

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

Mayor Bryce D. Kocian declared a Regular Meeting duly open for the transaction of business at 7:00 P.M. Councilmember Don Mueller 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/City Secretary Joyce Vasut, Deputy City Secretary Lisa Stavena, Assistant to City Manager Jackie Jansky, Public Works Director Phillip Bush, Community Services Director Jo Knezek, Building Official Assisant Lori Jaquez, Fire Chief David Copeland, and City Attorney Paul Webb.

Visitors present were: Benjamin Sharp with Wharton Journal Spectator, Lewis Fortenberry, David Schroeder, Johnnie Roberts, I. O. Coleman, Jr., Carlos Cotton, Jim Faetche, Henry Thiele, Sherrill Schooler, David Long, Carl Marino, Donnie Carroll, Jim Cockrell, Louise Edwards, Eunice Jackson, Abby Schubach, and Tommy Childress.

The third item on the agenda was Public Comments. Mr. Jim Cockrell addressed the City Council and requested that the City Council Transportation Committee investigate the intersection of FM 102 and Richmond Road to be widened for the 18 wheeler trucks. He stated that the trucks are longer and the intersection has been dangerous. No action was taken.

The fourth item on the agenda was the Wharton Moment. Councilmember Domingo Montalvo, Jr. informed the City Council that the Wharton Chamber of Commerce had held a tourism conference in the City and was a very productive. Ms. Abby Schuback addressed the City Council and stated that Mr. Eric Curley with the Texas Travel Association spoke regarding the Hotel/Motel Tax Revenue.

City Manager Andres Garza, Jr. stated that the Wharton Little League 9 year old All-Stars had won the area tournament and had advanced to the district tournament. He also said that the 11 year old All-Stars were playing tonight and if they won then they would advance to the district tournament.

No action was taken.

The fifth item on the agenda was to review and consider the reading of the Wharton City Council Minutes from the regular meetings held June 14, 2004 and June 28, 2004. After some discussion, Councilmember Ray Linseisen made a motion to approve the reading of the Wharton City Council minutes of the regular meetings held June 14, 2004 and June 28, 2004. Councilmember David Samuelson seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider Request by Mr. Jim Faetche to address the City Council regarding the following:

- A.** Covering the Wharton Municipal Swimming Pool.
- B.** Mosquito Spraying.

City Manager Andres Garza, Jr. presented a copy of the letter dated June 21, 2004 from Mr. Jim Faetche requesting to address the City Council regarding the aforementioned items. Mr. Jim Faetche addressed the City Council and stated that two lawsuits would be forthcoming from citizens from the ultra violet radiation a child received from the Wharton Municipal Swimming Pool and also from the mosquito spraying that caused breathing conditions. He stated that he had asked for a cover over the Wharton Municipal Swimming Pool for years and he also stated that the spraying for the mosquitoes did not do any good. No action was taken.

The seventh item on the agenda was to review and consider Requests for Over 50% Variances:

A. Request by Mr. & Mrs. Donnie Carroll, 1418 Briar Lane, Linwood Unit 2, Lot 3 for a one-foot rear yard setback variance for the placement of a 12' x 20' portable carport with an 11' extension. City Manager Andres Garza, Jr. stated that during the June 28, 2004 regular Wharton City Council meeting, the City Council deferred the request 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. He stated that Building Official Ronnie Bollom conducted further inspections of the property and the requested variance. After conducting further research, Mr. Bollom did not find records for a variance or a permit for the placement of the existing 12' x 20' carport located on the property. Therefore, Mr. Carroll was requesting to amend his original variance to a request for a one-foot rear yard setback variance for the placement of a 12' x 20' portable carport with an 11' extension. He then presented a copy of the Council Communications from the regular City Council meeting held June 28th and a copy of Building Official Ronnie Bollom memorandum dated July 8, 2004 regarding Mr. Carroll's request. Building Official Assistant Lori Jaquez presented the request to the City Council. Mr. Donnie Carroll addressed the City Council and requested a variance for the extension of the carport for 11 feet with a continuance gutter on the extension. He stated there was a slope in the concrete paving that allowed the water to drain to the street. He also stated that the cross rail on the fence would hold the water for draining off the neighbor's property. Councilmember David Samuelson asked if water would be shed on Mr. Morgan's property. Mr. Carroll stated that the fence was 6" inside his property line and the building was 7" from the fence. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the request by Mr. & Mrs. Donnie Carroll, 1418 Briar Lane, Linwood Unit 2, Lot 3 for a one-foot rear yard setback variance for the placement of a 12' x 20' portable carport with an 11' extension. Councilmember Don Mueller seconded the motion. All voted in favor.

