

**MINUTES  
OF  
CITY OF WHARTON  
REGULAR CITY COUNCIL MEETING  
February 27, 2012**

Mayor Pro-Tem Don Muller declared a Regular Meeting duly open for the transaction of business at 7:00 P.M. Councilmember Karen Schulz led the opening devotion and led the pledge of allegiance.

Councilmember's present were: Mayor Pro Tem Don Mueller, Councilmembers Al Bryant, Jeff Gubbels, Terry David Lynch, Russell Machann, and Karen Schulz.

Councilmember absent was: Mayor Domingo Montalvo, Jr.,

Staff members present were: City Manager Andres Garza, Jr., Finance Director Joan Andel, City Secretary Paula Favors, Assistant to City Manager Jackie Jansky, Public Works Director Carter Miska, P.E., Police Chief Tim Guin, Building Official Ronnie Bollom, Fire Inspector Todd Johse, and City Attorney Paul Webb.

Visitors present were: David Schroeder, Executive Director of Wharton Economic Development Corporation, Keith Magee with Wharton Journal Spectator, I.O. Coleman, Jr., Ray Linseisen, Carlos Cotton, P.E. with Jones and Carter, Inc., Bobby Harris, Manager of K-Bob's Steakhouse, and Phyllis B. Sliva with the Boys and Girls Club of Wharton; Alfred V. and Olga Jiminez.

The second item on the agenda was Roll Call and Excuses Absences. No action was taken.

The third item on the agenda was Public Comments. No comments were made.

The fourth item discussed on the agenda was Wharton Moment. Councilmember Al Bryant reported on the Texas Municipal League Elected Officials' Conference held on Friday, February 17, 2012 through Sunday, February 19, 2012 in San Antonio, Texas. Councilmember Bryant stated it was a great seminar that was very informative.

The fifth item discussed on the agenda was to review and consider the City of Wharton Financial Report for the month of January 2012. Finance Director Joan Andel presented the financial report for the month of January 2012. Mrs. Andel stated that the total ad valorem taxes collected were \$432,589.41 and the sales tax for the month of January 2012 was \$96,309.72. She further stated that the TexPool balance for January was \$170,021.27 with an average monthly yield of 0.09%. She said the Prosperity Bank balance for January 2012 was \$6,226,530.07 with an average monthly yield of 0.15%. Mrs. Andel further stated that other investments included \$2,665.09 at TexasGulf Federal Credit Union in the debt fund, and \$256,236.49 at Capital One Marketing. After some discussion, Councilmember Terry David Lynch moved to approve the

City of Wharton Financial Report for the month of January 2012. Councilmember Al Bryant seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider a request by Mr. John W. Williams; Director of There is Victory in Jesus Recovery Center, Inc., 218 North Houston Street, Wharton, Texas, for City Council approval of a temporary certificate of occupancy according to the 2006 International Building Code. City Manager Andres Garza, Jr. presented a copy of the letter dated February 27, 2012 from Mr. Vincent Huerta, Owner of the building located at 218 North Houston Street. Mr. Williams stated that the City of Wharton was added to their insurance policy for the amount of one million dollars. City Attorney Paul Webb stated that the building owner, Mr. Vincent Huerta, would also need to add the City of Wharton to his liability policy, for the amount of, one million dollars. Fire Inspector Todd Johse stated that the concern was the sprinkler system which was not functioning. Mr. Williams stated the sprinkler system would be repaired in March 2012. Councilmember Karen Schulz made the motion to approve the request of a temporary certificate of occupancy, contingent on the City being added to the property owners liability policy, and the sprinkler system being repaired in March 2012 and set a 90 day time limit. Councilmember Jeff Gubbels seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider the Planning Commission Recommendation for City Council approval of the following:

- A. Request by Mr. and Mrs. Alfred Vince Jimenez, property owners, for an eleven feet (11') front yard setback variance to construct a 10'0" x 20'0" porch fourteen feet (14') from the front property line located at 213 W. Belle Ave.; Ahldag, Block 2, Lot 23.

