

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
January 26, 2004**

Mayor Bryce D. Kocian declared a Regular Meeting duly open for the transaction of business at 7:00 p.m. Councilmember Darryl Darnell 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, Public Works Director Phillip Bush, Building Official Assistant Lori Jaquez, EMS Director John Kowalik, Community Services Director Jo Knezek, Fire Chief David Copeland and City Attorney Paul Webb.

Visitors present were: Benjamin Sharp with Wharton Journal-Spectator, David Schroeder with WEDCo, Carlos Cotton, Anthony Rachunek, Lewis Fortenberry, Suzette Wells-Young, Henry Thiele, William Loocke, Scott Chambers, and David Bucek.

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 Ken Freese stated that he attended the Texas Rural Resource Conference, which the highlight of the conference was that the most important things citizens could do were to spend money locally. He then publicly encouraged the citizens to support the local businesses throughout the year.

Mayor Bryce D. Kocian informed the City Council that the Wharton County Junior College will be hosting the Spring 2004 President's Lecture Series highlighting the theme of Celebrating Differences featuring: Joe Tom Davis on "Sam Houston and Women Who Influenced His Life" held on Thursday, January 29, 2004; Walter Kase on "Remembrances of a Holocaust Survivor" held on Thursday, February 26, 2004; and Kingsley Ituah, Elizabeth Mc Lane and Linda Clark on "Changing Political Times in Southeast Texas" held on Thursday, March 25, 2004. He stated that all sessions were free and open to the public.

Councilmember Domingo Montalvo, Jr. stated that Wal-Mart was a shining example of cooperation. He then publicly commended City Manager Andres Garza, Jr. and the City Staff for their contributions towards the project. He then publicly thanked LCRA, Boardmember Rosemary Rust, U.S. Army Corp. of Engineers from the Fort Worth and Galveston District Offices, Texas Water Development Board, Wharton County, and Wharton Economic Development Corporation on the study of the flooding issues. 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 December 2003. Finance Director Joyce Vasut presented the financial report for the month of December 2003, which was at 25% or three months into the fiscal year. Mrs. Vasut stated that the general fund revenues were at 21.37% and the expenditures were at 22.10%. The total ad valorem taxes collected were \$405,398.00. The sales tax for the month of November 2003 was \$100,856 with \$67,237 to the City and \$33,619 to WEDCo. The TexPool balance for December 2003 was \$548,799.49 with an average monthly yield of 1.0802%. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the financial report for the month of December 2003. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider the request by Ms. Suzette Wells-Young to address the City Council regarding agreements and relationships between the City of Wharton and private organizations. City Manager Andres Garza, Jr. presented a copy of the letter dated January 19, 2004 from Ms. Suzette Wells-Young requesting to address the City Council regarding agreements and relationships between the City of Wharton and private organizations. Ms. Suzette Wells-Young addressed the City Council and stated that the City of Wharton only does for one organization and not for others. She stated that Councilmember Domingo Montalvo, Jr. used his position to solicit private donations on City of Wharton letterhead. She stated that at the City Council Meeting held on October 13, 2003, Councilmember Domingo Montalvo, Jr. stated that he was not aware of writing a solicitation letter on City letterhead. She stated that City Manager Andres Garza, Jr. used the City tax identification number to accept the donation from H.E.B. for the Freedom Festival. City Manager Andres Garza, Jr. stated that the City of Wharton supports a lot of organizations: Little League, Boys & Girls Club, Girls Softball, Wharton Art League, Freedom Festival, and Fiesta Hispano. He stated that City Council supports organizations and approves funds to help those organizations. Mr. Garza stated that if there was a donation, and the City of Wharton was part of the festival then the City would participate. Councilmember Domingo Montalvo, Jr. stated that any organization could ask for help from the City of Wharton. Ms. Wells-Young stated that she attended the Wharton Freedom Festival meeting; however, Councilmember Domingo Montalvo, Jr. was not present. She stated that the Wharton Freedom Festival sold alcoholic beverage without a permit, which state law requires a permit to be obtained. Councilmember Domingo Montalvo, Jr. stated that was her opinion that a permit was not obtained. Ms. Wells-Young asked about the funds from the Wharton Freedom Festival. Councilmember Domingo Montalvo, Jr. stated that the funds were used to pay bills and the remaining balance was used to fund the Wharton Freedom Festival the following year. Councilmember Ken Freese asked Ms. Wells-Young if she was a resident of the City of Wharton. Ms. Wells-Young stated that she was not; however, she did not have to be. Mayor Bryce D. Kocian stated that the City of Wharton received a grant on behalf of the Little League. Mr. William Looke addressed the City Council and stated that he was involved with Little

