

**MINUTES  
OF  
CITY OF WHARTON  
REGULAR CITY COUNCIL MEETING  
JULY 28, 2003**

Mayor Bryce D. Kocian declared a Regular Meeting duly open for the transaction of business at 7:00 p.m. Councilmember V. L. Wiley, Jr. led the opening devotion and then Mayor Bryce D. Kocian led the pledge of allegiance.

Councilmembers present were: Mayor Bryce D. Kocian, Councilmembers V. L. Wiley, Jr., Darryl Darnell, Ken Freese, Don Mueller, Domingo Montalvo, Jr., and Ray Linseisen.

Councilmember absent was: None.

Staff members present were: City Manager, Andres Garza, Jr., Finance Director Joyce Vasut, Deputy City Secretary Lisa Stavena, Assistant to City Manager Jackie Jansky, Building Official Ronnie Bollom, Building Official Assistant Lori Jaquez, Police Chief Tim Guin, Public Works Director Phil Bush, Facilities Maintenance Director Bob Baker, Community Services Director Jo Knezek, and City Attorney Paul Webb.

Visitors present were: Ron Sanders Wharton Journal-Spectator, David Schroeder with WEDCo, Carlos Cotton, Lewis Fortenberry, Dustin Dean, Andy Kirkland, Wortham Smith, and Bernice Jackson.

The seconded item on the agenda was Roll Call. Councilmember Don Mueller made a motion to excuse Councilmember Darryl Darnell from the Regular City Council Meeting held on July 28, 2003. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The third item on the agenda was Public Comments. No comments were given. No action was taken.

The fourth item on the agenda was the Wharton Moment. Councilmember V. L. Wiley, Jr. welcomed Councilmember Ray Linseisen to the Wharton City Council.

Councilmember Ken Freese publicly commended Dr. Dwight King for the Boys & Girls Club program held on Thursday, July 24, 2003, which was a patriotic picnic. He stated that Mr. Roger King, the brother of Dr. Dwight King, was the guest speaker.

Mayor Bryce D. Kocian read a Proclamation, which read as follows:

**WHEREAS,** In the Spring of 2003, 15 Texans including 10 with disabilities' tackled Mount Everest to raise awareness around the world of the unlimited potential of people with disabilities. As Team Everest '03 proved, limits should never be placed on the ability of the human mind or the potential of the human spirit.

**WHEREAS,** Today, our state is home to an estimated four million people with disabilities. Texans with disabilities have played a prominent role in forming the Texas of

the 21<sup>st</sup> century, profoundly influencing the many facets of today's Texas. From doctors to artists and lawyers to teachers, individuals with disabilities offer valuable contributions to the Lone Star State.

**WHEREAS,** Thirteen years ago on July 26, 1990, President George Herbert Walker Bush signed the Americans with Disabilities Act (ADA) into law. The ADA provides 54 million Americans with disabilities protection from discrimination in employment, accessibility and communications.

**WHEREAS,** Texas employers have accommodated workers with disabilities by providing speech input/output computers, interpreters, captioning and accessible software/websites. Thousands of private businesses and governmental facilities have complied with state and federal access requirements.

**WHEREAS,** As Mayor of the City of Wharton, I believe that it is important that we work to build upon the principles of the ADA. The 78<sup>th</sup> Texas Legislature passed into law, effective September 1, 2003, House Bill 2881 and House Bill 148. HB 2881 provides recourse for attacks on assistance animals and HB 148 provides punishment for people who make or use counterfeit parking placards.

**NOW, THEREFORE BE IT RESOLVED,** I, Bryce D. Kocian, by the authority vested in me as Mayor of the City of Wharton, Texas urge all citizens of the City of Wharton to recognize the talents and skills of Texans with disabilities and maximize opportunities for people with disabilities in the City of Wharton.

**FURTHER,** I, Mayor Bryce D. Kocian, do hereby proclaim July 28, 2003 as ADA Awareness Day in the City of Wharton and urge the appropriate recognition whereof.

**IN WITNESS THEREOF,** I have set my hand and caused the seal of the City of Wharton to be affixed this 28<sup>th</sup> day of July, in the year of our Lord two thousand three A.D.

Mayor Bryce D. Kocian then read a Proclamation, which read as follows:

**WHEREAS,** the citizens of Wharton, Texas appreciate and give thanks to our present and past military members for their patriotic service in support of our country; and

**WHEREAS,** everyone in the City of Wharton enjoys the freedoms gained from sacrifices made and lives given by our military members; and

**WHEREAS,** the Mayor and City Council want to make special mention of the visit to Wharton, Texas, by the outstanding U. S. Air Force Band of the West from Lackland Air Force Base, San Antonio, Texas; and

**WHEREAS,** the Band is known all around the Southwest as Musical Ambassadors of the Air Force and stir patriotic emotions wherever they play.

**NOW, THEREFORE BE IT RESOLVED,** that the Mayor and City Council hereby extend a warm welcome to the members of the U.S. Air Force Band of the West and declares Saturday,

August 9, 2003, as Armed Forces Appreciation Day in the City of Wharton.

**IN WITNESS THEREOF**, I have set my hand and caused the seal of the City of Wharton to be affixed this 28<sup>th</sup> day of July, in the year of our Lord two thousand three A.D.  
No action was taken.