B. Request by Mrs. Sherrill L. Schooler, 716 East Caney Street, Dickson, Lot 31 and 32A

for a 12 feet front yard setback variance for the construction of a 12' x 23' carport. City Manager Andres Garza, Jr. presented a copy of the memorandum dated July 2, 2004 from Building Official Ronnie Bollom regarding the variance request by Mrs. Sherrill L. Schooler, 716 East Caney Street, Dickson, Lot 31 and 32A for a 12 feet front yard setback variance for the construction of a 12' x 23' carport. He then presented a copy of Mrs. Sherrill's application for variance. Building Official Assistant Lori Jaquez presented the request to the City Council. Mrs. Sherrill Schooler addressed the City Council and requested a variance to replace an existing carport that had been torn down approximately 5 years prior. She stated that the poles were still on the property. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the request by Mrs. Sherrill L. Schooler, 716 East Caney Street, Dickson, Lot 31 and 32A for a 12 feet front yard setback variance for the construction of a 12' x 23' carport. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

C. Request by Mr. David Long and Mr. Carl Marino, Owners of Wharton Motor Sales, 617 North Richmond Road, Wharton, Block 34, Lot 1C for a 6-foot front property line setback variance for the placement of a sign pole. City Manager Andres Garza, Jr. presented a copy of the memorandum dated July 2, 2004 from Building Official Ronnie Bollom regarding the variance request by Mr. David Long and Mr. Carl Marino, Owners of Wharton Motor Sales, 617 North Richmond Road, Wharton, Block 34, Lot 1C for a 6-foot front property line setback variance for the placement of a sign pole. He then presented a copy of the variance application filed by Mr. Long and Mr. Marino. Building Official Assistant Lori Jaquez presented the request to the City Council. Mr. David Long addressed the City Council and stated that a vehicle had drove over the existing sign and Wharton Motor Sales was requesting to install a sign on a pole that would be in line with other existing signs on Richmond Road. He stated that the sign would be 2 1/2" from the property line and 9' off the ground. After some discussion, Councilmember Ray Linseisen made a motion to approved the request by Mr. David Long and Mr. Carl Marino, Owners of Wharton Motor Sales, 617 North Richmond Road, Wharton, Block 34, Lot 1C for a 6-foot front property line setback variance for the placement of a sign pole. Councilmember David Samuelson seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider a resolution approving an Interlocal Agreement with Wharton County for in-kind assistance for the Southern Pacific Railroad Depot Restoration Project and authorizing the Mayor of the City of Wharton to execute said agreement on behalf of the City. City Manager Andres Garza, Jr. stated that the City of Wharton was moving forward with the Southern Pacific Railroad Depot Restoration Project and was ready to begin site preparations for the parking lot and park areas. He stated that Wharton County had agreed to assist the City with the project by donating equipment and labor as in-kind assistance that could be applied to the City's matching portion of the grant. He said an agreement between the City and County was required to obtain these services. He then presented a draft resolution approving an Interlocal Agreement with Wharton County for in-kind assistance for the Southern Pacific Railroad Depot Restoration Project and authorizing the Mayor of the City of Wharton to execute said agreement on behalf of the City. He stated that the Wharton County Commissioner's Court had considered and approved the agreement during their meeting that morning. After some discussion, Councilmember David Samuelson made a motion to approve Resolution No. 2004-51, which read as follows:

CITY OF WHARTON

RESOLUTION NO. 2004 - 51

A RESOLUTION APPROVING AN INTERLOCAL AGREEMENT WITH WHARTON COUNTY FOR IN-KIND ASSISTANCE FOR THE SOUTHERN PACIFIC RAILROAD DEPOT RESTORATION PROJECT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE SAID AGREEMENT ON THE CITY'S BEHALF.