League, Babe Ruth, Girls Softball and the City of Wharton had better control of the monies than the organizations. Mrs. Lori Jaquez addressed the City Council and stated that she was a Little League Boardmember, and the City of Wharton helped the Little League. City Attorney Paul Webb informed Ms. Suzette Wells-Young that if she thought the City of Wharton had conducted an illegal operation then she should contact the Attorney General. Ms. Wells-Young then presented some written documents to the City Council regarding a permit to alcoholic beverages. City Attorney Paul Webb requested City Secretary Joyce Vasut to make copies of the materials that was presented to City Council from Ms. Suzette Wells-Young to become part of the official records. After some discussion, no action was taken.

The seventh item on the agenda was to review and consider Reina Family Trust “The Cove” Housing Project:

- A. **Resolution:** A resolution supporting the incentives of the Reina Family Trust in constructing “The Cove” Housing Project. City Manager Andres Garza, Jr. presented a draft resolution supporting the incentives of the Reina Family Trust in constructing “The Cove” Housing Project. He stated that project was for fourteen (14) patio homes. He then stated that the City Council could waive the building permit fees, water tapping fee and the sewer tapping fee. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2004-003, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004 – 003**

**A RESOLUTION SUPPORTING THE INCENTIVES OF THE REINA FAMILY TRUST
IN CONSTRUCTING “THE COVE” HOUSING PROJECT.**

WHEREAS, the City of Wharton City Council wishes to support the housing project by Reina Family Trust; and

WHEREAS, the City Council wishes to support the Reina Family Trust housing project by waiving the following building permit fees for each home built in accordance with the value per residence:

\$75,000 Value per Residence (average)

Building Permit \$360.00 plus 25% Plan Review = \$450.00

Electrical Permit - \$75.00 average

Plumbing Permit - \$50.00 average

A/C & Heat (Mechanical) - \$30.00 Average; and

WHEREAS, the City Council wishes to further support the housing project by waiving the fees for water and sewer taps per house built under the project as follows:

Water Taps: \$300.00

Sewer Taps: \$300.00.

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

Section I. That the City Council of the City of Wharton hereby provides its support of the Reina Family Trust “The Cove” housing project by providing the afore-mentioned incentives.

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

Passed, Approved, and Adopted this 26th day of January 2004.

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.

B. Resolution: A resolution of the Wharton City Council authorizing the submission of a application to the Office of Rural Community Affairs for a Texas Community Development Program (TCDP) grant for the development of local housing and community needs for “The Cove” project.

City Manager Andres Garza, Jr. stated that during the November 24, 2003 regular Wharton City Council meeting, the City Council authorized the City Staff to pursue a grant application with the Office of Rural Community Affairs for a Texas Community Development Program (TCDP) grant for the development of local housing and community needs for “The Cove” project being conducted by the Reina Family Trust. He then presented a draft resolution authorizing the submission of an application to the Office of Rural Community Affairs for a Texas Community Development Program (TCDP) grant for the development of local housing and community needs for “The Cove” project. He also presented a copy of the map indicating the location of the proposed project, which would be on Red River Road, and was approximately 1.81 acres. He stated that the grant was for the infrastructure estimated at \$214,000 and the grant application was due on February 9, 2004. Councilmember Darryl Darnell asked if the houses would met the setback requirements. Carlos Cotton with Jones & Carter, Inc. addressed the City Council and stated that the project could possibly be requesting a variance on the setback requirements. City Manager Andres Garza, Jr. stated that the project would have to comply with the City of Wharton Patio Homes Ordinance. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve Resolution No. 2004-004, which read as follows:

**City of Wharton
RESOLUTION NO. 2004-004**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE SUBMISSION OF A APPLICATION TO THE OFFICE OF RURAL COMMUNITY AFFAIRS FOR A TEXAS COMMUNITY DEVELOPMENT PROGRAM (TCDP) GRANT FOR THE DEVELOPMENT OF LOCAL HOUSING AND COMMUNITY NEEDS FOR “THE COVE” PRJECT; AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID APPLICATION.