The fifth item on the agenda was to review and consider the Presentation of Certificate of Appointment to Councilmember Ray Linseisen. City Manager Andres Garza, Jr. stated that on July 15, 2003, Mr. Linseisen took his Oath of Office and Statement of Appointed Official. Mayor Bryce D. Kocian presented a Certificate of Appointment to Councilmember Ray Linseisen. No action was taken.

The sixth item on the agenda was to review and consider City of Wharton Financial Report for the month of June 2003. Finance Director Joyce Vasut presented the financial report for the month of June 2003, which was at 75% or nine months into the fiscal year. Mrs. Vasut stated that the general fund revenues were at 78.73% and the expenditures were at 73.63%. The total ad valorem taxes collected were \$1,705,473. The sales tax for the month of May 2003 was \$93,879 with \$62,586 to the City and \$31,293 to WEDCo. The TexPool balance for June 2003 was \$2,135,415.53 with an average monthly yield of 1.2258%. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the financial report for the month of June 2003 as presented. Councilmember Don Mueller seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider a resolution authorizing City Manager Andres Garza, Jr. and Finance Director Joyce Vasut as the Texas Community Development Program Depository/Authorized Signatories for the City of Wharton Texas Capital Fund Contract No. 722202 for the Wal-Mart Supercenter Texas LP Project. City Manager Andres Garza, Jr. presented to the City Council a draft resolution authorizing City Manager Andres Garza, Jr. and Finance Director Joyce Vasut as the Texas Community Development Program Depository/Authorized Signatories for the City of Wharton, Texas, Capital Fund Contract No. 722202 for the Wal-Mart Supercenter Texas LP Project. He stated that the grant required two authorized signatures. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2003-70, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2003-70**

**A RESOLUTION AUTHORIZING CITY MANAGER ANDRES GARZA, JR. AND FINANCE DIRECTOR JOYCE VASUT AS THE TEXAS COMMUNITY DEVELOPMENT PROGRAM DEPOSITORY/AUTHORIZED SIGNATORIES FOR THE CITY OF WHARTON TEXAS CAPITAL FUND CONTRACT NO. 722202 FOR THE WAL-MART SUPERCENTER TEXAS LP PROJECT.**

**WHEREAS**, the Office of Rural Community Affairs, Texas Community Development Program requires that the recipient organization shall provide authorized signatories for the Depository/Authorized Signatories Designation Form; and

**WHEREAS,** the recipient organization being the City of Wharton, Texas has met this requirement by the City Council passing a Resolution delegating the persons listed below with the authority to sign the Depository/Authorized Form for TCF Contract No. 722202.

**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, Texas hereby authorized the following signatories:

**Andres Garza, Jr.**  
City Manager

\_\_\_\_\_  
Signature

**Joyce Vasut**  
Finance Director

\_\_\_\_\_  
Signature

**Section II.** This resolution shall become effective immediately upon its passage.

**PASSED, APPROVED, AND ADOPTED** this the 28<sup>th</sup> day of July 2003.

**CITY OF WHARTON, TEXAS**

**By:** \_\_\_\_\_  
**BRYCE D. KOCIAN**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**JOYCE VASUT**

City Secretary

Councilmember Ray Linseisen seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider the request by Mr. Stormy Brooks for a temporary permit for Possession/Consumption of Alcoholic Beverages at City Parks. City Manager Andres Garza, Jr. presented to the City Council a copy of the application for a temporary permit for Possession/Consumption of Alcoholic Beverages at City Parks submitted by Mr. Stormy Brooks. He stated that Mr. Brooks was requesting the use of the Central Pavilion on August 16, 2003. He then presented a copy of the letter dated July 24, 2003 from Police Chief Tim Guin, which stated the application appeared to comply with Ordinance 2002-22. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the request by Mr. Stormy Brooks for a temporary permit for Possession/Consumption of Alcoholic Beverages at City Parks on August 16, 2003. Councilmember Don Mueller seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider a request for variance by Mr. Wortham Smith, The Villages of Wharton, County located at 7100 Highway 59, 32.486 acre tract of land in the A. Jackson Timber League, Abstract 34, Wharton County, Texas, for a 0-foot (zero) front yard setback variance for the placement of a building. City Manager Andres Garza, Jr. stated that

