

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

Mayor Garland S. Novosad declared a Regular Meeting duly open for the transaction of business at 7:02 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, Assistant to City Manager Jackie Wheeler Jansky, Building Official Ronnie Bollom, Building Official Assistant Lori Jaquez, Public Works Director Phillip Bush, EMS Director John Kowalik, Community Services Director Jo Knezek, Fire Chief David Copeland and City Attorney Paul Webb.

Visitors present were: Ron Sanders Wharton Journal-Spectator, WEDCo Executive Director David Schroeder, I. O. Coleman, Jr., Wayne Adam, Brian Van Horn, Carlos Cotton, Arthur Araguez, Sherman Miller, Paul Shannon, Troy Albright, Phil McElroy, Eddie Brinkley, Byron Nelson, and Edwin Cisneros.

The third item on the agenda was Public Comments. I. O. Coleman addressed the City Council regarding his concerns about the dirt excavation project west of Dawson Elementary School. No action was taken.

The fourth item discussed on the agenda was to review and consider reading of the minutes from the special meeting held February 1, 2003 and the regular meetings held February 10, 2003 and February 24, 2003. After some discussion, Councilmember Bryce D. Kocian made a motion to approve the minutes from the Special Meetings held February 1, 2003 and the Regular meetings held February 10, 2003 and February 24, 2003. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The fifth item discussed on the agenda was Wharton Moment. City Manager Andres Garza, Jr. publicly recognized Police Chief Tim Guin for being selected to attend the FBI National Academy in Quantico, Virginia from April 6, 2003 through June 26, 2003. No action was taken.

Councilmember Bryce D. Kocian publicly recognized the Wharton High School student who placed in artwork competition at the Houston Livestock Show and Rodeo. No action was taken.

The sixth item on the agenda was to review and consider the City of Wharton Land Lease:
A. Bid Tabulation.

B. **Resolution:** A resolution authorizing the Mayor of the City of Wharton to execute a land lease agreement with Colorado Valley Transit, Inc. for the lease of City of Wharton property described as Wharton, Block 32, Lot 12, Corner of Caney and North Cloud Street. City Manager Andres Garza, Jr. presented a copy of the bid tabulation and a draft resolution authorizing the Mayor of the City of Wharton to execute a land lease agreement with Colorado Valley Transit, Inc. for the lease of City of Wharton property described as Wharton, Block 32, Lot 12, Corner of Caney and North Cloud Street to the City Council. Councilmember Bryce D. Kocian asked if the surface of the parking lot would be asphalt or concrete. City Manager Andres Garza, Jr. stated that the surface would be an all-weather surface. After some discussion, Councilmember Don Mueller made a motion to approve Resolution No. 2003-21, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003-21**

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE A LAND LEASE AGREEMENT WITH COLORADO VALLEY TRANSIT, INC. FOR THE LEASE OF CITY OF WHARTON PROPERTY DESCRIBED AS WHARTON, BLOCK 32, LOT 12, CORNER OF CANEY AND NORTH CLOUD STREET.

WHEREAS, the Wharton City Council authorized the leasing of City of Wharton property described as a Wharton, Block 32, Lot 12 in the City of Wharton, Wharton County, Texas; and

WHEREAS, competitive, sealed bids were received on March 3, 2003 for the leasing of City-owned property described as Wharton, Block 32, Lot 12; and

WHEREAS, Colorado Valley Transit, Inc. was deemed to be the best qualified bidder as per bid specifications; and

WHEREAS, the City of Wharton and Colorado Valley Transit, Inc. wishes to be bound by the conditions as set forth in attachment A; and

WHEREAS, this resolution is passed in accordance with said bids.

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

Section I. That Colorado Valley Transit, Inc. is hereby awarded the bid for the land lease for the City of Wharton property described as Wharton, Block 32, Lot 12.

Section II. That the City Council of the City of Wharton hereby authorizes the Mayor of the City of Wharton to execute a land lease agreement with Colorado Valley Transit, Inc. for the lease of City of Wharton property described as Wharton, Block 32, Lot 12.

Section III. That the City of Wharton and Colorado Valley Transit, Inc. are hereby bound by the conditions as set forth in Attached A.

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

Passed, Approved, and Adopted this 10th of March 2003.