WHEREAS, the Wharton City Council has determined that there is a need for affordable housing in the City of Wharton; and

WHEREAS, the Wharton City Council wishes to submit a application to the Office of Rural Community Affairs for a Texas Community Development Program (TCDP) grant for the development of a local housing and community needs for the “The Cove” project; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton, Texas to execute all documents related to the submission of application.

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

Section I. The City Council authorizes the submission of a application to the Office of Rural Community Affairs for a Texas Community Development Program (TCDP) grant for the development of a local housing and community needs for the “The Cove” project.

Section II. The City Council directs and authorizes the Mayor of the City of Wharton, Texas, to execute all necessary documents as may be required to initiate and process this application.

Section III. This resolution becomes effective immediately after its passage.

PASSED, APPROVED and ADOPTED at a regular meeting of the City Council of the City of Wharton, Texas, on the 26th day of January 2004.

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 a resolution of the Wharton City Council authorizing the submission of a application to the United States Department of Agriculture for sewer improvements for the Wharton Industrial Foundation – Industrial Park located at Halford Road and U.S. Highway 59. City Manager Andres Garza, Jr. stated that during the January 12, 2004 regular Wharton City Council meeting, the City Council authorized the City Staff to prepare a grant application to the United States Department of Agriculture for sewer improvements for the Wharton Industrial Foundation – Industrial Park located at Halford Road and U.S. Highway 59. He then presented a draft resolution authorizing the submission of the application to the United States Department of Agriculture for sewer improvements for the Wharton Industrial Foundation – Industrial Park located at Halford Road and U.S. Highway 59. He also presented a map indicating the project site location. Mr. Garza stated that the total project was \$890,000, of which \$391,600 would be submitted to United States Department of Agriculture for sewer improvements. Councilmember Darryl Darnell asked who owned the property. City Manager Andres Garza, Jr. stated that Wharton Industrial Foundation owned the property. Councilmember Darryl Darnell asked where the profits would go from the sale of the property. Wharton Economic Development Corporation Executive Director David Schroeder stated the profits would go to the corporation. He stated that Wharton Industrial Foundation was doing a service to the community. Councilmember Darryl Darnell stated that he opposed any improvements outside the city limits and he did not believe the City of Wharton should obligate itself toward the Industrial Park. Councilmember Domingo Montalvo, Jr. stated that he felt that the City Council should expand for future development. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2004-005, which read as follows:

**City of Wharton
RESOLUTION NO. 2004-005**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE SUBMISSION OF A PRE-APPLICATION REQUEST TO THE UNITED STATES DEPARTMENT OF AGRICULTURE’S RURAL BUSINESS ENTERPRISE GRANT PROGRAM AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON, TEXAS, TO EXECUTE ALL DOCUMENTS RELATED TO THE APPLICATION.

WHEREAS, the City of Wharton wishes to submit a pre-application to the United States Department of Agriculture under its Rural Business Enterprise Grant Program to make infrastructure improvements to Wharton Industrial Park owned by the Wharton Industrial Foundation; and

WHEREAS, these funds are available for Economic Development in rural areas and are scored and awarded once a year; and

WHEREAS, the City of Wharton desires to apply for the matching funds for this project to United States Economic Development Administration.

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

Section I. The City Council authorizes the City Manager to prepared and submit a pre-application to United State Department of Agriculture under their Rural Business Enterprise Grant Program for the following proposed activities:

To install a new Lift Station, approximately 10,700 linear feet of eight-inch (8") PVC force line, and the construction of a local Sanitary Sewer Lines

Section II. The City Council directs and authorizes the Mayor of the City of Wharton, Texas, to execute all necessary documents as may be required to initiate and process this application.

Section III. This resolution becomes effective immediately after its passage.