during the July 14, 2003 Wharton City Council meeting, the City Council requested that Mr. Wortham Smith provide clarification that the placement of the building to be located at 7100 Highway 59, 32.486 acre tract of land in the A. Jackson Timber League, Abstract 34, Wharton County, Texas, would not be in the State right-of-way. He then presented a copy of the memorandum dated July 24, 2003 from Building Official Ronnie Bollom and the letter dated July 24, 2003 from Mr. Wortham Smith providing information regarding the placement of the building. He stated that as indicated in the survey plat prepared by Mr. Robert Kolacny, the building, including the front porch, was one foot and three inches inside the property owned by Mr. Smith and does not extend into the State right-of-way. Mr. Wortham Smith addressed the City Council and stated that the survey completed by Mr. Robert Kolacny indicated that the building was 15" from the property line. He stated that when he moved the building on the property, he was under the impression that the property was in the county. He stated that CenterPoint Electric had installed the electricity to the building, however it had not been hooked up due to the pending decision of the City Council. He stated that a majority of the cost was setting the building in place and was placed at the location for visibility purposes due to the signs on the property. Councilmember Don Mueller asked if the building would be permanent. Mr. Smith stated that the building would serve as a temporary office and project office. Councilmember Don Mueller stated when I-69 would be constructed, then the City would then install water and sewer lines in the right-of-way. Mr. Smith requested the City Council approve the placement of the building at a 0-foot, until any problem arises and then he would move the building at that time. City Attorney Paul Webb stated that the City Council could approve the request contingent upon the widening of the road and/or installation of water or sewer services. After some discussion, Councilmember Don Mueller made a motion to approve the request for variance by Mr. Wortham Smith, The Villages of Wharton, County located at 7100 Highway 59, 32.486 acre tract of land in the A. Jackson Timber League, Abstract 34, Wharton County, Texas, for a 0-foot (zero) front yard setback variance for the placement of a building contingent upon widening of the road and/or extension of water or sewer services in the right-of-way. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider the recommendations from the Planning Commission:

A. Request by Mr. Dustin Dean for approval of the preliminary and final re-plat of Wharton, Block 7, Lots 3B, 4A, 4B, 5A, and 5B, Wharton. City Manager Andres Garza, Jr. presented a copy of the memorandum dated July 23, 2003 from Planning Commission Chairman A. J. Rath recommending the City Council consider approving the request. He then presented copies of the Commission Communications from the meeting held July 21, 2003. Mr. Dustin Dean addressed the City Council and stated that he was requesting approval of the preliminary and final re-plat in order to sell the building. City Attorney Paul Webb informed the City Council the re-plat would not effect the property, it would correct the wall lines. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the request by Mr. Dustin Dean for approval of the preliminary and final re-plat of Wharton, Block 7, Lots 3B, 4A, 4B, 5A, and 5B, Wharton. Councilmember Ken Freese seconded the motion. All voted in favor.

B. Request by Mr. George Lefebvre for approval of the preliminary & final re-plat of Lots 34 and 35, Park Addition, 519 Circle Drive, Wharton. City Manager Andres Garza, Jr. presented a copy of the memorandum dated July 23, 2003 from Planning Commission Chairman A. J. Rath recommending the City Council consider approving the request. He then presented copies of the Commission Communications from the meeting held July 21, 2003. Mr. George Lefebvre

addressed the City Council and stated that the survey had a discrepancy, therefore he was requesting approval of the preliminary and final re-plat since Lot 34 encroaches into Lot 35. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the request by Mr. George Lefebvre for approval of the preliminary & final re-plat of Lots 34 and 35, Park Addition, 519 Circle Drive, Wharton. Councilmember Don Mueller seconded the motion. All voted in favor.

The eleventh item on the agenda was to review and consider a resolution authorizing the Mayor of the City of Wharton to execute all documents for the application of the annual Bureau of Justice – Local Law Enforcement Block Grant; and authorizing the Mayor of the City of Wharton to act on the City’s behalf in all matters pertaining to this application. City Manager Andres Garza, Jr. presented a draft copy of the resolution authorizing the Mayor of the City of Wharton to execute all documents for the application of the Annual Bureau of Justice – Local Law Enforcement Block Grant; and authorizing the Mayor of the City of Wharton to act on the City’s behalf in all matters pertaining to this application. Police Chief Tim Guin stated approval would authorize Mayor Bryce D. Kocian to execute any relating documents. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2003-71, which read as follows:

**City of Wharton  
Resolution No. 2003-71**

**A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS FOR THE APPLICATION OF THE ANNUAL BUREAU OF JUSTICE – LOCAL LAW ENFORCEMENT BLOCK GRANT; AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO ACT ON THE CITY’S BEHALF IN ALL MATTERS PERTAINING TO THIS APPLICATION.**

**WHEREAS,** the City of Wharton to wishes to apply for the annual Bureau of Justice- Local Law Enforcement Block Grant; and

**WHEREAS,** the City of Wharton is eligible to receive funds to supplement the Wharton Police Departments budget; and

**WHEREAS,** the City Council wishes to authorize the Mayor of the City of Wharton to act on the City’s behalf in all matters pertaining to the application.

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

**Section I.** That the Wharton City Council hereby authorizes the submission of an application for the annual Bureau of Justice- Local Law Enforcement Block Grant.

**Section II.** That the Wharton City Council hereby authorizes Bryce D. Kocian, Mayor of the City of Wharton to act on the City’s behalf in all matters pertaining to this application.

**Section IV.** This resolution shall become effective immediately upon its passage.

**Passed, Approved and Adopted** this the 28<sup>th</sup> of July 2003.

**CITY OF WHARTON, TEXAS**

**By:** \_\_\_\_\_  
**Bryce D. Kocian**  
**Mayor**

**ATTEST:**

\_\_\_\_\_  
Joyce Vasut  
City Secretary

Councilmember Ray Linseisen seconded the motion. All voted in favor.