Assistant to City Manager Jackie Jansky stated that the Planning Commission met on Monday, February 20, 2012 and considered the request by Mr. and Mrs. Alfred Vince Jimenez, property owners, for an eleven feet (11') front yard setback variance to construct a 10'0" x 20'0" porch fourteen feet (14') from the front property line located at 213 W. Belle Ave.; Ahldag, Block 2, Lot 23. Mrs. Jansky presented a copy of the City of Wharton Planning Commission communications, which included a copy of the Application for Variance submitted by Mr. and Mrs. Jimenez, who were wishing to demolish the existing carport and construct the front porch. She also presented copies of photographs of the home and of the homes in the near vicinity that have similar porches and a copy of the statements provided by the adjacent property owners indicating that they did not oppose the construction of the front porch. She stated that the addition of the front porch and the removal of the carport would improve the aesthetics of the neighborhood. After some discussion, Councilmember Terry David Lynch moved to approve the request by Mr. and Mrs. Alfred Vince Jimenez, property owners, for an eleven feet (11') front yard setback variance to construct a 10'0" x 20'0" porch fourteen feet (14') from the front property line located at 213 W. Belle Ave.; Ahldag, Block 2, Lot 23. Councilmember Al Bryant seconded the motion. All voted in favor.

- B. Request by Wharton TMAC, LLC dba K-Bob's Steakhouse for a variance from the City of Wharton Code of Ordinances, Chapter 66 Signs and Advertising; Section 66-29 Prohibited Signs to place an electronic display sign on the restaurant rear wall facing the Wal-mart Store.

Assistant to City Manager Jackie Jansky stated that the Planning Commission met on Monday, February 20, 2012 and considered the request by K-Bob's Steakhouse located at 10291 US 59 Hwy, Wharton Retail, Lot 2, for a variance from the City of Wharton Code of Ordinances, Chapter 66 Signs and Advertising; Section 66-29 Prohibited Signs to place an electronic display sign on the restaurant rear wall facing the Wal-mart Store. She presented a copy of the Planning Commission Communications, which included a copy of the memorandum dated February 14, 2012 from Building Official Ronnie Bollom providing a copy of the City of Wharton Planning Commission Application for Variance regarding the request and copy of a diagram that indicated the proposed location of the electronic reader board and a copy of the Code of Ordinances, Section 66-29 Prohibited Signs. She also presented a copy of the memorandum dated February 20, 2012 from Planning Commission Chairman, A. J. Rath, providing the Planning Commission's recommendation for City Council to consider approving both the afore-mentioned items. She said the placement of the sign was to draw customer who were shopping at Walmart. She stated that Mr. Bobby Harris, manager of K-Bob's was available to answer questions. After some discussion, Councilmember Russell Machann moved to approve the request by Wharton TMAC, LLC dba K-Bob's Steakhouse for a variance from the City of Wharton Code of Ordinances, Chapter 66 Signs and Advertising; Section 66-29 Prohibited Signs to place an electronic display sign on the restaurant rear wall facing the Wal-mart Store. Councilmember Karen Schulz seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider The Wharton Police Department Annual Contact Report for 2011. City Manager Andres Garza, Jr. presented a copy of the Wharton Police Department Annual Contact Report for 2011 submitted by Police Chief Tim Guin in accordance with the City of Wharton Resolution No. 2001-67, Racial Profiling Policy. Chief Guin stated that no complaints were received regarding racial profiling. He stated that the citations by race or ethnicity were:

Caucasian/White	605	37.1%
Hispanic	537	32.9%
Black	471	28.9%
Asian	14	0.9%
Middle Eastern-Descent	4	0.2%
Native American	0	0.0%

He also stated that the report needs only to be presented and that action was not required by the City Council. After some discussion, no action was taken.