WHEREAS, The Wharton City Council wishes to approve an interlocal agreement between the City of Wharton and Wharton County for in-kind assistance for the Southern Pacific Railroad Depot Restoration Project; and

WHEREAS, The Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute said agreement on the City behalf; and

WHEREAS, The City of Wharton and Wharton County 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 the interlocal agreement between the City of Wharton and Wharton County for in-kind assistance for the Southern Pacific Railroad Depot Restoration Project and authorizes the Mayor of the City of Wharton to execute the agreement on behalf of the City.

Section II. That the City of Wharton and Wharton County are hereby bound by the conditions set forth in the contract.

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

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

CITY OF WHARTON

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT

City Secretary

Councilmember seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider recommendations made by the City Council Public Works Committee:

A. Presentation of Drainage / Flood Improvement Projects in the City of Wharton. City Manager Andres Garza, Jr. stated that on June 28, 2004, the City Council Public Works Committee met with the City Staff and Mr. Carlos Cotton, P.E., Jones & Carter, Inc. Consulting Engineers, to discuss the drainage and flood improvement projects in the City of Wharton. Mr. Cotton gave a presentation to the City Council regarding the projects, which consisted of:

- Baughman Slough Diversion
- West Side (Nan Ya) Drainage Ditch
- Santa Fe Railroad Outfall Ditch
- Old Caney Creek (Central Wharton)
- Wal-Mart Outfall (Complete)
- Lake Nett Drainage (County)
- Caney Creek Drainage (County)
- Barfield Road (County)
- Cutbirth Road Drainage (County)

Councilmember Domingo Montalvo, Jr. requested that the presentation be presented to Wharton County in order to start working on the project.

B. City of Wharton formal request to the Wharton County Commissioners Court for assistance in providing the necessary drainage outfalls needed in Wharton County's jurisdiction to properly drain areas within the City. City Manager Andres Garza, Jr. stated that during the meeting, the Public Works Committee voted to recommend the City Council consider approving the submission of a formal request to Wharton County Commissioner's Court for assistance in providing the necessary drainage outfalls needed in Wharton County's jurisdiction to properly drain the areas within the City. He then presented a draft copy of the City's formal request letter. After some discussion, Councilmember Ken Freese made a motion to authorize the Mayor to submit the request letter to Wharton County Commissioners Court for assistance in providing the necessary drainage outfalls needed in Wharton County's jurisdiction to properly drain areas within the City. Councilmember Don Mueller seconded the motion. All voted in favor.

C. **Resolution:** A resolution authorizing Drainage/Flood Improvement Projects to alleviate flooding within the City of Wharton, approving engineering service agreements with Jones & Carter, Inc. for said improvements and authorizing the City Manager to pursue the acquisition of the necessary drainage easements or rights-of-way needed for said improvements. City Manager Andres Garza, Jr. presented a copy of the resolution authorizing the Drainage/Flood Improvement Projects to alleviate flooding within the City of Wharton, approving engineering service agreements with Jones & Carter, Inc. for said improvements and authorizing the City Manager to pursue the acquisition of the necessary drainage easements or rights-of-way needed for said improvements. Councilmember Ken Freese requested the two projects of Ahldag and Santa Fe Railroad be submitted to Jones & Carter, Inc. since the other projects required assistance from Wharton County. Councilmember Domingo Montalvo, Jr. requested that all the projects be submitted. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2004-52, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004 - 52**

**A RESOLUTION AUTHORIZING DRAINAGE/FLOOD IMPROVEMENT PROJECTS
TO ALLEVIATE FLOODING WITHIN THE CITY OF WHARTON, APPROVING**

ENGINEERING SERVICE AGREEMENTS WITH JONES & CARTER, INC. FOR SAID IMPROVEMENTS AND AUTHORIZING THE CITY MANAGER TO PURSUE THE ACQUISITION OF THE NECESSARY DRAINAGE EASEMENTS OR RIGHTS-OF-WAY NEEDED FOR SAID IMPROVEMENTS.