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 a resolution of the Wharton City Council approving a Utility Service Agreement between the City of Wharton and Grace Community Fellowship Church; Authorizing the Mayor of the City of Wharton to execute all documents relating to the agreement. City Manager Andres Garza, Jr. presented a copy of the letter dated March 4, 2003 from Mr. Myles Sweeney of Grace Community Fellowship Church requesting to be placed on the City Council agenda for City Council approval of utility services to the proposed church facility. The new facility for Grace Community Fellowship Church would be located outside the City limits off of FM 1301. He then presented a copy of the letter dated February 28, 2003 to Mr. Sweeney providing him with two estimates prepared by Jones & Carter, Inc. for the cost of the installation of the water/sewer service lines. As stated in the letter, the estimated cost for six-inch water and six-inch sewer service line was \$22,000 and the estimated cost for two-inch water and six-inch sewer service lines was \$17,000. The difference in the size of the waterline depends on whether a sprinkler system would be installed in the Church building. He stated that he informed Mr. Sweeney that the Church would be responsible for the cost to install the service lines and that the installation of the water/sewer service lines required City Council approval since the property was outside of the City limits. City Manager Andres Garza, Jr. stated that Mr. Sweeney was requesting the smaller line at the cost of \$17,000. Mayor Garland S. Novosad suggested that the City of Wharton annex the property and recommended a six inch waterline to support the installation of a fire hydrant and future development. City Manager Andres Garza, Jr. informed the City Council that there was a fire hydrant on Greenbriar and that annexing the property would only increase the cost for the Church building in order to meet all City codes. Carlos Cotton addressed the City Council and stated that a six inch water line was not necessary since this was just a service line and not a main line. After some discussion, Councilmember Don Mueller made a motion to approve an agreement with Grace Community Fellowship Church in which the church would pay the City \$17,000 for the installation of a two-inch water line and a six-inch sewer line; however, the City

would install a six-inch water-line for future development with the additional cost being an expense to the City and approving Resolution No. 2003-22, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003-22**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A UTILITY SERVICE AGREEMENT BETWEEN THE CITY OF WHARTON AND GRACE COMMUNITY FELLOWSHIP; AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO THE AGREEMENT.

WHEREAS, the Grace Community Fellowship wishes to be provided City of Wharton utility services to the new church facility to be located outside the City's limit at 1900 East Boling Highway; and

WHEREAS, the City of Wharton and Grace Community Fellowship 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 Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute a Utility Service Agreement with Grace Community Fellowship.

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

Passed, Approved, and Adopted this 10th of March 2003.

CITY OF WHARTON, TEXAS

By: _____
GARLAND S. NOVOSAD
Mayor

ATTEST:

JOYCE VASUT
City Secretary

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

The eighth item on the agenda was to review and consider a resolution authorizing the City of Wharton to accept the 2003 Ford F550 Fire Truck purchased by the Wharton Volunteer Fire Department. City Manager Andres Garza, Jr. informed the City Council that on February 26, 2003, the Wharton Volunteer Fire Department purchased a new 2003 Ford F550 Fire Truck from

Don Elliott Ford in the amount of \$31,705.50. He stated that the Fire Department would like to donate the fire truck to the City of Wharton and was requesting City Council approval of the donation. He then presented a draft resolution authorizing the City of Wharton to accept the 2003 Ford F550 purchased by the Wharton Volunteer Fire Department. Fire Chief David Copeland addressed the City Council and stated that the Wharton Volunteer Fire Department replaced the brush truck, which would become a utility truck for the department. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2003-23, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003-23**

**A RESOLUTION AUTHORIZING THE CITY OF WHARTON TO ACCEPT
THE 2003 FORD F550 PURCHASED BY THE WHARTON VOLUNTEER
FIRE DEPARTMENT ASSOCIATION.**

WHEREAS, Wharton Volunteer Fire Department Association purchased a 2003 Ford F550 on February 26, 2003 from Don Elliott Ford for the amount of \$31,705.50; and

WHEREAS, the City of Wharton hereby accepts the donation of the 2003 Ford F550 from the Wharton Volunteer Fire Department Association; and

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

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

Section I. That the City Council hereby accepts the 2003 Ford F550 purchased by the Wharton Volunteer Fire Department Association.