The ninth item on the agenda was to review and consider a resolution of the Wharton City Council approving the proposal submitted by Tremco Roofing & Building Maintenance for Police Station Upper Roof Restoration and Lower Roof Repair/Preventative Maintenance and authorizing the City Manager to execute the agreement. City Manager Andres Garza, Jr. stated that The Wharton Police Department roof had been experiencing numerous leaks in the back of the building. City Manager Garza presented a copy of the memorandum dated February 20, 2012 from Police Chief Tim Guin providing a copy of the proposal submitted by TREMCO dated February 20, 2012 concerning the Police Station roof and its needed improvements. Police Chief Tim Guin stated that the proposal was to perform a full roof restoration to the upper roof and to repair and provide preventative maintenance to the lower roof. Chief Guin further stated that the cost

City of Wharton  
Regular City Council Meeting  
February 27, 2012

associated with the upper roof was \$20,151.60 and the lower roof cost was \$7,126.00 for a total cost of \$27,277.60. City Manager Garza stated that he concurred with Chief Guin's recommendation that the City Council consider authorizing the improvements in order to protect the building and delay a complete roof replacement. After some discussion, Councilmember Jeff Gubbels moved to approve City of Wharton Resolution No. 2012-07, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2012-07**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE PROPOSAL SUBMITTED BY TREMCO ROOFING & BUILDING MAINTENANCE FOR POLICE STATION UPPER ROOF RESTORATION AND LOWER ROOF REPAIR/PREVENTATIVE MAINTENANCE AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.**

**WHEREAS,** The Wharton Police Department roof has developed various leaks; and

**WHEREAS,** the TREMCO Roofing proposed to conduct Upper Roof Restoration and Lower Roof Repair/Preventative Maintenance to the Police Station Roof as per the proposal dated February 10, 2012; and

**WHEREAS,** the total costs associated with said repairs and preventative maintenance would be \$27,277.60; and

**WHEREAS,** the Wharton City Council wishes to enter into a contract with TREMCO Roofing to repair the Wharton Police Department Upper and Lower Roof; and

**WHEREAS,** the Wharton City Council wishes to authorize the City Manager to execute an agreement TREMCO for said improvements to the Wharton Police Department repairs.

**NOW, THEREFORE BE IT RESOLVED,** that:

**Section 1.** The Wharton City Council hereby approves City Manager Andres Garza, Jr. to execute a contract with TREMCO to conduct Upper Roof Restoration and Lower Roof Repair/Preventative Maintenance to the Police Station Roof as per the proposal dated February 10, 2012.

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

**Passed, Approved and Adopted** this 27<sup>th</sup> day of February 2012.

**CITY OF WHARTON, TEXAS**

By: \_\_\_\_\_  
**DON MUELLER  
MAYOR PRO-TEM**

**ATTEST:**

**BY:** \_\_\_\_\_  
**PAULA FAVORS**  
**CITY SECRETARY**

Councilmember Al Bryant seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider a resolution of the Wharton City Council ratifying the submission of an application to the Houston-Galveston Area Council for funding to assist the Wharton Boys and Girls Club. City Manager Andres Garza, Jr. presented a copy of the application to the Houston-Galveston Area Council for funding to assist the Wharton Boys and Girls Club provided by Ms. Phyllis Sliva, Executive Director of the Boys and Girls Club of Wharton. Ms. Sliva had prepared an application for funding under the Houston-Galveston Area Council (H-GAC) JA 2012 Juvenile Justice & Delinquency Prevention Program. Ms. Sliva addressed the City Council and stated the H-GAC was now requiring that 501A's and similar organizations submit applications through a school district, a city or a county; therefore, she was requesting the City Council approve the grant that was needed for salaries, supplies and training. Ms. Sliva has requested the City of Wharton assist the Boys and Girls Club with the grant process; however, the deadline to submit the grant was Friday, February 24, 2012. City Manager Andres Garza, Jr. stated that Mayor Domingo Montalvo, Jr., had indicated he would authorize the application to be submitted by the City of Wharton on behalf of the Boys and Girls Club contingent upon the Wharton City Council ratifying the application's submission. After some discussion, Councilmember Jeff Gubbels moved to approve City of Wharton Resolution No. 2012-08, which read as follows:

**CITY OF WHARTON**  
**RESOLUTION NO. 2012-08**

**A RESOLUTION OF THE WHARTON CITY COUNCIL RATIFYING THE SUBMISSION OF AN APPLICATION TO THE HOUSTON-AREA COUNCIL FOR FUNDING TO ASSIST THE BOYS & GIRLS CLUB.**