WHEREAS, The Wharton City Council wishes to authorize moving forward with the drainage and floodproofing projects to alleviate flooding within the City of Wharton; and

WHEREAS, The Wharton City Council wishes to approve a professional engineering service agreement with Jones & Carter, Inc. Consulting Engineers for said improvements; and

WHEREAS, The City of Wharton and Jones & Carter, Inc. wishes to be bound by the conditions of the agreement; and

WHEREAS, The Wharton City Council wishes to authorize the City Manager to pursue the acquisition of the necessary drainage easements or rights-of-way needed for said improvements.

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 following drainage and floodproofing projects to alleviate flooding within the City of Wharton:

- A. West Side Drainage
- B. Mayfair Addition
- C. Crestmont/Kelving Way Area
- D. Ahldag Addition
- E. Baughman Slough Diversion
- F. Caney Creek East of U.S. 59
- G. Alabama Road Outfall Ditch
- H. Lake Nett Outfall

Section II. That the City Council hereby approves a professional engineering service agreement with Jones & Carter, Inc. Consulting Engineers for said improvements.

Section III. That the City of Wharton and Jones & Carter, Inc. Consulting Engineers are hereby bound by the conditions set forth in the contract.

Section IV. That the Wharton City Council hereby authorizes the City Manager to pursue the acquisition of the necessary drainage easements or rights-of-way needed for said improvements.

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

Passed, Approved, and Adopted this the 12th day of July 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 tenth item on the agenda was to review and consider the recommendations made by the City Council Finance Committee:

A. **Resolution:** A resolution authorizing the Mayor of the City of Wharton, Texas, to execute an agreement between the City of Wharton and Frost-Arnett Company for Collection Services for Delinquent EMS Accounts. City Manager Andres Garza, Jr. stated that on May 27, 2004, the City Council Finance Committee voted to recommend the City Council consider entering into an agreement with Frost-Arnett Company for Collection Services for Delinquent EMS Accounts. He then presented a copy of the proposed agreement submitted by Frost-Arnett Company, which had been submitted to City Attorney Paul Webb for his review. He also presented a copy of a draft resolution authorizing the Mayor to execute the agreement. City Attorney Paul Webb recommended the City Council approve the contract with Frost-Arnett Company after reviewing the contract. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2004-53, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004 - 53**

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF WHARTON, TEXAS TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF WHARTON AND FROST-ARNETT COMPANY FOR COLLECTION SERVICES FOR DELINQUENT EMS ACCOUNTS.

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton, Texas, to execute an agreement for collection services for delinquent EMS accounts with Frost-Arnett Company; and

WHEREAS, the City of Wharton and Frost-Arnett Company wishes to be bound by the conditions as set forth in the agreement.

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

Section I. That the Wharton City Council hereby authorizes the Mayor of the City of Wharton, Texas, to execute an agreement for collection services for delinquent EMS accounts with Frost-Arnett Company.

Section II. That Frost-Arnett Company and the City of Wharton are hereby bound by the conditions as set forth in the agreement.

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

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

CITY OF WHARTON

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT

City Secretary

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

B. Resolution: A resolution extending the Depository Banking Services Agreement between the City of Wharton and Prosperity Bank and authorizing the Mayor of the City of Wharton to execute all documents relating to said contract. City Manager Andres Garza, Jr. stated that the City Council Finance Committee voted to recommend the City Council consider extending the agreement with Prosperity Bank for banking services during its July 1, 2004 meeting. He stated that the agreement with Prosperity Bank would expire on September 30, 2004. He said the agreement allowed for two (2) one-year extensions to the agreement if mutually agreed upon by both the City and the Bank. He stated that based on the interest rate quoted in the agreement and overall service provided by the bank, he recommended that the City extend the agreement with Prosperity Bank for one additional year. He then presented a draft resolution approving the contract extension and a copy of the current contract. He stated that the existing contract would be extended for an additional year with the same terms. He informed the City Council that he had spoken with Tom Miller of Prosperity Bank, who agreed to extend the contract for an additional year. After some discussion, Councilmember Ray Linseisen made a motion to approve Resolution No. 2004-54, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004 - 54**

A RESOLUTION EXTENDING THE DEPOSITORY BANKING SERVICES AGREEMENT BETWEEN THE CITY OF WHARTON AND PROSPERITY BANK AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID CONTRACT.

