

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
MARCH 8, 2004**

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 Director Joyce Vasut, Deputy City Secretary Lisa Stavena, Assistant to City Manager Jackie Jansky, Public Works Director Phillip Bush, Community Services Director Jo Knezek, Facilities Maintenance Director Bob Baker, Building Official Ronnie Bollom, Police Chief Tim Guin, and City Attorney Paul Webb.

Visitors present were: Benjamin Sharp with Wharton Journal Spectator, Lewis Fortenberry, Carlos Cotton, David Schroeder, Kim Lacey, Gary Raybon, Terry Freese, Anthony Rachunek, Barbara Stephenson, Phil Stephenson, Greg Trlicek, Kristi Kocian, Johnnie Roberts, Bobby Ogdee, Mickey Reynolds, Chester Houston, Mike Sherrill, Sylvan Miori.

The third item on the agenda was Public Comments. Mr. Terry Freese addressed the City Council and publicly thanked the City of Wharton for their support towards Wharton Little League. He stated that Wharton Little League attempts to be self-supported, but appreciates all the support the City gives.

Mr. Sylvan Miori addressed the City Council and stated that he had been involved in the Wharton Little League since 1958. He stated that he received an Appreciation Award for the period 1958-1970. He also stated that he was on the Hospital Board that donated the building to the City for use as the Civic Center. He stated that Wharton Little League had kept hundreds of children off the streets and the City should allow the Little League to use a room for registration at no cost.

Dr. Bobby Odgee addressed the City Council and stated that he was the Vice-President of the Wharton Little League and he sent letters to all City officials inviting them to attend the Grand Opening Event. He stated that Boling Little League would also be playing with Wharton Little League this year. Mayor Bryce D. Kocian stated that he would like to proclaim March 27, 2004

as Wharton Little League Day and requested historical information be submitted to Assistant to City Manager Jackie Jansky for the proclamation. No action was taken.

The fourth item on the agenda was the Wharton Moment. Councilmember Domingo Montalvo, Jr. addressed the City Council regarding the Flood Project. He stated that the City had received approximately \$10,000 for every \$1 spent. Mayor Bryce D. Kocian publicly thanked Councilmember Domingo Montalvo, Jr. and Wharton County Commissioner Mickey Reynolds for addressing the flooding issues at Peach Creek, and Boughman Slough. No action was taken.

Councilmember Darryl Darnell stated that based on the public comments from the citizens, the internal memorandum that was sent to the City Manager was made public. He stated that the public was misinformed. He then requested that the persons who spoke during the Public Comments session to stay for the discussion relating to the Wharton Civic Center rental rates and procedures.

The fifth item on the agenda was State of the City address by Mayor Bryce D. Kocian. Mayor Bryce D. Kocian stated:

2004 State of the City Address

My Fellow Whartonians, Members of the City Council, Employees of the City of Wharton and Media Representatives, I am pleased and proud to declare to you this evening that the State of our City is both good and sound. It is good because we have methodically and systematically identified the challenges that lay before us and have devised plans to make those challenges our successes. It is sound because we have continued to make the financial integrity of our City paramount to our future.

In calendar year 2003, the City organization (City Council and Staff) continued its work to meet the many challenges that were set before us. The City Council accomplished the task of adopting a City budget for Fiscal Year 2003-2004 that provided the same level of service to the citizens without an increase to the tax rate or utility rates. The City also ended its September 30, 2003 fiscal year with its Comprehensive Annual Financial Report, as audited by Stephenson & Trlicek, P.C, showing an unqualified opinion stating that the City's different funds were in a positive position.

The City of Wharton is in the best financial condition it has been in many years. It is important for me to publicly congratulate the City Council and City Staff who have made every effort not only to restore the City's financial integrity but to also continue its solvency and financial strength. That methodical march has restored both financial integrity and credibility to City Hall.

The financial future of the City looks positive as we move forward in our economic development efforts. These efforts are made possible by the collaborative efforts and hard work of the Wharton Economic Development Corporation's Board of Directors and Staff. The construction of Wal-Mart SuperCenter and pending projects that are in our horizon, Jr's Texas Best Smokehouse & Bakery, Sage Interests Center, Holiday Inn Express project, new restaurants and small businesses, are just a few that will make our financial future look even brighter. These efforts must be continued to insure the City's financial future.

In addition to the City meeting its financial challenges and laying the groundwork for new developments, it has also been successful in obtaining several million dollars of federal funds for a variety of projects. In 2003, the City was managing over \$12.3 million dollars in projects. Of this amount, \$8.7 million were monies received from State and Federal programs. In fiscal year 2003, approximately \$3.9 million dollars passed through the City's accounts to fund these projects in accordance with the City's Single Audit Report for fiscal year 2003. The projects funded included the Wharton Interim Feasibility Flood Protection Study, the Wal-Mart SuperCenter construction project, improvements to the City's Wastewater Treatment Plant No. 2, Railroad Depot Restoration project, airport improvements, construction of new homes, and improvements to the City's water production and distribution system.