The twelfth item on the agenda was to review and consider the request by the Wharton Police Department to purchase an MTR 2000 Motorola Base Station VHF Radio. City Manager Andres Garza, Jr. presented a copy of the memorandum dated July 24, 2003 from Wharton Police Chief Tim Guin requesting to purchase a MTR 2000 Motorola Base Station VHF Radio. He stated that in Chief Guin's memorandum was a price quote from Alliance Wireless Technologies and HGAC. He said that Chief Guin, EMS Director John Kowalik and Fire Chief David Copeland agreed that this would be considered an emergency purchase. Police Chief Tim Guin informed the City Council that the Police, Fire and EMS Departments utilized the VHF Radio. He stated that a major component was replaced in the old unit, however the unit was at the end of its service life and not dependable. He said that the old unit would become a backup unit if the City purchased a MTR 2000 Motorola Base Station VHF Radio. Councilmember Domingo Montalvo, Jr. stated that he spoke with Fire Chief David Copeland and concurs with Chief Guin's recommendation. City Manager Andres Garza, Jr. stated that VHF Radio would be purchased as a Capital item in the budget. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the request by the Wharton Police Department to purchase an MTR 2000 Motorola Base Station VHF Radio and declare the purchase an emergency. Councilmember Ken Freese seconded the motion. All voted in favor.

The thirteenth item on the agenda was to review and consider a resolution to establish the Texas Department of Transportation Routine Airport Maintenance Program (RAMP) Contract No. M313WHRTN for the City of Wharton, Wharton Regional Airport; Authorizing the Mayor of the City of Wharton to execute all documents relating to said contract. City Manager Andres Garza, Jr. presented a draft copy of the resolution establishing the Texas Department of Transportation Routine Airport Maintenance Program (RAMP) Contract No. M313WHARTN for the City of Wharton, Wharton Regional Airport. He then presented a copy of the letter dated July 22, 2003 by Ms. Megan Caffall, Grant Manager for the Texas Department of Transportation regarding the contract documents. He stated that the RAMP program would provide \$30,000 towards the installation of the AWOS system electrical service, improvement to the Wharton Regional Airport entrance, and extension of the airport road. He then stated that City Council approved the participation in the RAMP program at the Regular City Council meeting held on July 14, 2003, which included the entrance road, continuance of the road away from the hangars and electrical service to power the AWOS system. He stated that the City portion would be

\$54,000 paid from the Airport Fund. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2003-72, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2003-72**

**A RESOLUTION TO ESTABLISH THE TEXAS DEPARTMENT OF TRANSPORTATION ROUTINE AIRPORT MAINTENANCE PROGRAM (RAMP) CONTRACT NO. M313WHRTN FOR THE CITY OF WHARTON, WHARTON REGIONAL AIRPORT; AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID CONTRACT.**

**WHEREAS,** the City of Wharton was awarded Contract No. M313WHRTN (Attached A) by the Texas Department of Transportation; and

**WHEREAS,** the Wharton City Council wishes to establish the Texas Department of Transportation Routine Airport Maintenance Program (RAMP) Contract No. M313WHRTN between the Texas Department of Transportation and the City of Wharton, Wharton Regional Airport; and

**WHEREAS,** the Wharton City Council wishes to authorize the Mayor of the City of Wharton, Texas to execute all documents relating to said contract; and

**WHEREAS,** this resolution is passed in accordance with said proposal.

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

Section I. That Bryce D. Kocian, Mayor of the City of Wharton is hereby authorized to sign any documents relating to the aforementioned contract.

Section II: That this resolution shall be come effective immediately upon its passage.

**Passed, Approved, and Adopted** this 28<sup>th</sup> day of July 2003.

**CITY OF WHARTON, TEXAS**

**By:** \_\_\_\_\_  
**BRYCE D. KOCIAN**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**JOYCE VASUT**

City Secretary

Councilmember Ray Linseisen seconded the motion. All voted in favor.

The fourteenth item on the agenda was to review and consider a resolution approving a contract with the Texas Municipal League – Intergovernmental Employee Benefits Pool for Group

Hospitalization, Long-Term Disability, Life, Accidental Death & Dismemberment; and Fortis Benefits Insurance Co. for Dental Coverage Insurance for City Employees effective October 1, 2003; Authorizing the Mayor of the City of Wharton to execute all documents relating to said contracts. City Manager Andres Garza, Jr. presented a draft copy of the resolution approving a contract with the Texas Municipal League – Intergovernmental Employee Benefits Pool for Group Hospitalization, Long-Term Disability, Life, Accidental Death & Dismemberment; and Fortis Benefits Insurance Co. for Dental Coverage Insurance for City Employees effective October 1, 2003. He stated that the City of Wharton received a letter from the Texas Municipal League dated July 14, 2003 offering the City the option to renew the contract providing the current rates with a 10% increase for fiscal year 2003- 2004. He then stated for the current year, the City had contracted with Texas Municipal League and since it was a Pool, the City did not need to bid the insurance. He stated that overall, the Pool had a good year, and the premiums for December 2003 would be waived by TML reflecting a \$17,000 cost savings for the City. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2003-73, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2003-73**