WHEREAS, the Wharton City Council wishes to extend the current contract with Prosperity Bank for City of Wharton Depository Banking Services; and

WHEREAS, the City of Wharton and Prosperity Bank wishes to be bound by the conditions as set forth in the agreement; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor the City of Wharton to execute all documents related to extending the contract.

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 approves the extension of the contract with Prosperity Bank for the City of Wharton for Depository Banking Services and authorizes the Mayor of the City of Wharton, Texas to execute all documents related to extending the contract.

Section. II. That Prosperity Bank and the City of Wharton are hereby bound by the conditions as set forth in the agreement.

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

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

C. Texas Municipal League Intergovernmental Pools:

1. Resolution: A resolution extending the contract with the Texas Municipal League – Intergovernmental Employee Benefits Pool for Group Hospitalization, Long-Term Disability, Life, Accidental Death & Dismemberment; and Fortis Benefits Insurance Co. for Dental Coverage Insurance for City Employees effective October 1, 2004; Authorizing the Mayor of the City of Wharton to execute all documents relating to said contracts. City Manager Andres Garza, Jr. stated that the City Council Finance Committee had met July 1, 2004 and was recommending the City Council consider approving the extension of the contract with the Texas Municipal

League – Intergovernmental Employee Benefits Pool for Group Hospitalization, Long-Term Disability, Life, Accidental Death & Dismemberment; and Fortis Benefits Insurance Co. for Dental Coverage Insurance for City Employees effective October 1, 2004. He stated that the City’s current agreement for employee health insurance with the Texas Municipal League Intergovernmental Employee Benefits Pool would expire September 30, 2004. He then presented a copy of the re-rates that the City received for the health benefits. He stated that during the current year, the City’s loss ratio was over 130%. However, TML had quoted the City a re-rate, which consisted of a 5 percent increase and a one-month premium vacation. He said that due to the high loss ratio and current insurance market, the five- percent increase was very good and manageable for the City. He stated that in seeking proposals for health insurance, the City would be taking a risk of not receiving any proposals due to the high loss-ratio. He then presented a copy of draft resolution extending the contract with the Texas Municipal League Intergovernmental Employee Benefits Pool for employee health benefits and Fortis for dental benefits. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2004-55, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004-55**

A RESOLUTION EXTENDING THE CONTRACT WITH THE TEXAS MUNICIPAL LEAGUE – INTERGOVERNMENTAL EMPLOYEE BENEFITS POOL FOR GROUP HOSPITALIZATION, LONG-TERM DISABILITY, LIFE, ACCIDENTAL DEATH & DISMEMBERMENT; AND FORTIS BENEFITS INSURANCE CO. FOR DENTAL COVERAGE INSURANCE FOR CITY EMPLOYEES EFFECTIVE OCTOBER 1, 2004; AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID CONTRACTS.

WHEREAS, on June 30, 2004, the City of Wharton received the renewal rate for group hospitalization, long-term disability, life, accidental death & dismemberment, and dental insurance for city employees; and

WHEREAS, the Wharton City Council wishes to extend the contract with Texas Municipal League - Intergovernmental Employee Benefits Pool for the group hospitalization, long-term disability, life and accidental death & dismemberment for one year beginning October 1, 2004.

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

- Section I. That Texas Municipal League - Intergovernmental Employee Benefits Pool Agreement is hereby extended beginning October 1, 2004 for group hospitalization, long-term disability, life and accidental death & dismemberment.

- Section II. That Fortis Benefits Insurance Co. agreement is hereby extended for the voluntary dental coverage for City Employees beginning October 1, 2004.

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

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

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

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT

City Secretary

Councilmember David Samuelson seconded the motion. All voted in favor.