PASSED, APPROVED and ADOPTED at a regular meeting of the City Council of the City of Wharton, Texas, on the 26th day of January 2004.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN, Mayor

ATTEST:

JOYCE VASUT, City Secretary

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 ninth item on the agenda was to review and consider a resolution of the Wharton City Council accepting Contract No. 723092 from the Texas Department of Agriculture, Texas Capital Fund for the Jr's Texas Best, LLC project; Authorizing the Mayor of the City of Wharton to execute all documents related to said contract. City Manager Andres Garza, Jr. presented a copy of his memorandum dated December 18, 2003 regarding the Texas Department of Agriculture, Texas Capital Fund, which had approved the City of Wharton to receive a grant in the amount of \$600,000 for the Jr's Texas Best Smokehouse Project. He then presented a copy of the letter dated January 14, 2004 from the Texas Department of Agriculture, Texas Capital Fund providing the City of Wharton the contract for execution. He stated that the City Staff was requesting City Council approval of the draft resolution approving the contract and authorizing the Mayor of the City of Wharton to execute all documents related to the contract. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2004-006, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004 -006**

A RESOLUTION OF THE WHARTON CITY COUNCIL ACCEPTING THE CONTRACT NO. 723092 FROM THE TEXAS DEPARTMENT OF AGRICULTURE, TEXAS CAPITAL FUND FOR THE JR'S TEXAS BEST, LLC PROJECT; AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS TO SAID CONTRACT.

WHEREAS, the Wharton City Council wishes to accept the Contract No. 723092 from the Texas Department of Agriculture, Texas Capital Fund for the Jr's Texas Best, LLC Project; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute all documents related to the agreement; and

WHEREAS, the City of Wharton and the Texas Department of Agriculture, Texas Capital Fund 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 accepts Contract No. 723092 from the Texas Department of Agriculture, Texas Capital Fund for the Jr's Texas Best Smokehouse Project.

Section II. That the Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute all documents related to the contract.

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

Passed, Approved, and Adopted this 26th day of January 2004.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT
City Secretary

Councilmember Don Mueller seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider a resolution of the Wharton City Council approving a professional architectural services contract with Stern & Bucek Architects for the Southern Pacific Railroad Depot Restoration Project; Authorizing the Mayor of the City of Wharton to execute all documents related to said contract. City Manager Andres Garza, Jr. informed the City Council that the Southern Pacific Railroad Depot Restoration Project, Consultant Selection Committee met January 20, 2004 to continue the contract negotiations with Stern and Bucek. The Committee voted to recommend the City Council consider approving the professional architectural services contract between Stern & Bucek Architects and the City of Wharton. He then presented a draft copy of the resolution approving the contract. Mr. Garza stated that the contract called for a compensation of \$90,000 lump sum fee for basic Architectural and Engineering Services and a cost reimbursement fee not to exceed \$23,700 for Special Services. Councilmember Darryl Darnell asked if the compensation would be covered by the grant. City Manager Andres Garza, Jr. stated that the cost would be covered by the grant and that the state would not be conducting the project; therefore the city and the architect would handle those responsibilities. After some discussion, Councilmember Darryl Darnell made a motion to approve Resolution No. 2004-007, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004 - 007**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A PROFESSIONAL ARCHITECTURAL SERVICES CONTRACT WITH STERN & BUCEK ARCHITECTS FOR THE SOUTHERN PACIFIC RAILROAD DEPOT RESTORATION PROJECT; AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS TO SAID CONTRACT.

WHEREAS, the Wharton City Council wishes to approve a professional architectural services contract with Stern & Bucek Architects for the Southern Pacific Railroad Depot Restoration Project; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute all documents related to the agreement; and

WHEREAS, the City of Wharton and Stern & Bucek 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 approves the professional architectural services contract with Stern & Bucek Architects for the Southern Pacific Railroad Depot Restoration project.

Section II. That the Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute all documents related to said contract.

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

Passed, Approved, and Adopted this 26th day of January 2004.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT
City Secretary

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

The eleventh item on the agenda was to review and consider a resolution adopting the City of Wharton Investment Policy. City Manager Andres Garza, Jr. informed the City Council that the City Council Finance Committee met January 22, 2004 and recommended the City Council adopt the City of Wharton Investment Policy. He said State Law requires the investment policy be reviewed and adopted by the governing body on an annual basis. He then presented a draft copy of a resolution adopting the policy. Finance Director Joyce Vasut informed the City Council that there were no changes from the Investment Policy that was adopted in the prior year. After some discussion, Councilmember Ray Linseisen made a motion to approve Resolution No. 2004-008, which read as follows:

CITY OF WHARTON
RESOLUTION NO. 2004-008

A RESOLUTION ADOPTING THE CITY OF WHARTON INVESTMENT POLICY.

