

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
APRIL 14, 2003**

Mayor Garland S. Novosad declared a Regular Meeting duly open for the transaction of business at 7:02 p.m. Bryce D. Kocian 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, Deputy City Secretary Lisa Stavena, Police Captain Richard Coleman, Building Official Ronnie Bollom, Building Official Assistant Lori Jaquez, Code Enforcement Officer Jimmy Nickolyn, Public Works Director Phillip Bush, 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, Rivers R. Glover, Lynda Nichols, Johnnie Roberts, Jeanene Merka, Joel Williams, I. O. Coleman, Jr., Sam Harrell, Mike Wootton, Lewis Fortenberry, Richard Arnold, Carlos Cotton, Sylvan L. Miori, Ann Montalvo, Max Barbee, Jeffrey Blair, Merrell "Doc" Barfield, Jr., Chester Houston, Billie Jones, Wayne Adam, Carolyn Hooper, Leroy J. Mican, Shirley Secor, Taylor Carroll, Gary Ward, Jim Maser, Curtis W. Evans, Carlton Scott, Kathryn Adam, Bryon Nelson, A.C. Shelton, Vic Driscoll, Ruby Whitley, Corky Altneburg, W.H. Altenburg, Jr., Louis R. Edwards, Debbie Williams, Joy Wuthrick, Bernice Jackson, Billy Bahnsen, Ben Mullhen, Susan Freese, Don Hillis, Betty Mueller, Terry Freese, Morrow Lou Sims, Bill Ansley, Lou Ann Toney and Debbie Dimmick.

The third item on the agenda was Public Comments. Mr. Richard Arnold addressed the City Council regarding the performance of Building Official Mr. Ronnie Bollom. He stated that the City contracted with him to review the Plans and Specifications for the City of Wharton prior to the hiring of Mr. Bollom. He stated that since the day Mr. Bollom was hired, Mr. Bollom has studied the Codes and has done all he needs to do as Building Official.

Mayor Garland S. Novosad stated that the City Council does not hire or fire employees. He stated that a meeting was held this morning with Councilmember Darryl Darnell, Building Official Ronnie Bollom, City Manager Andres Garza, Jr. and himself and the item regarding Mr. Bollom would be pulled from the agenda.

Ms. Carolyn Hooper introduced herself and stated that she inherited a home that had a lot of problems. She stated that with Mr. Bollom as the Building Official, she is confident that her home will be upgraded to the building standards and would be fit to reside in.

Ms. Jeanene Merka stated that it is the City Manager's job to hire, fire and evaluate the employees of the City. She stated that some Councilmembers are trying to micro-manage and that should not be done. She stated that Mr. Bollom has done a wonderful job and works well with the community and that the City Councilmembers needed to turn any evaluations or reviews over to the City Manager where they belong.

Mr. Sylvan L. Miori stated that he had been hearing that there was a lot of griping on City Council about minor things. He stated that he was in charge of getting vacant lots mowed when he was on the City Council. He stated that the Council got along back then and in 1951, the City of Wharton was a nice little town that was good to him. He stated that he does not appreciate the Council trying to fire City Manager Andres Garza, Jr. He stated that when Mr. Garza was hired, the City could not even make payroll and now the City had enough money to back the funds to get Wal-Mart. He stated that he wished the Council could get things straightened out and keep the town growing.

Mr. Joel Williams thanked the City Council for volunteering their time for serving on Council. He also asked them to stop picking and dragging down this town. He stated that he wants everyone to remain positive and be proud of the town and work together to build up our town rather than tear it down. He stated that it is easy to tear it down but it was difficult to build. He stated that we should continue to grow and build our town, not to go two steps backwards and one step forward.

Mr. Wayne Adam stated that he agreed with Joel Williams. He stated that he was the Chairman of the City of Wharton Electrical Board. He also stated that he has worked with all of the inspectors over the years and he knows the facts of the cases that have occurred and that Mr. Bollom is doing a good job handling these cases. He informed City Council to do what was good for the City of Wharton and not worked on some hidden agenda.

Ms. Debbie Dimmick stated that she was here to support Mr. Bollom. She stated that she understands that the issues with Mr. Bollom have already been discussed but since she was here she wanted to state that Mr. Garza was an honest and a good person. She also stated that Mayor Novosad had also done a lot for this town.

Mayor Novosad thanked the citizens for attending the meeting. He stated that the City Council has worked together and has made some good decisions for the community. He stated that he was sorry that there was a misunderstanding about the issue regarding Mr. Bollom. He stated that he was not aware of any negative concerns regarding Mr. Bollom.

