

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
APRIL 12, 2004**

Mayor Bryce D. Kocian declared a Regular Meeting duly open for the transaction of business at 7:03 P.M. Mayor Bryce D. Kocian led the opening devotion and then led the pledge of allegiance.

Councilmembers present were: Mayor Bryce D. Kocian, Councilmembers Ken Freese, Don Mueller, and Ray Linseisen.

Councilmember absent was: Councilmembers V. L. Wiley, Jr., Darryl Darnell, and Domingo Montalvo, Jr.

Staff members present were: City Manager Andres Garza, Jr., Finance Director Joyce Vasut, Deputy City Secretary Lisa Stavena, Assistant to City Manager Jackie Jansky, Community Services Director Jo Knezek, Police Chief Tim Guin, Fire Chief David Copeland, Building Official Ronnie Bollom and City Attorney Paul Webb.

Visitors present were: Benjamin Sharp with Wharton Journal Spectator, Lewis Fortenberry, Carlos Cotton, David Schroeder, Johnnie Roberts, Val Gutierrez, Aaron Freudensprung, Louis Gerard, Joyce Gerard, Seth Roach, Andrew Hernandez.

The second item on the agenda was Roll Call and Excused Absences. Councilmember Ray Linseisen made a motion to excuse Councilmembers V. L. Wiley, Jr., Darryl Darnell, and Domingo Montalvo, Jr. from the Regular City Council meeting held on April 12, 2004. Councilmember Don Mueller seconded the motion. All voted in favor.

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

The fourth item on the agenda was the Wharton Moment. Councilmember Ken Freese publicly thanked the Public Works Department for the excellent job conducted on sweeping the streets. Councilmember Ray Linseisen publicly welcomed the new Donut Shop located on Milam Street, and Alabama Road. City Manager Andres Garza, Jr. informed the City Council that Mr. Charles Luco, Public Works Director Phillip Bush's father-in-law, had passed away and expressed his condolences to the family. Mayor Bryce D. Kocian publicly welcomed the Boy Scouts and congratulated those who earned the Merit Badge. No action was taken.

The fifth item on the agenda was Proclamations:

A. Volunteer Week.

Mayor Bryce D. Kocian presented the following proclamation:

WHEREAS, Volunteerism has always been an essential part of the spirit and traditions of the City of Wharton; and

WHEREAS, Volunteerism historically reflects the highest values of our democratic society, in that regardless of situation, station, age, race, creed, all may volunteer and thus reap the rich rewards that come from giving aid to others, while improving one's own skills and widening one's horizons; and

WHEREAS, The City of Wharton wishes to honor the citizens who volunteer for the City, in the schools, and other agencies; and

WHEREAS, The City of Wharton places great importance on the value volunteerism plays in our American way of life; and

WHEREAS, The City of Wharton wishes to recognize, honor, and thank the dedicated citizens of Texas and the City of Wharton who give freely of their valuable time, energy, and abilities, as volunteers.

NOW, THEREFORE, I, Bryce D. Kocian, as Mayor of the City of Wharton, Texas, by the authority vested in me, do hereby proclaim the week of April 18 through April 24, 2004 as Volunteer Week in the City of Wharton and encourage all citizens to find appropriate and fulfilling ways to volunteer.

IN WITNESS THEREOF, I have hereunto set my hand and caused the seal of the City of Wharton to be affixed this 12th day of April, in the year of our Lord two thousand four, A.D.

No action was taken.

B. Fair Housing Month.

Mayor Bryce D. Kocian presented the following proclamation:

WHEREAS, Title VII of the Civil Rights Act of 1968, as amended, prohibits discrimination in housing and declares it is a national policy to provide, within constitutional limits, for fair housing in the United States; and,

WHEREAS, The principal of Fair Housing is not only national law and national policy, but a fundamental human concept and entitlement for all Americans; and,

WHEREAS, The thirty-third anniversary of this National Fair Housing Law, during the month of April, provides an opportunity for all Americans to recognize that complete success in the goal of equal housing opportunity can only be accomplished with the help and cooperation of all Americans.

NOW, THEREFORE, I, Bryce D. Kocian, by the authority vested in me as Mayor of the City of Wharton, Texas, do hereby proclaim April as Fair Housing Month in the City of Wharton and do hereby urge all the citizens of this locality to become aware of and support the Fair Housing Law.

IN WITNESS THEREOF, I have set my hand and caused the seal of the City of Wharton to be affixed this 12th day of April in the year of our Lord two thousand four A.D.
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 March 8, 2004 and March 22, 2004. After some discussion, Councilmember Don Mueller made a motion to approve the reading of the Wharton City Council minutes of the regular meetings held March 8, 2004 and March 22, 2004 with the correction to Item 8 on the March 8, 2004 meeting reflecting the change to: "Councilmember Ken Freese asked Ms. Kocian if additional assistance was requested from the City of Wharton in previous years over and beyond." Councilmember Ray Linseisen seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider the City of Wharton Budget Calendar for Fiscal Year 2004-2005. City Manager Andres Garza, Jr. presented the memorandum dated April 7, 2004 from Finance Director Joyce Vasut regarding the budget calendar for fiscal year 2004-2005. Finance Director Joyce Vasut addressed the City Council and presented the budget calendar for fiscal year October 1, 2004 - September 30, 2005. After some discussion, Councilmember Ken Freese made a motion to approve the City of Wharton Budget Calendar for Fiscal Year 2004-2005. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider the Planning Commission Recommendations:

A. Request by Mr. Michael A. Mills for a side yard setback variance for placement of a 14 x 30 feet storage building at 220 Linn Street, College Heights, Lot 19.

