

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
JUNE 28, 2004**

Mayor Bryce D. Kocian declared a Regular Meeting duly open for the transaction of business at 7:00 p.m. Rev. Leo C. Humphrey 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., David Samuelson, 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, Police Chief Tim Guin, EMS Director John Kowalik, Public Works Director Phillip Bush, Municipal Court Judge Mary Garcia, and City Attorney Paul Webb.

Visitors present were: Benjamin Sharp with Wharton Journal-Spectator, David Schroeder with WEDCo, Carlos Cotton, I. O. Coleman, Jr., James Cody, Louis Gerad, Roshunda Jones, Rosemary Jones, Leo C. Humphrey, Dennis Morgan, and Donnie Carroll.

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. Mayor Bryce D. Kocian presented a Proclamation to Ms. Roshunda Jones, which read as follows:

WHEREAS, Ms. Roshunda Jones, a native Whartonian, graduated from Prairie View A&M University in May 2003 with a Bachelor of Arts Degree in Theatre Arts and a minor in English; and

WHEREAS, Since graduation, Ms. Jones has dedicated her life to working with children and has worked as a resident teaching artist for Express Children's Theatre in Houston, Texas; and

WHEREAS, Ms. Jones teaches drama for Aldine Independent School District also located in Houston, Texas; and

WHEREAS, Ms. Roshunda Jones is the director of the youth division of the Wharton Community Theatre, The Litefooters, and is currently directing Snow White for the theatre with children ranging from ages five to fourteen; and,

WHEREAS, Ms. Jones currently resides in Houston, Texas, and is thrilled to be given the opportunity to give back to the community that reared her.

NOW, THEREFORE, I, Bryce D. Kocian, by the authority vested in me as Mayor of the City of Wharton, Texas, do hereby deem it an honor and pleasure to extend this Certificate of Recognition to Ms. Roshunda Jones for her many accomplishments and do proclaim June 28, 2004 as "Ms. Roshunda Jones Day" in our community.

IN WITNESS THEREOF, I have set my hand and caused the seal of the City of Wharton to be affixed this 28th day of June, in the year of our Lord two thousand four A.D. Ms. Roshunda Jones publicly thanked the City Council for the Proclamation and stated that she hoped to do many more plays with the youth in the community. After some discussion, no action was taken.

The fifth item on the agenda was to review and consider the City of Wharton Financial Report for the month of May 2004. Finance Director Joyce Vasut presented the financial report for the month of May 2004, which was at 67% or eight months into the fiscal year. Mrs. Vasut stated that the general fund revenues were at 72.02% and the expenditures were at 70.67%. The total ad valorem taxes collected were \$1,652,933.00. The sales tax for the month of April 2004 was \$141,734 with \$94,489 going to the City and \$47,245 to WEDCo. The TexPool balance for May 2004 was \$324,367.28 with an average monthly yield of 1.0446%. The bank balance was \$1,323,319.64 with an averaged monthly yield of 2.01%. After some discussion, Councilmember Ray Linseisen made a motion to approve the financial report for the month of May 2004. Councilmember David Samuelson seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider June 8, 2004 and June 22, 2004 Thunderstorms:

A. Report on the debris removal work.

City Manager Andres Garza, Jr. informed the City Council that the City's Public Works Department began the debris removal work on Tuesday, June 15, 2004. He said that as of June 25, 2004, the targeted areas were completed. Public Works Director Phillip Bush addressed the City Council and stated that he had met with Waste Management to track the storm path and advised that all the debris was removed by the City of Wharton Public Works Department from the storm occurring on June 8, 2004. He stated that any existing brush would be the responsibility of Waste Management to remove under the Franchise agreement. After some discussion, no action was taken.

