

**MINUTES  
OF  
CITY OF WHARTON  
REGULAR CITY COUNCIL MEETING  
FEBRUARY 9, 2004**

Mayor Pro-Tem Don Mueller declared a Regular Meeting duly open for the transaction of business at 7:02 P.M. Councilmember V. L. Wiley, Jr. led the opening devotion and then Mayor Pro-Tem Don Mueller led the pledge of allegiance.

Councilmembers present were: Mayor Pro-Tem Don Mueller, Councilmembers V. L. Wiley, Jr., Darryl Darnell, Ken Freese, Domingo Montalvo, Jr., and Ray Linseisen

Member absent was: Mayor Bryce D. Kocian.

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, Community Services Director Jo Knezek, Fire Chief David Copeland, and City Attorney Paul Webb.

Visitors present were: Benjamin Sharp with Wharton Journal Spectator, Lewis Fortenberry, Carlos Cotton, David Schroeder, Vasaar "Skip" Holman, Billie Jones, Brad Cloud, Henry Thiele, David Samuelson, I.O. Coleman, Jr., Suzette Wells-Young, Johnnie Roberts, Chester Houston, Ashley Barnes, Debbie Barnes, Bill Coleman and Marshall Francis.

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

The fourth item on the agenda was the Wharton Moment. Councilmember V. L. Wiley, Jr. publicly thanked City Manager Andres Garza, Jr. and Code Enforcement Officer Jimmy Nickolyn on the enforcement of the city ordinance at M.L.K. Blvd. He said the cleanup was really appreciated for the M.L.K. Holiday. No action was taken.

The fifth item on the agenda was to review and consider the reading of the Wharton City Council Minutes from the regular meetings held January 12, 2004 and January 26, 2004. After some discussion, Councilmember Ken Freese made a motion to approve the reading of the Wharton City Council minutes of the regular meetings held January 12, 2004 and January 26, 2004. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider an ordinance calling for a City Officers Election, Providing for the Date, Time, and Place of the Election, the Appointment of Election Officers, Early Voting, Notice of the Election Drawing for Ballot Positions, Filing Applications and Making Election Returns. City Manager Andres Garza, Jr. presented a draft copy of the ordinance calling for a City Officers' Election and Providing for the date, time, and place of the

election, the appointment of Election Officers and Clerks, Early Voting, Notice of the Election, Drawing for Ballot Positions, Filing Applications, and Making Election returns. After some discussion, Councilmember Darryl Darnell made a motion to approve Ordinance No. 2004-004, which read as follows:

**CITY OF WHARTON, TEXAS  
ORDINANCE NO. 2004-004**

**AN ORDINANCE CALLING FOR A CITY OFFICERS ELECTION, PROVIDING FOR THE DATE, TIME, AND PLACE OF THE ELECTION, THE APPOINTMENT OF ELECTION OFFICERS AND CLERKS, EARLY VOTING, NOTICE OF THE ELECTION, DRAWING FOR BALLOT POSITIONS, FILING APPLICATIONS, AND MAKING ELECTION RETURNS.**

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

"Section 32 of the City Charter provides that regular city elections will be held annually on the first Saturday in May; however, the Texas Legislature has mandated that the May 2004 Election shall be held on the 3rd Saturday in May, after which time the date will revert back to the first Saturday in May for future elections."

**Date and Position**

An election shall be held in the City of Wharton, Texas on **May 15, 2004**, for the purpose of electing the following officials for the City:

Mayor  
Councilmember - District No. 2  
Councilmember - District No. 4  
Councilmember at Large - Place No. 6

**Location**

The election shall be held at the City of Wharton Civic Center at 1924 North Fulton Street, Wharton, Texas.

**Time**

The polls shall open for voting at **7 a.m.** and shall close at **7 p.m.**

**Election Officers**

The following-named persons are appointed officers for the election:

Presiding Judge: Loretta Craft  
Alternate Presiding Judge: Henry Thiele

The presiding judge shall have the authority to appoint no more than six (6) clerks in the holding of such election, but in no event shall the Presiding Judge appoint less than two (2) clerks.

### **Ballots**

Paper ballots shall be used for voting on election day and for early voting by personal appearance and by mail in each of the elections.

### **Early Voting**

The Deputy City Secretary is appointed early voting clerk and the Deputy City Secretary is authorized to appoint by written order one or more temporary deputies to serve as early voting clerks.