City Manager Andres Garza, Jr. presented a copy of the memorandum dated March 18, 2004 from Planning Commission Chairman A. J. Rath regarding the Planning Commission's recommendation that the City Council consider approving Mr. Mills' request. He then presented a copy of the Planning Commission Communications from the meeting held March 15, 2004. Building Official Ronnie Bollom informed the City Council that Mr. Mills was requesting to construct a building in line with the existing building requiring a variance of four feet from the required ten feet. After some discussion, Councilmember Don Mueller made a motion to approve the request by Mr. Michael A. Mills for a side yard setback variance for placement of a 14 x 30 feet storage building at 220 Linn Street, College Heights, Lot 19. Councilmember Ken Freese seconded the motion. All voted in favor.

B. Request by Mrs. De Lois Curtis for a variance for construction of a new residence over an existing property line at 705 North Spanish Camp Road, Harrison Odd, Lots 4E, 5E, and 5F. City Manager Andres Garza, Jr. presented a copy of the memorandum dated April 6, 2004 from Planning Commission Chairman A. J. Rath regarding the Planning Commission's

recommendation that the City Council consider approving Mrs. Curtis' request. He then presented a copy of the Planning Commission Communications from the meeting held April 5, 2004. Building Official Ronnie Bollom informed the City Council that Mrs. Curtis was requesting to construct a new house over the property line. After some discussion, Councilmember Ray Linseisen made a motion to approve the request by Mrs. De Lois Curtis for a variance for construction of a new residence over an existing property line at 705 North Spanish Camp Road, Harrison Odd, Lots 4E, 5E, and 5F. Councilmember Don Mueller seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider the request by Mr. Neav Chuon, represented by Mr. Val Gutierrez, for a ten feet variance with a zero setback for the placement of a sign to be located at the Donut Shop, 1103 East Milam Street, Wharton, Texas. City Manager Andres Garza, Jr. presented a copy of the City of Wharton Request for Variance Application submitted by Mr. Neav Chuon, represented by Mr. Val Gutierrez, for a ten feet variance with a zero setback for the placement of a sign to be located at the Donut Shop, 1103 East Milam Street, Wharton, Texas. Mr. Val Gutierrez addressed the City Council and requested a variance for the placement of a sign on an existing pole located at 1102 East Milam Street. After some discussion, Councilmember Ken Freese made a motion to approve the request by Mr. Neav Chuon, represented by Mr. Val Gutierrez, for a ten feet variance with a zero setback for the placement of a sign to be located at the Donut Shop, 1103 East Milam Street, Wharton, Texas. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The tenth item on the agenda was review and consider City Council approval to submit a concurrence letter to the Federal Emergency Management Agency (FEMA) for revisions to the floodway map for the Wharton, Texas. City Manager Andres Garza, Jr. stated that the Federal Emergency Management Agency (FEMA), with the assistance of the Lower Colorado River Authority (LCRA), was currently updating the City's floodplain map and was seeking the City's concurrence with the proposed changes to the floodways. He presented a draft letter addressed to Mr. Jack Quarles, P.E. of FEMA providing the City's acceptance of the proposed changes. He then presented copies of maps indicating the changes. He stated that the City Council Streets and Drainage Committee met April 8, 2004 and was recommending the City Council approve the submission of a concurrence letter to the FEMA for revisions to the floodway maps for the City of Wharton, Texas. After some discussion, Councilmember Don Mueller made a motion to approve the submission of the concurrence letter to the Federal Emergency Management Agency (FEMA) for revisions to the floodway map for the Wharton, Texas. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The eleventh item on the agenda was to review and consider the City Staff request for approval to engage the services of Mr. Mike Pietsch, P.E., Consulting Services, Inc. to determine improvements to the City of Wharton's ISO Classification. City Manager Andres Garza, Jr. presented a copy of the letter dated March 1, 2003 from Mr. Mike Pietsch, P.E. of Consulting Services, Inc. submitting his proposal to determine if improvements to the City of Wharton's ISO Classification would be necessary. The survey would be conducted for the Fire Department in conjunction with the Water Department to create a suggested list of improvements. He stated that the funding for the survey was budgeted in the City's current year budget. Fire Chief David Copeland informed the City Council that the key rate was replaced with the ISO classification.

He stated that the current ISO rating was 6, which 0 was the best and 10 was the worst rating. He stated that if the ISO could be lower, then the citizens would benefit with a reduction in fire insurance premiums. Mr. Copeland then recommended the City Council engage the consulting services of Mr. Mike Pietsch, which would include pre-grading the City of Wharton and creating a list of suggested improvements for an amount not to exceed \$8,100. After some discussion, Councilmember Ray Linseisen made a motion to approve the engagement of Mr. Mike Pietsch, P.E., Consulting Services, Inc. to determine improvements to the City of Wharton's ISO Classification. Councilmember Don Mueller seconded the motion. All voted in favor.

