

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
MAY 10, 2004**

Mayor Bryce D. Kocian declared a Regular Meeting duly open for the transaction of business at 7:00 P.M. Councilmember Ken Freese 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, Community Services Director Jo Knezek, Building Official Assistant Lori Jaquez, Emergency Medical Services Director John Kowalik, EMS Supervisor Frank Giesie, Paramedic Kellie Moran, Paramedic Timothy Gilmore, Emergency Management Coordinator Harry Priesmeyer, and City Attorney Paul Webb.

Visitors present were: Benjamin Sharp with Wharton Journal Spectator, Lewis Fortenberry, David Schroeder, Johnnie Roberts, Lillian Schneider, Suzette Wells-Young, I. O. Coleman, Jr., Chester Houston, Marshal Francis, David Samuelson.

The third item on the agenda was Public Comments. David Samuelson addressed the City Council and publicly invited everyone to the First Responders Blessing, which would be held on May 17, 2004 at the Wharton United Methodist Church for county wide prayers for safety, guidance, and wisdom for First Responders as they perform their duties. No action was taken.

The fourth item on the agenda was the Wharton Moment. Councilmember V. L. Wiley, Jr. publicly thanked the City Staff, for the plant received when he was ill and thanked everyone for their prayers.

Councilmember Domingo Montalvo, Jr. publicly commended the cast for "Evita." He stated that the play was comical and professional and everyone should attend the play held at the Wharton Plaza.

Mayor Bryce D. Kocian stated Nursing Home Week and Poppy Week proclamations would be presented to the affiliated organizations. No action was taken.

The fifth item on the agenda was Proclamations:
A. EMS Week and Trauma Awareness Month.

Mayor Bryce D. Kocian presented the following proclamation:

- WHEREAS,** Emergency medical service is a vital public service in Texas; and
- WHEREAS,** Each year in Texas, trauma is a major cause of death and disability; and
- WHEREAS,** Volunteer and paid emergency medical services teams, in concert with a developed network of trauma care facilities across Texas, provide lifesaving care in Texas 24 hours a day, seven days a week; and
- WHEREAS,** access to quality emergency care dramatically improves the survival and recovery rate for those who experience sudden illness or injury; and
- WHEREAS,** The Texas trauma system, one component of Texas' emergency medical response system, is organized to provide timely, appropriate access to quality emergency medical care for injured or ill persons; and
- WHEREAS,** Texas emergency personnel also care for the community by teaching injury prevention to citizens to lessen the occurrence and severity of injuries and by training to respond to any possible occurrences with potential weapons of mass destruction; and
- WHEREAS,** The people of Texas benefit daily from the knowledge and skills of these highly trained individuals and from the availability of the Texas trauma system; and
- RESOLVED,** in appreciation of your valuable contribution to the City of Wharton and East Wharton County, that the City of Wharton commend and congratulate Wharton EMS and other Texas EMS personnel for outstanding, dedicated prehospital and medical care to the people of Wharton, Texas, and hereby join the Texas Department of Health in designating the month of May as Trauma Awareness Month and in designating May 17 – 23, 2004, as Emergency Medical Services Week.

IN WITNESS THEREOF, I have set my hand and caused the seal of the City of Wharton to be affixed this 10th day of May in the year of our Lord two thousand four A.D.
No action was taken.

B. National Public Works Week.

Mayor Bryce D. Kocian presented the following proclamation:

- WHEREAS,** Public Works Services provided in our community are an integral part of our citizens' everyday lives; and
- WHEREAS,** The support of an understanding and informed citizenry is vital to the efficient operation of public works systems and programs such as water, sewers, streets and highways, public buildings, and solid waste collection; and

WHEREAS, The health, safety and comfort of this community greatly depends on these facilities and services; and

WHEREAS, The quality and effectiveness of these facilities, as well as their planning, design, and construction, is vitally dependent upon the efforts and skill of public works officials; and

WHEREAS, The efficiency of the qualified and dedicated personnel who staff public works departments is materially influenced by the people's attitude and understanding of the importance of the work they perform.