The early voting by personal appearance for the above-designated election shall take place at the Wharton Community/Civic Center at 1924 North Fulton Street, Wharton, Texas. The place for early voting shall remain open on each day that is not a Saturday, Sunday, or an official state holiday, between the hours of **8 a.m.** and **5 p.m.**, those days and hours being the days and hours that the City Secretary's main office is open for business, beginning on **April 28, 2004** and continuing through **May 11, 2004**.

An Early Voting Ballot Board is hereby established for the purpose of early voting results. Henry Thiele is appointed the Presiding Judge of the Early Voting Ballot Board. The Presiding Judge shall appoint not less than two (2) nor more than four (4) resident qualified voters of the City to serve as members of the Early Voting Ballot Board. The Deputy City Secretary shall act as Early Voting Ballot Board Clerk.

Voters may send ballot applications and mailed ballots to the City Secretary's office at 120 East Caney, Wharton, Texas 77488.

### **Compensation for Election Officials and Clerks**

The election officials and clerks shall be compensated in the following manner:

The Election Judge for the May 15, 2004 General Election shall be paid \$6.00 per hour. The Election Judge shall also be paid \$25.00 for delivering the precinct records, keys to ballot box or other election equipment and unused election supplies after the election.

The Early Voting Ballot Board Presiding Judge for the May 15, 2004 General Election shall not be paid.

The members of the Early Voting Ballot Board for the May 15, 2004 General Election shall not be paid.

The Early Voting Ballot Board Clerk for the May 15, 2004 General Election shall not be paid.

The Election Clerk(s) for the May 15, 2004 General Election shall be paid \$6.00 per hour.

The Deputy City Secretary shall, in accordance with the terms and provisions of the Texas Election Code, order the candidate names to be printed on the ballots for said General Election.

### **Eligibility to Vote**

The election shall be held in accordance with the Election Code of the State of Texas. Only qualified resident voters of the City of Wharton, Texas shall be eligible to vote in the election.

### **Notice of City Officers' Election**

The Mayor shall cause a notice by publication of this election to be published at least once in a newspaper that is published in the City of Wharton, Texas and that is in the jurisdiction of the City of Wharton, Texas, which publication shall be not earlier than the **30th day** nor later than the **10th day** before election day.

The Mayor shall also give notice of the election by causing a copy of the notice of election to be posted not later than the **21st day** before election day on the bulletin board located at the City Hall, 120 East Caney, Wharton, Texas and used for posting notices of meetings of the Wharton City Council. The notice shall include the location of the polling place.

### **Returns**

Immediately after the election, the officers holding the election shall make returns of the results thereof to the Mayor of this City, as required by the Election Code of the State of Texas.

### **Writ of Election**

A copy of this ordinance shall also serve as a writ of election, which shall be delivered to the above-appointed presiding judge for the election not later than the **15th day** before election day or the **7<sup>th</sup> day** after the date the election is ordered, whichever is later.

### **Filing**

Candidates must file applications for a place on the ballot with the City Secretary of the City of Wharton, Texas beginning on **February 14, 2004** and continuing through **5 p.m. on March 15, 2004**. A declaration of write-in candidacy must be filed not later than 5:00 P.M. on **March 22, 2004**, the 5th day after an application for a place on the ballot is required to be filed.

Candidates for City Councilmember must designate the position filed for, either Mayor, Councilmember District No. 2, Councilmember District No .4, or Councilmember at Large - Place No.6.

**Ballot Positions**

On **March 19, 2004 at 4:00 p.m.**, a drawing will take place in the office of the City Secretary for the purpose of determining the order of the candidates' names as they are to appear on the ballot.

The Deputy City Secretary shall post a notice of the date, hour, and place of the drawing and this notice shall remain posted continuously for at least 72 hours immediately preceding the scheduled time of the drawing.

**Order**

The City Council of the City of Wharton, Texas shall order the election, in accordance with the foregoing provisions.