2. Resolution: A resolution extending the contract with the Texas Municipal League – Intergovernmental Risk Pool for Property & Casualty and Workers' Compensation Coverage effective October 1, 2004 and authorizing the Mayor of the City of Wharton to execute all documents relating to said contract. City Manager Andres Garza, Jr. stated that the City Council Finance Committee had met July 1, 2004 and was recommending the City Council consider approving the extension of the contract with TML-IRP for Property & Casualty and Workers' Compensation Coverage effective October 1, 2004. He stated that the City's current agreements for workers' compensation, and property and casualty coverage with the Texas Municipal League Intergovernmental Risk Pool would expire September 30, 2004. He then presented a copy of the re-rate that the City received for the Workers' Compensation and Property and Casualty. He stated that last fiscal year, the City only received one proposal for property and casualty insurance. He said the proposal process for insurance was very time consuming. He said that based on the response's the City received the last few years on insurance proposals, the cost associated with preparing and mailing the proposals was not economical. He stated that the re-rates for the property and casualty insurance for the City, did not include any rate increases. The amount of the premiums due by the City would be higher than last year since the City had added some items to the insurance. He stated that the re-rates for workers' compensation include about a 20 percent increase over the previous year. The total contribution by the City for fiscal year 2004-05 would be \$77,164 compared to \$64,119 in fiscal year 2003-04. The increase was based on two factors: the rate for each workers' compensation code and the experience modifier and fund discount. He stated that the rate for each workers' compensation code increased across the board by 4.4% for all cities. The experience modifier was calculated based on the City workers' compensation claims for the previous year and the fund discount was based on all cities. The City experience modifier increased from .71 to .72 and the City's fund discount increased from .71 to .80. He stated that although the 20% increase may seem high, it was much better than in the past. He stated that during fiscal year 2002-03, the City paid over \$110,000 for workers' compensation due to a high experience modifier and fund discount. He then presented a copy of

draft resolution extending the contract with the Texas Municipal League Intergovernmental Risk Pool for Property & Casualty and Workers' Compensation Coverage. After some discussion, Councilmember Ray Linseisen made a motion to approve Resolution No. 2004-56, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004-56**

A RESOLUTION AWARDING TEXAS MUNICIPAL LEAGUE-INTERGOVERNMENTAL RISK POOL (TML-IRP) THE RERATE FOR PROPERTY & CASUALTY AND WORKERS' COMPENSATION INSURANCE FOR THE CITY OF WHARTON; AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID CONTRACT.

WHEREAS, the City of Wharton received the renewal rate for property and casualty and workers' compensation; and

WHEREAS, the City of Wharton wishes to extend the contract with the Texas Municipal League Intergovernmental Benefits Pool for property & casualty and workers' compensation coverage beginning October 1, 2004.

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

Section I. That Texas Municipal League-Intergovernmental Benefits Pool is hereby extended beginning October 1, 2004 for the Property & Casualty Insurance and Workers' Compensation Insurance for the City of Wharton.

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

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

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

CITY OF WHARTON, TEXAS

By: _____
BYRCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT

City Secretary

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

D. Engaging the services of Parker and Knabeschuh, Attorneys for bankruptcy claims

service. City Manager Andres Garza, Jr. stated that the City Council Finance Committee was recommending the City Council set a limit of \$200.00 of debt to be filed for Chapter 11 or 13 bankruptcy cases and to engage the services Mr. Don Knabeschuh of Parker and Knabeschuh in Houston to file the claims. He then presented a copy of the letter dated May 28, 2004 from City Attorney Paul Webb regarding bankruptcy collection services and recommended the City engage the services of Parker and Knabeschuh for bankruptcy collections services. City Attorney Paul Webb recommended the City Council approve the engagement of services with Mr. Don Knabeschuh of Parker and Knabeschuh in Houston for filing Chapter 11 and 13 bankruptcy cases for the fee of \$50.00. He stated that he had been working with Mr. Knabeschuh for filing bankruptcy cases. After some discussion, Councilmember Ken Freese made a motion to approve setting a limit of \$200.00 of debit to be filed for Chapter 11 or 13 bankruptcy cases and to engage the services Mr. Don Knabeschuh of Parker and Knabeschuh in Houston to file the claims. Councilmember Don Mueller seconded the motion. All voted in favor.