The twelfth item on the agenda was to review and consider the request by Baker Hughes Oilfield Operations, Inc., current property owner of 2933 Highway 60 South, Wharton, Texas, for an easement across City of Wharton property. City Manager Andres Garza, Jr. presented a copy of the letter dated March 23, 2004 from Ms. Deborah English-Jones of Locke, Liddell & Sapp LLP on behalf of Baker Hughes Oilfield Operations, Inc. He said Baker Hughes was the current owner of the property located at 2933 Highway 60 South, Wharton, Texas, and there was not an easement recorded for the driveway access to the property. He stated that Ms. English-Jones was requesting the City of Wharton grant an easement for driveway access located along that portion of the property owned by the City of Wharton. He then presented a copy of a site map. City Attorney Paul Webb informed the City Council that Baker Hughes had no access to the property. He stated that the appraisal cost was \$150.00 and the value of the easement was \$285.00; therefore he was recommending the easement be granted for \$435.00. After some discussion, Councilmember Ken Freese made a motion to approve the request by Baker Hughes Oilfield Operations, Inc., current property owner of 2933 Highway 60 South, Wharton, Texas, and grant an easement across City of Wharton property for the amount of \$435.00. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The thirteenth item on the agenda was to review and consider a resolution authorizing the Mayor of the City of Wharton to execute a Transfer of Ownership Agreement with the Houston-Galveston Area Council for equipment and software for the Wharton Police Department. City Manager Andres Garza, Jr. presented a copy of the letter dated March 24, 2004 from Ms. Joyce Field, Administrative Specialist of the Houston-Galveston Area Council, Public Safety Program regarding the Transfer of Ownership Agreement for the 9-1-1 Answering or Ancillary Equipment for the Wharton Police Department. He then presented a list of the equipment included in the ownership transfer, a copy of the agreement, and a draft resolution accepting the agreement. Police Chief Tim Guin informed the City Council that a resolution was needed to transfer ownership from Houston-Galveston Area Council to the City of Wharton Police Department. After some discussion, Councilmember Ray Linseisen made a motion to approve Resolution No. 2004-26, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004 - 26**

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE A TRANSFER OF OWNERSHIP AGREEMENT WITH THE HOUSTON-GALVESTON AREA COUNCIL FOR EQUIPMENT AND SOFTWARE FOR THE WHARTON POLICE DEPARTMENT.

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton, Texas, to execute a Transfer of Ownership Agreement as per the Interlocal Agreement between the City of Wharton and Houston-Galveston Area Council for equipment and software for the Wharton Police Department; and

WHEREAS, the City of Wharton and Houston-Galveston Area Council wishes to be bound by the conditions as set forth in the agreement.

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

Section I. That the Wharton City Council hereby authorizes the Mayor of the City of Wharton, Texas, to execute a Transfer of Ownership Agreement as per the Interlocal Agreement between the City of Wharton and Houston-Galveston Area Council for equipment and software for the Wharton Police Department.

Section II. That the City of Wharton and Houston-Galveston Area Council are 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 12th day of April 2004.

CITY OF WHARTON

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT

City Secretary

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

The fourteenth item on the agenda was to review and consider a resolution of support of the City Council of the City of Wharton, Texas, authorizing the submission of a HOME Program Application to the Texas Department of Housing and Community Affairs for HOME funds; Adopting the HOME Program Guidelines; and authorizing the Mayor to act as the City's Chief Elected Officer and authorized representative in all matters pertaining to the City's participation in the program. City Manager Andres Garza, Jr. presented a copy of the memorandum dated April 6, 2004 from Community Services Director Jo Beth Knezek regarding the 2004 Texas Department of Housing and Community Affairs (TDHCA) HOME Investment Partnerships

Program. He then presented a copy of the letter dated March 27, 2004 from Mr. Bud Love of Love Building Systems, Inc., the City's HOME Program Administrator, providing information regarding the HOME Program. He also presented a draft resolution approving the submission of the application. Community Services Director Jo Knezek informed the City Council that \$61,875 was for in-kind services which would include demolition, waiver of permit fees, and the City Staff's time. After some discussion, Councilmember Ray Linseisen made a motion to approve Resolution No. 2004-27, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004-27**

A RESOLUTION OF SUPPORT OF THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS, AUTHORIZING THE SUBMISSION OF A HOME PROGRAM APPLICATION TO THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS FOR HOME FUNDS; ADOPTING THE HOME PROGRAM GUIDELINES; AND AUTHORIZING THE MAYOR TO ACT AS THE CITY'S CHIEF ELECTED OFFICER AND AUTHORIZED REPRESENTATIVE IN ALL MATTERS PERTAINING TO THE CITY'S PARTICIPATION IN THE PROGRAM.