**WHEREAS,** The Wharton City Council wishes to ratify the submission of an application submitted by the Boys & Girls Club of Wharton to the Houston-Galveston Area Council; and

**WHEREAS,** the application would be for funding for the Wharton Boys & Girls Club SMART Moves Program in the amount of \$51,030.00; and

**WHEREAS,** the Wharton City Council wishes this resolution to become effective immediately upon its passage.

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

City of Wharton  
Regular City Council Meeting  
February 27, 2012

**Section 1.** The Wharton City Council hereby ratifies the submission of an application submitted by the Boys & Girls Club of Wharton to the Houston-Galveston Area Council for funding for the Wharton Boys & Girls Club SMART Moves Program in the amount of \$51,030.00.

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

**Passed, Approved and Adopted** this 27<sup>th</sup> day of February 2012.

**CITY OF WHARTON, TEXAS**

By: \_\_\_\_\_  
**DON MUELLER**  
**MAYOR PRO-TEM**

**ATTEST:**

BY: \_\_\_\_\_  
**PAULA FAVORS**  
**CITY SECRETARY**

Councilmember Russell Machann seconded the motion. All voted in favor.

The eleventh item on the agenda was to review and consider a request by Mayor Domingo Montalvo, Jr., Chairman of Texas Transportation Commission Segment 3 Committee for City Council approval to attend the meetings with Congressional and Administration Officials regarding the development of I-69 on March 19, 20 and 21, 2012 in Washington D.C. City Manager Andres Garza, Jr. stated that Mayor Domingo Montalvo, Jr., Chairman of Texas Transportation Commission Segment 3 Committee, was requesting the Wharton City Council consider approving his attendance at the meetings for Congressional and Administration Officials regarding the development of I-69 on March 19 - 21, 2012 in Washington D.C. After some discussion, Councilmember Al Bryant moved to approve the request by Mayor Domingo Montalvo, Jr., Chairman of Texas Transportation Commission Segment 3 Committee for City Council approval to attend the meetings with Congressional and Administration Officials regarding the development of I-69 on March 19, 20 and 21, 2012 in Washington D.C. Councilmember Terry David Lynch seconded the motion. All voted in favor.

The twelfth item on the agenda was to review and consider Travel Reimbursement – City Manager. City Manager Andres Garza, Jr. presented a travel request reimbursement for the period beginning January 1, 2012 through February 17, 2012, in the amount of \$672.13. After some discussion, Councilmember Russell Machann moved to approve the travel request reimbursement for the period beginning January 1, 2012 through February 17, 2012, in the amount of \$672.13. Councilmember Terry David Lynch seconded the motion. All voted in favor.

The thirteenth item on the agenda was to review and consider appointments to the City of Wharton City Council Boards, Commissions, and Committees:

A. Beautification Commission.

City of Wharton  
Regular City Council Meeting  
February 27, 2012

- B. Building Standards Commission.
- C. Holiday Light Decorating Chairman.
- D. Mayor's Committee on People with Disabilities.

City Manager Andres Garza, Jr. stated that the City Staff placed an ad in the Wharton Journal Spectator requesting persons interested in serving on the afore mentioned Boards, Commissions, and Committees as directed by the City Council. After some discussion, no action was taken.

The fourteenth item on the agenda was to review and consider the status report on City of Wharton Projects. City Manager Andres Garza, Jr. presented a copy of his memorandum dated February 27, 2012 providing a status report on the ongoing City of Wharton Projects to the City Council providing an update on the City of Wharton on-going projects, which read as follows:

### **FLOOD REDUCTION (LEVEE) PROJECT**

The U.S. Army Corp of Engineers (USACE) Lower Colorado River Phase I Report - City of Wharton Flood Prevention Project and Recommended report is located at the Wharton County Library and the office of the City of Wharton City Secretary for viewing or the report may be viewed on line at <http://www.swf.usace.army.mil/pubdata/notices/LowerColorado/>.