City Councilmember Ken Freese stated that he wanted to make a motion of understanding among the City Councilmembers that they would agree to not undermine the City Manager or the employees and it would be stopped today. City Councilmember Bryce D. Kocian seconded the motion. All voted in favor.

Councilmember Darnell stated that he put the item on the agenda because he was concerned about the number of inquiries he received about the Code Enforcement Department. Councilmember Darnell stated that it was put on the agenda as an executive session but Mr. Bollom elected to change it to an open forum. He also stated that Mayor Novosad, Mr. Garza, Mr. Bollom, and himself met earlier and had a very informative meeting. He stated that those who stated that this was an item to remove Ronnie Bollom were misled. He stated that Mr. Bollom's job was very hard and he does an outstanding job for the City of Wharton. He stated that Mr. Bollom's job was not in jeopardy or would not be in jeopardy. No action was taken.

Mr. Wayne Adam asked Councilmember Darryl Darnell why this meeting was not held with City Manager Andres Garza, Jr. and Building Official Ronnie Bollom prior to it being placed on the agenda. Councilmember Darnell stated that it needed to be discussed as a whole of the Council, which must be done, on a posted agenda.

Chester Houston stated that he is a concerned citizen and taxpayer and that he heard a lot of comments. He stated the Wharton is growing but there was some disparity that needed to be discussed. He stated that the City needs to be taken along as a whole and that he does not see anything that was taken out of proportion. He stated that the enforcement needed to be on the whole city, not just a part of the city. He stated that no one wanted to take Mr. Bollom's job; however, everyone has a right to question and everyone should be treated the same.

Mr. Miori stated that he heard a comment that when Mr. Garza goes to meetings he draws people to him and people respect him. He stated that is why Mr. Garza recently got appointed as Vice-President of the Cen-Tex Development Corporation.

The fourth item discussed on the agenda was Wharton Moment. No action was taken.

The fifth item discussed on the agenda was to review and consider Reading of the minutes from the special meetings held March 3, 2003 and March 17, 2003 and the regular meetings held March 10, 2003 and March 24, 2003. After some discussion, Councilmember Bryce D. Kocian made a motion to approve the minutes from the special meetings held March 3, 2003 and March 17, 2003 and the regular meetings held March 10, 2003 and March 24, 2003. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider the resolution authorizing the broadcasting of Wharton City Council meetings on cable television. City Manager Andres Garza, Jr. informed the City Council that according to the City's franchise agreement, Charter Communication was required to provide the necessary equipment to broadcast live from City Hall on the cable television system. He said that Charter had begun to install the necessary equipment to accomplish the requirement. He also stated that the City Staff was reviewing the City's requirements under the ADA (Americans with Disabilities Act) for the transmission. Councilmember Darryl Darnell asked if the Resolution could also include the Boards and Committee meetings. Mr. Garza stated that it could if that was the City Council's wish. After some discussion, Councilmember Don Mueller made a motion to approve Resolution No. 2003-32, which read as follows:

RESOLUTION NO. 2003 - 32

A RESOLUTION APPROVING BROADCASTING OF WHARTON CITY COUNCIL MEETINGS ON CABLE TELEVISION.

WHEREAS, the City Council recognizes the need to keep the public informed; and

WHEREAS, the; City Council of the City of Wharton, Texas desires to broadcast the City Council meeting on Cable Television; and

WHEREAS, the Wharton City Council must give authorization before publicly broadcasting the City Council meetings on Cable Television;

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

Section I. That the Wharton City Council hereby approves the broadcasting of the City Council meeting on cable television.

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

PASSED AND APPROVED this 14th day of April 2003.

GARLAND S. NOVOSAD
Mayor

ATTEST:

JOYCE VASUT
City Secretary

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

The seventh item on the agenda was to review and consider accepting a Utility Easement from Erma Ruth Jacobson Whorton – 15 foot wide easement, out of the 286.6 acre Grant J. Whorton Tract in the William Kincheloe League, Abstract No. 38, Wharton County, Texas. City Manager Andres Garza, Jr. presented is a copy of the Utility Easement from Erma Ruth Jacobson Whorton for a fifteen-foot wide easement out of the 286.6 acre Grant J. Whorton Tract in the William Kincheloe League, Abstract No. 38, Wharton County, Texas. He stated that this easement was needed for Phase III of the Hinze’s waterline project, which would complete the water loop from Hinze’s to Richmond Road. He also stated that the City of Wharton received the railroad permit from Tex-Mex. After some discussion, Councilmember Don Mueller made a motion accept a Utility Easement from Erma Ruth Jacobson Whorton – 15 foot wide easement, out of the 286.6 acre Grant J. Whorton Tract in the William Kincheloe League, Abstract No. 38, Wharton County, Texas. Councilmember Bryce D. Kocian seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider the request for Payment: A.) City of Wharton Civic Center Restroom Project: Pay Estimate No. 2 – Rath Plumbing Company; B) City of Wharton Valhalla Water Well Rehabilitation Project: Pay Estimate No. 1 – Weisinger Water Well; and C.) City of Wharton Wastewater Treatment Plant No. 2 Improvement Project: Pay Estimate No. 4 – JTR Constructors, Inc. City Manager Andres Garza, Jr. presented a copy of the letter the City received on March, 21 2003 from Mr. Barnaby Evans of Fatter & Evans recommending the pay requests submitted by Rath Plumbing Company in the amount of \$20,384.09 for the Civic Center Restroom Renovation Project, a copy of the letter the City received March 27, 2003 from Jones & Carter, Inc. approving the pay requests submitted by Weisinger Water Well, Inc. in the amount of \$36,459.90 for the Valhalla Water Well Rehabilitation Project, and a copy of the letter the City received March 28, 2003 from Jones & Carter, Inc. approving the pay request submitted by JTR Constructors, Inc. in the amount of \$37,485.00 for the Wastewater Treatment Plant No. 2 Improvement Project. After some discussion, Councilmember Don Mueller made a motion approve the request for payment for A.) City of Wharton Civic Center Restroom Project: Pay Estimate No. 2 – Rath Plumbing Company; B) City of Wharton Valhalla Water Well Rehabilitation Project: Pay Estimate No. 1 – Weisinger Water Well; and C.) City of Wharton Wastewater Treatment Plant No. 2 Improvement Project: Pay Estimate No. 4 – JTR Constructors, Inc. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The ninth item discussed on the agenda was to review and consider a resolution establishing the City of Wharton Health Insurance Portability and Accountability ACT (HIPAA) Policies and Procedures; establishing a policy on privacy and security awareness training; establishing a policy on medical records of employees; establishing a policy on patient access, amendment and restriction on use of protected health information; establishing a policy on security, levels of access and limiting disclosure and use of protected health information; establishing a policy on use of computer and information systems and equipment; and designating privacy officers. City Manager Andres Garza, Jr. informed the City Council that the Health Insurance Portability and Accountability Act (HIPAA) was a federal regulation which requires establishing policies on privacy and security awareness training, medical records of employees, patient access, amendment and restriction on use of protected health information, security, levels of access and limiting disclosure and use of protected health information, and use of computer and information systems and equipment, as well as designating privacy officers. He stated that there are two areas employee benefit plan and emergency medical services. He then presented a resolution establishing the policies and a copy of the following policies and procedures:

1. City of Wharton Employee Benefits Plan – Protected Healthcare Information
2. City of Wharton Employee Benefits Plan – Policy on Privacy and Security Awareness Training
3. City of Wharton Employee Benefits Plan – Policy on Medical Records of Employees
4. City of Wharton EMS – Policy on Privacy Training
5. City of Wharton EMS – Policy on Medical Records of Employees
6. City of Wharton –EMS – Policy on Patient Access, Amendments and Restrictions on Use of Protected Health Information

7. City of Wharton EMS – Policy on Security, Levels of Access and Limiting Disclosure and Use of PHI
8. City of Wharton EMS – Policy on Computer and Information System and Equipment

Mr. Garza stated that the Notice of Privacy Practices had been sent to the City employees and had been posted on the City of Wharton and the Wharton EMS websites as required. The Wharton EMS would give the notice to all patients. He also stated that the State of Texas had recently adopted a more stringent policy. EMS Director John Kowalik addressed the City Council and stated HIPAA was set up as a patient privacy policy. Mr. Kowalik stated that the State had adopted a more stringent policy; currently we are meeting the federal guidelines; however, the State guidelines may require additional policies. Mayor Garland S. Novosad asked if all records have been secured. Kowalik stated that they were and the notice had been posted on the website and would be given to all patients. Mayor Novosad asked about an agreement with the billing collections company. Mr. Kowalik stated that we have a Business Associated agreement with the billing company. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2003-33, which reads as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003 - 33**

A RESOLUTION ESTABLISHING THE CITY OF WHARTON HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) POLICIES AND PROCEDURES; ESTABLISHING A POLICY ON PRIVACY AND SECURITY AWARENESS TRAINING; ESTABLISHING A POLICY ON MEDICAL RECORDS OF EMPLOYEES; ESTABLISHING A POLICY ON PATIENT ACCESS, AMENDMENT AND RESTRICTION ON USE OF PROTECTED HEALTH INFORMATION; ESTABLISHING A POLICY ON SECURITY, LEVELS OF ACCESS AND LIMITING DISCLOSURE AND USE OF PROTECTED HEALTH INFORMATION; ESTABLISHING A POLICY ON USE OF COMPUTER AND INFORMATION SYSTEMS AND EQUIPMENT; AND DESIGNATING PRIVACY OFFICERS.