NOW, THEREFORE, I, Bryce D. Kocian, Mayor of the City of Wharton do hereby proclaim the week of May 16, - 22, 2004, as "**National Public Works Week**" in the City of Wharton, and I call upon all citizens and civic organizations to acquaint themselves with the issues involved in providing our public works and to recognize the contributions which public works officials make every day to our health, safety, comfort, and quality of life.

Given under my hand and Seal of the City of Wharton this 10th day of May 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 April 12, 2004 and April 26, 2004 and the special meeting held April 22, 2004. Councilmember Darryl Darnell requested the letter from Carole Keeton Strayhorn, Texas Comptroller of Public Accounts, be replaced with typing of the letter inserted in the April 26, 2004 minutes. After some discussion, Councilmember Ken Freese made a motion to approve the reading of the Wharton City Council minutes of the regular meetings held April 12, 2004 and April 26, 2004 and the special meeting held April 22, 2004. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider Variance Requests for the following:
A. Request by Ms. Lillian Schneider, 615, Avenue A, Barbee, Block 13, Lots 7, 8, and 9 for a zero foot interior side yard setback variance for the placement of a metal carport. City Manager Andres Garza, Jr. presented a copy of the memorandum dated May 5, 2004 from Building Official Ronnie Bollom regarding the request by Ms. Lillian Schneider. He then presented a copy of the application for variance that was filed. Building Official Assistant Lori Jaquez informed the City Council that Ms. Lillian Schneider was requesting a variance for a zero foot interior side yard setback for the placement of a metal carport that was constructed without a permit. She stated that a single car garage was demolished and a carport was constructed in its place. After some discussion, Councilmember Ken Freese made a motion to approve the variance request by Ms. Lillian Schneider, 615, Avenue A, Barbee, Block 13, Lots 7, 8, and 9 for a zero foot interior side yard setback variance for the placement of a metal carport. Councilmember Ray Linseisen seconded the motion. All voted in favor.

B. Unmet Housing Needs Project:

1. Ms. Frankie Mangum for a front, rear and side yard setback variance for the construction of a 28' x 46' new home located at 1607 West Milam Street, West Milam, Block A, Lot 10.
2. Mrs. Barbara Ray for an interior side yard setback variance for the construction of a 28' x 46' new home located at 1612 West Milam Street, West Milam, Block B, Lot 12.
3. Mr. Catarino Rivera for a variance to construct a 28' x 46' new home over the interior property line located at 502 South Ford Street, William Kincheloe, Block 63, Lot 188 and Lot 189.
4. Mr. Kenneth Harris for a front, rear and side yard setback variance for the construction of a 28' x 46' new home located at 1633 Connie Street, Wharton A. Jackson, Block 52, Lot 5B.
5. Mrs. Alma Curtis for a exterior side yard setback variance for the construction of a 28' x 46' new home located at 1816 Azalea Street, Smith Garden Spot, Block 1, Lot 5.

City Manager Andres Garza, Jr. stated that on April 26, 2004, the City Council approved the Unmet Housing Needs Project for seven property owners. Five of the applicants would require building setback variances for the construction of the new homes. He then presented a copy of the memorandum dated May 5, 2004 from Building Official Ronnie Bollom regarding the aforementioned requests. He also presented copies of the applications for variances that were filed. Building Official Lori Jaquez stated the variances were needed for the construction of the homes under the Unmet Housing Needs Project that was previously approved by City Council. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the variance request for the Unmet Housing Needs Project: (1) Ms. Frankie Mangum for a front, rear and side yard setback variance for the construction of a 28' x 46' new home located at 1607 West Milam Street, West Milam, Block A, Lot 10. (2) Mrs. Barbara Ray for an interior side yard setback variance for the construction of a 28' x 46' new home located at 1612 West Milam Street, West Milam, Block B, Lot 12. (3) Mr. Catarino Rivera for a variance to construct a 28' x 46' new home over the interior property line located at 502 South Ford Street, William Kincheloe, Block 63, Lot 188 and Lot 189. (4) Mr. Kenneth Harris for a front, rear and side yard setback variance for the construction of a 28' x 46' new home located at 1633 Connie Street, Wharton A. Jackson, Block 52, Lot 5B. (5) Mrs. Alma Curtis for a exterior side yard setback variance for the construction of a 28' x 46' new home located at 1816 Azalea Street, Smith Garden Spot, Block 1, Lot 5. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider a resolution of the Wharton City Council approving a six month extension to the current contract with First Choice Power, Inc. for aggregated electrical service for City Facilities. City Manager Andres Garza, Jr. presented a copy of the email received from Mr. Paul Smolen, of Fox, Smolen & Associates regarding aggregated electrical service for the City of Wharton. He said that since the City had joined the Governmental Aggregation Project (GAP), the cost of natural gas and corresponding increases in bids by retail electric providers, had prompted GAP to request bids for GAP members to bridge a project period of high natural gas and electricity costs. The projections indicate that the cost should begin to decrease in April 2005. He stated that the City's contract with First Choice Power, Inc. would expire on December 31, 2004 and the City Staff was requesting the City Council consider approving a six month extension to the current contract in an effort to maintain