The City Staff continues to work with the USACE and Halff Associates in obtaining the required ROE agreements and engineering data. The agreement for the Third and Restated Agreement between the City of Wharton and the Lower Colorado River Authority (LCRA) has been executed. The amendment incorporates Segment 1(a) into the project, which is the extension of the levee along FM 102.

City Staff is currently working with Fugro Consultants, Inc., a geotechnical engineering firm, to bore and obtain soil samples along the alignment of the levee. Fugro Consultants, Inc., should be finished with the borings by the end of March, weather permitting. City Staff is also assisting Halff Associates, Inc. with the collection of topographic data required for completion of the 65% engineering design and eventually the final design. Halff Associates, Inc. and City Staff will be collecting data over the next several weeks.

### **DRAINAGE:**

1. Santa Fe Outfall Channel.

The Public Works Department has finished excavation up to Alabama Road. The Public Works Department will now focus on installing grade stabilization structures and installing other best management practices needed to control erosion.

2. Highway 60 & Old Lane City Road Drainage Improvements

The construction plans have been approved by the TxDOT Yoakum District Office. City Staff has acquired the needed drainage right of way from Edwin Kostka. In addition to the drainage

right of way an aerial easement and guy wire easement will also be required. City Staff, Jones & Carter Inc., and Centerpoint Energy are working to finalize the aerial and guy wire easement so that the poles can be moved. The Public Works Director has provided a set of construction plans to and met with AT&T and Texas Mid Gulf Cable as well. City Staff and Jones & Carter, Inc. are currently in the process of resolving all utility conflicts. Staff hopes to have construction underway by the summer of 2012.

## **WATER/SEWER IMPROVEMENTS:**

### **1. Water Storage Tank Maintenance Program.**

The Alabama Ground Storage Tank is complete. The Alabama tank passed engineering inspection. Bacteria testing on the Alabama GST came back negative and the tank is now back on-line. Currently the contractor is sandblasting the Vahalla Ground Storage Tank. Rehabilitation of the Vahalla GST should be complete by the end of February. This will mark the completion of the project.

### **2. Pressure Switches at City Water Plants**

This project is complete; however, the Public Works Staff continues to monitor the system to insure that it is working properly. Barbee Electric recently installed temperature control devices in the pressure switch boxes to create a controlled environment and help reduce problems with the switches. The temperature control devices seem to be eliminating most of our overflow problems. Staff will continue to monitor the situation.

### **3. Energy Efficiency Audit**

City Staff continues to work with Siemens Industry and Jones & Carter, Inc. to develop a sound plan to conserve energy. The study phase of this project is completed.

### **4. Wastewater Treatment Plant No. 1 Rehabilitation Proposal**

Jones & Carter, Inc. has completed their rehabilitation proposal and presented it to the Public Works Committee and Finance Committee in December for review. City Staff is working with Jones & Carter, Inc. to determine which components of the project would be considered top priority and to develop a plan to finance the project.

### **5. On-going Water and Sewer Maintenance Program**

Recent rainfall has caused the ground to begin to swell causing some water leaks and sanitary sewer issues. However, the number of problems encountered has decreased since the severe drought this past summer and fall. Currently the City is averaging about four leaks a week and around twice the problems normally associated with the sanitary sewer collection system. The sanitary sewer line between Texas St. and Koehl St. has been backing up at least once a week for the last two months. Staff has tried spot repairs in strategic locations; however these have not alleviated the sewer backups. The only solution is to replace the line. City Staff has ordered all



the necessary materials and equipment and intends to replace the 1940s line with new PVC pipe. Construction will begin the week of February 27, 2012, weather permitting.

## **STREET IMPROVEMENTS**

### 1. FM 102 Relocation and/or FM 1301

#### A. Progress Report on Project.

IDC Inc. continues to work with City Staff in an effort to develop preliminary engineering for the project. The City Staff has been working on obtaining the last two rights of entry agreements for the project. The City Staff, IDC, and SMC Consulting, Inc. want to make sure the public is provided with accurate data, therefore the public meeting will be held once the alignment is closer to being finalized.