B. City of Wharton assistance for private property owners.

City Manager Andres Garza, Jr. informed the City Council that as the City crews removed debris, several private property owners requested the City's assistance in removing brush that was piled inside their property line. He said this brush was piled in their property because some were not able to pile all of the debris along the street. He then presented a copy of a letter received requesting assistance from Mrs. Aurora Bergara. He stated that the City Staff would

need City Council authorization to go on private property. He stated that the City Staff estimated that about six property owners needed assistance. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to authorize the City Staff to assist the property owners with debris removal from the tornado occurring on June 8, 2004. Councilmember Ken Freese seconded the motion. All voted in favor.

C. Report on June 22, 2004 – Thunderstorm.

City Manager Andres Garza, Jr. stated that on June 22, 2004, the City experienced a severe thunderstorm that produced rainfall at the rate of approximately 2 inches per hour. He said this caused the accumulation of water in the City's low laying areas. He said that it also caused water back-up in the Crestmont/Briar Lane drainage system. He stated that the preliminary assessment indicated that there were four (4) houses on Mahan Street that received water in them. Also, a couple of property owners on Willowbend had water come up to the garage. He said the City's industrial hangar (Schlumberger building) at the airport had water in the building. He stated that the City Staff was working with O'Malley Engineers on the drainage problem. He said Dairy Queen received water in the building from the rising water. He then presented a memorandum dated June 25, 2004 from Building Official Ronnie Bollom regarding additional areas that experienced rising water that included: 1321 N. Richmond Road, 520 N. Fulton Street, 526 N. Fulton Street, 600 N. Fulton Street, 315 Avenue C, 311 Mahan Street, 308 Mahan Street, 214 Mahan Street, 2518 Vela Lane, and Wharton Municipal Airport. Mr. Garza stated that a City Council Public Works Committee meeting was held earlier in the evening to discuss specific recommendations to address these problems. Mr. Garza recommended the City Staff approach Wharton County to work on the outfall ditches. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to authorize the City Staff to contact Wharton County to work on the outfall ditches. Councilmember Don Mueller seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider the recommendations made by the Planning Commission:

- A. Request by Mrs. Maria Martinez (Purchaser) and Minerva A. & Frank Munoz (Owner) for a variance to place a home over an interior property line located at 620 Maple, Washington Homes, Block 1, Lot 17B and 18B. City Manager Andres Garza, Jr. presented a copy of the memorandum dated June 22, 2004 from Planning Commission Chairman A. J. Rath recommending the City Council consider approving the request. He then presented a copy of the Planning Commission Communications from the meeting held June 21, 2004. After some discussion, Councilmember Ken Freese made a motion to approve the request by Mrs. Maria Martinez (Purchaser) and Minerva A. & Frank Munoz (Owner) for a variance to place a home over an interior property line located at 620 Maple, Washington Homes, Block 1, Lot 17B and 18B subject to the owner purchase. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.
- B. Request by Dr. Robert S. Vineyard for approval of a final re-plat at North Rusk Street and Kelly Street of Wharton, Block 48, Lots 2 and 3A. City Manager Andres Garza, Jr. presented a copy of the memorandum dated June 22, 2004 from Planning Commission Chairman A. J. Rath recommending the City Council consider approving the request. He then presented a copy of the Planning Commission Communications from the meeting held June 21, 2004.