a lower rate for electrical service. He said the bids would be received May 13, 2004; however, in order to secure a contract within the allotted time frame, a contract extension must be approved. He said that unlike the current contract, the energy costs would not be bundled with the transmission and distribution charges. He then presented a draft resolution approving a six-month extension to the current contract the City had with First Choice Power, Inc. and a copy of the contract. Mr. Garza stated that under the current contract the energy, distribution and transmission costs were included. Councilmember Ray Linseisen stated that on January 1, 2005, the City of Wharton could experience an increase due to the unbundling of distribution, energy and transmission costs. Mr. Garza stated no electric provider would provide the bundle plan any longer, since they would try to be reimbursed for associated costs. After some discussion, Councilmember Ray Linseisen made a motion to approve Resolution No. 2004-33, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004 - 33**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A SIX MONTH EXTENSION TO THE CURRENT CONTRACT WITH FIRST CHOICE POWER, INC. FOR AGGREGATED ELECTRICAL SERVICE FOR CITY FACILITIES AND AUTHORIZING CITY MANAGER ANDRES GARZA, JR. EXECUTE ALL DOCUMENTS RELATED TO THE AGREEMENT.

WHEREAS, The Wharton City Council wishes to approve a six month extension to the current contract with First Choice Power, Inc. for aggregated electrical service for City Facilities, as revised by the extended six month term and the recent bid pricing; and

WHEREAS, The Wharton City Council authorized City Manager Andres Garza, Jr. to execute all documents related to City of Wharton's electrical service contract in accordance with Resolution No. 2001-11; and

WHEREAS, The City of Wharton and First Choice Power, Inc. wishes to be bound by the conditions of the extended contract; and

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

Section I. That the City Council of the City of Wharton hereby approves the contract as extended with First Choice Power, Inc. for aggregated electrical service for City Facilities.

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

Passed, Approved, and Adopted this the 10th day of May 2004.

CITY OF WHARTON

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT

City Secretary

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

The ninth item discussed on the agenda was to review and consider the City of Wharton Jr's Texas Best, LLC Project:

A. Bid Tabulation.

B. **Resolution:** A resolution awarding the bid for the Jr's Texas Best, LLC construction project and authorizing the Mayor of the City of Wharton to execute all related documents. City Manager Andres Garza, Jr. stated that the bid opening for the construction phase of the Jr's Texas Best, LLC project was held Thursday, May 6, 2004. He then presented a copy of the bid tabulation and the letter from Mr. Don Naiser, P.E. of Energy Engineering, Inc. providing his recommendation to award the project. He also presented a draft resolution awarding the bid. Mr. Don Naiser addressed the City Council and stated that the bid was within budget and recommended the bid be awarded to BLS Construction for the base bid. Councilmember Don Mueller asked how many bid packets were sent to companies. Mr. Naiser stated that nine were sent; however only six were returned. After some discussion, Councilmember Don Mueller made a motion to approve Resolution No. 2004-34, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004 - 34**

A RESOLUTION AWARDING A BID TO BLS CONSTRUCTION FOR THE JR'S TEXAS BEST, LLC CONSTRUCTION PROJECT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO THE AGREEMENT.

