

**MINUTES
OF
CITY OF WHARTON
SPECIAL CITY COUNCIL MEETING
MARCH 17, 2003, 5:30 p.m.**

Mayor Garland S. Novosad declared a Special Meeting duly open for the transaction of business at 5:31 p.m.

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

Councilmember absent were: Darryl Darnell, and Domingo Montalvo, Jr.

Staff members present were: City Manager Andres Garza, Jr., and Deputy City Secretary Lisa Stavena.

Visitors present were: Ron Sanders-Wharton Journal Spectator, and WEDCo Executive Director David Schroeder.

The second item on the agenda was Roll Call and Excused Absences. Councilmember Don Mueller made a motion to excuse Councilmembers Darryl Darnell and Domingo Montalvo, Jr. from the Special City Council meeting held March 17, 2003. Councilmember Bryce D. Kocian seconded the motion. All voted in favor.

The third item on the agenda was to review and consider a resolution reaffirming the Mayor of the City of Wharton's execution of any and all final documents between the City of Wharton, the Rust Family Individually, The Lloyd G. Rust Family Limited Partnership, and Wal-Mart Stores Texas L.P. City Manager Andres Garza, Jr. informed the City Council that on March 14, 2003, Mayor Garland S. Novosad executed the final documents relating the Wal-Mart Stores Project. He then presented a draft resolution reaffirming the execution of the all final documents between the City of Wharton, the Rust Family Individually, The Lloyd G. Rust Family Limited Partnership, and Wal-Mart Stores Texas L.P. Mayor Garland S. Novosad stated that he spoke to City Attorney Paul Webb which indicated that the documents needed to be listed separately for the City Council to act on. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2003-25, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003 - 25**

A RESOLUTION REAFFIRMING THE MAYOR OF THE CITY OF WHARTON'S EXECUTION OF ANY AND ALL FINAL DOCUMENTS BETWEEN THE CITY OF WHARTON, THE RUST FAMILY INDIVIDUALLY, THE LLOYD G. RUST FAMILY LIMITED PARTNERSHIP, AND WAL-MART STORES TEXAS L.P.

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 having previously approved the documents necessary to accomplish such project; and

WHEREAS, On March 14, 2003, the Mayor of the City of Wharton executed all final documents as follows on behalf of the City of Wharton:

- A. Termination of Drainage (City of Wharton and Rust)
- B. Easement Agreement (City of Wharton and Rust)
- C. Drainage Easements
 - 1. Rust
 - 2. Wal-Mart
- D. Deed of Gift (City of Wharton and Rust)
- E. Utility Construction Agreement (City of Wharton and Wal-Mart)
- F. Letter of Agreement (City of Wharton and Rust); and

WHEREAS, the City of Wharton, the Rust Family individually, the Lloyd G. Rust Family Limited Partnership, and Wal-Mart Stores Texas L.P. wish to be bound by the conditions as set forth in the attached Exhibits "A", "B", "C", "D", and "F" and 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 reaffirms the Mayor Garland S. Novosad's execution of all final documents between the City of Wharton, the Rust Family individually, the Lloyd G. Rust Family Limited Partnership, and Wal-Mart Stores Texas L.P.

Section II. The City of Wharton, the Rust Family individually, the Lloyd G. Rust Family Limited Partnership, and Wal-Mart Stores Texas L.P. are hereby bound by the conditions as set forth in the attached Exhibits "A", "B", "C", "D", and "F".

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

Passed, Approved, and Adopted this 17th day of March 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 fourth item on the agenda was to review and consider a resolution authorizing the submission of application to the Division of Emergency Management for the Hazard Mitigation Grant Program (HMGP), DR-1434, Tropical Storm Fay; and authorizing the Mayor to act as the

City's authorized representative in all matters pertaining to the city's participation in the program. City Manager Andres Garza, Jr. stated that during the regular City Council meeting held February 24, 2003, the City Council authorized the City Staff to accept applications from property owners and set March 7, 2003 as the deadline for receiving the Home Acquisition Data Collection Form for the Division of Emergency Management Hazard Mitigation Grant Buyout Program resulting from Tropical Storm Fay. Applications were received from the following City of Wharton residents:

1. Edward Guajardo, 2821 North Texas Street.
2. Tyler Pate, 2327 Walnut Street.
3. John and Dora Robles, 201 Ahldag Street.
4. Lowe Freitag, 2619 North Abell Street.