**A RESOLUTION APPROVING A CONTRACT WITH THE TEXAS MUNICIPAL LEAGUE – INTERGOVERNMENTAL EMPLOYEE BENEFITS POOL FOR GROUP HOSPITALIZATION, LONG-TERM DISABILITY, LIFE, ACCIDENTAL DEATH & DISMEMBERMENT; AND FORTIS BENEFITS INSURANCE CO. FOR DENTAL COVERAGE INSURANCE FOR CITY EMPLOYEES EFFECTIVE OCTOBER 1, 2003; AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID CONTRACTS.**

**WHEREAS**, on July 14, 2003, the City of Wharton received the renewal rate for group hospitalization, long-term disability, life, accidental death & dismemberment, and dental insurance for city employees; and

**WHEREAS**, the City of Wharton would receive a 10% increase on the medical plan with Texas Municipal League - Intergovernmental Employee Benefits Pool; and

**WHEREAS**, the city employees would receive a 5% increase with Fortis Benefits Insurance Co. for voluntary dental coverage; and

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

Section I. That Texas Municipal League - Intergovernmental Employee Benefits Pool is hereby awarded the group hospitalization, long-term disability, life and accidental death & dismemberment.

Section II. That Fortis Benefits Insurance Co. is hereby awarded the voluntary dental coverage for City Employees.

Section III. That the Mayor of the City of Wharton is hereby authorized to sign any documents relating to the aforementioned contract.

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

**Passed, Approved, and Adopted** this 28th day of July 2003.

**CITY OF WHARTON, TEXAS**

By: \_\_\_\_\_  
**BRYCE D. KOCIAN**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**JOYCE VASUT**

City Secretary

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

The fifteenth item on the agenda was to review and consider a resolution authorizing the Mayor of the City of Wharton to execute the Sub-Recipient Agreement for First Responder Funding through the State Domestic Preparedness Program under the FY2002-2004 Homeland Security Grant. City Manager Andres Garza, Jr. stated that on May 22, 2003, the City of Wharton was notified by the Houston-Galveston Area Council (H-GAC) that the City had been awarded \$107,383.00 for First Responder Funding through the State Domestic Preparedness Program under the FY2002-2004 Homeland Security Grant. He said that on June 16, 2003 and July 24, 2003, Assistant to City Manager Jackie Jansky had requested Emergency Management Coordinator Kent Hunt to provide a copy of the survey assessment that was submitted to the Texas Engineering Extension Service (TEEX). Since Ms. Jansky was unable to obtain the information from Mr. Hunt, she contacted H-GAC and TEEX and was able to obtain the survey assessment and sub-recipient agreement. Ms. Jansky was informed by TEEX that the grant package and agreement was issued to Mr. Hunt and Former Mayor Garland Novosad on July 2, 2003.

He then presented a copy of the State Domestic Preparedness Program – ODP Grant process that indicated that the sub-recipient agreement must be submitted by July 31, 2003. He stated that a copy of the survey assessment and agreement was submitted to City Attorney Paul Webb for review. He then presented a copy of the agreement and draft resolution authorizing Mayor Bryce D. Kocian to execute the agreement. City Attorney Paul Webb informed the City Council that he reviewed the documents, which Mr. Hunt and Deputy Emergency Management Coordinator Chester Houston prepared. He stated that he was concerned about the City being lumped into a region and being the First Responders for Colorado County. Councilmember Domingo Montalvo, Jr. stated that the biggest concern for the region was the cost of regional calls; the cost to operate, replace, and rotate equipment; and the cost to train personnel to become certified. Councilmember Don Mueller stated that the City needed to adopt a policy regarding the authorization needed prior to obtaining grants. Councilmember V. L. Wiley, Jr. stated the Mayor had the authority to manage Emergency Management. City Attorney Paul Webb stated that City Council needed to approve all agreements before the City would be obligated. Councilmember Ken Freese asked Councilmember V. L. Wiley, Jr. if he was involved in the process. Councilmember V. L. Wiley, Jr. stated that he attended meetings with Mr. Houston and Wharton

County. Mayor Bryce D. Kocian stated that he met with Mr. Hunt and Mr. Houston and they were going to have monthly meetings and would present updates to the City Council. Councilmember Domingo Montalvo, Jr. stated that there should be communication between the City Council and the Emergency Management Coordinator. City Attorney Paul Webb stated that there was a lot of record keeping for the grant and requested Wharton County Emergency Management Coordinator Andy Kirkland to attend the City Council meeting in order to address any questions. Mr. Kirkland addressed the City Council and stated that there a list of equipment from which purchasae could be made with the grant funds. He stated that Wharton would be required to send personnel to Colorado County as First Responders if needed. Councilmember Domingo Montalvo, Jr. stated that there was no guarantee that a grant would be available in three years to replace or upgrade the equipment purchased, and there was also a possibility of expanding the regions. Mr. Kirkland stated that the City's responsibility would be to train personnel, maintain the equipment and provide insurance coverage for the equipment. He stated that the City of Columbus received the same grant, however they received less funds. City Manager Andres Garza, Jr. asked if communication equipment was available through the grant. Mr. Kirkland stated that the different departments within the thirteen counties were all using different types of frequencies. He stated that the Emergency Management Division was requesting that the departments use the VHS route, however he feels that the equipment should be enhanced to the current capabilities. Councilmember Domingo Montalvo, Jr. publicly commended Mr. Kirkland for his contribution towards the grant process. City Manager Andres Garza, Jr. informed the City Council that the City Council would have to accept the grant by July 31, 2003 in order to receive the funds. He stated that City Council could pre-approve all expenditures and purchases of specific equipment when a recommendation to purchase specific item would be received from Emergency Management. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion for the City Council to pre-approve all expenditures and purchases of specific equipment when a recommendation to purchase specific item would be received from Emergency Management and approve Resolution No. 2003-74, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2003-74**