WHEREAS, the City Council of the City of Wharton, Texas desires to establish a City of Wharton Policy and Procedure on Protected Health Information; to establish a policy on privacy and security awareness training; to establish a policy on medical records of employees; to establish a policy on patient access, amendment and restriction on use of protected health information; to establish a policy on security, levels of access and limiting disclosure and use of protected health information, and to establish a policy on use of computer and information systems and equipment; and

WHEREAS, the City Council of the City of Wharton hereby authorizes the City Manager to appoint a Privacy Officer over the Employee Benefit Plan and appoint a Privacy Officer over the Wharton Emergency Medical Services; and

WHEREAS, the City Council of Wharton, Texas implements the policies effective April 14, 2003.

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

Section I. That the Wharton City Council hereby recognized that HIPAA's Privacy Rule is a federal regulation designed to safeguard the privacy of an individual's health information for the effective compliance date of April 14, 2003.

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

PASSED AND APPROVED this 14th day of April 2003.

GARLAND S. NOVOSAD
Mayor

ATTEST:

JOYCE VASUT
City Secretary

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

The tenth item discussed on the agenda was to review and consider a resolution accepting a grant from Houston Endowment, Inc. for the Southern Pacific Railroad Depot Restoration Project. City Manager Andres Garza, Jr. informed the City Council that the Houston Endowment Inc. had authorized a grant of \$40,000 to the City of Wharton to be used towards the restoration of the Southern Pacific Railroad Depot Restoration Project. He then presented a copy of the letter from Houston Endowment, Inc. authorizing the grant, and a copy of the resolution accepting the grant for the Railroad Depot Restoration Project. After some discussion, Councilmember Darryl Darnell made a motion to approve Resolution No. 200-34 , which reads as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003 - 34**

A RESOLUTION ACCEPTING A GRANT FROM HOUSTON ENDOWMENT, INC. FOR THE SOUTHERN PACIFIC RAILROAD DEPOT RESTORATION PROJECT.

WHEREAS, the City Council of the City of Wharton, Texas desires to restore the Southern Pacific Railroad Depot and adjacent park; and

WHEREAS, the Southern Pacific Railroad Depot Restoration Committee through its fundraising efforts applied for funding from Houston Endowment, Inc.; and

WHEREAS, Houston Endowment, Inc. has authorized a grant in the amount of \$40,000 to the City of Wharton for the Southern Pacific Railroad Depot project

WHEREAS, the 20% match required by a TxDOT grant has been meet.

WHEREAS, the City Council of Wharton, Texas must authorize and sign the agreement before April 20, 2003; and

WHEREAS, the City Council wishes to authorize the Mayor to execute all documents related to the grant.

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

Section I. The Wharton City Council hereby authorizes the acceptance of the grant from Houston Endowment, Inc. in the amount of \$40,000.00 for the Southern Pacific Railroad Depot Restoration Project.

Section II. The Mayor of the City of Wharton is hereby authorized to execute all documents related to the grant.

Section III. This resolution shall become effective immediately upon its passage.

PASSED AND APPROVED this 14th day of April 2003.

GARLAND S. NOVOSAD
Mayor

ATTEST:

JOYCE VASUT
City Secretary

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

The eleventh item discussed on the agenda was to review and consider a resolution approving a lease agreement with San Martex Aviation, LLC for a skydive operation at the Wharton Regional Airport and authorizing the Mayor of the City of Wharton to execute the lease on the City's behalf, setting an effective date. City Manager Andres Garza, Jr. informed the City Council that the Wharton Regional Airport Board met on Tuesday, April 1, 2003, and was recommending the approval of a lease agreement between the City of Wharton and San Martex Aviation, LLC for skydive operations at the Wharton Regional Airport. He then presented a draft copy of the lease agreement and a resolution approving the lease agreement with San Martex Aviation, LLC for a skydive operation at the Wharton Regional Airport and authorizing the Mayor of the City of Wharton to execute the lease on the City's behalf. He stated that approval

of the lease would allow San Martex's lease to begin on May 1, 2003. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution 2003-35 , which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003 - 35**

A RESOLUTION APPROVING A LEASE AGREEMENT WITH SAN MARTEX AVIATION, LLC FOR A SKYDIVE OPERATION AT THE WHARTON REGIONAL AIRPORT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE LEASE ON THE CITY'S BEHALF, SETTING AN EFFECTIVE DATE.

