

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
AUGUST 25, 2003**

Mayor Bryce D. Kocian declared a Regular Meeting duly open for the transaction of business at 7:00 p.m. Councilmember Domingo Montalvo, 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 Accountant Anne Grissom, Deputy City Secretary Lisa Stavena, Assistant to City Manager Jackie Jansky, EMS Director John Kowalik, Community Services Director Jo Knezek, and Building Official Assistant Lori Jaquez, Code Enforcement Officer Jimmy Nickolyn, Fire Chief David Copeland, Police Chief Tim Guin, Public Works Director Phillip Bush, and City Attorney Paul Webb.

Visitors present were: Benjamin Sharp Wharton Journal-Spectator, David Schroeder with WEDCo, Carlos Cotton, Sandra Sneed, Dr. Merrell Barfield, Jr., Carolyn Hooper Anderson, Bill Anderson, Paul Scallon, Ed Vanderstucken, William Locke, Billie Jones, Wayne Adam, Richard Arnold, I.O. Coleman, Jr., Lewis Fortenberry, Art Schulze, Kathe Warren, Johnnie Lee Roberts, Terry Freese, Jim Cody, and August Pyka.

The third item on the agenda was Public Comments. Mrs. Carolyn Hooper-Anderson addressed the City Council and stated that she was a private citizen and when Councilmember Darryl Darnell used her name, address, and renovation project, that put her back in the public eye. She publicly commended City Manager Andres Garza, Jr. and the city staff for doing excellent work. She stated that Building Official Ronnie Bollom had inspected concrete work, which the contractors had to remove since the concrete work was not up to code. She publicly commended Mr. Bollom for having the contractors redo the work. She publicly asked that her name, address and renovation project not be discussed during the City Council meetings.

Ms. Kathe Warren addressed the City Council and stated that she resides at the Red River Apartments and complained to Code Enforcement Officer Jimmy Nickolyn twice regarding the weedy lots around the Red River Apartments. She stated that the property belonging to Wharton County Junior College was still in violation and would like to know when it would be taken care of. No action was taken.

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

The fifth item on the agenda was to review and consider the City of Wharton Financial Report for the month of July 2003. Finance Accountant Anne Grissom presented the financial report for the month of July 2003 and stated that the fiscal year was at 83%. Mrs. Grissom stated that the general fund revenues were at 85.23% and the expenditures were at 82.30%. The total ad valorem taxes collected were \$1,717,339. The sales tax for the month of June 2003 was \$112,980 with \$75,320 to the City and \$37,660 to WEDCo. The TexPool balance for July 2003 was \$1,850,774.67 with an average monthly yield of 1.05483%. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the financial report for the month of July 2003 as presented. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider the City Manager's submission of the City of Wharton, Texas, Proposed Budget for the Fiscal Year October 1, 2003 to September 30, 2004. City Manager Andres Garza, Jr. presented the proposed budget for the City of Wharton fiscal year October 1, 2003 to September 30, 2004 to the City Council. Councilmember Ken Freese requested the City Council be provided with a recap of the changes made to balance the budget from the Budget Workshop held on August 18, 2003. After some discussion, no action was taken.

The seventh item on the agenda was to review and consider setting a Public Hearing Date for the City of Wharton, Texas, Proposed Budget for the Fiscal Year October 1, 2003 to September 30, 2004. City Manager Andres Garza, Jr. informed the City Council that under Article VI, Section 53 of the City of Wharton Charter the City Council shall set a time and place for a public hearing. He then presented a copy of the City's Charter Section pertaining to the Budget. He stated the City Staff would publish the Notice of Public Hearing on August 30, 2003 in the Wharton Journal Spectator. Mr. Garza recommended the public hearing be set for the September 8, 2003 Regular City Council Meeting, which would comply with Section 53 of the City of Wharton Charter. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to set a Public Hearing Date of September 8, 2003 for the City of Wharton, Texas Proposed Budget for the City of Wharton Fiscal Year October 1, 2003 to September 30, 2004. Councilmember Don Mueller seconded the motion. All voted in favor.