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

WHEREAS, certain substandard housing conditions exist which represent a health and safety threat to families residing in such structures; and

WHEREAS, the City Council of Wharton, Texas supports the City's application for funding;

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

1. THAT, a HOME application for HOME Funds is hereby authorized to be filed on behalf of the City with the Texas Department of Housing and Community Affairs.
2. THAT, the application be for \$495,000 of grant funds to carry out owner occupied housing reconstruction/rehabilitation projects and eligible soft costs, and \$19,800.00 for administration/operating funds.
3. THAT, the City adopt the Owner Occupied Assistance Program Design.
4. THAT, the City shall contribute \$61,875.00 in the form of cash and/or in-kind match for the purpose of waiver of permit fees, demolition, clearance and/or disposal of waste for project units assisted through this program.
5. THAT, the City shall commit \$275,000.00 in the form of cash reserves for the general purpose to pay program costs before reimbursements are received from the State of Texas HOME program.
6. THAT, the City Council directs and designates the Mayor as the City's Chief Elected Officer and Authorized Representative to act in all matters in connection with the application and the City's participation in the HOME Program.

PASSED, APPROVED, AND ADOPTED this 12th day of April 2004.

CITY OF WHARTON

BRYCE D. KOCIAN
MAYOR

ATTEST:

JOYCE VASUT

CITY SECRETARY

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

The fifteenth item on the agenda was to review and consider an ordinance deleting the City of Wharton Code of Ordinances, Appendix A Subdivisions, Section 6 Engineering & Construction Standards, Item 6.06 Water and Sewer System, Number Four Reimbursements for onsite water & sewer main and/or lift stations and amending Item 6.07 Streetlighting; providing for separability and setting an effective date. City Manager Andres Garza, Jr. stated that the Planning Commission met March 15, 2004 and discussed the City of Wharton Code of Ordinances, Appendix A Subdivisions, regarding the reimbursement requirements for onsite water & sewer main and/or lift stations and was recommending the City Council consider deleting Section 6.06, Number 4. He said that since the City Council was considering a new residential development policy, then this portion of the ordinance needed to be deleted. He then presented a draft ordinance deleting the City of Wharton Code of Ordinances, Appendix A Subdivisions, Section 6 Engineering & Construction Standards, Item 6.06 Water and Sewer System, Number Four Reimbursements for onsite water & sewer main and/or lift stations. He stated that the City Staff was also requesting to amend Item 6.07 Streetlighting by replacing Houston Lighting and Power with the power company. After some discussion, Councilmember Ray Linseisen made a motion to approve Ordinance No. 2004-10, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2004-10**

AN ORDINANCE DELETING THE CITY OF WHARTON CODE OF ORDINANCES, APPENDIX A SUBDIVISIONS, SECTION 6 ENGINEERING & CONSTRUCTION STANDARDS, ITEM 6.06 WATER AND SEWER SYSTEM, NUMBER FOUR REIMBURSEMENTS FOR ONSITE WATER & SEWER MAIN AND/OR LIFT STATIONS AND AMENDING ITEM 6.07 STREETLIGHTING; PROVIDING FOR SEPARABILITY AND SETTING AN EFFECTIVE DATE.

BE IT ORDAINED by the City Council of the City of Wharton, Texas, that the City of Wharton Code of Ordinances, Appendix A Subdivisions, Section 6 Engineering & Construction Standards read as follows:

6.01 Policies.

Policies, terms and conditions to be followed in paving work, and the extending of water and sewer lines, are included in city ordinances. All improvements shall be installed by the developer. The city shall not participate in the development unless a larger facility or improvement is required by the city. The city will participate in the cost of the facility to the extent of the difference in the cost of the facility or improvement required to serve the developer's land and that required by the city to be installed.

6.02 Engineering.

The developer will be required to retain the services of an engineer registered in the State of Texas, whose seal shall be placed on the drawings, for the design and inspection of the drainage, roads and streets, sewer and water facilities within the subdivision. The services performed by the developer's engineer shall be as designated in the current issue of "Manual of Professional Practice--General Engineering Service," as published by the Texas Society of Professional Engineers, and shall include both design and inspection as defined therein.

6.03 Streets.

All streets will be either reinforced concrete pavement on a compacted subgrade or a flexible base with an asphaltic concrete surface course on a compacted subgrade. Concrete pavement shall be provided with either an integral curb poured with the pavement or a separate curb constructed on top of, and doveled to, the concrete pavement. Flexible base pavement shall be provided with a combination curb and gutter section.

1. Alignment, grade and width. Alignment of streets shall be as hereinbefore stated in General Requirements and Design Standards [section 5].
2. Grades. Gutter gradients shall be a minimum of one-quarter of one percent. Crown sections shall slope not less than one-quarter inch per foot for asphaltic concrete and one-eighth inch per foot for Portland cement concrete. The minimum drop around curb return will be one-tenth of one foot. The maximum drop of grade tangents from opposite direction to a common low point shall not exceed 1 1/2 feet. All gutter grades shall be above the design water surface of ditches and storm sewers. All grade changes with an algebraic difference of one percent or more shall be connected with a vertical curve.
3. Width. Minimum width of streets shall be as follows:

TABLE INSET:

Classification	Row width	Street width Back to back Of curb
Major Streets	80'	61 ft.

Secondary or feeder streets	60'	39 ft.
Local streets (flexible base)	50'	32 ft.
Local streets (concrete)	50'	30 ft.