WHEREAS, San Martex Aviation, LLC has expressed interest in providing a skydive operation and in leasing hangars 31 and 32 at the Wharton regional Airport; and

WHEREAS, the Wharton Regional Airport Board reviewed and recommended the Wharton City Council to approve a lease agreement with San Martex Aviation, LLC; and

WHEREAS, the City of Wharton and San Martex Aviation, LLC 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 approves a lease agreement with San Martex Aviation, LLC for skydive operations at the Wharton Regional Airport.

Section II. That the City Council of the City of Wharton hereby authorizes the Mayor of the City of Wharton to execute a lease agreement with San Martex Aviation, LLC for a skydive operation at the Wharton Regional Airport.

Section III. That the City of Wharton and San Martex Aviation, LLC 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 14th of April 2003.

CITY OF WHARTON, TEXAS

By: _____
GARLAND S. NOVOSAD
Mayor

ATTEST:

JOYCE VASUT
City Secretary

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

The twelfth item on the agenda was to review and consider a resolution establishing an American with Disabilities Act (ADA) Community Coordinator position in the City of Wharton; setting duties; setting an effective date. City Manager Andres Garza, Jr. informed the City Council that the Mayor's Committee on People with Disabilities had requested the City designate an ADA Coordinator position within the City to assist the community (businesses, individuals, etc.) to comply with ADA requirements. The Coordinator's responsibilities would include providing information regarding ADA. He then presented a copy of a resolution establishing the ADA Coordinator position. He stated that at this time, he felt the duties would be added to an existing position in the Code Enforcement Department; therefore, no additional personnel would be needed. Councilmember Domingo Montalvo, Jr. asked whether it was the City's responsibility to enforce the ADA. Mr. Garza stated that the position would be responsible for providing information to the public. Councilmember Darryl Darnell asked whether a permit could be issued if they are not in compliance. Building Official Ronnie Bollom addressed the City Council and stated that small businesses may be given a time frame to meet the requirements. Mr. Garza stated that the position would not enforce compliance with the requirements, but would provide them with the necessary information to assist in obtaining compliance. Councilmember Darnell asked if his current staff could handle the additional responsibility. Mr. Bollom stated that he already needed additional personnel and would include that in his budget for fiscal year 2003-04. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2003-36, which reads as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003 - 36**

A RESOLUTION ESTABLISHING AN AMERICAN WITH DISABILITIES ACT (ADA) COMMUNITY COORDINATOR POSITION IN THE CITY OF WHARTON; SETTING AN EFFECTIVE DATE.

WHEREAS, the Mayor's Committee on People with Disabilities has requested the City establishes an ADA Coordinator position within the City; and

WHEREAS, the; the ADA Coordinator would assist the public to comply with the ADA requirements; and

WHEREAS, the City Manager would be authorized to appoint an ADA Coordinator;

WHEREAS, the Wharton City Council wishes to create an ADA Coordinator position;

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

Section I. The Wharton City Council hereby establishes an ADA Coordinator position within the City.

Section II. The Wharton City Council authorizes the City Manager to appoint the ADA Coordinator.

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

PASSED AND APPROVED this 14th day of April 2003.

GARLAND S. NOVOSAD
Mayor

ATTEST:

JOYCE VASUT
City Secretary

Councilmember Bryce D. Kocian seconded the motion. All voted in favor.

The thirteenth item discussed on the agenda was to review and consider the Travel Reimbursement for City Manager. City Manager Andres Garza, Jr. presented a copy of the travel reimbursement request to the City Council. After some discussion, Councilmember Bryce D. Kocian made a motion to reimburse the City Manager for his travel expense for the period of March 13, 2003 through April 9, 2003 in the amount of \$508.24. Councilmember Don Mueller seconded the motion. All voted in favor.

The fourteenth item discussed on the agenda was to review and consider Planning Commission Recommendation: A. Request by Ms. Rosario Ortiz to re-plat a 0.5623 acre tract of land situated in the William Kincheloe League, Abstract 38, known as Lots Five (5) and Six (6) an abandoned portion of Walnut Street, Block Eight (8), Barbee Addition. City Manager Andres Garza, Jr. presented a copy of the recommendation from A.J. Rath Chairman of the Planning Commission. He stated that the Commission recommended approving Ms. Ortiz's request. He then presented to the City Council copies of the request and the replat. Building Official Ronnie Bollom addressed the City Council and stated that to abolish the property line, a replat would need to be filed. After some discussion, Councilmember Bryce D. Kocian made a motion to approve the request by Ms. Rosario Ortiz to re-plat a 0.5623 acre tract of land situated in the William Kincheloe League, Abstract 38, known as Lots Five (5) and Six (6) an abandoned portion of Walnut Street, Block Eight (8), Barbee Addition. Councilmember Ken Freese seconded the motion. All voted in favor.