After some discussion, Councilmember David Samuelson made a motion to approve the request by Dr. Robert S. Vineyard for approval of a final re-plat at North Rusk Street and Kelly Street of Wharton, Block 48, Lots 2 and 3A. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider the request by Mr. & Mrs. Donnie Carroll, 1418 Briar Lane, Linwood Unit 2, Lot 3, for a zero (0)-foot rear yard setback variance for the placement of a 12 feet x 11 feet extension of a carport and a zero (0)-feet x 20 feet carport. City Manager Andres Garza, Jr. presented a copy of the memorandum dated June 22, 2004 from Building Official Ronnie Bollom regarding the application filed by Mr. and Mrs. Donnie Carroll, 1418 Briar Lane, Linwood Unit 2, Lot 3 for a zero (0)-foot rear yard setback variance for the placement of a 12 feet x 11 feet extension of a carport and a zero (0)-feet x 20 feet carport. He then presented a copy of the application for variance filed by Mr. & Mrs. Carroll. Mr. Donnie Carroll addressed the City Council and requested a variance for placement of a carport in front of the garage for extension of the garage and also a carport in the rear of the property for storage of a boat. He stated that the fence was built 6" off the property line. He stated that approximately 5 – 7 years ago, General Sales installed the portable carport on the property. Building Official Lori Jaquez stated that no building permit was found by the Code Enforcement Department for the placement of the carport. Mr. Dennis Morgan addressed the City Council and opposed the variance request. He stated that Mr. Carroll installed a concrete area under the carport, which has created a lake on his property since the water was now draining into his property. Mr. Carroll stated that he had lived at the residence for 35 years and the drainage was along the fence line. He stated that the drainage from Mrs. Scheller was also along the fence line. Mr. Carroll stated that his property was approximately 9" higher than Mr. Morgan's property; therefore, the placement of the concrete did not affect the drainage. He stated that a permit was issued from the City of Wharton for placement of the concrete. Councilmember Ken Freese stated the variance request was for the placement of the carport, not the drainage. Councilmember Don Mueller asked if the placement of the concrete was at zero or 18". Mrs. Trina Morgan addressed the City Council and stated that if the carport was extended; then more water would run off the carport roof and onto their property. Mr. Carroll stated that the water would run off the carport and down the drainage area. Councilmember V. L. Wiley, Jr. recommended the item be tabled. After some discussion, Councilmember Don Mueller made a motion to approve the request by Mr. & Mrs. Donnie Carroll, 1418 Briar Lane, Linwood Unit 2, Lot 3, for a zero (0)-feet x 20 feet carport for placement in front of the garage; and tabled the zero (0)-foot rear yard setback variance for the placement of a 12 feet x 11 feet extension of a carport request. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider a resolution of the Wharton City Council opposing the reduction in the Texas Statewide Emergency Services Personnel Retirement Fund Lump Sum Benefits for On-Duty Deaths from \$60,000 to \$5,000 for the Wharton Fire Department. City Manager Andres Garza, Jr. presented a copy of the memorandum dated June 23, 2004 from Deputy City Secretary Lisa Stavena regarding the Texas Statewide Emergency Services Personnel Retirement Fund proposal for reduction of on-duty death benefits. He then presented a draft resolution opposing the proposed reduction in benefits. After some discussion, Councilmember David Samuelson made a motion to approve Resolution No. 2004-49, which read as follows:

**CITY OF WHARTON
RESOLUTION 2004 - 49**

A RESOLUTION OF THE WHARTON CITY COUNCIL OPPOSING THE REDUCTION IN THE TEXAS STATEWIDE EMERGENCY SERVICES PERSONNEL RETIREMENT FUND LUMP SUM BENEFITS FOR ON-DUTY DEATHS FROM \$60,000 TO \$5,000 FOR THE WHARTON FIRE DEPARTMENT.

- WHEREAS,** the City of Wharton Volunteer Fire Department participates in the Texas Statewide Emergency Services Personnel Retirement Fund, and
- WHEREAS,** the Wharton Volunteer Fire Department personnel provide a much needed service on a volunteer basis; and
- WHEREAS,** the Wharton Volunteer Fire Department personnel risk their lives in providing this service to City of Wharton and Wharton County citizens; and
- WHEREAS,** the Texas Statewide Emergency Services Personnel Retirement Fund in considering a proposal to reduce the lump sum benefits for on-duty deaths; and
- WHEREAS,** the City of Wharton wishes to oppose the reduction in the Texas Statewide Emergency Services Personnel Retirement Fund Lump Sum Benefits for on-Duty Deaths from \$60,000 to \$5,000; and
- WHEREAS,** the City wishes to submit this resolution as its public comments against the proposed rule change to the Office of Fire Fighters' Pension Commissioner Board.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Wharton, as follows:

- Section 1:** That the City of Wharton hereby opposes a reduction in lump sum death benefits from on-duty deaths from \$60,000 to \$5,000.
- Section 2:** That this resolution shall become effective immediately upon its passage.