**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.

**Passage and Approval**

**PASSED AND APPROVED** by the City Council of the City of Wharton, Texas, on this **9th** day of **February, 2004**.

**ATTEST:**

**CITY OF WHARTON, TEXAS**

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

**By:** \_\_\_\_\_  
**Don Mueller**  
Mayor Pro-Tem

**APPROVED AS:**

\_\_\_\_\_  
**Paul Webb**  
City Attorney

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

The seventh item on the agenda was to review and consider the Chamber of Commerce & Agriculture 2004 Calendar. City Manager Andres Garza, Jr. presented a copy of the email dated February 3, 2004 from Ms. Billie H. Jones, Executive Director of the Wharton Chamber of

Commerce and Agriculture requesting the City Council to approve the events and festivals as follows:

1. March 26 and 27, 2004 Shanghai Days Cowboy Gathering
2. June 18, 19, and 20, 2004 Juneteenth Celebration & Wharton Training High School Alumni Reunion.
3. June 25 and 26, 2004 Wharton County Freedom Festival & Bar-B-Que Cook-off.
4. September 4, 2004 Fiesta Hispano Americana.
5. November 23, 2004 Chamber Holiday Parade.

He stated that the City Staff was requesting City Council approval of the dates of the events and festivals. Ms. Billie Jones with the Wharton Chamber of Commerce and Agriculture addressed the City Council and presented the events and festivals to the City Council. After some discussion, Councilmember Darryl Darnell made a motion to approve the events and festivals as presented and if any organization would request funding or assistance from the City, then that organization would need to address City Council. 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. Juan Flores, 220 Maude Street, Wharton, Texas, for City Water Service. City Manager Andres Garza, Jr. presented a copy of the City of Wharton Application for Utility Service submitted by Mr. Juan Flores, 220 Maude Street, Wharton, Texas, requesting City Water Service. He stated that City Council approval was required since the property was located outside of the City Limits. After some discussion, Councilmember Ray Linseisen made a motion to approve the request by Mr. Juan Flores, 220 Maude Street, Wharton, Texas, for City Water Service. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider the request by Mr. Marshall Francis for a variance to construct a storage facility over an interior property line at 808 N. Richmond Road, Cloud, Block 51, Lots 3 and 4. City Manager Andres Garza, Jr. presented a copy of the letter of recommendation dated February 3, 2004 from Planning Commission Chairman A. J. Rath requesting City Council approval of the request by Mr. Marshall Francis for a variance to construct a storage facility over an interior property line at 808 N. Richmond Road, Cloud, Block 51, Lots 3 and 4. He then presented a copy of the Planning Commission Communications from the meeting held February 2, 2004. After some discussion, Councilmember Darryl Darnell made a motion to approve the request by Mr. Marshall Francis for a variance to construct a storage facility over an interior property line at 808 N. Richmond Road, Cloud, Block 51, Lots 3 and 4. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider a resolution administratively approving an application for Tax Abatement filed by Mr. Ervin Herzik, Jr. and Mr. Scott Chambers for Jr's Texas Best Smokehouse Project. City Manager Andres Garza, Jr. stated that the Wharton City Council Finance Committee met February 2, 2004 and was recommending City Council to administratively approve the Tax Abatement Application filed by Mr. Ervin Herzik, Jr. and Mr. Scott Chambers for Jr's Texas Best Smokehouse Project. He then presented a copy of the application and a draft resolution administratively approving the application. He stated that the project would be funded through the Texas Capital Fund. He stated that the next step in approving the tax abatement agreement would be to hold a public hearing and create a re-

investment zone. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2004-009, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2004-009**

**A RESOLUTION ADMINISTRATIVELY APPROVING AN APPLICATION FOR TAX ABATEMENT FILED MR. ERVIN HERZIK, JR. AND MR. SCOTT CHAMBERS FOR JR'S TEXAS BEST SMOKEHOUSE PROJECT.**

**WHEREAS,** heretofore previously, the City Council of the City of Wharton did establish and adopt certain criteria and guidelines for review and administrative approval of applications for tax abatements; and

**WHEREAS,** the City Manager of the City of Wharton has reviewed the application heretofore previously filed and has approved the same by memorandum dated the 6<sup>th</sup> day of February 2004 a copy of which is attached hereto and marked Exhibit "A".

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

**Section I.** The City Council of the City of Wharton receives and makes a part of the record the recommendation of the City Manager, dated the 6<sup>th</sup> day of February 2004, recommending administrative approval in accordance with the Guidelines and Criteria for Granting Tax Abatements as adopted by Resolution No. 2003-99 on the 10<sup>th</sup> day of November 2003 and directs that said recommendation be filed and maintained among the official papers of the City relating to the proposed tax abatement.