WHEREAS, The City of Wharton received bids for the construction phase of the Jr's Texas Best, LLC, Texas Capital Fund No. 723092, project May 7, 2004 at 3:00 p.m.; and

WHEREAS, BLS Construction was deemed the lowest and best qualified bidder with a base bid in the amount of \$614,000;

WHEREAS, The Wharton City Council wishes to award the bid to BLS Construction based on the condition that the contractor meets all requirements set forth in the Texas Capital Fund grant requirements; and

WHEREAS, The City of Wharton and BLS wishes to be bound by the conditions as set forth in the contract; and

WHEREAS, The Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute all documents related to 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 awards the bid for the construction phase of the Jr's Texas Best, LLC, Texas Capital Fund No. 723092, project to BLS Construction in the base bid amount of \$614,000 based on the condition that the contractor met all requirements set forth in the Texas Capital Fund grant requirements.

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

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

Passed, Approved, and Adopted this 10th day of May 2004.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT
City Secretary

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

The tenth item discussed on the agenda was to review and consider a resolution of the Wharton City Council authorizing the submission of a full application to the USDA – Rural Business Enterprise Grant Program for the Wharton Industrial Foundation, Industrial Park Infrastructure project and authorizing the Mayor of the City of Wharton, Texas, to execute all documents related to the application. City Manager Andres Garza, Jr. stated that during the January 26, 2004 regular Wharton City Council meeting, the City Council authorized the City Staff to prepare a pre-application to the United States Department of Agriculture for sewer improvements for the Wharton Industrial Foundation – Industrial Park located at Halford Road and U.S. Highway 59. He then presented the synopsis describing the project. Mr. Armando Ruiz, President of the The Ruiz Companies prepared the pre-application on the City's behalf. He then presented a copy of the letter dated April 28, 2004 from Mr. Richard G. Grams, Area Director of the United States Department of Agriculture Rural Development Office (USDA). He said that Mr. Grams stated in his letter that the allocation of funds was received by the USDA office and the City could receive funding in the amount of \$275,000 toward the project, which was reduced from the original amount of \$391,600. The City had been requested to submit a letter stating that the available funding amount would be agreeable and that a full application would be submitted prior to June 1, 2004. He also presented a draft resolution authorizing the submission of a full application to the United States Department of Agriculture for sewer

improvements for the Wharton Industrial Foundation – Industrial Park located at Halford Road and U.S. Highway 59 in the amount of \$275,000. He stated that the matching funds for the project would be sought from the U.S. Department of Commerce, Economic Development Administration (EDA). He then presented a map indicating the project site location. Councilmember Darryl Darnell stated that he was not in favor of the project since he felt that tax dollars should not be spent outside the city limits. Mr. Garza stated that the total project was estimated at \$890,000.00. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2004-35, which read as follows:

**City of Wharton
RESOLUTION NO. 2004-35**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE SUBMISSION OF A FULL APPLICATION TO THE UNITED STATES DEPARTMENT OF AGRICULTURE - RURAL BUSINESS ENTERPRISE GRANT PROGRAM FOR THE WHARTON INDUSTRIAL FOUNDATION, INDUSTRIAL PARK INFRASTRUCTURE PROJECT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON, TEXAS, TO EXECUTE ALL DOCUMENTS RELATED TO THE APPLICATION.

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

WHEREAS, funding is available in the amount of \$275,000 for the infrastructure improvements to Wharton Industrial Park owned by the Wharton Industrial Foundation; and

WHEREAS, the City of Wharton wishes to apply for the funds in the amount of \$275,000 for the infrastructure improvements to Wharton Industrial Park owned by the Wharton Industrial Foundation under the United States Department of Agriculture under its Rural Business Enterprise Grant Program

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

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

Section I. The City Council authorizes the City Manager to prepare and submit a full application to United State Department of Agriculture under their Rural Business Enterprise Grant Program for funding in the amount of \$275,000 for the following proposed activities:

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

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

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

PASSED, APPROVED and ADOPTED at a regular meeting of the City Council of the City of Wharton, Texas, on the 10th day of May 2004.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN, Mayor

ATTEST:

JOYCE VASUT, City Secretary

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

The eleventh item on the agenda was review and consider a resolution of the City Council authorizing the submission of a pre-application to the U.S. Department of Commerce Economic Development Administration (EDA) for the Wharton Industrial Foundation, Industrial Park Infrastructure project and authorizing the Mayor of the City of Wharton, Texas, to execute all documents related to the application. City Manager Andres Garza, Jr. stated that during the January 26, 2004 regular Wharton City Council meeting, the City Council adopted Resolution No. 2004-005 authorizing the submission of a pre-application to the United States Department of Agriculture for sewer improvements for the Wharton Industrial Foundation – Industrial Park located at Halford Road and U.S. Highway 59, which indicated the City’s intention of filing with the U.S. Department of Commerce Economic Development Administration (EDA) office for the remaining funds needed for the project. He stated that he had met with EDA representatives who indicated that they would be accepting pre-applications for projects in late May and early June. Mr. Armando Ruiz had assisted the City in the past in preparing the necessary applications to EDA. He said he was requesting the City Council’s authorization to submit the necessary pre-application to EDA. He then presented a draft resolution authorizing the City of Wharton to submit a pre-application to EDA for the funds. Mr. Garza stated that the project was estimated at \$890,000.00, which the City of Wharton was approved for \$275,000 with USDA and the project balance would be requested from EDA. Councilmember Darryl Darnell stated that he was not in favor of the project since he felt that tax dollars should not be spent outside the city limits and the tax base would not be affected until annexation of the property. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2004-36, which read as follows:

**City of Wharton
RESOLUTION NO. 2004-36**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE SUBMISSION OF A PRE-APPLICATION REQUEST TO THE UNITED STATES DEPARTMENT OF COMMERCE ECONOMIC DEVELOPMENT ADMINISTRATION (EDA) FOR THE WHARTON INDUSTRIAL FOUNDATION, INDUSTRIAL PARK INFRASTRUCTURE PROJECT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON, TEXAS, TO EXECUTE ALL DOCUMENTS RELATED TO THE APPLICATION.

WHEREAS, the City of Wharton wishes to submit a pre-application to the United States Department of Commerce, Economic Development Administration (EDA) to make infrastructure improvements to Wharton Industrial Park owned by the Wharton Industrial Foundation; and

WHEREAS, these funds are available for economic development in rural areas; and

WHEREAS, the City of Wharton desires to apply for the matching funds for this project.

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

Section I. The City Council authorizes the City Manager to prepared and submit a pre-application to United State Department of Commerce Economic Development Administration (EDA) for matching funds for the following proposed activities:

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

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

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

PASSED, APPROVED and ADOPTED at a regular meeting of the City Council of the City of Wharton, Texas, on the 10th day of May 2004.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN, Mayor

ATTEST:

JOYCE VASUT, City Secretary

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

The twelfth item discussed on the agenda was to review and consider an application by Quality Elite for an Ambulance Provider Permit. City Manager Andres Garza, Jr. presented a copy of the Ambulance Provider Permit Application that was submitted by Quality Elite E.M.S., L.L.C. April 6, 2004. He stated that Deputy City Secretary Lisa Stavena verified confirmation of the required insurance requirements and EMS Director John Kowalik also reviewed the application and recommended that Quality Elite's permit be renewed. He stated that Quality Elite was renewing the existing permit. After some discussion, Councilmember Ray Linseisen made a motion to approve the application by Quality Elite for an Ambulance Provider Permit. Councilmember Darryl Darnell seconded the motion. All voted in favor.

The thirteenth item discussed on the agenda was to review and consider a resolution of the Wharton City Council approving a professional services agreement between the City of Wharton and Unovate Environmental Services, L.P. for Asbestos and Lead Paint Consulting and Air Monitoring Services for the Southern Pacific Railroad Depot Restoration project and authorizing the City Manager of the City of Wharton to execute all documents related to said agreement. City Manager Andres Garza, Jr. stated that the Southern Pacific Railroad Depot Restoration Project was moving forward and the City Staff had been working with Unovate Environmental Services, L.P. regarding the removal of asbestos and lead paint from the depot. He said the City had received authorization from the Texas Department of Transportation (TxDOT) to utilize the services of Unovate Environmental Services, L.P. since the firm prepared the initial assessment for the grant application. The cost of the services would be as follows:

1. Specifications for abatement of asbestos & Lead Paint Removal,
Bid Coordination, Contractor Selection \$750.00
2. Air Monitoring and Project Management (Per Day of Abatement) \$500.00
3. Final Clearance, Report generation and Closeout Report No Charge

He then presented a draft copy of the agreement and a draft resolution approving the agreement. Councilmember V. L. Wiley, Jr. asked if the City of Wharton would be responsible for payment. Mr. Garza stated that the contract would be paid from the grant funds. After some discussion, Councilmember Darryl Darnell made a motion to approve Resolution No. 2004-37, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004 -37**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF WHARTON AND UNOVATE ENVIRONMENTAL SERVICES, L.P. FOR ASBESTOS AND LEAD PAINT CONSULTING AND AIR MONITORING SERVICES AND AUTHORIZING THE CITY MANAGER OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID AGREEMENT.