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

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

CITY OF WHARTON, TEXAS

By:

GARLAND S. NOVOSAD
Mayor

ATTEST:

JOYCE VASUT
City Secretary

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

The ninth item discussed on the agenda was to review and consider the purchase of vehicles for the Wharton Volunteer Fire Department. City Manager Andres Garza, Jr. presented a copy of the email dated March 7, 2003 from Councilmember Darryl Darnell requesting the purchase of vehicles for the Fire Department be placed on the agenda for City Council consideration. He also presented a memorandum from Fire Chief David Copeland which stated that the original request from the department was for four SUV's and another memorandum from Fire Chief David Copeland which stated that the vehicles being replaced by the Police Department could be utilized by the Fire Department to meet the needs of replacing the Fire Inspector's vehicle. Fire Chief David Copeland addressed the City Council and stated that the original request for four SUV's was more than the Department needed; however, to settle for one vehicle from the Police Department was not enough to meet their needs. After some discussion, Councilmember Darryl Darnell made a motion to go out for bids on two SUV's and include the other two in next years budget. Councilmember V. L. Wiley, Jr. seconded the motion. Councilmembers V. L. Wiley, Jr. and Darryl Darnell and Mayor Novosad voted for the motion. Councilmembers Ken Freese, Don Mueller, Domingo Montalvo, Jr., and Bryce D. Kocian voted against the motion. The motion failed.

Councilmember Domingo Montalvo, Jr. stated that the purchase of the SUV's would not be cost effective. Councilmember Darryl Darnell stated that during the Budget process, he had rated the SUV's a low priority, however after observing what equipment was needed by the first responders; he felt that SUV's were needed. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the Fire Chief David Copeland's recommendation to replace the fire inspector's vehicle with a police department vehicle, and continue using the Chevrolet Impala for an additional year. Councilmember Don Mueller seconded the motion. All voted in favor.

The tenth item discussed on the agenda was to review and consider the City Council authorization for car allowances for the Wharton Volunteer Fire Department Assistant Fire Chiefs. City Manager Andres Garza, Jr. presented a copy of the memorandum dated February 28, 2003 from Fire Chief David Copeland regarding the Fire Department Vehicles. He stated the memorandum was presented to the City Council Finance Committee during the meeting held Monday, March 3, 2003. Chief Copeland stated in his memo that he recommended that the two Fire Chief Assistant's receive a \$100.00 per month car allowance for the use of their personal vehicles. Mr. Garza stated that he concurred with Chief Copeland's recommendation. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to authorize the car allowance of \$100.00 per month to the Wharton Volunteer Fire Department Assistance Fire Chiefs. Councilmember Don Mueller seconded the motion. Councilmembers Ken Freese, Don Mueller, Domingo Montalvo, Jr., and Bryce D. Kocian voted for the motion. Councilmembers Darryl Darnell and V.L. Wiley, Jr. voted against the motion. The motion passed.

The eleventh item discussed on the agenda was to review and consider City of Wharton Civic Center Restroom Project:

A. Pay Estimate No. 1 – Eldridge Air Conditioning & Heating, Inc.

B. Pay Estimate No. 1 – Rath Plumbing Company.

City Manager Andres Garza, Jr. presented a copy of the letter the City received March 4, 2003 from Mr. Barnaby Evans of Fatter & Evans approving the pay requests submitted by Eldridge Air Conditioning in the amount of \$11,873.23 and Rath Plumbing Company in the amount of

\$3,750.00 for the Civic Center Restroom Renovation Project. After some discussion, Councilmember Bryce D. Kocian made a motion to approve Pay Estimate No. 1 to Eldridge Air Conditioning & Heating, Inc. in the amount of \$11,873.23 and Rath Plumbing Company in the amount of \$3,750.00. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The twelfth item on the agenda was to review and consider the application by Quality Elite for an Ambulance Provider Permit. City Manager Andres Garza, Jr. presented a copy of the Ambulance Provider Permit Application submitted by Quality Elite to provide emergency medical services in the City of Wharton to the City Council. Mr. Garza also stated that City staff and City Attorney Paul Webb had reviewed all areas of the application and found no deficiencies. Councilmember V. L. Wiley, Jr. questioned the City's need for another ambulance provider. EMS Director John Kowalik stated that the EMS Department was understaffed and on occasion was not able to make transfers. After some discussion, Councilmember Don Mueller made a motion to approve the application by Quality Elite for an Ambulance Provider Permit. Councilmember Ken Freese seconded the motion. All voted in favor.