**A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE SUB-RECIPIENT AGREEMENT FOR FIRST RESPONDER FUNDING THROUGH THE STATE DOMESTIC PREPAREDNESS PROGRAM UNDER THE FY2002-2004 HOMELAND SECURITY GRANT.**

**WHEREAS,** the Wharton City Council wishes to authorize the Mayor of the City of Wharton, Texas to execute a Sub-Recipient agreement for first responder funding through the State Domestic Preparedness Program under the FY2002-2004 Homeland Security Grant.

**WHEREAS,** the City of Wharton and the Texas Engineering Extension Service wishes to be bound by the conditions as set forth in Attached "A".

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

**Section I.** That the Wharton City Council hereby authorizes the Mayor of the City of Wharton, Texas to execute a Sub-Recipient agreement for first responder funding through the State Domestic Preparedness Program under the FY2002-2004 Homeland Security Grant.

**Section II.** That the City of Wharton and the Texas Engineering Extension Service hereby bound by the conditions as set forth in the Attached "A".

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

**Passed, Approved, and Adopted** this the 28<sup>th</sup> day of July 2003.

**CITY OF WHARTON**

By: \_\_\_\_\_  
**BRYCE D. KOCIAN**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**JOYCE VASUT**

City Secretary

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

The sixteenth item on the agenda was to review and consider Request for Payments on City Construction Projects:

A. City of Wharton Elevated Water Storage Tank Rehabilitation Project Pay Request No. 5 – N. G. Painting, Inc. City Attorney Paul Webb stated that he was awaiting confirmation that all claims were complete. He requested no action be taken. No action was taken.

B. City of Wharton Civic Center Restroom Project – Penner Electric.

City Manager Andres Garza, Jr. presented a copy of the pay requests for the project to the City Council. After some discussion, Councilmember Ken Freese made a motion to approve the pay request for the City of Wharton Civic Center Restroom Project in the amount of \$7,614.00 to Penner Electric. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The seventeenth item on the agenda was to review and consider update on the City of Wharton's On-Going Projects:

City Manager Andres Garza, Jr. presented the following update in a powerpoint presentation, prepared by the City Staff, regarding the City of Wharton's on-going projects:

A. Wal-Mart Supercenter Project:

1. Water and Sanitary Utility Extension Project.

City Manager Andres Garza, Jr. stated that the Wal-Mart Supercenter Water and Sanitary Utility Extension Project was almost complete. He said that Uticon, Inc. had laid the water utility line from the entrance of the water plant to FM 102. He said that the line would be put into service tomorrow. He also said that the sewer line, which was placed under the FM 102

overpass, was also almost complete. Mr. Garza said that the estimated completion date of the project was August 15, 2003 and that the contractual completion date was set for September 1, 2003.

2. Caney Creek Outfall Ditch.

Mr. Garza stated that the Wal-Mart building walls were being constructed. He said that the Caney Creek Outfall Ditch was moving forward. He said that the box would be installed under FM 102 and that the ditch would continue to the Colorado River. He said that the committed completion date was December 1, 2003 but the project should be complete and in service in October 2003.

B. Wastewater Treatment Plant No. 2 Improvement Project.

City Manager Garza stated that the estimated completion date was September 1, 2003. He said that the plant would treat the effluent from the industrial customer and that the Milam Street Force Main project would enhance the wastewater treatment plant by providing some domestic sewer. Then he said this would assist the plant in the treatment process.

C. Milam Street Force Main Project.

City Manager Garza stated that Jones & Carter, Inc. was preparing the bid packages for the construction of the Milam Street Force Main Project. He said that the City was building a lift station on Milam Street, which would force main sewer from the Milam Street Lift Station to the Wastewater Treatment Plant No. 2. He said that it would provide an opportunity to reduce the volume of water treated at the Wastewater Treatment Plant No. 1. He said the reduction would be approximately 130,000 gallons of water per day, which consisted of 300 to 400 homes.

D. Hinze's Phase III.

Mr. Garza said the City had completed Phase I and Phase II of the Hinze's waterline project and was currently finishing Phase III. He said the City's crew was in front of TJ's Welding Service. He also said that with the Jansky and Hawes easements, the City could continue along the ease side of Highway 60. Without the easements, the City would need to bore under Highway 60. Mr. Garza said the project was being completed in-house and that the City's Public Works and Utilities Department under the supervision of Public Works Director Phil Bush has done a tremendous job.

E. Grace Community Fellowship Utilities.

Mr. Garza stated that this project would be complete at the end of the week and the Church would have utilities. He said that the contractors had begun site preparations. Mr. Garza also said that a meeting was scheduled for July 31, 2003 with Wharton County to discuss water run-off that would be created by the parking lot. He said the water would drain into a ditch and into Lake Nett, which could create a negative impact on Lake Nett.