The eighth item discussed on the agenda was to review and consider a resolution authorizing the submission of a Partnerships in Parks (PIP) Technical Assistance Application to the Lower Colorado River Authority; Authorizing the Mayor of the City of Wharton to execute all documents relating to said application. City Manager Andres Garza, Jr. presented a copy of the Partnerships in Parks (PIP) Technical Assistance Application that the Lower Colorado River Authority (LCRA) sponsors. The PIP program provided technical assistance for community park and recreation projects and environmental learning facilities in LCRA's service area. The program was administered by the Resource, Planning, and Development Department (RPD) of LCRA's business unit. He stated that Mr. Paul Scallon of LCRA would be available to provide information regarding the program and to answer any questions. Mr. Garza then presented a draft resolution authorizing the submission of the application. He stated that Mr. Paul Scallon and Ed Vanderstucken with LCRA were present. He stated that there would not be any cost to the City. Mr. Paul Scallon addressed the City Council and stated that he would begin the process in March - May 2004, which would take approximately eight months. Mr. Garza stated that the City could apply for the Parks and Wildlife grant for assistance. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2003-76, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003 - 76**

A RESOLUTION AUTHORIZING THE SUBMISSION OF A PARTNERSHIPS IN PARKS (PIP) TECHNICAL ASSISTANCE APPLICATION TO THE LOWER COLORADO RIVER AUTHORITY; AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID APPLICATION.

WHEREAS, the Wharton City Council wishes to submit a Partnerships in Parks (PIP) Technical Assistance Application to the Lower Colorado River Authority; and

WHEREAS, the Wharton City Council wish to authorize the Mayor of the City of Wharton to execute the PIP 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 Partnerships in Parks (PIP) Technical Assistance Application to the Lower Colorado River Authority.

Section II. That the Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute the PIP application.

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

Passed, Approved, and Adopted this the 25th day of August 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 ninth item discussed on the agenda was to review and consider the request by Ms. Sandra Sneed for the City Council to consider a committee to investigate the possibilities of forming a community-wide drug rehabilitation project. City Manager Andres Garza, Jr. presented a copy of the letter the City received August 20, 2003 from Ms. Sandra Sneed requesting to appear before the City Council. Ms. Sandra Sneed addressed the City Council and ask the City Council to consider a percentage of funds obtained during drug raids be

used for rehabilitation centers. She requested a community safe house for the west side be established and to set up a committee for a county wide project. She stated that steps should be taken to stop the selling and use of drugs in the neighborhoods and that the citizens needed help. Councilmember Don Mueller stated that a Neighborhood Crime Watch could be organized and when the neighbors would observe the crime, the police could be notified. Ms. Sneed stated that calls were being made, however the persons arrested were back on the streets. Police Chief Tim Guin stated that the monies received from drug raids were limited to enforcement, however the city could possibly apply for grants for rehabilitation projects. Councilmember V. L. Wiley, Jr. stated that District No. 1 was his district and requested this item be tabled. Councilmember Don Mueller seconded the motion. All voted in favor.

The tenth item discussed on the agenda was to review and consider the request by Councilmember Darryl Darnell to discuss hangar rental rates. City Manager Andres Garza, Jr. presented a copy of the memorandum dated August 17, 2003 from Councilmember Darryl Darnell requesting to discuss the Wharton Regional Airport hangar rental rates. He stated that on July 30, 2003, Mr. Lane Johnston submitted a letter to Wharton Regional Airport Board Chairman Mr. Garland Mann to discuss two options regarding hangar rental rates. He stated that Mr. Johnston's request was placed on the agenda for the Wharton Regional Airport Board to consider. Mr. Johnston was notified that his request was placed on the agenda for discussion and of the time, date, and location of the meeting. He then stated that on August 5, 2003, the Wharton Regional Airport Board met and discussed Mr. Johnston's request, however Mr. Johnston did not attend the meeting. Mr. Garza then presented the draft minutes of the meeting. The Airport Board felt that no action would be taken on the request. Councilmember Darryl Darnell informed the City Council that he received a call from Lane Johnston requesting the Airport Board or the City Council consider waiver of the twelfth month rental fee if the other eleven months were paid in advance. Councilmember Domingo Montalvo, Jr. stated that he attended the Airport Board meeting, which the Board did not desire to recommend the request to City Council. He stated that Mr. Johnston did not show up for the meeting to discuss the waiver of the twelfth month. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to table this item. Councilmember Don Mueller seconded the motion. Councilmembers V. L. Wiley, Jr., Ken Freese, Don Mueller, Domingo Montalvo, Jr., and Ray Linseisen voted for the motion. Councilmember Darryl Darnell voted against the motion. The motion carried.