The thirteenth item discussed on the agenda was to review and consider Planning Commission Recommendations:

A. Request by Ms. Annie Lee Roberts for a rear setback variance for the construction of a new home under the City of Wharton HOME Program. City Manager Andres Garza, Jr. presented a copy of the memorandum of recommendation dated March 6, 2003 from Planning Commission Co-Chairman Mike Wootton and a copy of the Planning Commission Board Communications and stated that the Planning Commission voted to recommend City Council consideration for approval. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the request by Ms. Annie Lee Roberts for a rear setback variance for the construction of a new home under the City of Wharton HOME Program. Councilmember Bryce D. Kocian seconded the motion. All voted in favor.

B. Request by Mr. Robert Lowdermilk for a side street setback variance for the installation of a 15 feet x 16 feet carport. City Manager Andres Garza, Jr. presented a copy of the memorandum of recommendation dated March 6, 2003 from Planning Commission Co-Chairman Mike Wootton and a copy of the Planning Commission Board Communications and stated that the Planning Commission voted to recommend City Council consideration for approval. Building Official Ronnie Bollom stated that the carport would be constructed in front of the garage. After some discussion, Councilmember Don Mueller made a motion to approve the request by Mr. Robert Lowdermilk for a side street setback variance for the installation of a 15 feet x 16 feet carport. Councilmember Bryce D. Kocian seconded the motion. All voted in favor.

The fourteenth item discussed on the agenda was to review and consider request by Councilmember V. L. Wiley, Jr. to discuss City of Wharton Code of Ordinances Chapter 18 Building and Construction. City Manager Andres Garza, Jr. presented a copy of the memorandum dated March 7, 2003 from Councilmember V. L. Wiley, Jr. requesting the City of Wharton Code of Ordinances Chapter 18 Buildings and Construction be placed on the agenda for discussion. He then presented a copy of the construction and electrical codes as adopted by the City of Wharton. Councilmember V. L. Wiley, Jr. stated that some citizens were having a hard time finding an electrician in the City of Wharton. He also stated that when Mr. Bill Coleman

hired an electrician without a license and he was taken to Municipal Court and treated unfairly. Mr. Eddie Brinkley addressed the City Council and stated that an electrician would be easier to find for bigger jobs but there were problems getting electricians to do the smaller jobs. Wayne Adam, Chairman of the Electrical Board, addressed the City Council and stated that every electrician knows that he must be licensed, even if the homeowner was not aware of this requirement. He stated that the Electrical Board adopted the SBCCI testing requirement years ago and that most cities have such requirements. After some discussion, no action was taken.

The fifteenth item discussed on the agenda was to review and consider the report regarding the City of Wharton Resolution No. 2001-67 Racial Profiling Policy. City Manager Andres Garza, Jr. presented a copy of the report provided by Police Chief Tim Guin pursuant to the City of Wharton Resolution No. 2001-67 regarding the Racial Profiling Policy adopted December 10, 2001 by the Wharton City Council. After some discussion, Councilmember Bryce D. Kocian made a motion to accept the report regarding the City of Wharton Resolution No. 2001-67 Racial Profiling Policy. Councilmember Darryl Darnell seconded the motion. All voted in favor.

The sixteenth discussed item on the agenda was to review and consider Wastewater Treatment Plant No. 2 Improvement Project – Addition of a force main to the Project. City Manager Andres Garza, Jr. stated that the City Council Finance Committee met March 3, 2003 and discussed the addition of the force main to the Wastewater Treatment Plant No. 2 Improvement Project. He stated the Finance Committee voted to authorize the City Staff to proceed with the addition of force main from the Milam Street Lift Station to the sanitary trunk line feeding into the Wastewater Treatment Plant No. 2. The addition of the force main would allow more wastewater to be directed to plant 2; therefore, decreasing the flow of wastewater to the Wastewater Treatment Plant No. 1, which was nearing 75% capacity. The estimated cost for the project was \$225,000. He presented a copy of the letter dated March 4, 2003 which Mr. Carlos Cotton, P.E. of Jones & Carter, Inc. submitted on behalf of the City of Wharton to Mr. Wade Herpin, of the U.S. Department of Commerce Economic Development Administration (EDA) regarding the addition of a force main to the Wastewater Treatment Plant No. 2 Improvement Project. He then presented a copy of the letter dated March 4, 2003 from Mr. Pedro Garza, Regional Director of EDA approving the addition to the project. He stated that the City Staff was currently seeking approval from the Texas Capital Fund for inclusion in the project. After some discussion, Councilmember Don Mueller made a motion to approve the Wastewater Treatment Plant No. 2 Improvement Project – Addition of a force main to the Project. Councilmember Bryce D. Kocian seconded the motion. All voted in favor.