F. Milam Street Lift Station.

City Manager Garza said that during the 1998 Flood, the lift station flooded. He said that the project would allow the lift station to be elevated approximately four feet and that the City was going to install submersible pumps. Mr. Garza said the project was funded through the Federal Emergency Management Agency (FEMA) and that the project was scheduled to complete August 22, 2003.

G. Alabama Road / Nelson Lane Flap Gate.

City Manager Garza said that the Alabama Road Flap Gate project would protect the City from Colorado River water backflowing into the City through the box culvert on Alabama Road. He said that if the river were to rise, then the gates would close and not allow the backflow of river water into the lines. The Nelson Lane Flap Gate project has not begun but both projects were due to be completed by December 31, 2003.

H. Valhalla Water Well.

Mr. Garza stated that this project was complete and the tank and well were in service. He stated the well was running correctly. City Manager Garza also said that the tank has been scheduled to be repainted in 2004.

I. Wastewater Treatment Plant No. 1 Rehabilitation Project.

City Manager Garza stated that the Wastewater Treatment Plant No. 1 Rehabilitation Project consisted of electrical upgrades of the plant that was funded through the 1998 Bond Fund. He said that Anthony Rachunek & Associates was conducting the engineering on the project. Also, he said that with the re-routing of 130,000 gallons of water to the Wastewater Treatment Plant No. 2 that the plant would be able to handle future growth.

J. Bank Stabilization Project.

During the Flood of 1991 and 1998, the Colorado River bank sloughed off and into the river, which created a hazard for the Wastewater Treatment Plant No. 1, which sits on the bank of the river. The City obtained State funding and placed six wells at various points along the bank to equalize the river water when it fell after a river rise. The equalization would allow the bank not to slough off. Mr. Garza said that the river rose a few weeks ago and the wells worked correctly.

K. Elevated Water Storage Tank Painting Project.

City Manager Garza said that the tank-painting project was almost complete. He said that work on a ground storage tank would be delayed because of water demands.

L. Sewer Improvements on Old Lane City Road, North Fulton, and Reed Lane.

City Manager Garza said this project was funded through the 2000 Bond Fund. He said that three sewer lines were in need of repair along Old Lane City Road, North Fulton, and Reed

Lane. He said that the City was waiting for the plans and specifications that were being prepared by Anthony Rachunek & Associates.

M. 2003 Street Sealcoating / Relining Ahldag Ditch Project.

City Manager Garza said the street project was underway.. Mr. Garza stated the project would be complete December 31, 2003.

N. AWOS System.

City Manager Garza said that the Automated Weather Observing System (AWOS) would be located 1600 feet from the last hangar at the Wharton Regional Airport. He said that it was the City's responsibility to bring electrical and telephone service to the system. Mr. Garza said that this project would be completed in January 2004 and that the City anticipated the AWOS to be installed in mid-December 2003. Mr. Garza said the system was approximately \$85,000. Mr. Garza stated that system improvements at an airport would attract different types of aircraft. Mr. Garza also said that the more money the federal government provides for airport improvements, the commitments increase for providing certain services at the airport.

O. Airport Action Plan.

City Manager Garza said the Texas Transportation Commission was scheduled to meet August 25, 2003 to consider approval of the Wharton Regional Airport – Airport Action Plan.

P. Capital Improvements Program – Wharton Regional Airport.

Mr. Ed Addicks, P.E. of O'Malley Engineers addressed the City Council and thanked them for the invitation to be present and report on the Wharton Regional Airport 2000 Capital Improvement Project. He said that the paving allowed for an additional space to the apron and that 24 planes could now be parked along the apron. He said that the pavement had been sealcoated, which would add an additional seven to ten years of life to the paving. He stated that a new electrical system had been installed underground inside of PVC pipe for the runway lights. Mr. Addicks said that that would allow for easier isolation of problems in the lines and would keep fire ants away. He further stated that the Papi lights were precision approach lights for a higher value of airplane traffic.

Mr. Addicks also said that an inspection was conducted in spring 2003 and that the Texas Department of Transportation (TxDOT) inspector was impressed and congratulated Wharton Regional Airport for its improvements.

Mr. Addicks also added that the budget for the project was \$1.4 million of which 90% was paid by the State and 10% by the City. He said the project was completed at \$1.3 million, which was \$100,000 under budget. Mr. Addicks said that the City would receive \$10,000 reimbursement from the project.

Councilmember Don Mueller asked if jet seal was used on the pavement. Mr. Addicks stated that slurry seal was used on the runway and cold tar was used around the hangars. He said that the product was better and would last longer. He also said that the Federal Aviation Administration (FAA) would not allow cold tar to be used on runways because moisture would collect on the pavement. Councilmember Domingo Montalvo, Jr. asked Mr. Addicks his opinion of how the Wharton Regional Airport rated as compared to other airports of its size. Mr. Addicks stated that the airport rated towards the top but should improve its services offered at the airport such as the addition of a restaurant. Mr. Addicks closed his report to the City Council by presenting a framed aerial photograph of the airport.

