

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
JUNE 9, 2003**

Mayor Garland S. Novosad declared a Regular Meeting duly open for the transaction of business at 7:05 p.m. Councilmember V. L. Wiley, Jr. 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, Public Works Director Phillip Bush, EMS Director John Kowalik, Building Official Ronnie Bollom, Building Official Assistant Lori Jaquez, and Attorney Amy Rodd.

Visitors present were: Ron Sanders Wharton Journal-Spectator, WEDCo Executive Director David Schroeder, Carolyn Hooper, Jerald Coats, Lewis Fortenberry, Corky Altenburg, Waymond Altenburg, Billy Bahnsen, Terry Freese, Bernice Jackson, Byron Nelson, Gary Ward, Jason Ward, I.O. Coleman, Jr., Raymond Fisher, Anopawuia Spinks, James B. Scarlett, Kenneth Johse, Vassar "Skip" Holman, and Anthony Rachunek.

The third item on the agenda was Public Comments. Mayor Garland S. Novosad welcomed Amy Rodd who was filling in for City Attorney Paul Webb. He then addressed the City Council by stepping to the podium and stated that he had good news and really good news. He stated that the City of Wharton received a \$107,000 grant for Emergency Management from H-GAC with the assistance from Emergency Management Coordinator Mr. Kent Hunt and Assistant Emergency Management Coordinator Chester Houston. He publicly commended Mr. Hunt and Mr. Houston for their contribution towards receiving the grant. He stated that he had served the City of Wharton for seventeen years, of which sixteen years without a doubt was the best of his life, even though the City faced challenges. He stated that he hopes that no one would ever question his love for the community or the people. He stated that shortly after his last election Mr. Ron Sanders with Wharton Journal Spectator asked him how he expected to accomplish anything with just three votes. He stated that most of the council's votes were unanimous. Mayor Novosad stated that he was also faced with verbal challenges such as "I'll ruin you in this town, and if you want to play hard ball, you will have to play ball with us." He stated that he witnessed citizens being rallied at City Council Meeting based on half truths or no truth what so ever. He stated that he always took pride in seeking to lead a City that serves its people in a fair and equitable manner. He stated that everyone voiced their opinion. He stated that questions in decent was essential but they were not the same thing as fighting. He stated that now when someone asks questions, they were considered trouble makers causing irreconcilable differences. He stated that the public was begging for peace and felt that he could provide peace for the community. He stated that there was nothing more important than the community, therefore Bryce Kocian you

will find in my chair my resignation letter effective immediately. He stated that he offers his best wishes to this Council, to the many dedicated employees of the City, and all the love for the people in this community. Good evening. Mayor Garland S. Novosad left the meeting, Mayor Pro-Tem Bryce D. Kocian then took the Mayor's seat and conducted the meeting.

Ms. Lisa Stavena addressed the City Council and publicly apologized to the citizens for the technology difficulties with the broadcasting of the City Council Meetings.

Ms. Carolyn Hooper addressed the City Council and stated that she was not before the City Council as a happy citizen. She then publicly apologized to Building Official Ronnie Bollom for making the judgment call for placement of the recreational vehicle on Tennie Street while remodeling of the house she inherited. She publicly stated that City Manager Andres Garza, Jr. was a respectable, kind and honest person, which she appreciated. She stated that Councilmember Ken Freese was not hired by her, that Coastal Banc hired Mr. Freese for the appraisal.

Mr. James B. Scarlett, Jr. addressed the City Council and stated that he was born and raised in Wharton, Texas and the things he has read in the Wharton Journal Spectator disgusted him that he even lives in Wharton. He stated that City Council needed to learn to love one another and continue to do a wonderful job for the community.

Mr. I.O. Coleman, Jr. addressed the City Council and stated that the City Council voted for all the Councilmembers to get along and that had not happened. He asked the City Council to get along.

Ms. Anopawuia Spinks addressed the City Council and stated that she received an invoice for mowing a lot on Mattie Street for \$2,000 for the month of April 2003. She stated that she could not pay the invoice. She requested the City send her a fair invoice. She stated that she wanted to be treated right.

The fourth item on the agenda was Wharton Moment. Councilmember Ken Freese stated that the grounds at City Hall were well kept and publicly commended the Facilities Maintenance Department employees. Councilmember V. L. Wiley, Jr. stated that the Wharton Training High School Alumni would be celebrating Juneteenth on June 13-14, 2003. No action was taken.