WHEREAS, The Wharton City Council wishes to approve a professional services agreement between the City of Wharton and Unovate Environmental Services, L.P. for Asbestos and Lead Paint Consulting and Air Monitoring Services for the Southern Pacific Railroad Depot Restoration Project; and

WHEREAS, The City of Wharton and Unovate Environmental Services, L.P. wishes to be bound by the conditions of the agreement.

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

Section I. That the City Council of the City of Wharton hereby approves professional services agreement between the City of Wharton and Unovate Environmental Services, L.P. for Asbestos and Lead Paint Consulting and Air Monitoring Services for the Southern Pacific Railroad Depot Restoration Project.

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

Passed, Approved, and Adopted this the 10th day of May 2004.

CITY OF WHARTON

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT

City Secretary

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

The fourteenth item discussed on the agenda was to review and consider the request by Mr. Frank Martinez, American Legion Post 87 for City of Wharton assistance with repairs to the parking lot. City Manager Andres Garza, Jr. presented a copy of the letter dated May 4, 2004 from Mr. Frank Martinez, American Legion Post 87, Hall Manager and Finance Officer requesting City of Wharton assistance with repairs to the parking lot. He stated that since the property where the American Legion and Girls Softball field were located belongs to the City, he was recommending the City Council to authorize the City Public Works Department to proceed with the requested repairs. Mr. Garza stated that the American Legion is on City owned property, which the City has a contract with the American Legion. Councilmember Darryl Darnell stated that since the parking lot was City property then the City needed to repair the parking lot. After some discussion, Councilmember Darryl Darnell made a motion to approve the request by Mr. Frank Martinez, American Legion Post 87 for City of Wharton assistance with repairs to the

parking lot and all future parking lot requests for repairs to the city owned property. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The fifteenth item on the agenda was to review and consider Fiscal Year 2003 Homeland Security Grant. City Manager Andres Garza, Jr. presented a copy of the memorandum dated May 5, 2004 from Police Chief Tim Guin that provided a list of the equipment and associated costs to be purchased under the Fiscal Year 2003 Homeland Security Grant that included: Level I Cache, pyramid vehicle repeaters, trailer in Level I for the Fire Department in the amount of \$54,428.74; pyramid vehicle repeaters, MCS 2000 Radio for the EMS Department in the amount of \$16,500.00; shopping list fisher, gas mask and filters, computer aided dispatch for the Police and Communications Departments in the amount of \$30,719.68. He stated that Chief Guin had been working in conjunction with City of Wharton Emergency Management Coordinator Harry Priesmeyer and Wharton County Emergency Management Coordinator Andy Kirkland to comprise the equipment list. He stated that City Council approval of the requested items to be purchased was required. After some discussion, Councilmember Ken Freese made a motion to approve the Fiscal Year 2003 Homeland Security Grant equipment. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The sixteenth item on the agenda was to review and consider the proposed River Front Park/Boat Ramp Project. City Manager Andres Garza, Jr. said that during the April 26, 2004 regular Wharton City Council meeting, Chamber of Commerce Executive Director Billie H. Jones approached the City Council during Public Comments and requested the City to consider purchasing approximately 28 acres of land along the Colorado River for development as a River Front Park/Boat Ramp. Councilmember Darryl Darnell had requested that this be placed as an item on the agenda for City Council discussion. Mr. Garza stated that since that time, Ms. Jones informed him that the subject land had been purchased by the adjacent property owner. Ms. Jones had requested the item be removed from the agenda; however, Councilmember Darnell requested that it remain. He stated that Councilmember Darnell would lead the discussion regarding the proposed River Front Park/Boat Ramp Project. He then presented a copy of the letter dated April 28, 2004 sent to Ms. Jones. Councilmember Darryl Darnell stated that he received an email from President of the Chamber of Commerce Art Schultz regarding the River Front Park/Board Ramp Project. He said the email stated that for many years the community of Wharton had discussed the need for access to the Colorado River. He said a unique opportunity arose during April 2004 to acquire key property that would enable river access. Discussions from the Chamber of Commerce, WEDCo, City of Wharton, and LCRA revealed there was insufficient interest to acquire the property; therefore the property was sold to a private citizen. Thus, the citizens of our town missed an opportunity to develop the site as part of the Parks System. He said that at the last City Council meeting the property was still available; however the only appropriate action at that time was to place the item on the May 10, 2004 City Council meeting for discussion. The property was sold one week later and it no longer needed to be discussed. He said it was now time to turn our attention to another project such as the Bike/Hike Trail. Councilmember Darryl Darnell stated that he was informed that there had been Chamber Board Meetings where Councilmembers and the City Manager had attended regarding the river access and he was informed that the Councilmembers stated that the City was not in support of the project. He stated that the project should have been addressed during a City Council meeting for the entire City Council to discuss, not only selected Councilmembers. He stated that there