He stated that the City Staff was preparing the application to submit to the Division of Emergency Management (DEM). The deadline to submit the application was March 19, 2003. He stated that the City Staff was seeking City Council approval to submit the application listing the four above-mentioned property owners for the buy-out program. He then presented a draft resolution authorizing the submission of the application. City Manager Garza stated that the total project cost would be \$361,000, with \$275,048 being applied from FEMA. He stated the balance of \$91,683 would be sought from the Texas Department of Housing and Community Affairs (TDHCA) – Disaster Relief Fund. He stated that the City of Wharton would need to hire an appraiser to conduct appraisals for each of the properties. He stated if the property owner would be satisfied with the buy out offer then the property would become the City of Wharton's property. He stated that the property values used were the Central Appraisal District's values plus 20 percent. He stated that the four property owners would have the opportunity to withdraw with the buy out program at any time. He stated that the City would not be obligated until the contract was signed. He stated the City Council could decide to continue the buy-out project if the City did not obtain the grant from TDHCA. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2003-26, which read as follows:

**City of Wharton
Resolution No. 2003 - 26**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE STATE OF TEXAS DIVISION OF EMERGENCY MANAGEMENT FOR THE HAZARD MITIGATION GRANT PROGRAM (HMGP) DR-1434, TROPICAL STORM FAY; AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO ACT AS THE CITY'S AUTHORIZED REPRESENTATIVE IN ALL MATTERS PERTAINING TO THE CITY'S PARTICIPATION IN THE HAZARD MITIGATION GRANT PROGRAM.

WHEREAS, the State of Texas Department of Emergency Management has issued a notice of the availability of funding for the acquisition of property made uninhabitable by floods, in areas that had a major disaster declaration under DR-1434; and

WHEREAS, the City of Wharton is eligible to apply for this additional funding provided under the Hazard Mitigation Grant Program (HMGP); and,

WHEREAS, the total project amount for the City of Wharton Hazard Mitigation Grant Program Acquisition (Buyout) Program is estimated at \$366,731.00; and

WHEREAS, the Wharton City Council wishes approve the submission of an application to the State of Texas Division of Emergency Management to apply for the funding under the Hazard Mitigation Grant Program (HMGP) DR-1434, Tropical Storm Fay in the amount of \$275,048.00; and

WHEREAS, the Wharton City Council certifies that the City of Wharton is able to meet the financial obligations of at least 25% of the cost share under this program and more if federal funding is limited; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton to act as the City's authorized representative in all matters pertaining to the City's participation in the Hazard Mitigation Grant Program.

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

Section I. The Wharton City Council hereby authorizes the submission of an application to the State of Texas Division of Emergency Management to apply for the funding under the Hazard Mitigation Grant Program (HMGP) DR-1434, Tropical Storm Fay in the amount of \$275,048.00.

Section II. The Wharton City Council certifies that the City of Wharton is able to meet the financial obligations of at least 25% of the cost share under this program and more if federal funding is limited.

Section II. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to act as the City's authorized representative in all matters pertaining to the City's participation in the Hazard Mitigation Grant Program.

Section III. This resolution becomes effective immediately after its passage.

Passed, Approved and Adopted this 17th day of March 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 fifth item on the agenda was to review and consider the City of Wharton Vahala Water Well Project. Carlos Cotton with Jones & Carter Engineering presented the Vahala Water Well drawing to the City Council. He stated that there was a red clay-like substance on the casting which required additional brushing. Mr. Cotton stated that 10 hours of brushing was included in the bid; however, 20 hours would be needed, costing an additional \$3,843. He also recommended sona jetting at a cost of \$3,450 and additional hours of jetting. He stated that the bottom of the well might need to be plugged, which might lose screening but should not cause any pumping loss. Mr. Carlos Cotton recommended the City Council approve the additional brushing, sona jetting, and plugging of the well totaling \$9,753. After some discussion, Councilmember Don Mueller made a motion to approve additional brushing, sona jetting and plugging of the well, if needed, totaling \$9,753. Councilmember Ken Freese seconded the motion. All voted in favor.

The sixth item on the agenda was adjournment. Councilmember Don Mueller made the motion to adjourn. Councilmember Ken Freese seconded the motion. All voted in favor.

The meeting adjourned at 6:08 p.m.

CITY OF WHARTON, TEXAS

By: _____
GARLAND S. NOVOSAD
Mayor

ATTEST:

JOYCE VASUT
City Secretary