**Section II.** After review to the extent deemed necessary by the City Council of the City of Wharton, the City Council by this Resolution does administratively approve the application for tax abatement heretofore previously filed by Mr. Ervin Herzik, Jr. and Mr. Scott Chambers for Jr's Texas Best Smokehouse Project on the 22<sup>nd</sup> day of January 2004, and directs, in accordance with the requirements of law, and the heretofore named Guidelines and Criteria for Granting Tax Abatements, that an appropriate agreement be prepared and submitted to the City Council of Wharton, Texas for final consideration.

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

**Passed, Approved, and Adopted** this 9<sup>th</sup> day of February 2004.

**CITY OF WHARTON, TEXAS**

**By:** \_\_\_\_\_  
**DON MUELLER**  
Mayor Pro-Tem

**ATTEST:**

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**JOYCE VASUT**

City Secretary

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

The eleventh item on the agenda was to review and consider a resolution administratively approving an application for Tax Abatement filed by Mr. Yic Desai, DVD Enterprises, LTD for the Holiday Inn Express Project. City Manager Andres Garza, Jr. stated that the Wharton City Council Finance Committee met February 2, 2004 and was recommending City Council to administratively approve the Tax Abatement Application filed by Mr. Yic Desai, DVD Enterprises, LTD for the Holiday Inn Express Project. He then presented a copy of the application and a draft resolution administratively approving the application. He stated that the project was located in the designated re-investment zone. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2004-010, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2004-010**

**A RESOLUTION ADMINISTRATIVELY APPROVING AN APPLICATION FOR TAX ABATEMENT FILED BY MR. YIC DESAI, DVD ENTERPRISES, LTD FOR THE HOLIDAY INN EXPRESS PROJECT.**

**WHEREAS,** heretofore previously, the City Council of the City of Wharton did establish and adopt certain criteria and guidelines for review and administrative approval of applications for tax abatements; and

**WHEREAS,** the City Manager of the City of Wharton has reviewed the application heretofore previously filed and has approved the same by memorandum dated the 6<sup>th</sup> day of February 2004 a copy of which is attached hereto and marked Exhibit "A".

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

**Section I.** The City Council of the City of Wharton receives and makes a part of the record the recommendation of the City Manager, dated the 6<sup>th</sup> day of February 2004, recommending administrative approval in accordance with the Guidelines and Criteria for Granting Tax Abatements as adopted by Resolution No. 2003-99 on the 10<sup>th</sup> day of November 2003 and directs that said recommendation be filed and maintained among the official papers of the City relating to the proposed tax abatement.

**Section II.** After review to the extent deemed necessary by the City Council of the City of Wharton, the City Council by this Resolution does administratively approve the application for tax abatement heretofore previously filed by Mr. Yic Desai, DVD Enterprises, LTD for the Holiday Inn Express Project on the 16<sup>th</sup> day of January 2004, and directs, in accordance with the requirements of law, and the heretofore named Guidelines and Criteria for Granting Tax Abatements, that an appropriate agreement be prepared and submitted to the City Council of Wharton, Texas for final consideration.

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

**Passed, Approved, and Adopted** this 9<sup>th</sup> day of February 2004.

**CITY OF WHARTON, TEXAS**

**By:** \_\_\_\_\_  
**DON MUELLER**  
Mayor Pro-Tem

**ATTEST:**

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**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 Wharton Independent School District for City of Wharton assistance with drainage at the Tiger Football Field. City Manager Andres Garza, Jr. presented a copy of the letter dated January 29, 2004 from Mr. Brad Cloud, Director of Auxiliary Services of the Wharton Independent School District requesting City of Wharton assistance with drainage at the Tiger Football Field. Councilmember Darryl Darnell presented to City Council a letter dated September 17, 1975 from Robert Randolph with the Law Offices of Law, Snakard, Brown & Gambill to Mr. Robert Mikus advising that the school district would have gates installed on all three of the drain pipes. The gates would be kept closed most of the time except during periods prior to athletic events scheduled at the stadium. If there would be heavy and prolonged rain during such a period, arrangements could be made to close the gates. City Manager Andres Garza, Jr. stated that if Mr. Robert Mikus had flooded in 1975, Lake Net was not in the City limits at that time. Mr. Brad Cloud stated that he was unaware of the letter with the school's intent to install gates. Public Works Director Phillip Bush stated that the drainage pipe was going into Lake Net subdivision. Councilmember Domingo Montalvo, Jr. stated that the letter was a statement from an attorney, not a contract. Mr. Henry Thiele addressed the City Council and asked who has property rights on the property between Lake Shore Drive and the stadium. City Manager Andres Garza, Jr. stated that the ditch appeared to be on school property. Councilmember Darryl Darnell asked if the lake was city property. City Manager Garza stated that the lake was not on city property. He stated that the school board would have to discuss the outfall of Lake Nett with Wharton County since Lake Nett's outfall was outside the City limits. After some discussion, Councilmember Darryl Darnell made a motion to table the request until the Wharton Independent School Board met with Wharton County Commissioners. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The thirteenth item on the agenda was to review and consider a resolution of the Wharton City Council rescinding the City of Wharton Resolution No. 2004-002 awarding Houston Turf Equipment the bid for the purchase of two 2004 lawn mowers with side discharge and one 2004 lawn mower with rear discharge and authorizing the solicitation of bids for the purchase of two 2004 lawn mowers with side discharge and one 2004 lawn mower with rear discharge. City Manager Andres Garza, Jr. stated that during the regular City Council meeting held January 26, 2004, Public Works Director Phil Bush and Facilities Maintenance Director Bob Baker