The eleventh item discussed on the agenda was to review and consider the request by Mr. Joseph Pennington, Slow Pitch Softball League, for Temporary Permit for Possession/Consumption of Alcoholic Beverages at City Parks. City Manager Andres Garza, Jr. presented a copy of the application for a temporary permit for Possession/Consumption of Alcoholic Beverages at City Parks. He then presented a copy of the memorandum dated August 19, 2003 from Police Chief Tim Guin regarding his review of Mr. Pennington's application, which Chief Guin stated that the application appears to comply with the City of Wharton Ordinance No. 2002-22. Police Chief Tim Guin addressed the City Council and stated that the request was for the Softball Winter League for possession/consumption of alcoholic beverage at Pleasure Park, for the participates to bring the alcoholic beverages. Community Services Director Jo Knezek stated that Joseph Pennington would not be selling alcoholic beverages at the city park. Councilmember Domingo Montalvo, Jr. stated that security should be required where alcoholic beverages would be allowed. Police Chief Tim Guin stated that judgements were impaired with alcoholic beverages and if the City Council would adopt that policy then the police department would enforce it. Councilmember Ken Freese asked if anyone else applied for use of the city parks for

tournaments. Ms. Jo Knezek stated that Joseph Pennington was the only applicant. Councilmember Darryl Darnell requested the City Staff inform Joseph Pennington that glass containers were prohibited in city parks. After some discussion, Councilmember Ken Freese made a motion to approve the request by Mr. Joseph Pennington, Slow Pitch Softball League, for Temporary Permit for Possession/Consumption of Alcoholic Beverages at City Parks for the period September 15, 22, 29, 2003, October 6, 13, 20, 27, and November 3, 10, 2003. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The twelfth item discussed on the agenda was to review and consider the Fiesta Hispano Americana, Mr. Bruno Ybarbo:

- A. Use of Riverfront Park.
- B. Temporary Permit for Possession/Consumption of Alcoholic Beverages at City Parks.
- C. Variance to the City of Wharton Code of Ordinances Section 54-2: Operating or Parking Motor Vehicles in Parks.
- D. Request to camp overnight in Riverfront Park.

City Manager Andres Garza, Jr. stated that on August 18, 2003, Mr. Bruno Ybarbo requested that the Fiesta Hispano Americana Festival be allowed to hold its event in Riverfront Park due to the construction of the Wharton County Courthouse. He stated that since the construction of the courthouse began, the City of Wharton did not have access to electricity for festival type of events, which had been previously supplied for festivals. He then presented a copy of the Wharton Park Facilities Reservation Agreement completed by Mr. Ybarbo on behalf of the Fiesta Hispano Americana Festival. The Fiesta was requesting the use of Riverfront Park beginning September 5, 2003 at 5:00 p.m. to be able to begin preparations for the event through September 7, 2003 at 3:00 p.m. The Fiesta Committee was requesting the use of the park on September 7, 2003 for cleaning purposes. During the event, there would be vehicles in the parks; therefore a variance to the City of Wharton Code of Ordinances Section 54-2 was also being sought. Mr. Ybarbo had indicated that there may be a need for security personnel and out of town attendees to be allowed to camp in the park. Mr. Garza then presented a copy of the City of Wharton Application Temporary Permit for Possession/Consumption of Alcoholic Beverages at City Parks. He also presented a copy of the memorandum dated August 18, 2003 from Police Chief Tim Guin regarding the application for the temporary permit, which Chief Guin indicated in the memorandum that the application appeared to be in accordance with the City of Wharton Ordinance No. 2002-22. Police Chief Tim Guin addressed the City Council and stated that due to Wharton County Courthouse construction, Fiesta Hispano Americana was requesting to move the festival to Riverfront Park. He stated that the Fiesta Hispano Americana would be selling alcoholic beverages and would have security. After some discussion, Councilmember Darryl Darnell made a motion to approve the Fiesta Hispano Americana, Mr. Bruno Ybarbo request for a variance for use of Riverfront Park, Temporary Permit for Possession/Consumption of Alcoholic Beverages at City Parks, variance to the City of Wharton Code of Ordinances Section 54-2: Operating or Parking Motor Vehicles in Parks, and request to camp overnight in Riverfront Park for the period beginning 5:00 p.m. on September 5, 2003 to 3:00 p.m. on September 7, 2003. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The thirteenth item discussed on the agenda was to review and consider the Planning Commission recommendation for City Council approval of the request by Mr. Eugene Meretka for a variance for the placement of a 12 x 24 feet storage building five feet from the rear property line from the required ten feet rear setback located at 1316 Kelving Way, Linwood, Block 2, Lot 8, 9A. City Manager Andres Garza, Jr. presented a copy of the memorandum dated August 21,

