who have contributed to the progress of our nation; and

**WHEREAS,** Special Recognition should be extended to Mr. Charlie Mayes, Jr. who graduated from Prairie View A&M University in the field of Agriculture and who is now retired as a Wharton County Agent of Agriculture; and

**WHEREAS,** Mr. Mayes is a life member of the Alumni Association, a life member of the Prairie View Alumni Chapter and Prairie View Athletic Club, a member of NAACP, and a member of the Thompson Chapel Methodist Church; and

**WHEREAS,** Mr. Mayes was born in Hempstead, Texas, and has been a Wharton resident for the past forty-seven years. His wife, Ms. Willie Pearl Mayes, is also a graduate of Prairie View A&M University and is a retired WISD school teacher; and

**WHEREAS,** Mr. Mayes is involved in most civic and social activities in Wharton including the Boys & Girls Club and the Babe Ruth Baseball League.

**NOW, THEREFORE BE IT RESOLVED,** I, Garland S. Novosad, by the authority vested in me as Mayor of the City of Wharton, Texas do hereby proclaim February, 2003 as Black History Month and urge all residents to recognize Mr. Charlie Mayes, Jr. who has contributed to the progress of our City.

**IN WITNESS THEREOF,** I have set my hand and caused the seal of the City of Wharton to be affixed this 24<sup>th</sup> day of February, in the year of our Lord two thousand three A.D.

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Garland S. Novosad, Mayor

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V. L. Wiley, Jr.  
Councilmember, District 1

Charlie Mayes, Jr. publicly thanked the City Council for honoring him during Black History Month. 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 January 2003. Finance Director Joyce Vasut presented the financial report for the month of January 2003, which was at 33% or four months into the fiscal year. Mrs. Vasut stated that the general fund revenues were at 41.71% and the expenditures were at 35.26%. The total ad valorem taxes collected were \$1,288,205.00. The sales tax for the month of January 2003 was \$112,680 with \$75,120 to the City and \$37,560 to WEDCo. The TexPool balance for January 2003 was \$2,012,917.41 with an average monthly yield of 1.3891%. Councilmember Darryl Darnell presented a memorandum to Finance Director Joyce Vasut regarding a request for cell phone usage. Councilmember Ken Freese requested that the item be placed on the Finance Committee meeting. After some discussion, Councilmember Don Mueller made a motion to

approve the financial report for the month of January 2003. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

Councilmember Bryce D. Kocian arrived at 7:18 p.m.

The sixth item on the agenda was to review and consider a resolution approving an application for funding through the Texas Department of Agriculture/Office of Rural Community Affairs Texas Capital Fund Infrastructure Grant Program. City Manager Andres Garza, Jr. presented a draft resolution approving an application for funding through the Texas Department of Agriculture/Office of Rural Community Affairs (ORCA) Texas Capital Fund Infrastructure Grant Program. He stated that on February 20, 2003, the City Staff held the required public meeting to receive public comments on programs administered by ORCA. The application submitted would request funding from the Texas Capital Fund Program for the city's public facilities (water, sewer, and drainage improvements) for the Wal-Mart Project. The application was due March 21, 2003, and the City would anticipate the notice of award around April 30, 2003. The \$1,500,000.00 was the maximum amount the City could apply for under the program. However, the amount would be based on the number of full time equivalent (FTE) jobs that would be created by Wal-Mart. Ms. Kim Lacey of Municipal Development Company, the consultant assisting the City Staff on the application, addressed the City Council and stated that if the grant amount would be reduced then the grant administration fee would also be reduced. She stated that the grant would be based on a point system, which would include unemployment, poverty, economic, less than 3,000 in population, number of jobs created, number of jobs divided by the population of the city, manufacturer, small business, and the number of money contributing to the project. She stated that the grant required 100 jobs and the ratio was 1 job for every \$10,000. After some discussion, Councilmember Don Mueller made a motion to approve Resolution No. 2003-20, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2003-20**

**A RESOLUTION APPROVING AN APPLICATION FOR FUNDING THROUGH THE TEXAS DEPARTMENT OF AGRICULTURE/OFFICE OF RURAL COMMUNITY AFFAIRS TEXAS CAPITAL FUND INFRASTRUCTURE GRANT PROGRAM.**

**BE IT RESOLVED** by the City Council of Wharton, Texas as follows:

**SECTION 1.** The City Council of Wharton, Texas hereby approves an application for up to:

Infrastructure Grant Funds to	
benefit Walmart Stores, Inc.	\$1,430,000.00
Administration Grant	<u>\$ 70,000.00</u>
	\$1,500,000.00

**SECTION 2.** The City of Wharton hereby agrees to comply with all assurances executed in connection with the application and, if funded, the award.