4. Pavement design. Pavement design shall conform to the following general requirements unless otherwise approved by the planning commission. References to state department of transportation specifications regarding street work are references to the "Standard Specification for Road and Bridge Construction" adopted by the state department of transportation, January 2, 1961.

5. Concrete pavement. Concrete pavement shall conform to the requirements of item 360, state department of transportation, standard specification. Concrete pavements shall have a minimum thickness of six inches for local streets and a minimum thickness of seven inches for secondary streets, feeder streets, and major streets. Concrete pavement shall be reinforced with three-eighths-inch deformed bars at 24 inches center to center each way.

6. Flexible base pavement. Flexible base pavement shall consist of a base course of the thickness and of the type materials indicated for flexible bases, and shall be surfaced with one of the types of surface courses indicated below:
 - a. Flexible base courses.

Seven inches of compacted cement stabilized shell using 1 1/2 sacks of Portland cement per ton.

Eight inches of compacted crushed stone conforming to item 242, state department of transportation, standard specifications.

Eight inches of compacted iron ore conforming to item 240, state department of transportation, standard specifications.

Six inches of compacted crushed stone conforming to item 242, state department of transportation, standard specifications, provided that the subgrade is lime treated, subject to inspection and approval by the city engineer.

 - b. Surface courses.

One and one-half inches of cold mix limestone rock asphalt pavement conforming to item 330, state department of transportation, standard specifications.

One and one-half inches of hot mix asphaltic concrete pavement conforming to item 340, state department of transportation, standard specifications.

One and one-half inches of hot mix cold laid asphaltic concrete pavement conforming to item 350, state department of transportation, standard specifications.

Two-course surface treatment conforming to item 322, state department of transportation, standard specifications.

7. Curb and gutter. Curb and combination curb and gutter shall be constructed of reinforced concrete. Cross section and shapes shall conform to standards on file with the superintendent of public works.

6.04 Alleys.

1. Pavement type. All alleys shall be paved as a minimum with six inches of crushed stone flexible base, conforming to requirements for street paving.
2. Pavement width. A minimum paved width of ten feet shall be required for all alleys.
3. Drainage. Drainage shall be collected by swales outside the edge of the base course where no concrete gutter is provided. Depth of swale shall be as required for drainage with a minimum slope of one-half of one percent.

6.05 Drainage and storm sewers.

Adequate drainage shall be provided within the limits of the subdivisions. The protection of adjoining property shall be considered in the review of plans submitted:

1. Size. Sizing of inlets, storm sewers, outfalls, culverts and drainage ditches following:
 - a. Design storm. The design storm will be based on rainfall intensity-frequency data published by the department of agriculture by David L. Yarnell. Interior drainage system will be designed for a storm with a frequency of occurrence of once in five years. The intensity of a 60-minute rainfall on this frequency is 2.80 inches. Major drainage ditches and structures will be designed for a storm with a frequency of occurrence of once in 25 years. The intensity of a 60-minute rainfall on this frequency is 3.75 inches.
 - b. Runoff computations. To determine the runoff rates for the various areas, the standard rational method will be used, utilizing the formula $Q=CIA$,

where Q =rate of runoff in cubic feet per second, C =runoff coefficient, I =rainfall intensity for the particular duration in inches per hour, and A =the drainage area in acres. Drainage areas will be arrived at by considering location of high and low points on street grades, drainage divides in the area, and general configuration of existing and finished grades.

- c. Sizing of sewers. Sewers shall be sized to carry the discharges (Q) derived from the above formula. Capacity of storm sewers will be determined by the use of Mannings formula on the basis of hydraulic gradients rather than the physical slope of the pipe. Minimum size of storm sewer shall be 15 inches.
 - d. Sizing and spacing of inlets. Inlets shall be spaced so that maximum travel distance of water in gutter will not exceed 600 feet. Inlets will be provided at all low points in gutter gradient. Inlets will be sized using an allowable capacity of one cubic foot per second per foot of opening for a throat height of five inches.
 - e. Ditches. Ditches shall be sized to carry the runoff (Q) derived from the above formula.
2. Design. Design of storm sewers, outfalls, culverts, and drainage ditches will conform to the following general requirements:
- a. Manholes. Manholes (inlets or junction boxes) shall be provided at all changes in grades or alignment, sewer intersections, street intersections, and at a maximum of 1,000 feet on straight lines. If monolithic, reinforced concrete sewer lines are used, a manhole is not required where leads from inlets intersect the main sewer. Design of manholes shall follow acceptable engineering practice, and shall be constructed of brick or reinforced concrete.
 - b. Inlets. Design of inlets shall follow acceptable engineering practice, and walls shall be constructed of reinforced concrete or brick.
 - c. Pipe. Pipe for storm drains shall be concrete pipe in sizes as shown on the approved plans. Pipe 21 inches or larger in diameter shall be reinforced concrete pipe (RCP), ASTM C76, class 3. Pipe 18 inches or smaller in diameter shall be plain concrete pipe (PC) ASTM C14, standard strength. Where, in the opinion of the superintendent of public works, added strength of pipe is needed for traffic loads over minimum cover or for excessive height of backfill, concrete pipe shall be ASTM C-14 extra strength or ASTM C-76, class IV or class V. Pipe shall have a minimum cover of not less than one foot over the top of pipe. Monolithic, reinforced concrete sewers may be used for storm sewers 36 inches and larger.