requested the City Council to upgrade the Jacobsen 623D mowers previously approved by City Council for purchase to the 628D Jacobsen mowers. He then presented a copy of the memorandum dated January 21, 2004 from Mr. Bush and Mr. Baker requesting the upgrade. Mr. Garza presented a draft copy of a resolution rescinding the City of Wharton Resolution No. 2004-002 awarding Houston Turf Equipment the bid for the purchase of two 2004 lawn mowers with side discharge and one 2004 lawn mower with rear discharge. He stated that the draft resolution would also provide the City Staff authorization to solicit bids the purchase of two 2004 lawn mowers with side discharge and one 2004 lawn mower with rear discharge with the upgraded specifications. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2004-011, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2004-011**

**A RESOLUTION OF THE WHARTON CITY COUNCIL RESCINDING THE CITY OF WHARTON RESOLUTION NO. 2004-002 AWARDING HOUSTON TURF EQUIPMENT THE BID FOR THE PURCHASE OF TWO 2004 LAWN MOWERS WITH SIDE DISCHARGE AND ONE 2004 LAWN MOWER WITH REAR DISCHARGE AND AUTHORIZING THE SOLICITATION OF BIDS FOR THE PURCHASE OF TWO 2004 LAWN MOWERS WITH SIDE DISCHARGE AND ONE 2004 LAWN MOWER WITH REAR DISCHARGE.**

**WHEREAS**, competitive, sealed bids were received on December 22, 2003 for the purchase of two 2004 lawn mowers with side discharge and one 2004 lawn mower with rear discharge; and

**WHEREAS**, Houston Turf Equipment was deemed to be the best and lowest qualified bidder as per bid specifications for two 2004 lawn mowers with side discharge in the amount of \$22,764.00 and one 2004 lawn mower with rear discharge in the amount of \$11,382.00; and

**WHEREAS**, the City Council wishes to rescind the City of Wharton Resolution No. 2004-002 awarding the bids to Houston Turf Equipment as stated above; and

**WHEREAS**, the City Council wishes to reject all bids received on December 22, 2004; and

**WHEREAS**, the Wharton City Council wishes to authorize the solicitation of bids for the purchase of two 2004 lawn mowers with side discharge and one 2004 lawn mower with rear discharge with upgraded specifications.

**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 rescinds the City of Wharton Resolution No. 2004-002 and rejects all bids received on December 22, 2004.

Section II. That the Wharton City Council hereby authorizes the solicitation of bids for the purchase of two 2004 lawn mowers with side discharge and one 2004 lawn mower with rear discharge with the upgraded specifications.

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

**Passed, Approved, and Adopted** this 9<sup>th</sup> day of February 2004.

**CITY OF WHARTON, TEXAS**

**By:**

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**DON MUELLER**  
Mayor Pro-Tem

**ATTEST:**

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**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 the recommendation by the Beautification Commission to fill a vacant position. City Manager Andres Garza, Jr. presented a copy of the letter dated February 6, 2004 from Mr. Jeffrey Blair, Chairman of the Beautification Commission, recommending the City Council consider approving Ms. Cindy Sanchez as a Commissioner. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to appoint Ms. Cindy Sanchez as a member of the Beautification Commission. Councilmember Ken Freese seconded the motion. All voted in favor.