E. City of Wharton Financial Auditing Services:

1. Bid Tabulation.

2. **Resolution:** A resolution awarding the bid for Financial Auditing Services for the City of Wharton Fiscal Year 2003-2004 Annual Audit and authorizing the Mayor of the City of Wharton to execute all documents relating to the agreement. City Manager Andres Garza, Jr. stated that on July 7, 2004, the City of Wharton received proposals for Auditing Service for the City of Wharton Fiscal Year 2003-2004 Annual Audit. He stated that under separate cover, the City Council received a copy of the City of Wharton Request for Proposal Annual Financial Audit and a copy of the proposals submitted from the following five firms:

Harrison, Waldrop & Uherek, LLP.- Victoria, Texas

Null-Lairson Certified Public Accountants – Houston, Texas

Sandersen, Knox & Belt, L.L.P. – Sugar Land, Texas

Stephenson & Trlicek, P.C. – Wharton, Texas

Thompson, Williams, Biediger, Kastor & Young, L.C. – San Antonio, Texas

He also presented a copy of the tabulation of costs of services provided by each firm and a draft resolution awarding the contract. He stated that the City Council Finance Committee had met July 9, 2004 to hear presentations from the Auditing Firms that submitted proposals and the committee was recommending the contract be awarded to Harrison, Waldrop & Hherek, LLP from Victoria, Texas in the amount not to exceed \$22,500.00. Councilmember Ken Freese stated that Harrison, Waldrop & Uherek, LLP had the staff and experience. Councilmember Ray Linseisen stated that City of El Campo and East Bernard School District also engage the services of this audit firm. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve Resolution No. 2004-57, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004 - 57**

A RESOLUTION APPROVING A CONTRACT BETWEEN HARRISON, WALDROP & UHEREK, L.L.P. AND THE CITY OF WHARTON FOR THE 2003-2004 ANNUAL FINANCIAL AUDIT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO THE AGREEMENT ON BEHALF OF THE CITY OF WHARTON.

WHEREAS, competitive, sealed bids were received on July 7, 2004 for 2003-2004 Annual Financial Audit; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the and the City of Wharton to execute an agreement with Harrison, Waldrop & Uherek, L.L.P. for the 2003-2004 Annual Financial Audit; and

WHEREAS, the City of Wharton and Harrison, Waldrop & Uherek, L.L.P wishes to be bound by the conditions as set forth in the agreement.

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

Section I. That the Wharton City Council hereby authorizes the Mayor of the City of Wharton, Texas to execute an agreement between Harrison, Waldrop & Uherek, L.L.P and the City of Wharton for the 2003-2004 Annual Financial Audit in an amount not to exceed \$22,500.00.

Section. II. That Harrison, Waldrop & Uherek, L.L.P. and the City of Wharton are hereby bound by the conditions as set forth in the agreement.

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

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

CITY OF WHARTON

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT

City Secretary

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

The eleventh item on the agenda was review and consider City of Wharton Home Elevation Project- FEMA and the State of Texas FEMA-DR-1257-TX Project UN50-3.2-04/ Office of Rural Community Affairs (ORCA) Contract No. 722067:

A. Bid Tabulation.

B. Resolution: A resolution awarding contracts under the City of Wharton Home Elevation Project- FEMA and the State of Texas FEMA-DR-1257-TX Project UN50-3.2-04/ Office of Rural Community Affairs (ORCA) Contract No. 722067 and authorizing the Mayor of the City of Wharton to execute all documents relating to the agreement. City Manager Andres Garza, Jr. stated that the City of Wharton was moving forward with the Wharton Home Elevation Project-