**SECTION 3.** The Mayor is hereby authorized and directed to act on the City's behalf in all matters pertaining to this application.

**SECTION 4.** The City has reviewed and hereby agrees not to participate in program income recapture and will return all program income to the state to be placed in a statewide Revolving Loan Fund to be used by the state to fund future economic development awards. By agreeing to this measure, the City understands that it will be eligible to receive as many Texas Capital Fund awards per program year as it has eligible projects. This determination must be made at the time the original award is made and cannot be changed with subsequent awards for this program year or retroactively in subsequent program years.

**PASSED, APPROVED, AND ADOPTED** at a regular meeting of the Wharton City Council on February 24, 2003 by the following vote:

AYES: Seven      NAYES: Zero      ABSENT: None

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

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

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

The seventh item on the agenda was to review and consider an update on the City of Wharton Notice of Intent to participate in the Division of Emergency Management Hazard Mitigation Grant Buyout Program resulting from Tropical Storm Fay, Disaster Declaration DR-1434 and setting a resident application submittal deadline date. City Manager Andres Garza, Jr. informed the City Council that after submitting the City's Notice of Intent (NOI) on November 14, 2002, the City Staff finally heard from the Texas Department of Emergency Management (DEM) on the application process. On February 18, 2003, a telephone conference was held to inform Cities and Counties about the application process. Mr. Greg Pekar, State Hazard Mitigation Officer informed the City that the application deadline was March 19, 2003. He indicated the acquisition (buyout) of owner-occupied homes was FEMA's number one priority. He stated that the criteria for evaluating the applications would be as follows:

1. Include the number of repetitive losses, or a problem that poses a significant risk if left unresolved.
2. Would not cost more than the anticipated value of the reduction in both direct damages and subsequent negative impacts to the area should future disasters occur.
3. Determined to be the most practical, effective, and environmentally sound alternative after consideration of a range of options.

4. Contributes to the extent practical for long-term solution to the problem it is intended to address.
5. Considers long-term changes to the areas and entities it protects, and contains manageable future maintenance and modification requirements.

City Manager Andres Garza, Jr. stated that the City Staff was requesting City Council approval to publish a public notice informing residents, whose houses were flooded, of the application process and setting a deadline for residents to submit the required Home Acquisition Data Collection Forms. This program is a voluntary program. He then presented a copy of the Notice of Intent submitted by the City to the Division of Emergency Management to participate in the Hazard Mitigation Grant Program for Disaster Declaration DR-1434. Councilmember Don Mueller asked if the appraisal would be done by the Central Appraisal District. City Manager Andres Garza, Jr. stated that the City would have to hire an independent appraiser to conduct appraisals on the properties. He stated that the total amount available from the federal government was \$1.8 million for all the counties that were affected by Tropical Storm Fay. City Manager Andres Garza, Jr. stated that criteria evaluating the applications would need to be established before March 1, 2003 which would allow the City to rank the applications should an abundant number of applications be received. He stated that 140 homes were affected by Tropical Storm Fay. The first priority would be properties that were owner occupied; rental property would be a second priority. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to authorize the acceptance of application from property owners and set March 7, 2003 as the deadline for receiving the Home Acquisition Data Collection Form to the Division of Emergency Management Hazard Mitigation Grant Buyout Program resulting from Tropical Storm Fay. Councilmember Bryce D. Kocian seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider application by MedLife Ambulance for an Ambulance Provider Permit. City Manager Andres Garza, Jr. presented a copy of the Ambulance Provider Permit Application submitted by Medlife Ambulance to provide emergency medical services in the City of Wharton. City Attorney Paul Webb informed the City Council that Deputy City Secretary Lisa Stavena had contacted Allstar National Insurance regarding the certificate of insurance submitted with the application. He stated that the policy covered a warehouse, for a not-for-profit organization. He then stated that MedLife stated that they were BLS/MICU Certified; however, according to the Texas Department of Health, MedLife was BLS Certified. He stated that he would contact Wharton Manor and Texas Department of Health to inform them of this finding. City Manager Andres Garza, Jr. stated that he had spoken to the MedLife Director of Operations, Al Aprea, and he has been made aware of the problems with the certificate of insurance. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to deny the MedLife Ambulance Provider Permit. Councilmember Bryce D. Kocian seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider appointment to the Wharton Regional Airport Board. City Manager Andres Garza, Jr. presented a copy of the email received from Mayor Garland S. Novosad on February 10, 2003 recommending the appointment of Mr. Gary Williams, Chief Financial Officer of Gulf Coast Medical Center as a member of the Wharton Regional Airport Board. After some discussion, Councilmember Ken Freese made a motion to appoint Gary Williams to the Wharton Regional Airport Board for the term ending June 30, 2003. Councilmember Darryl Darnell seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider an ordinance amending the City of Wharton Code of Ordinances, Chapter 82 Traffic, Article IV Parking, Section 82-133, No Parking Zones – Designated Hours. City Manager Andres Garza, Jr. presented a copy of the letter the City received February 10, 2003 from several citizens located on Tennie Street requesting the no parking zone designation be amended. He then presented a draft ordinance amending the City of Wharton Code of Ordinances, Chapter 82 Traffic, Article IV Parking, Section 82-133, No Parking Zones – Designated Hours. Councilmember Ken Freese stated that Duane Eisel, Robin Jaquel, and James Maloy requested the removal of Tennie Street from the list of the streets around the Wharton County Junior College, which includes no parking in order to allow vehicles to park in front of their residence. Councilmember Darryl Darnell stated that the visitors could not park within twenty feet from the curb due to the traffic law. After some discussion, Councilmember Ken Freese made a motion to approve Ordinance No. 2003-04, which read as follows:

**CITY OF WHARTON  
ORDINANCE NO. 2003 - 04**

**AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 82 TRAFFIC, ARTICLE IV PARKING, SECTION 82-133, SAME – DESIGNATED HOURS; ESTABLISHING A PENALTY CLAUSE; PROVIDING FOR SEVERABILITY AND SETTING AN EFFECTIVE DATE.**

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

Chapter 82, Traffic, Article IV – No Parking Zones – Designated Hours, is amended to read as follows:

Sec. 82-133. Same--Designated hours.

The following no parking zones are established in the city during the designated times:

(1) From 7:30 a.m. to 4:00 p.m.:

*Alabama Road*, both sides from FM 1301 to Stadium Street and along the west side of Alabama Road from Stadium Street to Ahldag Avenue.

*Lazy Lane*, both sides, from a distance of 325 feet in a easterly direction of its intersection with North Rusk Street.

*Pioneer Avenue*, both sides, from its intersection with FM 1301 to Ahldag Avenue.

(2) From 7:30 a.m. to 8:30 a.m. and from 3:00 p.m. to 4:00 p.m.:

*Martin Luther King Boulevard*, north side.

(3) From 8:00 a.m. to 4:00 p.m.:

*Frankie Avenue*, one block off Pioneer Avenue.

*Helms Street*, one block off Pioneer Avenue.

*University Avenue*, one block off Pioneer.

- (4) From 8:00 a.m. to 5:00 p.m.:

*Fulton Street*, in the 200 block between the south boundary line and the north boundary line of the New Hope Baptist Church property, Monday through Friday, inclusive, of each week, except vehicles of the city fire department and city ambulance service.

- (5) From 9:00 p.m. to 6:00 a.m.:

*South Wilkes Street*, west side.

- (6) From 6:00 a.m. to 3:00 a.m.:

*Branch Street*, west side, from its intersection with Hendon Street to the south a distance of 300 feet.

*Branch Street*, east side, from its intersection with Canton Street to its intersection with Wilson Street.

### **Penalty Clause**

The maximum fine for violating any ordinance, rule or police regulation that governs fire safety, zoning or public health and sanitation, including dumping of refuse, shall not exceed \$2,000.00; for all other violations, the maximum fine shall not exceed \$500.00. Each day any violation of this Code or of any ordinance shall continue shall constitute a separate offense.

### **Severability**

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 a separate, distinct, and independent provision, and any such ruling shall not affect the validity of the remaining portions hereof.

### **Effective Date**

This ordinance shall be effective on March 7, 2003 at 12:01 a.m.

### **Passage and Approval**

**PASSED AND APPROVED** by the City Council of the City of Wharton, Texas this 24<sup>th</sup> day of February 2003.

**CITY OF WHARTON, TEXAS**

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**GARLAND S. NOVOSAD**  
Mayor

**ATTEST:**

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**JOYCE VASUT**  
City Secretary

**APPROVED AS TO FORM:**

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**PAUL WEBB**  
City Attorney

Published in the Wharton Journal Spectator on Wednesday, February 26, 2003 and Wednesday, March 5, 2003.

Councilmember Darryl Darnell seconded the motion. All voted in favor.

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

- A. Beautification Commission meeting held February 20, 2003.
  - B. Wharton Economic Development Corporation meeting held February 18, 2003.
- City Manager Andres Garza, Jr. presented the reports to the City Council. No action was taken.

The twelfth 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/<br>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 thirteenth 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 7:43 p.m.

**CITY OF WHARTON, TEXAS**

City of Wharton  
Regular City Council Meeting  
February 24, 2003

**By:**

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**GARLAND S. NOVOSAD**  
Mayor

**ATTEST:**

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**JOYCE VASUT**  
City Secretary