The seventeenth item discussed on the agenda was to review and consider recommendation from the City Council Streets & Drainage Committee:

A. Texas Department of Transportation – 2003 Transportation Improvement Plan.

City Manager Andres Garza, Jr. stated that on Tuesday, March 4, 2003, the Texas Department of Transportation (TxDOT) held a meeting in Bay City, Texas regarding the future planning of highways for Matagorda and Wharton Counties. He presented a copy of the information provided regarding TxDOT's 2003 Transportation Improvement Plan. He then presented a copy of the letter dated March 1, 2001 the City of Wharton submitted to TxDOT regarding the City's long and short range transportation priorities. After some discussion, Councilmember Don Mueller made a motion to approve the submission of a letter to the TxDOT with the City's priorities as follows:

Short Range 1 – 3 Year Priorities

- Priority #1- Improve the interchange at FM 102 and Hwy. 59 to interstate standards within the existing right-of-way.
- Priority #2- Widening of Richmond Road to five lanes from Joan Street to Jones Street.
- Priority #3- Realignment of Halford Road for a perpendicular intersection at Hwy. 59.
- Priority #4- Widen with curb and gutter East Milam from Moutrey Street to City Limits.
- Priority #5- Curb and gutter FM 3012 (Old Lane City Road) from Hwy. 60 to City Limits.

Long Range 4 Years and Beyond Priorities

- Priority #1- Routing of Hwy. 60 through the Sante Fe Railroad right-of-way to FM 102 and on to Hwy. 59.
- Priority #2 - East Loop around City from Hwy. 60 to Highway 59 North.
- Priority #3 – Extension of FM 1301 to Hwy. 59 and on to Owens Road.

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

B. Downtown Sidewalk Accessibility Improvements. City Manager Andres Garza, Jr. stated that the City Council Streets and Drainage Committee had met Monday, March 10, 2003. Councilmember Darryl Darnell stated that the downtown sidewalks should be addressed with the Historical Commission. Mayor Garland S. Novosad asked if this would be a cost for Wharton County. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to request an engineering proposal to work on the downtown sidewalk accessibility improvements. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

C. 2003 Street Improvement Program. City Manager Andres Garza, Jr. stated that the City Council Streets and Drainage Committee had decided to meet again to develop a recommendation for City Council. No action was taken.

The eighteenth item discussed on the agenda was to review and consider request for travel reimbursement for City Manager. City Manager Andres Garza, Jr. presented a copy of the travel reimbursement request. After some discussion, Councilmember Bryce D. Kocian made a motion to approve the travel reimbursement for City Manager Andres Garza, Jr. for the period February 11, 2003 through March 6, 2003 in the amount of \$361.61. Councilmember Don Mueller seconded the motion. All voted in favor.

The nineteenth item discussed on the agenda was the Houston-Galveston Area Council 2003 General Assembly Meeting, March 21, 2003. City Manager Andres Garza, Jr. presented a copy of the invitation that was sent to the Mayor and City Councilmembers from the Houston-Galveston Area Council for the 2003 H-GAC General Assembly Meeting to be held March 21, 2003 to the City Council. He stated that City Council approval to attend the meeting was required. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the attendance of any City Councilmember to the Houston-Galveston Area Council 2003 General Assembly Meeting to be held on March 21, 2003 in Houston. Councilmember Bryce D. Kocian seconded the motion. All voted in favor.

The twentieth item discussed on the agenda was review and consider City Council, Committee, Commissions, and Boards Reports:

- A. Building Standards Commission meeting held February 20, 2003.
 - B. Mayor's Local Committee on People with Disabilities held February 27, 2003.
 - C. Planning Commission meeting held March 3, 2003.
 - D. Finance Committee meeting held March 3, 2003.
 - E. Youth Advisory Commission meeting held March 3, 2003.
 - F. Wharton Regional Airport Board meeting held March 4, 2003.
 - G. City Council Streets & Drainage Committee.
- City Manager Andres Garza, Jr. presented the reports to the City Council. No action was taken.