WHEREAS, the Public Funds Investment Act, requires the City Council to review and adopt, by resolution, the investment policies and strategies for the City of Wharton on an annual basis; and

WHEREAS, the City of Wharton designates the City Manager and the Finance Director as investment officers; and

WHEREAS, the City of Wharton approves the training courses sponsored or endorsed by the Texas Municipal League, the Government Finance Officers Association

of Texas, the Government Treasurers Organization of Texas, or the North Central Texas Council of Governments as adequate to meet the investment training requirements; and

WHEREAS, the attached investment policy, including no revisions since last years approval, complies with the Public Funds Investment Act and authorizes the investment of City funds in safe and prudent investments.

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

Section I. The City of Wharton has complied with the requirements of the Public Funds Investment Act and the Investment Policy attached hereto as "Exhibit A" is hereby adopted as the Investment Policy of the City of Wharton effective January 26, 2004.

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

Passed, Approved, and Adopted this 26th day of January 2004.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
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 an ordinance amending the City of Wharton Code of Ordinances, Chapter 18 Buildings & Construction, Article V, Electrical Code, Section 18-138 Electrical board--Created; membership; organization; 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; Providing for separability and setting an effective date. City Manager Andres Garza, Jr. presented a copy of the letter dated January 21, 2004 from Electrical Board Chairman Wayne Adam recommending the City Council to consider approving the amendments to the City of Wharton Code of Ordinances Chapter 18 Buildings & Construction, Article V, Electrical Code; Section 18-138 Electrical board--Created; membership; organization. He also presented a copy of the draft ordinance. Building Official Assistant Lori Jaquez informed the City Council that the Electrical Board was recommending City Council to change the Electrical

Board Membership. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Ordinance No. 2004-001, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2004-001**

AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 18, BUILDING AND CONSTRUCTION, ARTICLE V. ELECTRICAL CODE, SECTION 18-138 ELECTRICAL BOARD – CREATED; MEMBERSHIP ORGANIZATION; 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; PROVIDING FOR SEPARABILITY AND SETTING AN EFFECTIVE DATE..

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

SECTION I: Amendment

WHEREAS, amending Section 18-138 of the City of Wharton Code of Ordinances to read as follows:

Sec. 18-138. Electrical board--Created; membership; organization.

- (a) There is hereby created an electrical board which shall consist of five members. Members of the board shall be appointed by the mayor with the approval of the city council at any regular council meeting date between the election date set for the mayor's election and June 30 of the same year. Board members' appointments shall be for a period of two years, and any or all members may be removed by the mayor with council approval for reasons considered justifiable by the city council. Continued absence of any member from regular or called meetings of the board may render any such member subject to immediate removal from office. The chairman of the electrical board shall be elected by a majority vote of the board. Members of the electrical board shall be selected as follows:
- (1) One member shall be selected from licensed insured master electrician performing business with an established electrical contracting firm within the jurisdiction of the City. This member need not be the owner of such firm, but must be employed full time by such firm.
 - (2) One member having had at least twenty (20) years of experience as a master electrician, having no affiliation with any other business that has additional representation on the electrical board.
 - (3) One member shall be an employee of the power company, such power company being the one holding a franchise to furnish electrical energy within the city.
 - (4) One member shall be the city fire marshal/inspector.
 - (5) One member shall be selected at large from the city council.
- (b) No meeting shall be considered official except when a majority are present.

- (c) The city attorney shall be the electrical board's legal consultant.
- (d) The chairman of the electrical board shall appoint a secretary to keep the official records of the board's actions, such records to be open for public inspection upon request of any taxpayer.
- (e) Regular meetings of the electrical board shall be held on a quarterly basis to be determined by the board at the time of appointment. Special meetings of the board maybe called by the chairman for conducting urgent business.

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 6th day of February 2004.

Passage and Approval

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, on the 26th day of January 2004.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT
City Secretary

APPROVED AS TO FORM:

PAUL WEBB

City Attorney

Published in the Wharton Journal Spectator Wednesday, January 28, 2004 and Wednesday, February 4, 2004.