The fifth item on the agenda was to review and consider Reading of the minutes from the regular meetings held May 12, 2003 and May 27, 2003 and the special meetings held May 8, 2003 and May 19, 2003. After some discussion, Councilmember Don Mueller made a motion to approve the minutes from the regular meetings held May 12, 2003 and May 27, 2003 and the special meetings held May 8, 2003 and May 19, 2003. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider the Wharton Economic Development Corporation Articles of Incorporation. City Manager Andres Garza, Jr. presented a copy of the letter from Wharton Economic Development Corporation (WEDCo) Executive Director David Schroeder requesting City Council approval of an amendment to WEDCo's Articles of Incorporation, Article XIII, Indemnity of Directors, Officers and Employees. He stated that

these changes were approved by WEDCo's Board of Directors and Attorney-at-Law Larry Wadler on May 27, 2003. He then presented a copy of the current Articles of Incorporation and a copy of the proposed changes to Article XIII for City Council review. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the changes proposed to the Wharton Economic Development Corporation Articles of Incorporation. Councilmember Ken Freese seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider request for payment:

A. City of Wharton Civic Center Restroom Project-Eldridge Air Conditioning & Heating. City Manager Andres Garza, Jr. presented a copy of a letter that the City received June 5, 2003 from Mr. Barnaby Evans of Fatter & Evans Architects, Inc. recommending approval of the pay request submitted by Eldridge Air Conditioning & Heating, Inc. in the amount of \$ 2,374.65 for the Civic Center Restroom Renovation Project. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the City of Wharton Civic Center Restroom Project-Eldridge Air Conditioning & Heating Pay Request in the amount of \$2,374.65. Councilmember Don Mueller seconded the motion. All voted in favor.

B. City of Wharton Vahala Water Well Rework Project-Pay Estimate #2 - Weisinger Water Well, Inc. City Manager Andres Garza, Jr. presented a copy of a letter that the City received June 5, 2003 from Jones and Carter, Inc. recommending approval of pay estimate no. 2 submitted by Weisinger Water Well, Inc. in the amount of \$ 40,393.80 for the Vahala Water Well Rework Project. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the City of Wharton Vahala Water Well Rework Project-Pay Estimate #2 - Weisinger Water Well, Inc. in the amount of \$40,393.80. Councilmember Don Mueller seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider a resolution authorizing the Mayor of the City of Wharton to execute all contracts and agreements with the State of Texas, Texas Department of Transportation Aviation Division for the development of an Airport Action Plan Project for the Wharton Regional Airport; Designating an authorized representative for the project; Designating members of the Consultant Selection Committee; and Approving the Certification of Project Funds. City Manager Andres Garza, Jr. informed the City Council that on December 9, 2002, the City Council authorized the submission of a letter of interest to Texas Department of Transportation (TxDOT) – Aviation Division for an Airport Action Plan. He stated that on May 29, 2003, the City was informed that the City needed to adopt a resolution to proceed with the funding request to the Texas Transportation Commission for approval. He stated that the Wharton Regional Airport Action Plan Project has a total cost of \$50,000 of which 90%, or \$45,000, was funded by the Texas Department of Transportation Aviation Division and the remaining \$5,000 was the City's responsibility, which the project required City Council approval of a Resolution including the following:

1. Authorizing the Mayor of the City of Wharton to execute all contracts and agreements with the State of Texas, Texas Department of Transportation Aviation Division for the development of an Airport Action Plan Project for the Wharton Regional Airport;
2. Designating an authorized representative for the project – the authorized representative being City Manager Andres Garza, Jr.;
3. Designating members of the Consultant Selection Committee – members will need to be appointed for the selection committee; and

4. Approving the Certification of Project Funds – the City’s share of \$5,000 will be funded by the Airport Fund.

After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2003-52, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003 - 52**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE MAYOR PRO-TEM OF THE CITY OF WHARTON TO EXECUTE ALL CONTRACTS AND AGREEMENTS WITH THE STATE OF TEXAS – TEXAS DEPARTMENT OF TRANSPORTATION AVIATION DIVISION FOR THE DEVELOPMENT OF AN AIRPORT ACTION PLAN FOR THE WHARTON REGIONAL AIRPORT; DESIGNATING AN AUTHORIZED REPRESENTATIVE FOR THE PROJECT; DESIGNATING A CONSULTANT SELECTION COMMITTEE FOR THE PROCUREMENT OF ENGINEERING SERVICES; AND APPROVING THE CERTIFICATION OF FUNDS.