The fifteenth item on the agenda was to review and consider the Hazard Mitigation Action Plan:

- A. Review of draft Hazard Mitigation Action Plan.
- B. Setting a Public Hearing Date to receive public input regarding the Hazard Mitigation Action Plan.

City Manager Andres Garza, Jr. stated that the City of Wharton had been working with the Texas Colorado River Floodplain Coalition in developing a Hazard Mitigation Action Plan. He stated that in accordance with federal Pre-Disaster Mitigation Program (PDM) grant, the City Council should review the draft Hazard Mitigation Action Plan. He then presented a copy of the overview and table of contents for the Texas Colorado River Floodplain Coalition Hazard Mitigation Action Plan for the Lower Colorado River Basin 2003-2008 drafted October 3, 2003 of which the City of Wharton was a part of. He stated that a full copy of the plan was available in the City Secretary's office located at City Hall. Mr. Garza stated that in accordance with federal rules (CFR Part 44, Section 201.6) an open public involvement process providing an opportunity for the public to comment on the plan during the drafting stage and prior to approval must be held. He stated that he was requesting the City Council to set a public hearing for the February 23, 2004 regular City Council meeting. He then presented a draft copy of the public notice for approval. Councilmember Darryl Darnell asked how many cities have adopted the Hazard Mitigation Action Plan. City Manager Garza stated that the deadline to adopt was on March 31, 2004. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve setting a Public Hearing Date on February 23, 2004 to receive public input regarding the Hazard Mitigation Action Plan. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The sixteenth item on the agenda was to review and consider a resolution of the City Council of the City of Wharton, Texas, authorizing the submission of a Texas Community Development

Program application to the Office of Rural Affairs for the Disaster Relief Fund and authorizing the Mayor of the City of Wharton to act as the authorized representative in all matters pertaining to the City's participation in the Community Development Program. 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 pursue an application with the Office of Rural Community Affairs for the Texas Community Development Program Disaster Relief Fund for the City's 25% match for the Texas Department of Emergency Management Acquisition Project DR-1434-002 –Tropical Storm Fay project. He then presented a draft resolution authorizing the submission of the application. He stated that the City had received the 75% or \$183,107.00 portion of the total project cost of \$244,142.00 from FEMA and the remaining 25% or \$61,035.00 was being applied for through this application. He stated that approval was requested. He stated that the project would consist of the City obtaining ownership of the property, closing, demolition, and environmental assessment. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2004-012, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2004 - 012**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS, AUTHORIZING THE SUBMISSION OF A TEXAS COMMUNITY DEVELOPMENT PROGRAM APPLICATION TO THE OFFICE OF RURAL COMMUNITY AFFAIRS FOR THE DISASTER RELIEF FUND AND AUTHORIZING THE MAYOR TO ACT AS THE CITY'S EXECUTIVE OFFICER AND AUTHORIZED REPRESENTATIVE IN ALL MATTERS PERTAINING TO THE CITY'S PARTICIPATION IN THE COMMUNITY DEVELOPMENT PROGRAM.**

**WHEREAS**, the City Council of the City of Wharton desires to develop a viable urban community, including decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low/moderate income; and

**WHEREAS**, certain conditions exist which represent a threat to the public health and safety; and

**WHEREAS**, it is necessary and in the best interests of the City of Wharton to apply for funding under the 2003 Texas Community Development Program;

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

1. That a Texas Community Development Program application for the Disaster Relief Fund is hereby authorized to be filed on behalf of the City with the Office of Rural Community Affairs.
2. That the City's application be placed in consideration for funding under the Disaster Relief Fund for the City of Wharton's Acquisition Project DR-1434-002 – Tropical Storm Fay.
3. That the application be for \$61,035.00 of grant funds to pay the 25% match since the hazard mitigation grant program is a 75% reimbursable/25% match program.

4. That the City Council directs and designates the Mayor of the City of Wharton as the City's Authorized Representative to act in all matters in connection with this application and the City's participation in the Texas Community Development Program.