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

The thirteenth item on the agenda was to review and consider recommendation by the Plumbing and Mechanical Board:

- A. **Ordinance:** An ordinance amending the City of Wharton Code of Ordinances; Chapter 18, Building and Construction, Article III Construction Codes; Sec. 18-71. Amendments to the International Plumbing 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; Providing for separability and setting an effective date.

City Manager Andres Garza, Jr. presented a copy of the letter dated January 22, 2004 from Plumbing and Mechanical Board Chairman A. J. Rath recommending the City Council consider approving the ordinance. He then presented a draft copy of the ordinance. Building Official Assistant Lori Jaquez informed the City Council that the Plumbing & Mechanical Board was recommending City Council to amend Section 18-71 replacing the blue plastic with tubing. She stated that the blue plastic could be easily torn which the tubing could not. She stated that the tubing would be placed over the copper tubing in the foundation. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Ordinance No. 2004-002, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2004-002**

AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 18, BUILDING AND CONSTRUCTION, ARTICLE III CONSTRUCTION CODES; SEC. 18-71. AMENDMENTS TO THE INTERNATIONAL PLUMBING 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; PROVIDING FOR SEPARABILITY AND SETTING AN EFFECTIVE DATE.

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

SECTION III: CONSTRUCTION CODES

WHEREAS, amending Section 18-72 of the City of Wharton Code of Ordinances to read as follows:

Sec. 18-72. Amendments to International Plumbing Code.

1. Reference to ICC Electrical Code is hereby repealed; heretofore, substituted with the National Electrical Code.

2. Section 109, Means of Appeal is deleted. The City of Wharton Plumbing and Mechanical Board shall administer the appeals.
3. Section 305.1 Corrosion. Pipes passing through concrete or cinder walls and floors or other corrosive material shall be protected against external corrosion by a protective plastic tubing or other means that will withstand any reaction from the lime and acid of concrete, cinder or other corrosive material. Coiled plastic tubing shall allow for expansion and contraction of piping to prevent any rubbing action.
4. Section 605.4 Water Service Pipe. Water service pipe shall conform to NSF 61 and shall conform to one of the standards listed in Table 605.4. All water service pipe or tubing, installed underground and outside of the structure, shall have a minimum working pressure rating of 260 psi (1100 kPa) at 73.4°F (23°C). Where the water pressure exceeds 160 psi (1100 Kpa), piping material shall have minimum rated working pressure equal to the highest available pressure. Plastic water service piping shall terminate within 5 feet (1524 mm) inside the point of entry into a building. All ductile iron water pipe shall be cement mortar line in accordance with AWWA C 104. If copper water supply pipe is utilized it shall be K or L copper.
5. Section 605.6 Water Distribution Pipe. Water distribution pipe shall conform to NSF 61 and shall conform to one of the standards listed in Table 605.5. All hot water distribution pipe and tubing shall have a minimum pressure rating of 100 psi (600 kPa) at 180°F (82°C). If copper water distribution pipe is utilized it shall be K or L copper.
6. Section 702.3 Building Sewer Pipe. Building sewer pipe shall conform to one of the standards listed in Table 702.3 All plastic piping shall be a minimum of Schedule 40 PVC or its equivalent.

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 6th day of February 2004 at 12:01 a.m.

Passage and Approval

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, on this 26th day of January 2004.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

Published in the Wharton Journal Spectator Wednesday, January 28, 2004 and Wednesday, February 4, 2004.

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

B. Ordinance: An ordinance amending the City of Wharton Code of Ordinances, Chapter 18, Building and Construction, Article III Construction Codes; Sec. 18-74. Amendments to the International Mechanical 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; Providing for separability and setting an effective date.

City Manager Andres Garza, Jr. presented a copy of the letter dated January 22, 2004 from Plumbing and Mechanical Board Chairman A. J. Rath recommending the City Council consider approving the ordinance. He then presented a draft copy of the ordinance. Building Official Lori Jaquez informed the City Council that the Plumbing & Mechanical Board was recommending City Council amend Section 18-74 for additional requirements of marking the air handler legend plates that would assist the electrical contractor. After some discussion, Councilmember Darryl Darnell made a motion to approve Ordinance No. 2004-003, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2004-003**

AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 18, BUILDING AND CONSTRUCTION, ARTICLE III CONSTRUCTION CODES, SEC. 18-74. AMENDMENTS TO THE INTERNATIONAL MECHANICAL 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; PROVIDING FOR SEPARABILITY AND SETTING AN EFFECTIVE DATE.