#### B. Update on status of Advance Funding Agreement (AFA) between the City of Wharton and the Texas Department of Transportation (TxDOT).

TxDOT has agreed to amend the AFA with an increase of \$200,000 making the States total support toward the project \$3,700,000 for construction. City Council passed a resolution accepting this amendment to the AFA. City Council also passed a resolution amending the professional engineering services agreement between the City of Wharton and IDC Inc. to include the basic engineering services for the environmental assessment for the City of Wharton FM 102 Relocation, FM 1301 Road Extension to US 59 with service road and entrance ramp (east side) and Railroad Overpass. These adopted resolutions will allow City Staff to have better control over the environmental portion of the project and result in a more timely completion of the final engineering plans.

### 2. 2012 Street Improvement Program

Public Works Staff is currently identifying and preparing cost estimates for possible street improvements in 2012.

### 3. Wharton Sidewalk Accessibility and Historic Streetscape Project

City Staff, BEFCO Engineering, Stern and Bucek Architects and TxDOT are working together to ensure this project is a success. Currently BEFCO Engineering is surveying and developing some of the preliminary designs. David Bucek is consulting with BEFCO and City Staff on various issues including historical aspects of the project. City Staff met with Stern and Bucek Architects and BEFCO Engineering on February 13, 2012 to review the 35% engineering plans and resolve any preliminary design issues.

### 4. On-going Street and Drainage Maintenance Program

The recent rainfall combined with the damage caused by the drought is keeping the Street and Drainage crew very busy. The force of the ground shrinking from drought and swelling from

rain is causing numerous failures in the City's streets and storm sewers. Many of the failures must be fixed immediately since they pose a threat to the public's safety.

The week of February 13, 2012 the City received several inches of rain in a short amount of time. Public Works staff noted that the Santa Fe outfall ditch performed as intended and helped drain the City more efficiently than we have seen in the past. In addition, residential ditch cleaning projects have proven worthy as well. This was measured by the decreased need for barricades at flooded intersections and visually noting that water no longer stands in ditches that have been reworked.

## **OTHER PROJECTS**

### 1. Fire Station Expansion Project

This project is complete.

## **WHARTON REGIONAL AIRPORT**

### 1. Capital Improvement Drainage Project.

O'Malley Engineers have finalized the engineering plans. O'Malley, TxDOT, and City Staff met on February 21, 2012 at the airport to conduct a pre-bid meeting. Several contractors showed up for the meeting. The number of attendees helped make the meeting a success.

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

- A. Wharton Economic Development Corporation Board of Directors meeting held February 20, 2012.
- B. Planning Commission meeting held February 20, 2012.

City Manager Andres Garza, Jr. presented a copy of the report to the City Council. After some discussion, no action was taken.

The sixteenth item discussed on the agenda was to review and consider the City's Reports:

- |   |                                |
|---|--------------------------------|
| A. City Secretary/Personnel.                    | I. Legal Department.           |
| B. Code Enforcement.                            | J. Municipal Court.            |
| C. Community Services Department /Civic Center. | K. Police Department           |
| D. Emergency Management.                        | L. Public Works Department.    |
| E. E.M.S. Department.                           | M. Water/ Sewer Department.    |
| F. Engineer/Planning Department.                | N. Weedy Lots/ Sign Ordinance. |
| G. Facilities Maintenance Department.           | O. Wharton Municipal Pool.     |
| H. Fire Department.                             | P. Wharton Regional Airport.   |

City of Wharton  
Regular City Council Meeting  
February 27, 2012

City Manager Andres Garza, Jr. presented the reports to the City Council. No action was taken.

The seventeenth item on the agenda was adjournment. After some discussion, Councilmember Jeff Gubbels made the motion to adjourn. Councilmember Russell Machann seconded the motion. All voted in favor.

The meeting adjourned at 7:47 p.m.

**CITY OF WHARTON, TEXAS**

**By:** \_\_\_\_\_  
**Domingo Montalvo, Jr.**  
**Mayor**

**ATTEST:**

\_\_\_\_\_  
**Paula Favors**  
**City Secretary**