The fifteenth item discussed on the agenda was to review and consider Electrical Board Recommendation: A. Ordinance: Amending City of Wharton Code of Ordinances, Chapter 18, Building and Construction, Article V, Electrical Code. City Manager Andres Garza, Jr. presented

a copy of the memorandum from Mr. Wayne Adam, Chairman of the Electrical Board regarding the meeting held on Tuesday, April 1, 2003. He stated that the Board was recommending to amend Sections 18-173, 18-174, 18-176 and 18-177 in order to change the name from Southern Building Code Congress International (SBCCI) to International Code Council. He then presented a copy of the ordinance with the recommended changes. Building Official Ronnie Bollom addressed the City council stating that the Southern Building Code Congress International became the International Code of Council (ICC) and recommend making the change in the ordinance. Councilmember Darryl Darnell stated that there seems to be a burden on the citizens due to the lack of electricians available in the City. He asked if the Code Enforcement Department would allow electricians licensed in other cities to conduct electrical work in the City of Wharton. Mr. Bollom stated that this would be discussed at the next Electrical Board meeting. Councilmember V. L. Wiley, Jr. asked if the electricians would have to have a bond. Mr. Bollom stated that they have to have at least \$300,000 of insurance. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Ordinance No. 2003-05, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2003-05**

AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 18, BUILDING AND CONSTRUCTION, ARTICLE V. ELECTRICAL CODE; PROVIDING THAT A VIOLATION OF THE ORDINANCE OR ANY PART OF THE CODE AS ADOPTED HEREBY SHALL CONSTITUTE A PENALTY UPON CONVICTION OF A FINE.

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

SECTION I: Amendment

WHEREAS, it is the desire of the City of Wharton to adopt, in all respects, the National Electrical Code, 2002 Edition with its latest revisions; and

WHEREAS, amending Section 18-173 of the City of Wharton Code of Ordinances to read as follows:

Sec. 18-173. Master electrician's license.

- (a) Application for a license as a master electrician shall be made in writing to the building official, stating the name and address of the applicant, a statement as to the active and practical experience of the applicant and such other relevant information as may be required by the building official.
- (b) The applicant for a license as master electrician shall, in his application for a license or the renewal of a license, state the firm name under which he will do business, the business address and the names of the partners or officers of the corporation.
- (c) To qualify for a master electrician license, the applicant must prove to the satisfaction of the building official either of the following:

- (1) Current registration as a professional electrical engineer in the state; or
 - (2) Four years' experience as a journeyman electrician or the equivalent thereof as specifically approved by the electrical board. The completion of each equivalent year of study of an engineering curriculum at an accredited college of engineering shall count as a year of the required experience, but not more than three years shall be credited for this course; and
 - (3) International Code Council master's electrician's certification.
- (d) No master electrician's license shall be issued until he shall have arranged to carry the following insurance or having been issued such license may be revoked if such insurance is not kept in force:
- (1) Comprehensive general liability as follows:
 - a. \$300,000.00 combined single limits, bodily injury and property damage, per occurrence, including products and completed operations, \$300,000.00 aggregate, \$300,000.00 personal and advertising liability, \$50,000.00 fire and legal liability and \$5,000.00 medical payments liability.
 - (2) Such insurance shall be written by an accredited company under the supervision of the board of insurance commissioners of the state.
 - (3) Evidence of the compliance with the insurance requirements of this subsection shall be considered as having been met when the policy, copies thereof or certificates of insurance have been filed with and approved by the chief electrical inspector. Such policies shall include an endorsement thereon that the building official shall be notified at least ten days in advance if the policies are canceled or expire before the expiration date of the license.
- (e) A master electrician who so desires may change his license from active to inactive by application to the city. An inactive license places the master electrician in the position that he may renew his license to active status by complying with subsections (c) and (d) of this section and paying the renewal fee for an active license. Any master electrician who shall have been inactive for a period of five years or more shall have to qualify the same as if having never been licensed.
- (f) An inactive master shall be prohibited from engaging in any form of electrical contracting within the city, and electrical permits shall not be issued in his name during the period of this inactive status.
- (g) Each master electrician shall be assigned a number which will be his permanent identification; this assigned number will appear on the master electrician's license each year when renewed and shall be displayed in his current place of business. A master electrician who is employed as a master electrician for a person, firm or corporation shall take out electrical permits only for that person, firm or corporation. A master electrician

who is engaged in the electrical business for himself shall take out electrical permits for his business only.