These State and Federal funds will not only shift direct costs away from our citizens but will also allow the City to provide the necessary infrastructure to further improve the local economy and meet future development needs.

The City's fiscally sound position has allowed the City to move forward in a very pro-active maneuver.

Although many accomplishments were made in 2003, there are many more opportunities and challenges in the years to come. Those include the U.S. Corp of Engineers flood study that is looking at flood protection projects for our City, the new 100-year flood maps currently being developed by the Federal Emergency Management Agency (FEMA), the internal drainage projects identified by City Council, the Highway 59/FM 102 intersection improvement project, and the City's ability to grow the local economy in order to keep our tax rate from increasing, yet providing the same or increased level of service will be challenges that will be met with the same vigor and determination as in the past.

I believe the City of Wharton has poised itself in a position to meet the challenge of growth. By working with other units of local government, the State and Federal government, and the Lower Colorado River Authority (LCRA), the sharing of functions and resources will require a continued reliance on inter-governmental cooperation.

The next few years will set the foundation from which the City will move forward in these exciting times. For citizens who have made it their challenge to make Wharton a better place to live, the future is full of opportunities. Local government and its citizens can move the City forward to make it not only a good place to live but also a great City to live in.

May God Bless America. May God Bless Wharton, Texas.

No action was taken.

The sixth item on the agenda was to review and consider the reading of the Wharton City Council Minutes from the regular meetings held February 9, 2004 and February 23, 2004. After some discussion, Councilmember Ray Linseisen made a motion to approve the reading of the Wharton City Council minutes of the regular meetings held February 9, 2004 and February 23, 2004. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The seventh item discussed on the agenda was to review and consider a resolution approving an administrative management services agreement between the City of Wharton and Municipal Development Services for the Texas Capital Fund Contract 723092 – Jr's Texas Best, LLC and authorizing the Mayor of the City of Wharton to execute all documents related to said agreement. City Manager Andres Garza, Jr. stated that on Monday, March 1, 2004, the City of Wharton received requests for proposals for administrative management services for the Texas Capital Fund Contract 723092 – Jr's Texas Best, LLC. He stated that proposals were sent to the following firms:

1. Mr. Emery Thomas, Wharton, Texas.
2. Municipal Development Services, Forney, Texas.
3. Mr. Jay Rice, Cleveland, Texas.
4. Traylor Associates, Tyler, Texas.
5. Langford Associates, Austin, Texas.
6. HOWCO Services, Inc., Lubbock, Texas.

Mr. Garza stated that the only proposal the City received was submitted by Municipal Development Services. He then presented a draft copy of the proposed agreement. Mr. Garza then presented a draft resolution accepting the contract and authorizing the Mayor of the City of Wharton to execute the agreement. The amount to fund the agreement would be provided by the grant in the amount of \$50,000. After some discussion, Councilmember Darryl Darnell made a motion to approve Resolution No. 2004-18, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004-18**

A RESOLUTION APPROVING AN ADMINISTRATIVE MANAGEMENT SERVICES AGREEMENT BETWEEN THE CITY OF WHARTON AND MUNICIPAL DEVELOPMENT SERVICES FOR THE TEXAS CAPITAL FUND CONTRACT 723092 – JR'S TEXAS BEST, LLC AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID AGREEMENT.

WHEREAS, requests for proposals were received March 1,2004 for administrative management services for the Texas Capital Fund Contract 723092 – Jr's Texas Best, LLC; and

WHEREAS, the City of Wharton wishes to engage Municipal Development Services for administrative management services for the Texas Capital Fund Contract 723092 – Jr's Texas Best, LLC; and

WHEREAS, the City of Wharton and Municipal Development Services 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 administrative management services agreement between the City of Wharton and Municipal Development Services for the Texas Capital Fund Contract 723092 – Jr's Texas Best, LLC project.

Section II. That Municipal Development Services and the City of Wharton are hereby bound 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 8th day of March 2004.

CITY OF WHARTON, TEXAS

BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT

City Secretary

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

The eighth item discussed on the agenda was to review and consider the request by Ms. Kristi Kocian, Festival Coordinator for City of Wharton assistance with the Shanghai Days Cowboy Gathering. City Manager Andres Garza, Jr. presented a copy of the letter dated February 18, 2004 from Ms. Kristi Kocian, Festival Coordinator requesting City of Wharton assistance with the Shanghai Days Cowboy Gathering. Ms. Kristi Kocian addressed the City Council and requested port-o-lets, garbage receptacles, barricades, security, parking and handicap parking, Municipal Court Building in the event of rain in order for the gazebo stage to be moved indoors, and City Staff assistance. Councilmember Ken Freese asked Ms. Kocian if additional assistance was requested from the City of Wharton in previous years. Ms. Kocian stated that no additional assistance was formally requested. Councilmember Darryl Darnell asked if alcoholic beverages would be sold. He stated that on July 8, 2002, the City Council approved an ordinance that prohibits the sale of alcoholic beverages in public parks. Ms. Kocian stated that the Rotary Club would be selling alcoholic beverages for the Shanghai Days Cowboy Gathering. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the request by Ms. Kristi Kocian, Festival Coordinator for City of Wharton assistance with the Shanghai Days Cowboy Gathering. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The ninth item discussed on the agenda was to review and consider the City of Wharton Annual Financial Report for Fiscal year October 1, 2002 to September 30, 2003 by Stephenson & Trlicek, P.C. City Manager Andres Garza, Jr. stated that the City Council had received a draft copy of the City of Wharton Annual Financial Report for fiscal year October 1, 2002 to