2002 from Planning Commission Chairman A. J. Rath regarding the recommendation made during the Planning Commission meeting held August 18, 2003. He stated that the Planning Commission was recommending that the City Council approve the request by Mr. Eugene Meretka for a variance for the placement of a 12 x 24 feet storage building five feet from the rear property line from the required ten feet rear setback located at 1316 Kelving Way, Linwood, Block 2, Lot 8, 9A. He then presented a copy of the Planning Commission Communications from the meeting held August 18, 2003 regarding the request. Building Official Assistant Lori Jaquez addressed the City Council and stated that the Planning Commission was recommending one of the three variance requested by Mr. Eugene Meretka. She stated that Mr. Meretka requested a variance for the placement of a carport 18 feet from the property line and the placement of storage building five feet from the interior property line. She stated that the Planning Commission was recommending the placement of the storage building five feet off the rear of the property line. She stated that Mr. Meretka was informed that he could appeal the Planning Commission decision to deny the other two variance requests. Councilmember Don Mueller stated that Kelving Way Estates has deed restrictions regarding the placement of carports and storage buildings. Councilmember Darryl Darnell stated that he spoke with Mr. Meretka, which Mr. Meretka advised him that he would be appealing the Planning Commission decision for placement of the carport. After some discussion, Councilmember Don Mueller made a motion to approve the recommendation for City Council from the Planning Commission for approval of the request by Mr. Eugene Meretka for a variance for the placement of a 12 x 24 feet storage building five feet from the rear property line from the required ten feet rear setback located at 1316 Kelving Way, Linwood, Block 2, Lot 8, 9A. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The fourteenth item discussed on the agenda was to review and consider a resolution approving a Multiple Use Agreement between the City of Wharton and the Texas Department of Transportation for the Caney Creek Outfall Ditch Project; Authorizing the Mayor of the City of Wharton to execute all documents relating to said agreement. City Manager Andres Garza, Jr. presented a copy of the use agreement from the Texas Department of Transportation (TxDOT) on the Caney Creek Outfall Ditch. He stated that the ditch would provide drainage to the Wal-Mart Site. TxDOT had approved the permit for placement of concrete box culverts under FM 102 to provide the drainage. Since the box culverts would be placed by the City of Wharton it would be the City's responsibility to maintain the structure. He stated that he submitted the agreement to City Attorney Paul Webb for his review. City Attorney Paul Webb informed the City Council that he reviewed the agreement and recommended approval. Mr. Carlos Cotton with Jones & Carter addressed the City Council and stated the concrete box culverts would provide drainage across FM 102. Councilmember Darryl Darnell asked if the placement of the concrete box culverts would lose any efficiency of the flapgates by moving the location. Carlos Cotton stated that moving the location would not cause a loss of efficiency of the flapgates. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2003-77, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003 -77**

**A RESOLUTION APPROVING THE MULTIPLE USE AGREEMENT BETWEEN THE
CITY OF WHARTON AND THE TEXAS DEPARTMENT OF TRANSPORTATION
FOR THE CANEY CREEK OUTFALL DITCH PROJECT; AUTHORIZING THE**

**MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS
RELATING TO SAID AGREEMENT.**

WHEREAS, the Wharton City Council wished to authorize the City of Wharton's participation with the Texas Department of Transportation in accordance with the Multiple Use Agreement; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton, Texas to execute an agreement with Texas Department of Transportation. and

WHEREAS, the City of Wharton and Texas Department of Transportation wishes to be bound by the conditions as set forth in the agreement.