WHEREAS, the City of Wharton the City of Wharton intends to develop an Airport Action Plan for the Wharton Regional Airport; and

WHEREAS, the general description of the project is described as: FY 2004 Airport Action Plan Project; and

WHEREAS, the City of Wharton intends to request financial assistance from the Texas Department of Transportation for the project; and

WHEREAS, the total project cost are estimated to be \$50,000, and the City of Wharton will be responsible for 10% of the total project costs currently estimated to be \$5,000; and

WHEREAS, the City of Wharton names the Texas Department of Transportation as its agent for the purposes of applying for, receiving and disbursing all funds for this project and for the administration of contracts necessary for the implementation of this project; and

WHEREAS, the City of Wharton wishes to designate an authorized representative for the project (Exhibit A); and

WHEREAS, the City of Wharton wishes to follow the State of Texas Procurement Process for Professional Services and designate a consultant selection committee for the procurement of engineering services (Exhibit B); and

WHEREAS, the City Council wishes to approve the certification of funds for the project (Exhibit C).

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

Section I: The City Council hereby authorized the Mayor Pro-Tem of the City of Wharton to execute on behalf of the City of Wharton, at the appropriate time, and with the appropriate authorizations of this governing body, all contracts and agreements with the State of Texas, represented by the Texas Department of Transportation, and such other parties as shall be necessary and appropriate for the implementation of this project for the Wharton Regional Airport.

Section II: The City of Wharton hereby designates City Manager Andres Garza, Jr., as the authorized representative for the project (Exhibit A).

Section III: The City of Wharton hereby designates a consultant selection committee for the procurement of engineering services for this project (Exhibit B).

Section IV: The City of Wharton hereby approves certification of funds for the project (Exhibit C)

Section V: This resolution will become effective immediately upon its passage.

Passed, Approved and Adopted this 9th day of June 2003.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor Pro-Tem

Attest:

JOYCE VASUT
City Secretary

EXHIBIT A

DESIGNATION OF SPONSOR'S AUTHORIZED REPRESENTATIVE

The Wharton City Council hereby designates Andres Garza, Jr., City Manager, as the City of Wharton authorized representative for the 0413WHRTN project, who shall have the authority to make approvals and disapprovals as required on behalf of the City of Wharton.

City of Wharton, Texas
(Sponsor)

By: _____

Title: Mayor Pro-Tem

Date: June 10, 2003

DESIGNATED REPRESENTATIVE

Mailing Address: _____

120 East Caney

Wharton, Texas 77488

*Physical/Overnight Address: _____

120 East Caney, Wharton, Texas 77488

Telephone Number: (979)532-2491

Fax Number: (979)532-0181

E-mail Address: citymgr@intertex.net

*ALL GRANT AGREEMENTS ARE SENT BY OVERNIGHT MAIL

EXHIBIT B

**DESIGNATION OF SPONSOR'S
CONSULTANT SELECTION COMMITTEE**

The Wharton City Council hereby designates the following named individuals as the Consultant Selection committee, for 0413WHRTN. The committee is authorized to determine selection criteria, review qualifications and proposals of candidate firms, conduct interviews, if necessary, and select a firm for the award of the design contract, based on a consensus ranking by the committee members. The decision of the selection committee will be final unless some discrepancy is determined to have occurred in the selection process.

| Name | Title (if appropriate): |
|--------------------------|----------------------------------|
| <u>Bryce D. Kocian</u> | <u>Mayor Pro-Tem</u> |
| <u>Garland Mann</u> | <u>Airport Board Chairman</u> |
| <u>Don Mueller</u> | <u>Councilmember District #4</u> |
| <u>Andres Garza, Jr.</u> | <u>City Manager</u> |

Phil Bush Public Works Director

The City of Wharton has caused this to be duly executed in its name, this 9th day of June 2003.