Passed, Approved, and Adopted this 28th day of June 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 on the agenda was to review and consider a resolution authorizing the submittal of projects under the Texas Department of Transportation – Aviation Division, 2004 Routine

Airport Maintenance Program (RAMP) and authorizing the Mayor of the City of Wharton to execute all documents related to the 2004 Routine Airport Maintenance Program (RAMP) agreement between the City of Wharton and the Texas Department of Transportation – Aviation Division. City Manager Andres Garza, Jr. stated that during the regular June 14, 2004 Wharton City Council, the City Council approved the submission of projects for the Wharton Regional Airport under the Routine Airport Maintenance Program (RAMP). He said the City Staff contacted the Texas Department of Transportation Aviation Division regarding the City's interest in participating in the 2004 RAMP program. He then presented a copy of the letter dated June 21, 2004 from Ms. Megan Caffall, Grant Manager and a copy of the agreement. The deadline for submitting the agreement was July 9, 2004. He also presented a draft copy of the resolution formally submitting the projects and authorizing the Mayor to execute all documents related to the contract. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2004-50, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004 - 50**

A RESOLUTION AUTHORIZING THE SUBMITTAL OF PROJECTS UNDER THE TEXAS DEPARTMENT OF TRANSPORTATION – AVIATION DIVISION, 2004 ROUTINE AIRPORT MAINTENANCE PROGRAM (RAMP) AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO THE 2004 ROUTINE AIRPORT MAINTENANCE PROGRAM (RAMP) AGREEMENT BETWEEN THE CITY OF WHARTON AND THE TEXAS DEPARTMENT OF TRANSPORTATION – AVIATION DIVISION.

WHEREAS, the City of Wharton wishes to participate in the Texas Department of Transportation – Aviation Division 2004 Routine Airport Maintenance Program; and

WHEREAS, the City of Wharton wishes to submit the following projects for funding under the Texas Department of Transportation – Aviation Division 2004 Routine Airport Maintenance Grant Program:

1. Install fencing from end of new hangar to new parking pad and tie to existing fence
2. Construct an all weather road from taxiway to AWOS system
3. Asphalt area to tie in apron at the Industrial Hangar (approximately 100 feet x 60 feet)

WHEREAS, the City of Wharton and the Texas Department of Transportation – Aviation Division wishes to be bound in accordance with the contract for the 2004 Routine Airport Maintenance Program (RAMP); and

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute all documents related to the 2004 Routine Airport Maintenance Program (RAMP) between the City of Wharton and the Texas Department of Transportation – Aviation Division, and

WHEREAS, this resolution is passed in accordance with the Texas Department of Transportation – Routine Airport Maintenance Program.

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

Section I. That the City Council authorizes the submittal of the afore-mentioned projects under the Texas Department of Transportation – Aviation Division – 2004 Routine Airport Maintenance Program (RAMP).

Section II. That the City Council hereby authorizes the Mayor of the City of Wharton to execute all documents related to the 2004 Routine Airport Maintenance Program (RAMP) between the City of Wharton and the Texas Department of Transportation – Aviation Division

Section III. That the City of Wharton and the Texas Department of Transportation – Aviation Division are hereby bound in accordance with the contract.

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

Passed, Approved and Adopted this 28th day of June 2004.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

Attest:

JOYCE VASUT

City Secretary

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

The eleventh item on the agenda was to review and consider an ordinance amending the City of Wharton Code of Ordinances, Chapter 82 Traffic, Article II Operation of Vehicles, Section 82-56 School Zones; Providing that a violation of the ordinance or any part of the Code as adopted hereby shall constitute a penalty upon conviction of a fine; providing for separability; and setting an effective date. City Manager Andres Garza, Jr. presented a copy of the letter dated November 13, 2003 from Jeffrey Blair requesting the City to remove the school zones located at the St. Thomas Episcopal Church. He then presented a copy of the memorandum dated June 17, 2004 from Public Works Director Phil Bush to Police Chief Tim Guin also requesting the school zones be removed. Police Chief Guin had indicated that the school zones should be removed. Mr. Garza then presented a draft ordinance amending City of Wharton Code of Ordinances, Chapter 82 Traffic, Article II Operation of Vehicles, Section 82-56 School Zones. Police Chief Tim Guin

stated that St. Thomas Episcopal Church did not provide a private school at the location any longer; therefore, school zones were not needed. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Ordinance No. 2004-12, which read as follows:

**CITY OF WHARTON, TEXAS
ORDINANCE NO. 2004 - 12**

AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES CHAPTER 82 TRAFFIC, ARTICLE II OPERATION OF VEHICLES, SECTION 82-56 SCHOOL ZONES; PROVIDING THAT A VIOLATION OF THE ORDINANCE OR ANY PART OF THE CODE AS ADOPTED HEREBY SHALL CONSTITUTE A PENALTY UPON CONVICTION OF A FINE; PROVIDING FOR SEPARABILITY; AND SETTING AN EFFECTIVE DATE.

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

Chapter 82, Traffic, Article II Operation of Vehicles be amended as follows:

Section 82-56. School zones.

(a) Designated. The following areas are designated as school zones:

Abell Street, from its intersection with Alabama Street to its intersection with Center Street.

Abell Street, from its intersection with Belle Avenue to its intersection with Tiger Avenue.

Alabama Road, from its intersection with FM 1301 (Old Boling Road) to its intersection with Barfield Road.

Alabama Road, from its intersection with FM 1301 (Old Boling Road) to its intersection with Sunny Lane.

Alabama Street, from its intersection with East Avenue to its intersection with Speed Street.

Bailey Street, from its intersection with Outlar Street to its dead end.

Belle Avenue, from its intersection with Abell Street to its intersection with Junior College Boulevard.

Canton Street, from its intersection with Outlar Street to its intersection with Mattie Street.

Center Street, from its intersection with Abell Street to its intersection with Speed Street.

Lynn Street, from its intersection with Fulton Street to its intersection with Houston Street.

Mockingbird Lane, from its intersection with Rusk Street to its intersection with Sunny Lane.

Old Boling Road, from its intersection with Alabama Road to its intersection with John Knox Street.

Oriole Lane, from its intersection with Sunny Lane to its intersection with Meadow Lane.

Outlar Street, from its intersection with Bailey Street to its intersection with Canton Street.

Pecan Street, from its intersection with Third Street to its intersection with Mockingbird Lane.

Rusk Street, from its intersection with Mockingbird Lane to its intersection with Sante Fe Street.

Santa Fe Street, from its intersection with Fulton Street to its intersection with Walnut Street.

Speed Street, from its intersection with Alabama Street to its intersection with Center Street.

Sunny Lane, from its intersection with Alabama Road to its intersection with Park Lane.

Third Street, from its intersection with Rusk Street to its intersection with Pecan Street.

Tiger Avenue, from its intersection with Alabama Road to its intersection with the 600 Block of Ahldag Street.

- (b) Speed limit. The speed limit in the school zones described in subsection (a) of this section shall be 20 miles per hour from 7:30 a.m. until 8:30 a.m. and from 3:00 p.m. until 4:00 p.m., Monday through Friday.
- (c) Signs. The chief of police is authorized to cause signs to be erected designating the areas described in subsection (a) of this section as school zones and designating the speed limit to be followed in these school zones.

Separability

If any court of competent jurisdiction rules that any section, subsection, sentence, clause, phrase, or portion of this ordinance is invalid on 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 adjudged guilty of an offense under this Chapter shall be guilty of a misdemeanor punishable by a fine not to exceed Two Thousand Dollars and No Cents (\$2,000.00). Each day that a violation continues shall constitute a separate offense.

Effective Date

This Ordinance shall become effective on the 9th day of July 2004 at 12:01 a.m.