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 Multiple Use Agreement with the Texas Department of Transportation.

Section. II. That the City of Wharton and the Texas Department of Transportation by the conditions as set forth in the agreement.

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

Passed, Approved, and Adopted this the 25th day of August 2003.

CITY OF WHARTON

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT

City Secretary

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

The fifteenth item discussed on the agenda was to review and consider the request by the Wharton Economic Development Corporation:

A. **Resolution:** A resolution approving the agreement between the City of Wharton and Wharton Economic Development Corporation for administration services and office space; Authorizing the Mayor of the City of Wharton to execute all documents relating to said agreement. City Manager Andres Garza, Jr. presented a copy of the letter dated July 22, 2003 from Wharton Economic Development Corporation (WEDCo) Executive Director David Schroeder regarding the agreement for Administrative Services and office space between the

City of Wharton and WEDCo and a draft resolution approving the agreement. He also presented a copy of the current agreement. Wharton Economic Development Corporation Executive Director David Schroeder addressed the City Council and stated that the Administrative Agreement consisted of two changes including additional space for a business and to remove the copier since WEDCo would be purchasing a color copier. He stated that the Agreement would be effective October 1, 2003, which the WEDCo Board approved. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2003-78, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003 -78**

A RESOLUTION APPROVING THE AGREEMENT BETWEEN THE CITY OF WHARTON AND WHARTON ECONOMIC DEVELOPMENT CORPORATION FOR ADMINISTRATIVE SERVICES AND OFFICE SPACE; AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID AGREEMENT.

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton, Texas to execute an agreement with Wharton Economic Development Corporation for Administrative Services and Office Space; and

WHEREAS, the City of Wharton and Wharton Economic Development Corporation wishes to be bound by the conditions as set forth in the agreement.

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 an agreement for Administrative Services and Office Space with the Wharton Economic Development Corporation.

Section. II. That the City of Wharton and the Wharton Economic Development Corporation by the conditions as set forth in the agreement.

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

Passed, Approved, and Adopted this the 25th day of August 2003.

CITY OF WHARTON

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT

City Secretary

Councilmember Darryl Darnell seconded the motion. All voted in favor.

B. Approving the Wharton Economic Development Corporation Fiscal Year 2003-2004 Budget. City Manager Andres Garza, Jr. stated that Mr. David Schroeder was requesting City Council approval of the WEDCo Fiscal Year 2003-2004 Budget. Mr. David Schroeder addressed the City Council and stated that the WEDCo Board approved the budget and was recommending City Council approval. City Attorney Paul Webb stated that he had a concern with the Project Restoration 2003-11 Under Grant Program: Signage, Façade, Property, and Special Improvements for the amount of \$750,000.00. Mr. Schroeder stated that legislative passed a bill which would not allow economic development corporations to conduct and fund certain projects, however WEDCo would be attending a seminar in Houston on September 23, 2003 in order to understand the procedure. He stated that if any portion of the budget prohibited the listed activities then the budget would be presented back to City Council for approval. After some discussion, Councilmember Don Mueller made a motion to approve the Wharton Economic Development Corporation Fiscal Year 2003-2004 Budget. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The sixteenth item discussed on the agenda was to review and consider the Southern Pacific Railroad Depot Restoration Project Acquisition of Real Estate. City Manager Andres Garza, Jr. stated that on July 14, 2003, Southern Pacific Railroad Depot Restoration Committee Co-Chairman, Dr. Merrell Barfield presented a status report regarding the depot restoration project. In his report, Dr. Barfield informed the City Council that the Texas Mexican (Tex-Mex) Railroad had changed ownership three times since the project had gone into the planning stage. Tex-Mex Railroad was still undergoing mergers and acquisitions. This had delayed their donation of the property to the City. Currently, a Trustee was operating the Tex-Mex Railway Company. He stated that on August 20, 2003, Dr. Barfield, Restoration Committee Chairman William Loocke, and himself met with Mr. Arturo Dominguez, Tex-Mex Manager of Real Estate Business and Industrial Development in Laredo, Texas to try to find a solution to bring about the title transfer of the depot. Mr. Dominguez informed them that he was authorized by the Railroad Company's Operations Committee to approach the Trustee to see if the Trustee had the authority and could carry out the donation of the depot to the City along with other smaller real estate transactions that had been delayed because of the merger. Mr. Dominguez suggested that a long-term lease would be a way to transfer the property to the City so that it could proceed with the restoration project. They then met with Mr. Billy Goodrich, Jr., P.E., Texas Department of Transportation District Design Engineer Supervisor of the Yoakum Office who indicated that a long term lease would comply with the Texas Department of Transportation Statewide Transportation Enhancement Program, Program Guidelines. The guidelines allowed for sponsors, the City, to acquire long term leases to conduct the transportation projects. Mr. Goodrich recommended requesting the long-term lease, however the lease can not be used towards the in-kind match for the project. He also stated that if the City took this approach, the City would have to provide a letter stating it was responsible for the match contribution. However, he said if the property was later donated, prior to the completion of the project, the City would then be able to count the value of the depot as part of its match. He stated that he would recommend the City Council authorize the City Staff to pursue the long-term lease option with the provision that the project would need City Council authorization to proceed. The City Staff would continue to try to acquire the property through donation. The Committee could still continue its fund raising