- d. Ditches. Drainage ditches, where approved by the planning commission, may be used for outfalls to natural or major drainage channels. Ditches shall have a minimum grade of not less than 0.10 percent and side slopes not steeper than two to one (2:1).
- e. Outfalls. Outfalls from sewers and ditches into natural drainageways shall enter at the grade of the natural drainage channel. If necessary, drop type outfall structures shall be used to prevent erosion.
- f. Major drainageways and structures. Design of major drainageways through a subdivision and major structures, such as box culverts or bridges, across a major drainage channel, shall be coordinated with Wharton County.

6.06 Water and sewer system.

The developer will be required to submit a certificate to the superintendent of public works, certifying that the systems have been designed in accordance with requirements of the state health department and existing laws.

The developer of the subdivision shall provide all water and sewer lines necessary to properly serve the subdivision and shall insure that (1) existing and/or new water facilities can supply the required demand for domestic use and for fire flow at the desired pressure, and (2) that existing and/or new sewage facilities are adequate to carry the expected load.

1. Sewer lines.

- a. Location. Where the location of the sewer is not clearly defined by dimensions on the drawings, the sewer shall not be closer horizontally than ten feet to a water supply main or service line. Gravity sewer lines passing over water lines shall be constructed for a distance of ten feet each side of the crossing with cast iron pipe with no joints with three feet of crossing.
- b. Materials. Sewer lines may be of the following materials: Vitrified clay pipe and fittings conforming to ASTM C-261-60T, class II standard strength. Extra strength where required by superintendent of public works.
- c. Construction. Sewers shall be constructed according to superintendent of public works specifications as to trenching, bedding, backfill, and compaction.
- d. Manholes. Manholes shall be spaced a distance not to exceed 400 feet and shall be constructed in accordance with specifications of superintendent of public works.

- e. Forced mains. Forced mains shall be cast iron pipe and fittings, pressure class. Pipe shall have either mechanical joints or single rubber gasket joint approved by the superintendent of public works.
2. Water lines.
- a. Piping. Piping for water mains and connections shall be cast iron, joint or single rubber gasket joint approved by the superintendent of public works. The pipe and accessories shall be new and unused. All cast iron pipe and fittings shall conform to American Standard A21.2, A21.6, or A21.8.
 - b. Threading. Threading on fire hydrant outlets shall be suitable for use with city fire protection equipment.
 - c. Valves. At intersections of water distribution lines, the number of valves will be one less than the number of radiating lines (two valves for tee connection and three for cross connection).
3. Offsite extensions required to serve subdivisions and other developments.
- a. Developers (including individuals, subdividers and owners of multifamily dwelling units) shall pay the entire cost of water and sewer main extensions from present city lines as are necessary to extend to and reach the subdivision; and, if necessary, lift stations that are required to serve that development; as determined by the planning commission. For purposes of this section, a water main in excess of eight inches inside diameter and a sanitary sewer main in excess of 12 inches inside diameter may be considered oversize and the city may participate in any costs of oversize water or sewer mains, at its option, provided the oversize capacity is not required to serve the development and provided that such city funds are available. Otherwise, the city will not participate in extensions and lift stations.
 - b. The city shall approve all contracts for utility construction prior to their execution by the developer. In the event the city cannot justify the costs involved in any such contract where reimbursement is involved, the city shall have the right to submit the specifications and subject matter for sealed bids, the developer then accepting and paying the lowest and best bid as determined by the city and if the developer desires to proceed with the project.

6.07 Street lighting.

The developer shall be required to install street lighting in the subdivision. Street lighting shall conform to the guidelines and recommendations of the power company as shall be approved or

amended by the planning commission. Prior to final approval of the subdivision plat, the developer shall submit a proposed street lighting plan showing proposed locations, proposed construction details and lighting levels. The location of the proposed streetlights shall be shown on the final plat.

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

Any person violating this ordinance or any portion thereof shall upon conviction be guilty of a misdemeanor and shall be fined not less than \$10.00 nor more than \$500.00, and each day that such violation continues shall be considered a separate offense and punishable accordingly.

Effective Date

This Ordinance shall become effective on the 23rd day of April 2004 at 12:01 a.m.

Passage and Approval

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, on this 12th day of April 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, April 14, 2004 and Wednesday, April 21, 2004.
Councilmember Ken Freese seconded the motion. All voted in favor.