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

SECTION III: CONSTRUCTION CODES

WHEREAS, an addition of the City of Wharton Code of Ordinances to read as follows:

Sec. 18-74.1 Addition to the International Mechanical Code.

The mechanical code adopted by reference in this article is added as follows;

- (1) Require the mechanical contractor to mark the air handler legend plates or clearly mark access panel with the appropriate voltage/kw and phase of the installed components at the time of installation. If modifications are made, mark the appropriate electrical information at that time.

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 6th day of February 2004 at 12:01 a.m.

Passage and Approval

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, on this 26th day of January 2004.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT
City Secretary

APPROVED AS TO FORM:

PAUL WEBB

City Attorney

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

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

- A. Acceptance of resignation of Mr. Mike Perkins as a Building Standards Commissioner. City Manager Andres Garza, Jr. presented a copy of the letter dated January 15, 2004 from Mr. Mike Perkins to the members of the Building Standards Commission, tendering his resignation as a member of the Commission. After some discussion, Councilmember Don Mueller made a motion to accept the resignation of Mr. Mike Perkins as a Building Standards Commissioner. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

- B. Recommendations to fill vacant positions:

1. Building Standards Commission.
2. Beautification Commission.
3. Plumbing & Mechanical Board.

City Manager Andres Garza, Jr. presented a copy of the letter dated January 22, 2004 from Plumbing & Mechanical Board Chairman A. J. Rath recommending City Council consideration to approve appointing Mr. Patrick Gwosdz as a Plumbing & Mechanical Board Member. After some discussion, Councilmember Ken Freese made a motion to appoint Mr. Patrick Gwosdz as a Plumbing & Mechanical Board Member. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The fifteenth item on the agenda was to review and consider the City of Wharton Caney Creek Outfall Ditch Project – Third and Fourth Pay Requests – Uticon, Inc. Mr. Carlos Cotton, P.E.,

Jones & Carter, Inc. presented the copies of the Third and Fourth Pay Requests for the City of Wharton Caney Creek Outfall Ditch Project for Uticon, Inc. to the City Council. Mr. Carlos Cotton, P.E. with Jones & Carter, Inc. informed the City Council that the ditch was 99.9% complete. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the City of Wharton Caney Creek Outfall Ditch Project – Third and Fourth Pay Requests – Uticon, Inc. in the amount of \$97,222.32. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The sixteenth item on the agenda was to review and consider the City of Wharton 24” Sewer Line Repair Project – Wastewater Treatment Plant No. 2 – First and Final Pay Request – Insituform Technologies, Inc. Mr. Anthony Rachuenk, P.E. of Rachunek & Associates, Inc. presented the copy of the First and Final Pay Request – Insituform Technologies, Inc. for the 24” Sewer Line Repair Project – Wastewater Treatment Plant No. 2 project to the City Council. Mr. Anthony Rachuenk, P.E. of Rachunek & Associates, Inc. informed the City Council that the project was completed. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the City of Wharton 24” Sewer Line Repair Project – Wastewater Treatment Plant No. 2 – First and Final Pay Request – Insituform Technologies, Inc. in the amount of \$70,380.00. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The seventeenth item discussed on the agenda was to review and consider the request to Upgrade the 2004 Mowers. City Manager Andres Garza, Jr. stated that during the regular City Council meeting, the City Council approved the purchase of the 2004 mowers from Houston Turf Equipment in the amount of \$11,382 for the Jacobsen 623D model. He then presented a copy of the memorandum dated January 21, 2004 from Public Works Director Phil Bush and Facilities Maintenance Director Bob Baker requesting to upgrade the 2004 Mowers. He stated that Mr. Bush and Mr. Baker were requesting the mowers be upgraded to the Jacobsen 628D in the amount of \$13,435 each from Houston Turf. Mr. Garza stated that the bids would be placed on the February 9, 2004 agenda in order to reject the bids and to advertise for the upgrade requirements. After some discussion, no action was taken.