September 30, 2003. Mayor Bryce D. Kocian stated that the City Council Finance Committee met and recommended approval of the audit as presented. Mr. Greg Trlicek addressed the City Council and presented the Comprehensive Annual Financial Report and discussed the audit process, required communications, financial statement observation, comments on the City's internal control, and other discussion items. He stated that the City of Wharton received an unqualified opinion and the Certificate of Achievement for meeting the GFOA requirements for fiscal year ended September 30, 2002. He stated that the City acquired assets during 2003 were from various grants during the year totaling over \$3,831,790. The City paid principal and interest on long-term debt of \$804,468 for the year, and the total bonded debt at September 30, 2003 was \$6,485,000. He discussed the revenue, expenditures and change to fund balance for the general government funds and the proprietary funds. He also discussed GASB Statement No. 34, which must be implemented for the 2004 fiscal year. Councilmember Darryl Darnell questioned the auditor's opinion regarding internal controls. Mr. Phillip Stephenson stated that he recommended that every governmental entity conduct internal audits. He stated that internal audits were independent of the financial audits. Councilmember Darryl Darnell asked if the State Comptroller could conduct an internal audit. Mr. Stephenson stated that the State Comptroller's function was not to audit internal controls. The State Comptroller's function was for investigative purposes. Councilmember Darryl Darnell stated that the City of Wharton Municipal Court had not been audited for the past three years, and asked if an internal audit would cover that department. Mr. Stephenson stated that during fiscal year 2001, the Municipal Court collections were reviewed and an internal audit could cover any area the City Council felt needed to be reviewed. Councilmember Ken Freese stated that he had one concern from the Finance Committee meeting, that Councilmember Darryl Darnell informed the Committee that it was not an independent audit according to the State Comptroller's staff. He stated that he would like to know who from the State Comptroller's Office advised Councilmember Darryl Darnell that the audit was not an independent audit. He stated that Councilmember Darryl Darnell needed to advise the City Council as to who from the State Comptroller's Office rendered that serious allegation without having seen the audit report. He stated that City Attorney Paul Webb needed to submit a letter to the State Comptroller's Office. Councilmember Ken Freese made a motion for Councilmember Darryl Darnell to advise the City Council as to who stated the audit was not independent and for City Attorney Paul Webb to submit a letter to the State Comptroller's Office. Councilmember Domingo Montalvo, Jr. seconded the motion. Councilmember Domingo Montalvo, Jr. stated that was serious allegations and if someone from the State Agency believed that, then notification should be made to correct the error. Mayor Bryce D. Kocian stated that item was not on the agenda. Councilmember Darryl Darnell stated that the City Council was wasting their time; he was not going to tell them who said it. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the City of Wharton Annual Financial Report for Fiscal year October 1, 2002 to September 30, 2003 by Stephenson & Trlicek, P.C. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The tenth item discussed 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: The evaluation of City Manager and Finance Director regarding the City's financial matters.

Mayor Bryce D. Kocian adjourned into Executive Session at 7:58 p.m.
Mayor Bryce D. Kocian returned to Open Session at 8:36 p.m.

The eleventh item discussed on the agenda was to Return to Open Session: Action on items discussed in Executive Session:

A. Review & Consider: The evaluation of City Manager and Finance Director regarding the City's financial matters.

Mayor Bryce D. Kocian stated that no action would be taken.

The twelfth item discussed on the agenda was to review and consider the funding request by Wharton County for the Wharton County Courthouse lighting project. City Manager Andres Garza, Jr. presented a copy of the letter dated February 24, 2004 from Wharton County Judge John W. Murrile requesting funding from the City of Wharton for the Wharton County Courthouse lighting project. After some discussion, Councilmember Ken Freese made a motion to refer the funding request by Wharton County for the Wharton County Courthouse lighting project to the City Council Finance Committee. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The thirteenth item discussed on the agenda was to review and consider a resolution approving an interlocal cooperation agreement between Wharton County and the City of Wharton regarding shared resources of the office of Emergency Management and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. presented a copy of the interlocal cooperation agreement between Wharton County and the City of Wharton regarding shared resources of the office of Emergency Management. He stated that Wharton County had already approved the agreement. Wharton County Emergency Management Coordinator Andy Kirkland, City of Wharton Emergency Management Coordinator Harry Priesmeyer and City Assistant Volunteer Chester Houston would share office space and equipment provided by Wharton County. The City of Wharton would provide shared clerical assistance for both entities in accordance with the agreement. He stated that he was currently identifying the staff support that the City would provide and recommended approval. Councilmember Darryl Darnell asked if the city employee would be conducting the workload during regular office hours in order for the employee not to be paid overtime. Mr. Garza stated that the hours of assistance would be from 8:00 a.m. to 5:00 p.m. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2004-17, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004 - 17**