The sixteenth item on the agenda was to review and consider a resolution of the Wharton City Council establishing a Residential Development Incentive Policy for the City of Wharton, Texas. City Manager Andres Garza, Jr. stated that during the February 23, 2004 City Council Street & Drainage Committee meeting, the Committee voted to recommend the City Council consider adopting a residential development incentive policy that was similar to the City of El Campo's. He then presented a draft copy of the resolution establishing the policy. Mr. Garza stated that the resolution would allow developers to be reimbursed up to 25% or \$25 per linear foot; whichever would be the lesser. Councilmember Ray Linseisen stated that the linear foot cost reimbursement should be increased. He stated that the reimbursement should be \$40 to \$50 per linear foot. After some discussion, Councilmember Ray Linseisen made a motion to approve Resolution No. 2004-28 with a \$50 per linear foot cost reimbursement, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004-28**

A RESOLUTION OF THE WHARTON CITY COUNCIL ESTABLISHING A RESIDENTIAL DEVELOPMENT INCENTIVE POLICY FOR THE CITY OF WHARTON, TEXAS.

WHEREAS, it was determined a need existed for residential development in the City of Wharton; and

WHEREAS, the Wharton City Council wishes to establish a Residential Development Incentive Policy; and

WHEREAS, on February 23, 2004 the City Council Streets & Drainage Committee reviewed and recommended a Residential Development Incentive Policy be established by the Wharton City Council as follows:

RESIDENTIAL DEVELOPMENT INCENTIVE POLICY

In order to promote and encourage new residential development, the following Residential Development Incentive Policy is hereby approved and authorized by the Wharton City Council:

1. In order to be eligible for this program, the proposed residential development must meet the following criteria:
 - a) Said development must be located entirely within the corporate limits of the City of Wharton or the developer must submit a petition for voluntary annexation into the City prior to making application for this program;
 - b) Said development must consist of a minimum of twelve single family residences on lots of the minimum size as defined in the City of Wharton Subdivision Ordinance.

- c) To be determined eligible, the proposed development and application for eligibility for the Incentive Program must be approved by a majority of the City Council, at the time of consideration of the preliminary plat; and
 - d) In order to receive the incentive funds, the developer shall submit to the City Council at the end of project, a final plat consistent with actual construction, "as built" plans for all infrastructure improvements and an itemized accounting of actual costs of construction. These costs shall be certified by the project engineer and/or lending agency. If approved by a majority of the City Council, rebate shall be made to the developer in an amount and manner as defined below.
2. Any person who has successfully constructed a residential subdivision, under the guidelines defined above, shall be eligible for a rebate from the City to offset the cost of infrastructure improvements to service the subdivision. These improvements shall include water main construction, sewer main construction, water and sewer service leads to the property line of the lot(s), street construction and storm sewer construction, where permissible. Costs not eligible under this programs shall include engineering fees, survey fees, finance fees including interest to be paid for loans associated with construction, legal fees or any other administrative or professional fees associated with this development. Eligible expenses shall be limited to the actual material and labor costs for infrastructure construction and/or extension as defined herein.
 3. If approved by the City Council, an agreement shall be entered into between the City and the Developer, which will allow for a rebate for a percentage of the costs of improvements made by the developer. The term of this agreement shall be for a period of five (5) years from the date of final plat approval, at which time undeveloped lots will not longer be eligible for this rebate.
 4. The City will agree to reimburse the Developer 25% of the actual cost of materials and labor for the infrastructure improvements or at a rate of \$50.00 per each linear foot of front lot line as indicated on the final plat, with the lesser of the two calculations to apply. The Developer may apply for reimbursement at a the rate heretofore defined, only after the construction of the residential dwelling, when all final inspections have been completed, and the house is approved for occupancy.
 5. This agreement shall only provide rebate for the actual costs at the time of construction and will not provide for the accrual interest or penalty for funds in questions. In addition, participation in this program prohibits the use of other incentive programs either in place or to be developed in the future.
 6. This program only applies to the actual costs of infrastructure within the platted subdivision. Expenses incurred for the extension of services to development and/or the over sizing of utilities, drainage facilities or streets shall be subject to separate negotiations with the City.

7. This agreement shall be between the City and the Developer for the stipulated period of five (5) years from the date of approval of the final plat and any or all reimbursements shall be made only to the Developer of record during this period. This agreement is exclusive to the Developer of record and shall become null and void at the end of the stipulated time period, or in the event of bankruptcy, foreclosure or abandonment of said development. In the event of sale of property or the creation of a partnership after the date of the beginning of the agreement, the Developer shall be responsible for the payment or distribution of reimbursed funds to all or any parties gaining interest in the development.

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

Section 1. The Wharton City Council hereby established the afore-mentioned Residential Development Incentive Policy.

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

Passed, Approved, and Adopted this the 12th day of April 2004.

CITY OF WHARTON

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT

City Secretary

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

The seventeenth item on the agenda was to review and consider a resolution authorizing the City of Wharton, Texas, to join a coalition and to intervene in proceedings related to the application of Centerpoint Energy Houston Electric, LLC, Reliant Energy Retail Services, LLC and Texas Genco, LP to determine stranded costs and other true-up balances pursuant to Pura § 39.262; Authorizing the City Attorney to represent the City and to take appropriate actions relating to such proceedings; making certain findings related thereto. City Manager Andres Garza, Jr. presented a copy of the letter dated March 9, 2004 from Ms. Tina Paez, Assistant Director of the Regulatory Services Division, City of Houston Finance & Administration department regarding participation in a coalition of Cities in the CenterPoint Energy 2004 True-up of Stranded Costs. He stated that City Attorney Paul Webb and himself attended a meeting held March 31, 2004 regarding the proposed coalition. He then presented a copy of the letter dated March 31, 2004 from Mr. Roger P. Garris, Service Area Manager for CenterPoint Energy regarding the application they filed with the Public Utility Commission of Texas (PUC) and information that was received from the meeting held in Houston. He then presented a draft resolution authorizing the City of Wharton to join the coalition and to intervene in proceedings related to the