Q. Animal Control Shelter.

City Manager Garza stated that the animal control shelter was 75% complete. He said that the doors and fencing needed to be installed. Mr. Garza said that the project was being completed in-house and that Building Official Ronnie Bollom, Public Works Director Phil Bush, and Facilities Maintenance Director Bob Baker and their departments have done a good job on this project. He said that the project should be complete in October 2003.

R. Civic Center Restroom Project.

City Manager Garza stated that Facilities Maintenance Director Bob Baker was supervising this project and was doing an excellent job. He said the project was moving along and would complete by the end of August 2003. Mr. Garza said that it would provide restrooms that the Civic Center desperately needed, improved the hallway, and provided an additional meeting room and extra offices. He further stated that the City could offer the offices to the Chamber of Commerce in place of providing the Chamber \$23,000.

S. HOME Program.

Mr. Garza said that this project was moving forward. He commended the work provided by Community Services Director Jo Knezek and staff with the assistance of Mr. Bud Love of Love Construction Company. Mr. Garza said that the project should be completed by September 1, 2003. He also said that the City was awarded funding for nine additional homes to be reconstructed which would bring the total to twenty-seven reconstructs within the City. Mr. Garza said that in District No. 1 eighteen homes have been reconstructed.

T. Unmet Housing Needs.

Mr. Garza said that this was the 1998 flood grant through the Texas Department of Housing and Community Affairs HOME Program for the reconstruction of nine homes. He said that to date the City has five completed applications and was waiting for additional information for determining eligibility for the other four.

U. FEMA Buy-out Program.

City Manager Garza said that this program was the Hazard Mitigation Program for Tropical Storm Fay. He said that FEMA was requesting information regarding the four properties the

City was trying to buy-out. He said that the property owned by Mr. Edward Guajardo was the key property needed for the Caney Creek Outfall Ditch project.

V. Property Elevation Assistance.

Mr. Garza said that the City received \$500,000 to elevate 50 homes flooded in 1998. He said that the City was waiting for complete approval and setup from the division of the State before the City could determine how to proceed.

W. Wharton Interim Feasibility Study.

Mr. Garza stated that this project continues to move forward. He said that through the efforts of Councilmember Domingo Montalvo, Jr., Chairman of the Texas Colorado River Floodplain Coalition, the project funding continues. Mr. Garza said that in mid-September, the team would be providing the City Council with a report and to determine floodproofing solutions for the City of Wharton.

X. Southern Pacific Railroad Depot Restoration Project.

City Manager Garza stated that he provided the City Council with a letter from Mr. Arturo Dominguez of the Texas-Mexican Railway Company regarding their position on the donation of the depot to the City of Wharton. Mr. Dominguez indicated that with the new sale of the railroad to Kansas City Railway Company the donation of the depot could take up to five to six months. Mr. Garza also told the City Council that the City had received eight proposals from architectural firms for architectural services for the project.

After some discussion, Mayor Bryce D. Kocian told Mr. Garza that a report regarding the City of Wharton projects should be presented to the City Council on a quarterly basis. No action was taken.

The eighteenth item on the agenda was Executive Session: City Council may adjourn into an Executive Session in accordance with Sections 551.071 and 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: Litigation with HL&P.
- B. Discussion: Litigation with F. W. Walton, Inc.
- C. Discussion: Performance Evaluation of City Manager.

Mayor Bryce D. Kocian adjourned into Executive Session at 8:32 p.m.

Mayor Bryce D. Kocian returned to opening meeting at 8:53 p.m.

The nineteenth item on the agenda was return to open meeting: Action on items discussed in Executive Session:

- A. Review & Consider: Litigation with HL&P.
- B. Review & Consider: Litigation with F. W. Walton, Inc.
- C. Review & Consider: Performance Evaluation of City Manager.

Mayor Bryce D. Kocian stated that no action would be taken. Councilmember Ken Freese publicly commended City Manager Andres Garza, Jr. and stated he was honest, and had integrity, and he had handled multiple projects for the City of Wharton.

The twentieth item on the agenda was to review and consider a request by Councilmember V. L. Wiley, Jr. to discuss security measures for City Hall and Council Chambers. City Manager V. L. Wiley, Jr. stated that due to the situation that occurred at City Hall in New York, he requested that the security measures to be discussed by Police Chief Tim Guin and City Manager Andres Garza, Jr. and requested the item to be tabled. No action was taken.

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

- A. Wharton Economic Development Corporation meeting held July 15, 2003.
  - B. Building Standards Commission meeting held July 18, 2003.
  - C. Planning Commission meeting held July 21, 2003.
  - D. Mayor's Local Committee on People with Disabilities meeting held July 24, 2003.
- City Manager Andres Garza, Jr. presented the reports to the City Council. No action was taken.

The twenty-second item on the agenda was to review and consider the City Manager's Reports:

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

City Manager Andres Garza, Jr. presented the reports to the City Council. Councilmember Don Mueller asked about the weedy lots. Building Official Ronnie Bollom stated that Code Enforcement Officer Jimmy Nickolyn sent out fifty letters last month, which the rain was not helping the matter, but Mr. Nickolyn was on top of them. No action was taken.

The twenty-third 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 8:58 p.m.

**CITY OF WHARTON, TEXAS**

**By:**

---

**BRYCE D. KOCIAN**  
Mayor

**ATTEST:**

---

**JOYCE VASUT**  
City Secretary