A RESOLUTION APPROVING AN INTERLOCAL COOPERATION AGREEMENT BETWEEN WHARTON COUNTY AND THE CITY OF WHARTON REGARDING SHARED RESOURCES OF THE OFFICE OF EMERGENCY MANAGEMENT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton, Texas to execute an Interlocal Agreement between the City of Wharton and Wharton County for shared resources of Office of Emergency Management; and

WHEREAS, the City of Wharton and Wharton County 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 interlocal agreement between the City of Wharton and Wharton County for shared resources of the Office of Emergency Management.

Section. II. That Wharton County and the City of Wharton are hereby bound 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 8th day of March 2004.

CITY OF WHARTON

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT

City Secretary

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

The fourteenth item discussed on the agenda was to review and consider the report regarding the Racial Profiling Policy. City Manager Andres Garza, Jr. presented a copy of the memorandum dated February 19, 2004 from Police Chief Tim Guin providing the report regarding the City of Wharton Racial Profiling Policy in accordance with the City of Wharton Resolution No. 2001-67. Police Chief Tim Guin addressed the City Council and submitted the following:

1. Citation by race or ethnicity:

Caucasian/White	633
Hispanic	494
Black	561
Asian/Pacific Islander	14
Unknown	38 - Officer had no contact with violator Parking Citation

2. Number of Citations that resulted in a search: 209 of 1740
3. Number of searches that were consensual: 80
4. Number of Citations that resulted in Custodial Arrest: 201 of 974

Councilmember V. L. Wiley, Jr. stated that he fully supported the Police Department and would stand behind full enforcement. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to accept the report regarding the Racial Profiling Policy. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The fifteenth item on the agenda was to review and consider an ordinance amending the City of Wharton Ordinance No. 2004-08 establishing procedures for the City of Wharton to establish an ad valorem tax freeze on residence homesteads of the disabled and of the elderly and their spouses and setting a property value exemption for the disabled for residential homestead property. City Manager Andres Garza, Jr. stated that during the February 23, 2004 regular Wharton City Council meeting, the City Council approved the City of Wharton Ordinance No. 2004-08 establishing procedures for the City of Wharton to establish an ad valorem tax freeze on residence homesteads of the disabled and of the elderly and their spouses. He then presented a copy of Councilmember Ray Linseisen's letter requesting this item be placed on the agenda and a draft copy of the amended ordinance. Councilmember Ray Linseisen stated that he requested this item to be placed on the agenda due to the effective tax freeze year to use the 2004 year in order for the Ordinance to become effective immediately instead of awaiting an Attorney General Opinion for the 2003 year. He also requested a \$10,000 exemption for disabled citizens. Councilmember Darryl Darnell stated that the ordinance adopted on February 23, 2004 was in effect and that we were awaiting the Attorney General Opinion to determine whether the value could be used for the 2003 or 2004 tax year. Councilmember Ken Freese stated if the City Council adopted the 2004 tax year, then the City would not have to await for the Attorney General Opinion, the tax freeze would be effective immediately. Councilmember Darryl Darnell stated that the constitutional amendment would not allow the City to rescind the ordinance. Councilmember Domingo Montalvo, Jr. stated that the ordinance could be amended. City Attorney Paul Webb stated he was recommending adoption of the draft ordinance. After some discussion, Councilmember Ray Linseisen made a motion to approve Ordinance No. 2004-09, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2004 - 09**

AN ORDINANCE OF THE CITY OF WHARTON, TEXAS, AMENDING ORDINANCE NO. 2004-08 ESTABLISHING PROCEDURES FOR THE CITY OF WHARTON TO ESTABLISH AN AD VALOREM TAX FREEZE ON RESIDENCE HOMESTEADS OF THE DISABLED AND OF THE ELDERLY AND THEIR SPOUSES BY AMENDING CHAPTER 74, "TAXATION" OF THE CODE OF ORDINANCES AS AMENDED BY ADDING A NEW SECTION 74-82 RELATING TO AD VALOREM TAX FREEZE ON RESIDENCE HOMESTEADS OF THE DISABLED AND OF THE ELDERLY AND THEIR SPOUSES AND FURTHER BY ADDING A NEW SECTION 74-83 RELATING TO AD VALOREM TAX EXEMPTION FOR DISABLED RESIDENTIAL HOMESTEAD PROPERTY OWNERS PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Wharton City Council adopted the City of Wharton Ordinance No. 2004-08 establishing procedures for the City of Wharton to establish an ad valorem tax freeze on residence homesteads of the disabled and of the elderly and their spouses; and