City of Wharton, Texas
(Sponsor)

By: _____

Title: Mayor Pro-Tem

EXHIBIT C

CERTIFICATION OF PROJECT FUNDS

I, Bryce D. Kocian, Mayor Pro-Tem, do certify that sufficient funds to meet the City of Wharton share of project costs as identified for the project and will be available in accordance with the schedule shown below:

SPONSOR FUNDS

| <u>Source</u> | <u>Amount</u> | <u>Date Available</u> |
|-------------------------------------|-------------------|-----------------------|
| <u>City of Wharton Airport Fund</u> | <u>\$5,000.00</u> | <u>June 09, 2003</u> |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

City of Wharton, Texas
(Sponsor)

By: _____

Title: Mayor Pro-Tem

Date: June 10, 2003

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

The ninth item on the agenda was to review and consider a resolution of the Wharton City Council designating a Consultant Selection Committee for the procurement of architectural services for the Southern Pacific Railroad Depot Restoration Project. City Manager Andres Garza, Jr. stated that since the Southern Pacific Railroad Depot Restoration Project was partially funded by grant funds, the Consultant Selection procedures must be followed for selecting an architect for the project. He stated that Mr. Art Dominuques of Tex-Mex informed him that the Tex-Mex Railroad Board would meet in June and would discuss the donation of the building to the City of Wharton. He said that in anticipation of that he was requesting the city proceed with the architect procurement process. He then presented copies of the procedures, as well as a resolution designating the members of the selection committee. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2003-53, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003 - 53**

A RESOLUTION OF THE WHARTON CITY COUNCIL DESIGNATING A CONSULTANT SELECTION COMMITTEE FOR THE PROCUREMENT OF ARCHITECTURAL SERVICES FOR SOUTHERN PACIFIC RAILROAD DEPOT RESTORATION PROJECT.

WHEREAS, the City of Wharton has been awarded grant funds from the Texas Department of Transportation for Southern Pacific Railroad Depot Restoration Project; and

WHEREAS, the City of Wharton wishes to follow the State of Texas Procurement Process for Professional Services; and

WHEREAS, the City Council wishes to designate a consultant selection committee (Attached A) for the procurement of architectural services for Southern Pacific Railroad Depot Restoration Project; and

WHEREAS, the Consultant Selection Committee will recommend an architectural firm to the City Council for consideration; and

WHEREAS, it is the responsibility of the consultant selection committee follow the below listed recommended guidelines (Attached B):

- a. Procurement Provisions for Professional Services,**
- b. The Texas Engineering Practice Act,**
- c. Procurement Standards, Uniform Grant and Contract Management Standards,**
- d. Texas Government Code - Chapter 2254 Professional and Consulting Services, Subchapter A. Professional Services,**
- e. Proposal Rating Sheet for Architectural Services.**

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

Section I: The City Council hereby designates a consultant selection committee for the procurement of architectural services for the Southern Pacific Railroad Depot Restoration Project.

Section II: The City of Wharton hereby accepts the State of Texas Procurement Process procedures for Professional Services (Attached B).

Section III: This resolution will become effective immediately upon its passage.

Passed, Approved and Adopted this 9th day of June 2003.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor Pro-Tem

Attest:

JOYCE VASUT
City Secretary

CITY OF WHARTON

**SOUTHERN PACIFIC RAILROAD DEPOT RESTORATION PROJECT
PROFESSIONAL ARCHITECTURAL SERVICES
TEXAS DEPARTMENT OF TRANSPORTATION**

ATTACHMENT A

The Wharton City Council hereby designates the following named individuals as the Consultant Selection Committee for the Engineering Services for Southern Pacific Railroad Depot Restoration Project:

| Name | Title (if appropriate) |
|-----------------------------|----------------------------------|
| 1. <u>Bryce D. Kocian</u> | <u>Mayor Pro-Tem</u> |
| 2. <u>V. L. Wiley, Jr.</u> | <u>Councilmember District #1</u> |
| 3. <u>Andres Garza, Jr.</u> | <u>City Manager</u> |

4. Merrell "Doc" Barfield Chairman

5. William Loocke Co-Chairman

Executed this 9th day of June 2003 in accordance with Resolution No. 2003 - 53.

CITY OF WHARTON

By: _____

Bryce D. Kocian
Mayor Pro-Tem

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

The tenth item on the agenda was to review and consider the request from Wharton County Junior College for the City of Wharton to assist with some drainage issues. City Manager Andres Garza, Jr. presented a copy of the letter dated May 30, 2003, which was received from Wharton County Junior College (WCJC) Director of Facilities Mike Feyen requesting assistance from the City of Wharton with some drainage issues. Councilmember Darryl Darnell stated that the Wharton County Junior College collects property taxes and it would be inappropriate for the City to spend funds to assist the College. He stated that the College would need to contact the Texas Department of Transportation for assistance. He stated that the City of Wharton should not use the Public Works equipment or personnel. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the assistance from the City of Wharton to the Wharton County Junior College with removing the culverts and cleaning out the ditches, and replacing the concrete culvert on the east side of the Peace building and the street ditch running east and west along Horton Foote Drive. Councilmembers V. L. Wiley, Jr., Ken Freese, Don Mueller, and Domingo Montalvo, Jr. voted for the motion. Councilmember Darryl Darnell voted against the motion. Mayor Pro-Tem Bryce D. Kocian abstained. The motion carried.