activities to meet the required match. If the lease agreement was secured, then the project could only proceed after City Council authorization. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to authorize the City Staff to pursue a long-term lease agreement with Texas Mexican (Tex-Mex) Railroad for the Southern Pacific Railroad Depot Restoration Project Acquisition of Real Estate. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The seventeenth item discussed on the agenda was to review and consider a resolution approving the Affiliation Agreement between the City of Wharton E.M.S. and Emergency Consultants, Inc. for the purpose of offering EMT, EMT/Intermediate and Paramedic Students the opportunity to utilize the City of Wharton E.M.S. Ambulance for the basic and advanced ambulance rotation; Authorizing the Mayor of the City of Wharton to execute all documents relating to said agreement. City Manager Andres Garza, Jr. presented a copy of the agreement between the City of Wharton and Emergency Consultants for the purpose of offering EMT, EMT/Intermediate and Paramedic Students the opportunity to utilize the City of Wharton E.M.S. Ambulance for the basic and advanced ambulance rotation. He then presented a copy of the memorandum dated April 23, 2003 from E.M.S. Director John Kowalik who indicated that he had reviewed the agreement and was requesting the City Council approval. Mr. Garza then presented a draft resolution approving the agreement. He stated that he had submitted the agreement to City Attorney Paul Webb for his review. City Attorney Paul Webb stated that he reviewed the Affiliation Agreement and requested that the City of Wharton be named as additional insured and a copy of their insurance policy for his review. He also stated that Emergency Consultants, Inc. was a full profit organization. EMS Director John Kowalik addressed the City Council and stated that the Affiliation Agreement would allow the students the opportunity to utilize the City of Wharton E.M.S. Ambulance. He stated that the students would have to abide by the City of Wharton Policies and Procedures, and HIPAA Regulations. Councilmember Darryl Darnell asked if the Emergency Medical Director approved the Affiliation Agreement. Mr. John Kowalik stated that the Emergency Medical Director did not have any objections to the agreement. City Attorney Paul Webb stated that the contract called for a 30-day cancellation notification. After some discussion, Councilmember Ray Linseisen made a motion to approve the Affiliation Agreement between the City of Wharton E.M.S. and Emergency Consultants, Inc. for the purpose of offering EMT, EMT/Intermediate and Paramedic Students the opportunity to utilize the City of Wharton E.M.S. Ambulance for the basic and advanced ambulance rotation subject to its approval by City Attorney Paul Webb and to approve Resolution No. 2003-79, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003 - 79**

A RESOLUTION APPROVING THE AFFILIATION AGREEMENT BETWEEN THE CITY OF WHARTON E.M.S. AND EMERGENCY CONSULTANTS, INC. FOR THE PURPOSE OF OFFERING EMT, EMT/INTERMEDIATE AND PARAMEDIC STUDENTS THE OPPORTUNITY TO UTILIZE THE CITY OF WHARTON E.M.S. AMBULANCE FOR THE BASIC AND ADVANCED AMBULANCE ROTATION; AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID AGREEMENT.