WHEREAS, the Wharton City Council wishes to amend the City of Wharton Ordinance No. 2004-08 by deleting Section 2 and Section 3 and having that Ordinance read as follows:

WHEREAS, a joint resolution of the Texas Legislature was passed proposing a constitutional amendment (Proposition 13) to authorize a county, a city or town, or a junior college district to establish an ad valorem tax freeze on residence homesteads of the disabled and of the elderly and their spouses; and

WHEREAS, such Proposition 13 reads as follows: “The constitutional amendment to permit counties, cities and towns, and junior college districts to establish an ad valorem tax freeze on residence homesteads of the disabled and of the elderly and their spouses”; and

WHEREAS, effective January 1, 2004, Section 11.261 of the Texas Tax Code governs the procedure under which a municipality or other taxing entity may adopt an ad valorem tax freeze; and

WHEREAS, the City Council believes it would be in the best interest of the citizens of the City of Wharton to provide for a tax freeze on the amount of property taxes on the homesteads of disabled individuals or individuals age sixty-five or older beginning with the tax year 2004; and further

WHEREAS, effective January 1, 2004, Section 11.13 of the Texas Tax Code governs the procedure under which a municipality or other taxing entity may adopt a residential homestead exemption; and

WHEREAS, the City Council believes it would be in the best interest of the citizens of the City of Wharton to provide for a tax exemption on the amount of property taxes on the homesteads of disabled individuals in the amount of \$10,000.00 beginning with the tax year 2004.

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

SECTION 1.

Chapter 74, “Taxation”, of the Code of Ordinances is hereby amended to add a new section 74-82 to Article II, “Property Taxes” Division 2 “Residence Homestead Exemption”, which shall read as follows:

“Sec. 74-82 Residence Homestead tax freeze for elderly or disabled individuals.

(a) Effective with tax year 2004, the total amount of ad valorem taxes imposed on the residence homestead of a person who is disabled or is sixty-five years of age or older shall not be increased while it remains the residence homestead of that person or that person’s spouse who is disabled or sixty-five years of age or older.

(b) If the person who is disabled or is sixty-five years of age or older dies in a year in which the person received a residence homestead exemption, the total amount of ad valorem taxes imposed on the residence homestead shall not be increased while it remains the residence homestead of that person's surviving spouse if the spouse is fifty-five years of age or older at the time of the person's death.

(c) Notwithstanding subsections (a) and (b), taxes on the residence homestead may be increased to the extent the value of the homestead is increased by improvements other than repairs and other than improvements made to comply with governmental requirements."

Chapter 74, "Taxation", of the Code of Ordinances is hereby further amended to add a new section 74-83 to Article II, "Property Taxes" Division 2 "Residence Homestead Exemption", which shall read as follows:

"Sec. 74-83 Residence Homestead tax exemption for disabled individuals.

Upon compliance with this article and other applicable laws and ordinances, \$10,000.00 of the assessed value of resident homesteads of persons disabled shall be exempt from ad valorem taxes levied by the City of Wharton based on 100 percent of the assessed value.

SECTION 2.

The Tax Assessor-Collector of the City of Wharton, Texas is hereby authorized to implement the necessary procedures to freeze the taxes and establish the exemption of the elderly and disabled as outlined in this Ordinance to the 2004 Wharton County Appraisal District Records.

SECTION 3.

The City Council officially determines that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code; and that this meeting has been open to the public as required by law at all times during which this ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further confirms such written notice and the contents and posting thereof.

SECTION 4.

This ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of Wharton, Texas, as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 5.

This Ordinance shall take effect on January 1, 2004, and applies only to ad valorem taxes imposed on or after that date.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Wharton, Texas in regular meeting in the City Hall this the 8th of March, A.D., 2004.

CITY OF WHARTON

BRYCE D. KOCIAN, Mayor

APPROVED:

JOYCE VASUT, City Secretary

PAUL WEBB, City Attorney

Councilmember Ken Freese seconded the motion. Councilmembers Darryl Darnell, Ken Freese, Don Mueller, Domingo Montalvo, Jr., and Ray Linseisen voted for the motion. Councilmember V. L. Wiley, Jr. voted against the motion. The motion carried.

The sixteenth item on the agenda was to review and consider the City of Wharton 2004 Mowers:

A. Bid Tabulation.

B. **Resolution:** A resolution 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 with upgraded specifications.

City Manager Andres Garza, Jr. presented a copy of the bid tabulation resulting from the bid opening held March 2, 2004 for the City of Wharton 2004 Mowers. He then presented a copy of a draft resolution awarding the bid and a copy of the memorandum dated March 4, 2004 from Public Works Director Phil Bush and Facilities Maintenance Director Bob Baker recommending the bid be awarded to Houston Turf Equipment. Public Works Director Phillip Bush stated that the bids received from Shoppa Farm Supply and Jones Equipment & Turf, Inc. did not meet the bid specifications. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2004-19, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004-19**

**A RESOLUTION 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
WITH UPGRADED SPECIFICATIONS.**

WHEREAS, competitive, sealed bids were received on March 2, 2004 for Lawn Mowers with upgraded specifications; 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 \$27,500.00; and

WHEREAS, Houston Turf Equipment was deemed to be the best and lowest qualified bidder as per bid specification for one 2004 Lawn Mower with Rear Discharge in the amount of \$14,420.00; and

WHEREAS, this resolution is passed in accordance with this bid.