PASSED AND APPROVED by the City Council of the City of Wharton, Texas on the 28th day of June 2004.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

By: _____
JOYCE VASUT
City Secretary

APPROVED AS TO FORM:

PAUL WEBB

City Attorney

Published in the Wharton Journal Spectator Wednesday, June 30, 2004 and Wednesday, July 7, 2004.

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

The twelfth item on the agenda was to review and consider City Council authorization to purchase X26E Taser – Less Lethal Technology for the Wharton Police Department. City Manager Andres Garza, Jr. stated that Police Chief Tim Guin was requesting City Council authorization to purchase X26E Taser’s – Less Lethal Technology for the Wharton Police Department. He then presented information regarding the X26E Taser’s requested by the Wharton Police Department. He said funding for the purchase would come from the 2003 Local Law Enforcement Block Grant (LLEBG); therefore not affecting the general fund budget. He stated that since the equipment was specialized and sole sourced, the City should not have to seek bids. He said City Attorney Paul Webb had reviewed the procurement requirements. Police

Chief Tim Guin addressed the City Council and requested purchase of 18 device energy weapons to be utilized for violent individuals. Councilmember V. L. Wiley, Jr. stated that the weapon used by the City of Houston Police Department could not seduce the individual. Police Chief Tim Guin stated the weapon was 94% effective; therefore some individuals could overcome the resistance. He stated that the system affects the muscles making the individual fall down. Councilmember V. L. Wiley, Jr. asked if the purchase of the X26E Taser would be from a grant. Police Chief Tim Guin stated that the Police Department was awarded a grant to purchase the X26E Taser – Less Lethal Technology for the Wharton Police Department. Police Chief Tim Guin requested the purchase of \$19,695.50 plus the extended warranty. City Attorney Paul Webb informed the City Council that the purchase could be obtained from Less Lethal Technology under the Government Code 252 as being a single source provider for the energy weapon X26E Taser. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to authorize the purchase of X26E Taser – Less Lethal Technology for the Wharton Police Department under the Government Code 252. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The thirteenth item on the agenda was to review and consider the City of Wharton Construction Projects:

A. Caney Creek Outfall Ditch, Uticon, Inc. – Seventh and Final Pay Request.

City Manager Andres Garza, Jr. presented a copy of the Seventh and Final Pay Request prepared by Jones & Carter, Inc. for the Caney Creek Outfall Ditch, Uticon, Inc. After some discussion, Councilmember Ray Linseisen made a motion to approve Caney Creek Outfall Ditch, Uticon, Inc. – Seventh and Final Pay Request for the amount of \$59,125.50. Councilmember Don Mueller seconded the motion. All voted in favor.

B. Jr's Texas Best, LLC Project – BLS Construction Company, Change Orders No.'s 1, 2, 3, and 4. City Manager Andres Garza, Jr. presented a copy of the Change Orders No. 1, 2, 3, and 4 for the Jr's Texas Best, LLC Project prepared by Energy Engineering Company for BLS Construction. He said the change orders represent changes requested by the tenant (Jr's Texas Best, LLC.) He stated that the City of Wharton, as owner, must approve the change orders. He said any cost associated with the change orders would be bore by the tenant. After some discussion, Councilmember David Samuelson made a motion to approve Jr's Texas Best, LLC Project – BLS Construction Company, Change Orders No.'s: 1 in the amount of (\$1,368.80); Change Order No. 2 in the amount of \$816.63; Change Order No. 3 in the amount of \$3,160.23; and Change Order No. 4 in the amount of \$6,403.00. Councilmember Ken Freese seconded the motion. All voted in favor.