was also statements made about the Chamber of Commerce that they should stick with Ribbon Cutting and socials and stay out of City business because finding jobs was the City and WEDCo's problem. He stated that he felt that was an inappropriate statement to make. He stated that the Chamber of Commerce was subsidized by the City; the Chamber and the City of Wharton should be working as a team. He stated that every study that had been conducted reflected the need for access to the river. Councilmember V. L. Wiley, Jr. stated it was bad that Council support could not be received for projects occurring on the west side of town. He stated that we had a diversified community and the west side of the town was just as important as other parts of the community. He said when we have opportunities to make things better, we should do the projects. He stated that he spoke to Mr. Garrett, LCRA Boardmember regarding the project. He stated that Mr. Garrett had assured him that he supported the project. Councilmember V. L. Wiley, Jr. stated that he would support any project that would make the town better. Councilmember Ken Freese stated that he did not know of any Chamber meetings held to discuss the project; however Art Schulz had met with him regarding the project and Mr. Schulz stated that the Chamber Board took no action. Councilmember Domingo Montalvo, Jr. stated that there was no backing for the project from WEDCo and the Chamber. He stated that the City Council needed to develop a process in order to prioritize future projects for the community. Councilmember Darryl Darnell stated that he spoke with an LCRA representative and was informed that LCRA had not made any decisions about a river project for the City of Wharton. He stated that the group planning meetings suggested river access and he had agreed that the citizens needed river access. Councilmember Darnell stated that the Chamber of Commerce had supported the river access project. Councilmember Domingo Montalvo, Jr. stated that no action was taken by the board. Councilmember Darryl Darnell stated that no action was taken did not reflect that the Chamber Board did not support the project. After some discussion, no action was taken.

The seventeenth item on the agenda was to review and consider the Wharton Municipal Pool Schedule for 2004. City Manager Andres Garza, Jr. presented a copy of the memorandum dated May 6, 2004 from Community Services Director Jo Knezek regarding the Wharton Municipal Pool Schedule for 2004. He then presented a copy of the pool schedule, season pass form, application for swimming lessons, rental form terms and conditions, application for season pass and a water aerobic consent form. Community Services Director Jo Knezek informed the City Council that all the lifeguards had completed the Red Cross CPR and Life Saving Skills requirements and the pool was scheduled to open on June 1, 2004. She stated that the first swim meet would be held on May 22, 2004 and the swim team had been practicing Tuesdays through Fridays from 4:30 p.m. to 5:30 p.m. through May 28, 2004 then at 7:30 a.m. for the summer session. She stated that water aerobics was scheduled on Tuesdays and Thursdays at 5:30 p.m. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the Wharton Municipal Pool Schedule for 2004. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The eighteenth item on the agenda was to review and consider the City Council Boards, Committees, and Commission Reports:

- A. City Council Legislative Committee meeting held April 27, 2004.
- B. Wharton Regional Airport Board meeting held May 4, 2004.

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

City of Wharton
Regular City Council Meeting
May 10, 2004

The nineteenth 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 7:50 p.m.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT
City Secretary