The twenty-first item discussed on the agenda was to review and consider recommendation from the Mayor's Local Committee on People with Disabilities:

- A. Businesses in the City of Wharton that need help to comply ADA and the consequences if a business does not respond.
 - B. Swimming pool.
- Mayor Garland S. Novosad stated that the Mayor's Local Committee on People with Disabilities was concerned with the businesses in the City of Wharton not complying with the ADA requirements and that the City needed to address the covering of the City swimming pool. No action was taken.

The twenty-second item discussed on the agenda was Executive Session: City Council may adjourn into an Executive Session in accordance with Section 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 Economic Development Project – Wal-Mart – FM 102 & Hwy. 59. Mayor Garland S. Novosad adjourned the City Council into Executive Session at 8:47 p.m. Mayor Garland S. Novosad returned the City Council to Open Session at 9:26 p.m.

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

- A. **Review & Consider:** Economic Development Project – Wal-Mart – FM 102 & Hwy. 59. No action was taken.

The twenty-fourth item discussed on the agenda was to review and consider Wal-Mart Project:

- A. **Resolution:** Resolution authorizing the designation of funds for water, sewer, and drainage improvements for the Wal-Mart Stores Texas L.P. Project located at FM 102 and Highway 59.
 - B. Utility Construction Agreement Amendment.
- City Manager Andres Garza, Jr. presented a resolution authorizing the designation of funds for water, sewer, and drainage improvements for the Wal-Mart Stores Texas L.P. Project located at FM 102 and Highway 59 and the utility construction agreement amendment to the City Council. After some discussion, Mayor Garland S. Novosad made a motion to approve Resolution No. 2003-24, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003- 24**

**A RESOLUTION AUTHORIZING THE DESIGNATION OF FUNDS FOR WATER,
SEWER AND DRAINAGE IMPROVEMENTS FOR THE WAL-MART STORES TEXAS
L.P. PROJECT LOCATED AT FM 102 AND HIGHWAY 59.**

WHEREAS, the Wharton City Council entered into an utility construction agreement with Wal-Mart Stores Texas, L.P. for water, sewer and drainage improvements to the site located at FM 102 and Highway 59; and

WHEREAS, the estimated cost for water, sewer and drainage improvements will be approximately \$1,250,000; and

WHEREAS, pursuant to Article III §52a of the Texas Constitution and the enabling legislation found in Chapter 380.001 of the Texas Local Government Code, municipalities are authorized to establish programs to promote local economic development and to stimulate business and commercial activity in the municipalities; and

WHEREAS, the City of Wharton's General and Water/Sewer Funds have unreserved, unencumbered funds available for the afore-mentioned improvements; and

WHEREAS, if the actual cost exceeds the estimated cost of \$1,250,000, the City of Wharton's General and Water/Sewer Funds have unreserved, unencumbered funds available for the additional cost over \$1,250,000; and

WHEREAS, the City of Wharton wishes to designate funds from the City's unreserved, unencumbered fund balances in the General and Water/Sewer Funds for the afore-mentioned improvements.

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

SECTION 1. The Wharton City Council hereby designates funds in the amount of \$1,250,000 from the City's unreserved, unencumbered fund balances in the General and Water/Sewer Funds for the water, sewer and drainage improvements to the site located at FM 102 and Highway 59, located in Wharton, Wharton County, Texas and for the Wharton Wal-Mart Project. These funds shall be placed in a separate account with TexPool and designated Wharton Wal-Mart Project Funds.

SECTION 2. That this resolution shall become effective immediately upon its passage.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the Wharton City Council on March 10, 2003 by the following vote:

Ayes _____

Nayes _____

Absent Nayes _____

CITY OF WHARTON, TEXAS

**By: _____
GARLAND S. NOVOSAD
Mayor**

ATTEST:

JOYCE VASUT

City Secretary

Councilmembers V. L. Wiley, Jr., Darryl Darnell, Ken Freese, Don Mueller, Domingo Montalvo, Jr., and Bryce D. Kocian seconded the motion. All voted in favor.

Mayor Garland S. Novosad made a motion to approve the Utility Construction Amendment.

Councilmembers V. L. Wiley, Jr., Darryl Darnell, Ken Freese, Don Mueller, Domingo Montalvo, Jr., and Bryce D. Kocian seconded the motion. All voted in favor.

The twenty-fifth 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 9:28 p.m.

CITY OF WHARTON, TEXAS

By:

GARLAND S. NOVOSAD

Mayor

ATTEST:

JOYCE VASUT

City Secretary