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

A. Bid Tabulation:

B. **Resolution:** A resolution awarding a contract for the City of Wharton Emergency Medical Services Ambulance Remount. City Manager Andres Garza, Jr. informed the City Council that the bids for the Ambulance Remount were opened on Monday, June 9, 2003, at 2:00 p.m., which the City received one bid from Frazer, Inc. EMS Director John Kowalik informed the City Council that the City received a grant from the Johnson Foundation for the purchase of an ambulance. He stated that the City received the chassis and then bid the remount. He stated that the bid was lower than the previous remount since the box did not need to be upgraded. After some discussion, Councilmember Don Mueller made a motion to approve Resolution No. 2003-54, which read as follows:

CITY OF WHARTON
RESOLUTION NO. 2003 - 54

A RESOLUTION TO AWARD THE BID FOR AN AMBULANCE REMOUNT.

WHEREAS, competitive, sealed bids were received on June 9, 2003, for an ambulance remount; and

WHEREAS, Frazer Company, Inc. was deemed to be the best and lowest qualified bidder as per bid specifications; 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 Company, Inc. in accordance with bid specifications.
- Section II. Bryce D. Kocian, Mayor Pro-Tem of the City of Wharton is authorized to execute all documents related to remount of an ambulance.
- Section III. The City Manager is hereby authorized to disburse funds from the respective accounts to pay for said remount in the amount of \$36,950.00 to Frazer Company, Inc.
- Section IV. That this resolution shall become effective immediately upon its passage.

Passed, Approved, and Adopted this 9th day of June 2003.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor Pro-Tem

ATTEST:

JOYCE VASUT
City Secretary
Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The twelfth item on the agenda was to review and consider the Appointments to the City of Wharton Boards & Commissions:

- A. Wharton Regional Airport Board.
- B. Beautification Commission.

City Manager Andres Garza, Jr. informed the City Council that Eric Johnson had agreed to serve an additional term on the Wharton Regional Airport Board. He stated that there were two vacant positions on the Beautification Commission and one other member had not decided if he would continue to serve on the Commission. After some discussion, Councilmember Ken Freese made a motion to appoint Eric Johnson to the Wharton Regional Airport Board for the term ending June 30, 2005. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The thirteenth item on the agenda was to review and consider the purchase of a gear drive for the clarifier for Wastewater Treatment Plant No. 1 and declaring an emergency purchase. City Manager Andres Garza, Jr. informed the City Council that on Wednesday, June 4, 2003, the bearings went out on the gear drive on the clarifier at Wastewater Treatment Plant No. 1 making the clarifier inoperable. He said City Staff had located and ordered the needed parts and equipment to repair the problem. He stated that the cost to repair the clarifier was approximately \$12,500. The City Staff wanted to inform the City Council about the problem and the need to declare this an emergency purchase without receiving bids in order to get the clarifier at Wastewater Treatment Plant No. 1 back in working condition as soon as possible. Public Works Director Phillip Bush informed the City Council that Plant Operator C.J. Kearney informed him that the clarifier was not working. He stated that Utilities Superintendent Harold Matula had contacted Anthony Rachunek, PE to request his assistance. He stated that Mr. Rachunek called the company for cost of repairs and for cost for a new gear box. He stated that the cost of the new gear box was \$26,000, however the cost of repairs was \$12,500. He stated that the parts were ordered for repairs, which arrived on Saturday and in operation on Sunday. He stated that the City employees repaired the equipment. Councilmember Don Mueller asked Mr. Rachunek if he had an invoice. Mr. Rachunek stated that the City would be receiving an invoice for the services rendered. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the purchase of a gear drive for the clarifier for Wastewater Treatment Plant No. 1 and declaring an emergency purchase. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

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

A. Wharton Economic Development Corporation meeting held May 27, 2003.
City Manager Andres Garza, Jr. presented the report to the City Council. No action was taken.

The fifteenth item on the agenda was adjournment. 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 7:54 p.m.

CITY OF WHARTON, TEXAS

By:

BRYCE D. KOCIAN
Mayor Pro-Tem

ATTEST:

JOYCE VASUT
City Secretary