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

Section I. That Houston Turf Equipment is hereby awarded the bid for two 2004 Lawn Mowers with Side Discharge in the amount of \$27,500.00 for the City of Wharton in accordance with the bid specifications.

Section II. That Houston Turf Equipment is hereby awarded the bid for one 2004 Lawn Mower with Rear Discharge in the amount of \$14,420.00 for the City of Wharton in accordance with the bid specifications.

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

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

Passed, Approved, and Adopted this 8th day of March 2004.

CITY OF WHARTON, TEXAS

BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT

City Secretary

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

The seventeenth item on the agenda was to review and consider the recommendation by the City Council Streets & Drainage Committee:

A. Jr. College Blvd. Project.

City Manager Andres Garza, Jr. stated that the City Council Streets & Drainage Committee met February 23, 2004 and recommended the City Council approve the items listed in their memorandum. He then presented a memorandum dated March 4, 2004 from the Committee that outlined the Committee Members recommendation, which stated the following:

During the September 22, 2003 regular City Council meeting, the City Council approved the City to engage the services of Jones & Carter, Inc., Consulting Engineers, to provide preliminary engineering services, conduct surveys, and topography for the Jr. College Blvd. project. On February

23, 2004, the City Council Streets & Drainage Committee met with Mr. Carlos Cotton, P.E. to discuss the project. Mr. Cotton informed the Committee Members that he had reviewed the design information the Texas Department of Transportation (TxDOT) had previously developed for the project and concluded that the criteria used was very costly because of the drainage design required major utility relocation. Mr. Cotton and the Committee Members discussed the project at length and the Committee voted to recommend the City Council consider approving the following:

1. That the design criteria to include a four (4) lanes twelve (12) feet wide street.
2. To curb and gutter the street.
3. To request additional right-of-way from Wharton County Junior College in order to avoid some utility relocation costs.
4. For the drainage design to be for a 25 year storm design.

After some discussion, Councilmember Don Mueller made a motion to approve the City Council Street and Drainage Committee recommendations on the Jr. College Blvd. Project.

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

B. U.S. Highway 59/FM 102 Interchange Project.

City Manager Andres Garza, Jr. stated that the City Council Streets & Drainage Committee met February 23, 2004 and recommended the City Council approve the items. He then presented a memorandum dated March 4, 2004 from the Committee that outlined the Committee Members recommendation, which stated the following:

During the September 22, 2003 regular City Council meeting, I informed City Council that the Streets & Drainage Committee met with TxDOT Yoakum District Office and Wharton area office representatives, District Engineer Lonnie Gregorcyk to discuss the Highway 59 Corridor Improvement Project and focused on the Hwy. 59/FM 102 Interchange. Mr. Gregorcyk informed the Committee Members that he felt the project could move forward if the City would commit resources to the project. The City Council recommended that a proposal be developed and submitted to the TxDOT for their consideration. The Streets & Drainage Committee discussed the project during its February 23, 2004 meeting and recommends the City Council consider approving the following:

1. That a proposal be submitted to TxDOT committing the City to funding the engineering cost to design the plans and specifications and the environmental for the U.S. Highway 59/FM 102 Interchange project.
2. To approach the Wharton Economic Development Corporation and for the City Staff to seek other sources to assist funding the project.

Councilmember V. L. Wiley, Jr. asked if an engineer was selected. City Manager Andres Garza, Jr. stated that the City Council Consultant Selection Committee would request proposals and recommend the engineer for the project. After some discussion, Councilmember Don Mueller made a motion to approve the City Council Street and Drainage Committee recommendation for the U.S. Highway 59/FM 102 Interchange Project. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

C. Comments for Wharton Interim Feasibility Study, Public Scoping Meeting held January 22, 2004.

City Manager Andres Garza, Jr. stated that the City Council Streets & Drainage Committee met February 23, 2004 and recommended the City Council approve the items. He then presented a memorandum dated March 4, 2004 from the Committee that outlined the Committee Members recommendation, which stated the following:

On January 22, 2004, the Streets & Drainage Committee attended the U.S. Army Corp of Engineers Public Scoping meeting with representatives from the Lower Colorado River Authority, Texas Water Development Board, and the Texas Colorado River Floodplain Coalition to discuss possible solution to remedy flooding problems for the City of Wharton. The Streets & Drainage Committee discussed comments regarding recommendations to the U.S. Army Corp of Engineers with Mr. Carlos Cotton, P.E. of Jones & Carter, Inc. during their meeting held February 23, 2004. The Committee recommends the City Council approve the submission of the following comments:

1. Levee alignment – East End: The proposed levee alignment is shown to leave the bank of the Colorado River and run east along Carolyn Street and then south along FM 1299. This alignment leaves homes on the south side of Carolyn Street, some City buildings, and the City Wastewater Treatment Plant outside the levee. An alternate alignment that should be considered is to continue the levee south along the bank of the river to a point opposite of the intersection of South East Avenue and FM 1299. This would place the City's WTP and buildings inside the levee along with some undeveloped property that might be needed for internal storage of storm runoff.
2. Levee alignment – West End: The proposed levee alignment is shown to run south along the west side of US 59. An alternate alignment that should be considered is moving the levee to the west to allow more property to be protected that is a key development area for the City of Wharton.
3. Railroad ROW Outfall: The out fall shown running along the old railroad right-of-way and then south to the Colorado River would be very beneficial in reducing flooding in the Mayfair and possibly Crestmont areas. The City encourages further study and development of this project.
4. Boughman Slough Levee: The City was supportive of further study and development of the construction of a levee along the south bank of Boughman Slough. In connection with this levee, the City should strongly encourage the widening and deepening of Boughman Slough channel. This will reduce flooding in the City during local flood events.

Councilmember Don Mueller stated that the levee should be on the south side of Peach Creek for future development. Councilmember Darryl Darnell stated that the ditch belonged to Wharton County. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the Comments for Wharton Interim Feasibility Study, Public Scoping Meeting held January 22, 2004 and also to include the levee on the south side of Peach Creek. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The eighteenth item on the agenda was to review and consider the City of Wharton Sanitary Sewer & Collection System:

- A. **Resolution:** A resolution authorizing the Mayor of the City of Wharton to execute an agreement between the City of Wharton and Jones & Carter, Inc., Consulting Engineers to conduct a study of the manholes in the City of Wharton.

City Manager Andres Garza, Jr. stated that the City Council Streets & Drainage Committee met February 23, 2004 and presented the memorandum, which stated the following:

The Committee Members discussed the City of Wharton Sanitary Sewer Collection System regarding manholes with Mr. Carlos Cotton, P.E. of Jones & Carter, Inc. Mr. Cotton informed the Committee Members that the system had significant infiltration/inflow (I&I) problems with its sanitary sewer collection system. He said that it was consistent with the known deterioration

of many of the sewer lines, the age of the system, and the existence of concrete lines. The City has repaired lines in the past on an emergency basis, which solved immediate problems but did not address the overall I&I issue or the condition of the collection system. The Committee Members recommended the City Council consider entering into an agreement with Jones & Carter, Inc. to survey the City's 406 manholes for a lump sum amount of \$20,000. He then presented a draft resolution authorizing the Mayor of the City of Wharton to execute an agreement with Jones & Carter, Inc. to conduct the manhole survey. Councilmember Darryl Darnell asked if it would be cost effective to test the manholes at the time of inspection. Mr. Cotton stated that the personnel testing would not be the same personnel inspecting. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the Resolution No. 2004-20, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004-20**

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF WHARTON AND JONES & CARTER, INC., CONSULTING ENGINEERS, TO CONDUCT A STUDY OF THE MANHOLES IN THE CITY OF WHARTON.

WHEREAS, the City of Wharton wishes to improve its Sanitary Sewer Collection System;
and

WHEREAS, the City of Wharton has identified that the City of Wharton Sanitary Sewer Collection System has significant infiltration/inflow (I&I) problems that is consistent with the known deterioration condition of many sewer lines; and

WHEREAS, the City of Wharton wishes to engage the services of Jones & Cater, Inc., Consulting Engineers, to conduct a study of the 406 manholes located in the City of Wharton in a lump sum amount of \$20,000; and

WHEREAS, the City of Wharton and Jones & Carter, Inc., Consulting Engineers, 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 with of Jones & Cater, Inc., Consulting Engineers, to conduct a study of the 406 manholes located in the City of Wharton in a lump sum amount of \$20,000.

Section. II. That Jones & Carter, Inc., Consulting Engineers and the City of Wharton are hereby bound 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 8th day of March 2004.

CITY OF WHARTON, TEXAS

BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT

City Secretary

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

B. Rehabilitation of Sewer Lines:

1. Along Richmond Road between Bernstein Road and Ahldag Street.
2. Between Fulton Street and Richmond Road that crosses the open field south of the Boling Highway.