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton, Texas to execute an agreement with Emergency Consultants, Inc. for the purpose of offering EMT, EMT/ Intermediate and Paramedic Students the opportunity to utilize the City of Wharton E.M.S. Ambulance for the basic and advanced ambulance rotation; and

WHEREAS, the City of Wharton and Emergency Consultants, Inc. wishes to be bound by the conditions as set forth in the agreement.

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 an agreement for purpose of offering EMT, EMT/ Intermediate and Paramedic Students the opportunity to utilize the City of Wharton E.M.S. Ambulance for the basic and advanced ambulance rotation with the Emergency Consultants, Inc.

Section. II. That the City of Wharton and the Emergency Consultants, Inc by the conditions as set forth in the agreement.

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

Passed, Approved, and Adopted this the 25th day of August 2003.

CITY OF WHARTON

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT

City Secretary

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

The eighteenth item on the agenda was to review and consider a resolution of the Wharton City Council submitting a vote for a candidate to the Texas Municipal League - Intergovernmental Employee Benefits Pool (TML-IEBP) Board of Trustees – TML Region 14. City Manager Andres Garza, Jr. presented a copy of the letter dated August 15, 2003 from Ms. Catherine Fryer, Board Secretary for TML Intergovernmental Employee Benefits Pool regarding the 2003 Board of Trustee Election. He then presented a copy of the official ballot indicating the candidates for the election who are, City of Webster City Manager Frank Simpson, City of Sweeny Mayor Larry Piper, City of Taylor Lake Village Councilmember Lillian Norman-Keeney, and City of Tomball Director of Administrative Services Mary Coker. Mr. Garza then presented copies of various letters from some of the candidates indicating their interest in serving as a TML-IEBP

Board Trustee. City Manager Andres Garza, Jr. stated that he would recommend the City Council vote for City of Webster City Manager Frank Simpson, which he had served several years. After some discussion, Councilmember Darryl Darnell made a motion to approve Resolution No. 2003-80, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2003 - 80**

A RESOLUTION OF THE WHARTON CITY COUNCIL SUBMITTING A VOTE FOR A CANDIDATE TO THE TEXAS MUNICIPAL LEAGUE – INTERGOVERNMENTAL EMPLOYEE BENEFITS POOL (TML-IEBP) BOARD OF TRUSTEES – TML REGION 14.

WHEREAS, the Texas Municipal League Intergovernmental Employee Benefits Pool (TML-IEBP) Members of Region 14 is conducting its 2003 Board of Trustee Elections; and

WHEREAS, the Wharton City Council wishes to participate in the TML-IEBP 2003 Board of Trustee Elections by submitting an official vote for a qualified candidate; and

WHEREAS, the Wharton City Council wishes to submit a vote for Mr. Frank Simpson of the City of Webster as a member of the Board of Trustees for Texas Municipal League Intergovernmental Employee Benefits Pool (TML-IEBP) of Region 14.

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 submits a vote for Mr. Frank Simpson of the City of Webster as a member of the Board of Trustees for Texas Municipal League Intergovernmental Employee Benefits Pool (TML-IEBP) of Region 14.

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

Passed, Approved, and Adopted this the 25th day of August 2003.

CITY OF WHARTON

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT
City Secretary

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

The nineteenth item on the agenda was to review and consider approval of Utility Easement Agreement between the City of Wharton and Mr. Thomas Jansky and June, wife, for the Hinze's Waterline Project – Phase III. City Manager Andres Garza, Jr. presented a copy of the utility easement agreement between the City of Wharton and Mr. and Mrs. Thomas Jansky which was required for the Hinze's Waterline Project – Phase III. He stated that Mr. and Mrs. Jansky had executed the agreement and City Council approval was required for the agreement to be executed by the Mayor. After some discussion, Councilmember Ken Freese made a motion to approve the Utility Easement Agreement between the City of Wharton and Mr. Thomas Jansky and June, wife, for the Hinze's Waterline Project – Phase III. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The twentieth item on the agenda was to review and consider the City of Wharton Construction Projects:

A. 2003 Street Improvement Project – Change Order No. 1 – Faltisek Paving Inc. City Manager Andres Garza, Jr. presented a copy of the Change Order No. 1 for Faltisek Paving, Inc. He stated that the change order would amend the contract with Faltisek by adding hot mix for the Wharton Regional Airport entrance road. The contract amendment was in accordance with the 2003 Street Improvement Program and was needed to complete the guidelines required by the Routine Airport Maintenance Program. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve 2003 Street Improvement Project – Change Order No. 1 – Faltisek Paving Inc. in the amount of \$13,507.74. Councilmember Darryl Darnell seconded the motion. All voted in favor.

B. Grace Community Fellowship Church Utility Extension Project – Change Order No. 1 and First and Final Pay Request – Hubbert Construction. City Manager Andres Garza, Jr. presented a copy of the Change Order No. 1 and the First and Final Pay Request for Hubbert Construction for the Grace Community Fellowship Church Utility Extension Project. Mr. Carlos Cotton with Jones & Carter addressed the City Council and stated that the project was complete. He stated that Change Order No. 1 reflected an increase in the project since the company tied into a 15" existing water line, not a 12" existing water line. After some discussion, Councilmember Ray Linseisen made a motion to approve the Grace Community Fellowship Church Utility Extension Project – Change Order No. 1 and First and Final Pay Request – Hubbert Construction in the amount of \$25,628.40. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

C. Vahala Water Well Rework Project – Third and Final Pay Request – Weisinger Water Well, Inc. City Manager Andres Garza, Jr. presented a copy of the Third and Final Pay Request for Weisinger Water Well, Inc. for the Vahala Water Well Rework Project. Carlos Cotton addressed the City Council and stated that the project was complete and the well was operating. After some discussion, Councilmember Don Mueller made a motion to approve Vahala Water Well Rework Project – Third and Final Pay Request – Weisinger Water Well, Inc. in the amount of \$8,539.30. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The twenty-first item on the agenda was 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: Performance Evaluation of City Manager.

Mayor Bryce D. Kocian adjourned into Executive Session at 8:16 p.m.

Mayor Bryce D. Kocian returned to Open Meeting at 8:57 p.m.

The twenty-second item on the agenda was to Return to Open Session action on items discussed in Executive Session:

A. Review & Consider: Performance Evaluation of City Manager.

Councilmember Domingo Montalvo, Jr. made a motion to increase City Manager Andres Garza, Jr. base pay from \$68,000.00 yearly to \$80,000.00, and to increase the severance pay from 6 months to 12 months. Councilmember Donald Mueller seconded the motion. Mayor Bryce D. Kocian and Councilmembers V. L. Wiley, Jr., Ken Freese, Don Mueller, Domingo Montalvo, Jr., and Ray Linseisen voted for the motion. Councilmember Darryl Darnell voted against the motion. The motion carried.

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

A. Southern Pacific Railroad Depot Restoration Project meetings held August 14, 2003 and August 21, 2003.

B. Planning Commission meeting held August 18, 2003.

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

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

A. Police Department.

B. City Secretary/Personnel.

C. Municipal Court.

D. E.M.S. Department.

E. Fire Department Incidents/Inspections.

F. Code Enforcement Department/Weedy Lot.

G. Water & Sewer Department.

H. Public Works Department.

I. Engineer/Planning Department.

J. Facilities Maintenance Department.

K. Community Services Department/
Civic Center.

L. Wharton Municipal Pool.

M. Wharton Regional Airport.

N. Legal Department.

City Manager Andres Garza, Jr. presented the reports to the City Council. City Attorney Paul Webb handed pages 2 and 3 of the Legal Report to the City Council, which had been inadvertently left out. No action was taken.

Mayor Bryce D. Kocian publicly announced that there was no audio on Channel 43 due to Charter Communications lines. However, he said the rebroadcast would have the audio.

The twenty-fifth item on the agenda was adjournment. Councilmember Don Mueller made a motion to adjourn. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The meeting was adjourned at 9:00 p.m.

CITY OF WHARTON, TEXAS

By:

BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT
City Secretary