- (h) A master electrician's initial license fee shall be \$100.00. The renewal fee shall be \$25.00.
- (i) All licenses are to expire on December 31 annually.

(Ord. No. 1997-01, 1-13-97)

WHEREAS, amending Section 18-174 of the City of Wharton Code of Ordinances to read as follows:

Sec. 18-174. Registration of journeyman electrician.

- (a) No person shall undertake any work as a journeyman electrician unless such person shall have first registered with the building official and received his certificate from the building official as a journeyman electrician.
- (b) An application for a certificate as journeyman shall be made in writing to the building official, stating the name and address of the applicant, a statement as to the active and practical experience of the applicant and such other relevant information as may be required by the building official.
- (c) The certificate issued to a journeyman electrician shall specify the name and address of the person to whom the certificate is issued and the date of the issuance thereof, the expiration date and such other information as may be deemed relevant by the building official.
- (d) To qualify for a journeyman electrician's certificate, the applicant must prove to the satisfaction of the building official the following:
 - (1) Four years of active and practical experience, during which four year period he shall have devoted not less than two-thirds of his time, exclusive of normal periods of rest and recreation, to electrical work in general. For the purpose of this subsection, a degree or diploma from an accredited school of electrical engineering shall be considered as the equivalent of two years' active and practical experience; and
 - (2) International Code Council journeyman electrician's certification.
- (e) Every holder of such journeyman electrician's certificate shall carry his certificate while performing acts which such certificate entitles him to perform.
- (f) A journeyman's initial certificate fee shall be of \$25.00. The renewal fee for this certificate shall be \$10.00.

(g) All certificates shall expire on December 31 of each year.

(Ord. No. 1997-01, 1-13-97)

WHEREAS, amending Section 18-176 of the City of Wharton Code of Ordinances to read as follows:

Sec. 18-176. Registration of maintenance electrician.

- (a) It shall be unlawful for any person to do any electrical maintenance work unless such person is a maintenance electrician, licensed under the provisions of this article; provided, however, this section shall not prohibit a journeyman electrician employed not on a permanent basis, but temporarily, from doing such electrical maintenance work under the supervision, direction and control of a maintenance electrician, licensed under the provisions of this article, without the journeyman electrician having to obtain a license as a maintenance electrician. Should the holder of a journeyman electrician's certificate at any time bring himself within the definition of a maintenance electrician by becoming employed on a permanent basis and in general as provided for in the definition of "maintenance electrician," such journeyman electrician shall be required to obtain a license as a maintenance electrician, in addition to his journeyman electrician's certificate.
- (b) Nothing in this section shall be construed to limit the right of a master electrician to perform such electrical maintenance work or to limit such work being performed by a journeyman electrician under the supervision, direction or control of a master electrician or to prohibit an apprentice from working under the direct personal and constant supervision of a maintenance electrician.
- (c) An application for a maintenance electrician's certificate shall be made in writing to the building official, stating the name and address of the applicant and a statement as to the active and practical experience of the applicant.
- (d) To qualify for a maintenance electrician's certificate.
 - (1) International Code Council maintenance electrician's certification.
- (e) The initial fee for a maintenance electrician's certificate shall be \$25.00. The renewal fee shall be \$10.00.
- (f) All certificates shall expire on December 31 annually.
- (g) Every holder of a maintenance electrician's certificate shall notify the building official immediately when such holder makes any change in his employment, giving in such notice the name of his new employer and the location of the premises in or on which he is to be employed to perform maintenance electrical work.

(Ord. No. 1997-01, 1-13-97)

WHEREAS, amending Section 18-177 of the City of Wharton Code of Ordinances to read as follows:

Sec. 18-177. Electrical sign contractor's license.

- (a) This section shall apply to those persons who undertake the business of manufacture and/or installation of electric signs and conductors and equipment for signs and outline lighting, as defined in the National Electrical Code, and for inside lighting with high-voltage gas tubes. Any person qualifying under this section shall be known as an "electrical sign contractor" and shall not be required to be a master electrician or maintenance electrician.
- (b) An electrical sign contractor shall be permitted to manufacture, install and do such wiring as is required to connect the sign, outline lighting or inside lighting to an existing circuit that has been approved by the building official for connection of the specific load covered by the permit issued. Should the available circuit not be adequate for the specific sign and outline lighting load to be connected, a master electrician shall be employed by the owner or his agent to install the necessary wiring required to provide the required capacity and circuits for the proposed signs and outline lighting. An electrical sign contractor shall be permitted to install the necessary service and circuits for an isolated sign and/or outline lighting installation. The electrical sign contractor shall employ only properly registered journeyman electricians and apprentice electricians to perform any electrical work requiring a permit under this article.
- (c) For the purposes of this section, the term "isolated sign and/or outline lighting installation" means an installation in which neither the meter nor service supplying such installation or any of the sign or outline lighting is mounted on or in any building or structure not a part of such sign or outline lighting.
- (d) As applied in this section, signs or outline lighting on the exterior of a building must have the circuit available on the exterior of the building.
- (e) Before any person, except a master electrician, shall engage in the business of electrical sign contractor, he shall make application to the building official for an electrical sign contractor's license. The application shall state the name of the person who will sign applications for permits, the business address, the name under which business will be transacted and such other relevant information as deemed necessary by the building official.
- (f) To qualify for a electrical sign contractor's license:
 - (1) Shall be the same as those of a master electrician in all respects.
 - (2) Insurance requirements for an electrical sign contractor shall be the same as a master electrician.