application of Centerpoint Energy Houston Electric, LLC, Reliant Energy Retail Services, LLC and Texas Genco, LP to determine stranded costs and other true-up balances pursuant to Pura § 39.262 and authorizing the City Attorney to represent the City and to take appropriate actions relating to such proceedings; making certain findings related thereto. City Attorney Paul Webb informed the City Council that the City of Houston would bare all financial responsibility. After some discussion, Councilmember Don Mueller made a motion to approve Resolution No. 2004-29, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004 - 29**

A RESOLUTION AUTHORIZING THE CITY OF WHARTON, TEXAS, TO JOIN A COALITION AND TO INTERVENE IN PROCEEDINGS RELATED TO THE APPLICATION OF CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC, RELIANT ENERGY RETAIL SERVICES, LLC AND TEXAS GENCO, LP TO DETERMINE STRANDED COSTS AND OTHER TRUE-UP BALANCES PURSUANT TO PURA § 39.262; AUTHORIZING THE CITY ATTORNEY TO REPRESENT THE CITY AND TO TAKE APPROPRIATE ACTIONS RELATING TO SUCH PROCEEDINGS; MAKING CERTAIN FINDINGS RELATED THERETO.

WHEREAS, the Public Utility Commission will conduct hearings relating to the Application of CenterPoint Energy Houston Electric, LLC, Reliant Energy Retail Services, LLC and Texas Genco, LP to determine stranded costs and other true-up balances pursuant to PURA§ 39.262 and related proceedings (the “Proceedings”) affecting rates and services provided by the companies throughout the State of Texas, including the City of Wharton, Texas; and

WHEREAS, certain municipalities have indicated their desire to join with the City of Houston, Texas, in a coalition of cities interested in the conduct of the Proceedings and to authorize the coalition to intervene on behalf of the participating municipalities therein; and

WHEREAS, interested parties must seek party status soon after March 31, 2004 to comply with the Intervention Deadline to be set in the Proceedings; and

WHEREAS, City Council has determined that it is in the best interests of the City that the city intervene in the Proceedings to represent the City’s interests.

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

Section I. That the facts recited in the preamble hereto are hereby found to be true and correct and are hereby incorporated herein.

Section. II. That the City is hereby authorized to assist in the organization of, and to join in, a coalition of municipalities and other parties having similar interests in the Proceedings.

Section III. That the City is hereby authorized to intervene in the Proceedings, either as a member of the coalition or otherwise, and to take legal and other actions as a party in the Proceedings affecting rates and services provided by the companies throughout the State of Texas, including the City of Wharton, Texas.

Section IV. That the City Attorney and such outside counsel as the Coalition may select, shall represent the City in all of the Proceedings and are hereby authorized to take all legal and other actions necessary to forward the interests of the City in the Proceedings and all matter related to such Proceedings, including without limitation any hearings, conferences, negotiations, and related Proceedings.

Section V. That this Resolution shall take effect immediately upon its passage and approval in the manner required by the City Charter and ordinances.

Passed, Approved, and Adopted this the 12th day of April 2004.

CITY OF WHARTON

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT

City Secretary

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

The eighteenth item on the agenda was to review and consider holding a forum with other local elected officials regarding tax system reforms that could negatively affect revenues and economic development. City Manager Andres Garza, Jr. presented a copy of the March 17, 2004 Texas Municipal League, Legislative Update article titled "*Governor unveils plan to cap Municipal Property Tax Revenue*" and a copy of the April 1, 2004 Texas Municipal League, Legislative Update article titled *News from the Property Tax Front.*" He stated that during the March 22, 2004 regular Wharton City Council meeting, the City Council adopted Resolution No. 2004-25 opposing any school finance or tax system reforms that would negatively affect City revenues and economic development. He stated that the resolution was mailed to State elected officials requesting their support in the opposition. He said the City Council Legislative Committee had discussed seeking City Council approval to hold a forum with other local elected officials (Wharton County, City of El Campo, Wharton County Junior College, Wharton Independent School District, Rural Fire District, etc.) in Wharton County to discuss the tax system reforms that could negatively affect revenues and economic development. He stated that

the City Council Legislative Committee was comprised of Councilmembers Domingo Montalvo, Jr. and Ray Linseisen. Mr. Garza stated that if the tax base would not increase, then other incentives would have to be researched. After some discussion, Councilmember Ray Linseisen made a motion to approve the holding of a forum with other local elected officials regarding tax system reforms that could negatively affect revenues and economic development. 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. Mayor's Local Committee on People with Disabilities meeting held March 25, 2004.
- B. City Council Street & Drainage meeting held March 29, 2004.
- C. Planning Commission meeting held April 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 Don Mueller made a motion to adjourn. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The meeting adjourned at 7:57 p.m.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT
City Secretary