City Manager Andres Garza, Jr. stated that the City Council Streets & Drainage Committee met February 23, 2004 and recommended the City Council approve the items. He then presented a memorandum dated March 4, 2004 from the Committee that outlined the Committee Members recommendation, which stated the following:

During the February 23, 2004 Streets & Drainage Committee Meeting, Mr. Cotton told the Street & Drainage Committee that there were two lines that were known to have severe problems. Mr. Cotton recommended the Committee Members to consider proceeding with the televising of both lines to determine the severity of the deterioration. Mr. Cotton said that the City could solicit bids for the televising of the lines, which would cost approximately \$8,000 and that the City could anticipate a construction cost of approximately \$175,000 to rehabilitate the lines. The Streets & Drainage Committee was recommending the City Council consider approving the solicitation of bids to TV the two lines at a cost not to exceed \$8,000. Councilmember Don Mueller stated that the lines would need to be replaced. City Manager Andres Garza, Jr. stated that the line along Richmond Road between Bernstein Road and Ahldag Street could be televised and the City could replace the line between Fulton Street and Richmond Road that crosses the open field south of the Boling Highway without televising. Mr. Cotton stated that he recommended televising on both lines. Anthony Rachunek with Anthony Rachunek & Associates addressed the City Council and stated that if emergency repairs were needed, the City would not have a pipe to tie into since the concrete pipe would cave-in with the televising. He stated that he did not believe that televising could be conducted. He stated that the project could have alternate bids with removal of the line from under the sidewalk, open cut, and pipe bursting. After some discussion, Councilmember Darryl Darnell made a motion to solicit bids to replace the sewer lines and not to include televising. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The nineteenth item on the agenda was to review and consider the City of Wharton Wastewater Treatment Plant No. 1, Electrical System Rehabilitation Project – Pay Request No. 1 – Penner Electrical, Inc. City Manager Andres Garza, Jr. presented a copy of the Pay Request No. 1 for Penner Electrical, Inc. for the City of Wharton Wastewater Treatment Plant No. 1 project. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the City of Wharton Wastewater Treatment Plant No. 1, Electrical System Rehabilitation Project – Pay Request No. 1 – Penner Electrical, Inc. in the amount of \$38,350.00. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The twentieth item on the agenda was to review and consider the request by Councilmember Darryl Darnell to discuss the Wharton Civic Center rental rates and procedures. City Manager Andres Garza, Jr. presented a copy of the email dated March 4, 2004 from Councilmember Darryl Darnell requesting to discuss the Wharton Civic Center rental rates and procedures. He then presented a copy of the memorandum dated March 5, 2004 from Finance Director Joyce Vasut to Councilmember Darryl Darnell providing answers to his questions. Councilmember Darryl Darnell stated that he requested this item on the City Council Agenda since the Civic Center had new office space and the City Council had not set the rental rates for the office space according to the Ordinance. He stated according to Section 2-226 Boardroom. The community/civic center boardroom was available at no cost to any nonprofit group requesting use of the room during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. The boardroom may also be used by nonprofit groups wishing to meet during other hours only if the civic center was open for another paying function. Community Services Director Jo Knezek stated that the Boardroom no longer existed, since the Wharton Economic Development Corporation (WEDCo) utilized the space. Councilmember Darnell stated that there was no other provision in the ordinance to waive the fee without City Council approval. He stated if the Little League would have addressed the City Council, he would have voted to waive the fee; however, the organization was allowed to use the Civic Center without City Council approval, which was a violation of the City of Wharton ordinance. He stated that the employees should abide by the ordinance adopted. Councilmember Darryl Darnell made a motion to refer the setting of the rental rates on the new office space at the Civic Center to the City Council Finance Committee. The motion died for lack of second. City Manager Andres Garza, Jr. stated that WEDCo was interested in renting the office spaces. He stated if WEDCo would not rent the space, then the rates could be set. City Attorney Paul Webb recommended Community Services Director Jo Knezek to review and make any necessary changes to the ordinance and present to City Council for adoption. City Manager Garza stated that a recommendation would be presented to City Council. After some discussion, no action was taken.

The twenty-first item on the agenda was to review and consider the 2004 Annual Meeting of the Houston-Galveston Area Council General Assembly, March 19, 2004. City Manager Andres Garza, Jr. presented a copy of the notice from the Houston-Galveston Area Council regarding the 2004 Annual Meeting of the H-GAC General Assembly to be held March 19, 2004. Councilmember Ken Freese asked if the City Council budget had available funds for the travel. Finance Director Joyce Vasut stated that council travel expense had exceeded the budgeted amount. He stated that if the City Council could not stay within their allotted budget, then how could the City Council expect the departments to stay within their budgets. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the travel for

City of Wharton
Regular City Council Meeting
March 8, 2004

Councilmember V. L. Wiley, Jr. and Ray Linseisen to attend the 2004 Annual Meeting of the Houston-Galveston Area Council General Assembly, March 19, 2004. Councilmember Darryl Darnell seconded the motion. Councilmembers V. L. Wiley, Jr., Darryl Darnell, Don Mueller, Domingo Montalvo, Jr., and Ray Linseisen voted for the motion. Councilmember Ken Freese voted against the motion. The motion carried.

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

- A. Building Standards Commission meeting held February 19, 2004.
- B. City Council Streets & Drainage meeting held February 23, 2004.
- C. Wharton Regional Airport Board meeting held March 2, 2004.
- D. City Council Finance Committee meeting held March 4, 2004.

City Manager Andres Garza, Jr. presented the reports to the City Council. 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 adjourned at p.m.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT
City Secretary