The fourteenth item on the agenda was to review and consider engaging the services of Ken Barnett Real Estate, Ken Barnett, MSA and MFLA for appraisal services for the Texas Department of Public Safety, Division of Emergency Management, Hazard Mitigation Grant Program, Acquisition Project #FEMA-1434-002, Tropical Storm Fay. City Manager Andres Garza, Jr. stated that on June 28, 2004, the City Staff would submit the information to the State for the 25% match for the Texas Department of Public Safety, Division of Emergency Management, Hazard Mitigation Grant Program, Acquisition Project #FEMA-1434-002, Tropical Storm Fay. He stated that in order to move forward, the City Staff was requesting the

City Council authorization to engage the services of Mr. Barnett to conduct the required appraisals. He said the City had used Mr. Barnett in the past for appraisal services. He said Mr. Barnett had indicated that the cost to complete the appraisals would be approximately \$350.00 per home. He said there were two homes that have been accepted by the State under this acquisition project. After some discussion, Councilmember Ray Linseisen made a motion to approve the engagement of services with Ken Barnett Real Estate, Ken Barnett, MSA and MFLA for appraisal services for the Texas Department of Public Safety, Division of Emergency Management, Hazard Mitigation Grant Program, Acquisition Project #FEMA-1434-002, Tropical Storm Fay. Councilmember Ken Freese seconded the motion. All voted in favor.

The fifteenth item on the agenda was Executive Session: City Council may adjourn into an Executive Session in accordance with Sections 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: Appointment of the Municipal Court Judge for July 1, 2004 to June 30, 2006. Mayor Bryce D. Kocian adjourned the meeting at 8:28 p.m.

Mayor Bryce D. Kocian returned the meeting to open session at 8:48 p.m.

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

A. Review & Consider: Appointment of the Municipal Court Judge for July 1, 2004 to June 30, 2006.

Councilmember Ken Freese made a motion to appoint Mrs. Mary Garcia as Municipal Court Judge for the term July 1, 2004 to June 20, 2006. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

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

- A. Building Standards Commission.
- B. Holiday Lighting Decorating Committee.
- C. Planning Commission.
- D. Plumbing and Mechanical Board.
- E. Youth Advisory Commission Advisors.

After some discussion, no action was taken.

The eighteenth item on the agenda was to review and consider United Methodist Action Reach-out Mission by Youth request to waive permit fees for building projects and dumpster service. City Manager Andres Garza, Jr. presented a copy of the letter dated June 9, 2004 from Mr. Jim & Elaine Dubose, Camp Directors of the United Methodist Action Reach-out Mission by Youth. He stated that the UM Army had conducted projects in the City of Wharton for the past 10 years to assist citizens with projects they could not necessarily conduct themselves. He said the UM Army would be in the Wharton area July 11 – 17, 2004. He said the UM Army was requesting the City of Wharton's assistance to waive the permit fees for building projects and dumpster service. Mr. Garza stated that the United Methodist Action Reach-out Mission by Youth would work closely with the Building Code Department for construction compliance of the building projects, and the Department would inspect all work performed. Mr. Garza stated that the Youth

would also utilize the City Pool one evening at no cost to the Youth. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve United Methodist Action Reach-out Mission by Youth request to waive permit fees for building projects and dumpster service. Councilmember David Samuelson seconded the motion. All voted in favor.

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

- A. Wharton Economic Development Corporation meeting held June 8, 2004.
- B. Building Standards Commission meeting held June 17, 2004.
- C. Planning Commission meeting held June 21, 2004.
- D. Parks Planning Committee meeting held June 22, 2004.

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

The twentieth item on the agenda was to review and consider the City Manager's Reports:

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| A. Police Department. | I. Engineer/Planning Department. |
| B. City Secretary/Personnel. | J. Facilities Maintenance Department. |
| C. Municipal Court. | K. Community Services Department/
Civic Center. |
| D. E.M.S. Department. | L. Wharton Municipal Pool. |
| E. Fire Department Incidents/Inspections. | M. Wharton Regional Airport. |
| F. Code Enforcement Department. | N. Legal Department. |
| G. Water & Sewer Department. | O. Weedy Lots/Sign Ordinance. |
| H. Public Works Department. | |

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

The twenty-first item on the agenda was adjournment. After some discussion, Councilmember Don Mueller made a motion to adjourn. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The meeting was adjourned at 8:53 p.m.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT
City Secretary