The eighteenth item discussed on the agenda was to review and consider Texas Municipal League (TML) – School Finance and Texas Cities Workshop, Friday, March 12, 2004. City Manager Andres Garza, Jr. presented a copy of the information that was issued by the Texas Municipal League (TML) regarding the School Finance and Texas Cities Workshop to be held Friday, March 12, 2004. The City Council Legislative Committee could attend the workshop on behalf of the City to obtain information regarding the impact the legislative action on school reforms could create in the City’s financial status. He then presented additional information regarding where Texas Cities get their money and the School Finance and Texas Cities to the City Council. He stated that the City Council Legislative Committee consisted of Councilmembers Domingo Montalvo, Jr., and Ray Linseisen. After some discussion, Councilmember Darryl Darnell made a motion to authorize the City Council Legislative Committee members and other City Councilmembers to attend the Texas Municipal League (TML) – School Finance and Texas Cities Workshop, Friday, March 12, 2004 costing \$95.00 per participant and mileage. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The nineteenth item discussed on the agenda was to review and consider Travel Reimbursement for City Manager. City Manager Andres Garza, Jr. presented a copy of the travel reimbursement request for himself in the amount of \$533.38 for the period December 10, 2003 to January 23, 2004. After some discussion, Councilmember Ray Linseisen made a motion to approve the travel reimbursement to City Manager Andres Garza, Jr. for the period December 10, 2003 to January 23, 2004 in the amount of \$533.38. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

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

- A. Electrical Board meeting held January 22, 2004.
- B. Beautification Commission meeting held January 14, 2004.
- C. Wharton Regional Airport Consultant Selection Committee meeting held January 15, 2004.
- D. Wharton Regional Airport Board meeting held January 15, 2004.
- E. Building Standards Commission meeting held January 15, 2004.
- F. Southern Pacific Railroad Depot Consultant Selection Committee meeting held January 20, 2004.
- G. Wharton Economic Development Corporation meeting held January 20, 2004.
- H. City of Wharton Finance Committee meeting held January 22, 2004.
- I. City of Wharton Streets & Drainage Committee meeting held January 22, 2004.
- J. Mayor's Local Committee on People with Disabilities meeting held January 22, 2004.
- K. Plumbing and Mechanical Board meeting held January 22, 2004.

City Manager Andres Garza, Jr. presented the reports to the City Council. Councilmember Darryl Darnell asked about the Skydive San Marcos hangar lease. City Manager Andres Garza, Jr. stated that Skydive San Marcos had not terminated the lease; however, another tenant was interested in the hangar agreement with the City of Wharton. No action was taken.

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

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| A. Police Department. | I. Engineer/Planning Department. |
| B. City Secretary/Personnel. | J. Facilities Maintenance Department. |
| C. Municipal Court. | K. Community Services Department/
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. No action was taken.

The twenty-second item discussed on the agenda was to review and consider City of Wharton Sanitary Sewer Collection System Improvement Project. Mr. Carlos Cotton, P.E. presented a report on the City of Wharton Sanitary Sewer Collection System Improvement Project. The report reflected the Inflow and Infiltration. He stated that the infiltration consisted of 40% mainlines, 30% manholes, and 30% service laterals, which was the sewer line to the house. He

stated that the cost of rehabilitation was 45% for mainlines, 10% for manholes, and 45% for service laterals. He stated that the problems could be located by: flow monitoring, manhole inspections, smoke testing, TV, and dye flooding. He stated that the solutions were: manhole rehabilitation, point repair, replacement, and trenchless technology pipe rehabilitation. The cost of smoke testing was \$0.50 per foot, TV \$1.50 - \$2.50 per foot, rehabilitation would be manhole \$100 - \$150; line replacement \$30 to \$100 per linear foot; trenchless technology \$40 - \$50 per linear foot. He stated that the rehabilitation would be for 251,805 linear feet costing \$4,028,880. He recommended the City Council to authorize a manhole survey, flow monitoring and lift station analysis and televising 10,000 linear feet. City Manager Andres Garza, Jr. stated that we would present a City Staff recommendation to the City Council. After some discussion, 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 8:37 p.m.

CITY OF WHARTON, TEXAS

By:

BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT
City Secretary