- (3) International Code Council master sign electrician's certification.
- (g) The initial fee for the license shall be \$100.00. The renewal fee shall be \$25.00.
- (h) All licenses shall expire on December 31 annually.
- (i) All work performed and materials, apparatus, devices, appliances, fixtures or equipment used shall conform with the full requirements of this article. Any electric sign built within the city and to be installed within the city shall be inspected by the building official before the sign is erected. Signs constructed outside the city but erected within the city shall be subject to the same rules and regulations as apply to signs constructed within the city. After approval by the building official, such official shall attach an approval label or stamp to the sign.
- (j) Nothing in this section shall be construed as preventing a licensed master electrician from engaging in the business of electrical sign contractor, but the master electrician shall otherwise comply with the requirements of this section as to rules for sign work.
- (k) Any person installing any type of electrical sign or sign standards must be a qualified sign contractor with a permanent place of business and listed as such.

(Ord. No. 1997-01, 1-13-97)

Separability

If any court of competent jurisdiction rules that any section, subsection, sentence, clause, phrase, or portion of this ordinance is invalid or unconstitutional, any such portion shall be deemed to be a separate, distinct, and independent provision, and any such ruling shall not affect the validity of the remaining portions hereof.

Fine and Penalty for Violations

Section 18-145 Any person violating any of the terms or provisions of this article shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than \$100.00 nor more than the maximum provided in Section 1-5 for each offense. If the terms or provisions of this article are violated by any corporation or firm, the officers and agents actively in charge of the business of such corporation or firm and person actually performing the work for such corporation or firm shall be subject to the penalties provided in this section.

Effective Date

This Ordinance shall become effective on the 24th day of April 2003.

Passage and Approval

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, on the 14th day of April 2003.

CITY OF WHARTON, TEXAS

By: _____
GARLAND S. NOVOSAD
Mayor

ATTEST:

JOYCE VASUT
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

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

The sixteenth discussed item on the agenda was to review and consider Texas Attorney General Opinion No. GA-0057; concerning City Councilmember Domingo Montalvo, Jr. City Manager Andres Garza, Jr. presented a copy of the memorandum received from City Attorney Paul Webb on Friday, April 11, 2003, concerning City Councilmember Domingo Montalvo, Jr. City Attorney Paul Webb stated that all information regarding the item was included in the packet and that no action was necessary. Councilmember Montalvo thanked those who spent a lot of time on the issue of whether a person could serve simultaneously on a City Council and a Selective Service Local Board. Councilmember Ken Freese congratulated Councilmember Montalvo.

The seventeenth item discussed on the agenda was to review and consider Performance of the duties of the Building Official Ronnie Bollom as requested by Councilmember Darryl Darnell. Councilmember Darnell requested that this item be pulled from the agenda.

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

- A. Mayor's Local Committee on People with Disabilities.
- B. Wharton Regional Airport Board meeting held, April 1, 2003.
- C. Planning Commission meeting held April 7, 2003.
- D. Electrical Board meeting held April 1, 2003.
- E. Beautification Committee meeting held April 9, 2003.

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

The nineteenth item discussed on the agenda **Executive Session:** City Council may adjourn into an Executive Session in accordance with Section 551.074 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 complaint received from Ms. Lehia Corwin
Mayor Garland S. Novosad adjourned into executive session at 8:09 p.m.
Mayor Garland S. Novosad called the meeting into open session at 8:37 p.m.

The twentieth item discussed on the agenda was Action on items discussed in Executive Session:

A. Review & Consider: Action regarding complaint received from Ms. Lehia Corwin.
No action was taken.

The twenty-first 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 8:38 p.m.

CITY OF WHARTON, TEXAS

By:

GARLAND S. NOVOSAD
Mayor

ATTEST:

JOYCE VASUT
City Secretary