**PASSED, APPROVED AND ADOPTED** this 9<sup>th</sup> day of February 2004.

**CITY OF WHARTON, TEXAS**

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**DON MUELLER**  
Mayor Pro-Tem

**ATTEST:**

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**JOYCE VASUT**

City Secretary

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

The seventeenth item on the agenda was to review and consider a resolution of the Wharton City Council approving the Administrative Management Services Contract between the City of Wharton and Love Building Systems, Inc. for the Texas Department of Housing and Community Affairs HOME Program Contract No. 1000046 and authorizing the Mayor of the City of Wharton to execute all documents relating to the Administrative Management Services Contract. City Manager Andres Garza, Jr. presented a copy of the memorandum dated February 3, 2004 from Community Services Director Jo Knezek requesting City Council approval of the administrative management services contract between the City of Wharton and Love Building Systems, Inc. for the Texas Department of Housing and Community Affairs HOME Program Contract No. 1000046. He then presented a draft resolution approving the agreement and a copy of the proposed contract. Community Services Director Jo Knezek informed the City Council that Mr. Love had previously built homes for nineteen years and the work had exceeded the HUD requirements. She stated that the money paid to Mr. Love would be disbursed from the Texas Department of Housing and Community Affairs HOME Program Contract No. 1000046. Councilmember Domingo Montalvo, Jr. asked what was the total of federal funds the City of Wharton had received. Finance Director Joyce Vasut stated that in the fiscal year 2002-2003, the City had received approximately \$3.9 million; however the City had received additional funding for the 2003-2004 fiscal year. After some discussion, Councilmember Darryl Darnell made a motion to approve Resolution No. 2004-013, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2004-013**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE ADMINISTRATIVE MANAGEMENT SERVICES CONTRACT BETWEEN THE CITY OF WHARTON AND LOVE BUILDING SYSTEMS, INC. FOR THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS HOME PROGRAM CONTRACT NO. 1000046 AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO THE**

**ADMINISTRATIVE MANAGEMENT SERVICES CONTRACT.**

**WHEREAS,** the Wharton City Council wishes to approve the administrative management services agreement between the City of Wharton and Love Building Systems, Inc. for the Texas Department of Housing and Community Affairs HOME Program Contract No. 1000046; and

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

**WHEREAS,** the City of Wharton and the Love Building Systems, Inc. wishes to be bound by the conditions as set forth in the lease agreement.

**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 approves the administrative management services agreement between the City of Wharton and Love Building Systems, Inc. for the Texas Department.

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

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

**Passed, Approved, and Adopted** this 9<sup>th</sup> day of February 2004.

**CITY OF WHARTON, TEXAS**

**By:** \_\_\_\_\_  
**DON MUELLER**  
Mayor Pro-Tem

**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 the City of Wharton Construction Projects:

A. Alabama Road and Nelson Lane Flap Gate Project – Fourth and Final Pay Request – Uticon, Inc.

City Manager Andres Garza, Jr. presented a copy of the fourth and final pay request submitted by Uticon, Inc. for the Alabama Road and Nelson Lane Flap Gate Project. Mr. Carlos Cotton, P.E. of Jones & Carter, Inc. addressed the City Council and stated the project was complete. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Alabama Road and Nelson Lane Flap Gate Project – Fourth and Final Pay Request – Uticon, Inc. in the amount of \$68,590.70. Councilmember Ray Linseisen seconded the motion. All voted in favor.

B. 2003 Sewer Rehabilitation Project – Pay Request No. 3 – Mercer Construction Company. City Manager Andres Garza, Jr. presented a copy of the Pay Request No. 3 submitted by Mercer Construction Company for the 2003 Sewer Rehabilitation Project. City Manager Andres Garza, Jr. stated that Mercer Construction Company was requesting payment in the amount of \$16,435.30. Public Works Director Phillip Bush stated that the line was installed and the driveways were scheduled to be repaired. After some discussion, Councilmember Ray Linseisen made a motion to approve Pay Request No. 3 submitted by Mercer Construction Company for the 2003 Sewer Rehabilitation Project in the amount of \$16,435.30. Councilmember Ken Freese seconded the motion. All voted in favor.

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

- A. City Council Finance Committee Meeting held February 2, 2004.
  - B. Planning Commission Meeting held February 2, 2004.
  - C. Wharton Regional Airport Consultant Selection Committee Meeting held February 5, 2004.
- City Manager Andres Garza, Jr. presented the reports to the City Council. No action was taken.

The twentieth item on the agenda was adjournment. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to adjourn. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The meeting adjourned at 7:45 p.m.

**CITY OF WHARTON, TEXAS**

By: \_\_\_\_\_  
**DON MUELLER**  
Mayor Pro-Tem

**ATTEST:**

\_\_\_\_\_  
**JOYCE VASUT**  
City Secretary