FEMA and the State of Texas FEMA-DR-1257-TX Project UN50-3.2-04/ Office of Rural Community Affairs (ORCA) Contract No. 722067. He stated that six proposals were sent out; however only one bid was received from Childress Construction Company, Inc. from Jackson, Mississippi in the amount of \$312,153.00 for Bid Package No. 1 for three homes on slabs, \$568,760.00 for Bid Package No. 2 for thirteen homes on blocks or pad type with a Total Project Bid of \$880,913.00 for sixteen homes. He stated that approximately \$470,000 was available for the project and the City Council approved a criteria for the City Staff to evaluate the applicants. Community Services Director Jo Knezek informed the City Council that of the sixteen property owners, four had decided not to participate. Mr. Garza stated that the property owners had to provide proof of ownership, income, and paid taxes or have an agreement to pay taxes. He stated an agreement between the property owner and contractor would have to be executed prior to any awards for the home project. He recommended authorization for the City Staff to proceed with the criteria process and to submit confirmation to FEMA for reimbursement of funds. Councilmember David Samuelson asked if environmental, clean-up and reconstruction would be included in the project. Mr. Garza stated that the bid received was for the construction phase. He stated that during the elevation process, if the house received damage then the damaged area would be repaired. City Attorney Paul Webb stated that Childress Construction would video the entire home from the inside and outside prior to the construction phase and if something was damaged then only that portion would be repaired. Mr. Childress addressed the City Council and stated that the house would be raised with steel; however if the house would not be stable to be raised then the house would not be elevated. Councilmember David Samuelson asked about the two homes that were not bid. Mr. Childress stated that the homes have fireplaces and he has found from past experience that the weight of the fireplace could not be sufficient and that raising of the home would not be feasible. Mr. Garza stated that the homes would be elevated one foot above Base Flood Elevation. Councilmember Domingo Montalvo, Jr. publicly thanked the City Staff for developing the program. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2004-58, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004 - 58**

A RESOLUTION AWARDDING CONTRACTS UNDER THE CITY OF WHARTON HOME ELEVATION PROJECT – FEMA AND THE STATE OF TEXAS FEMA-DR-1257-TX PROJECT UN50-3.2-04/OFFICE OF RURL COMMUNITY AFFAIRS (ORCA) CONTRACT NO. 722067 AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO THE AGREEMENTS.

WHEREAS, competitive, sealed bids were received on July 12, 2004 for contractor service for the City of Wharton Home Elevation Project-FEMA and the State of Texas FEMA-DR-1257-TX Project UN50-3.2-04/ Office of Rural Community Affairs (ORCA) Contract No. 722067; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton, Texas, to award and execute any and all agreements for the City of Wharton Home Elevation Project- FEMA and the State of Texas FEMA-DR-1257-TX Project UN50-3.2-04/ Office of Rural Community Affairs (ORCA) Contract No. 722067; and

WEHREAS, the Wharton City Council hereby wishes to authorize the Mayor of the City of Wharton to award the funding in accordance with the prioritization of the homeowners in accordance with the City of Wharton Resolution 2004-106 establishing the program guidelines.

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 award and execute any and all agreements for the City of Wharton Home Elevation Project- FEMA and the State of Texas FEMA-DR-1257-TX Project UN50-3.2-04/ Office of Rural Community Affairs (ORCA) Contract No. 722067.

Section II. That the City Council hereby authorizes the Mayor of the City of Wharton to award the funding to the homeowners in accordance with the prioritization of the homeowners in accordance with the City of Wharton Resolution 2004-106 establishing the program guidelines.

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

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

CITY OF WHARTON

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT
City Secretary

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

The twelfth item on the agenda was to review and consider 2004 Street Improvement Program:

A. Bid Tabulation.

B. Resolution: A resolution awarding the bid for the City of Wharton 2004 Street Improvement Program and authorizing the Mayor of the City of Wharton to execute all documents relating to the contract. City Manager Andres Garza, Jr. stated that on July 7, 2004, the City of Wharton received bids for the 2004 Street Improvement Program. He then presented a copy of the bid tabulation, and a copy of the memorandum dated July 8, 2004 from Public Works Director Phil Bush recommending the bid be awarded to Falitsek Paving Partnership, LTD in the amount of \$72,248.50. He also presented a draft resolution awarding the bid. Councilmember Ken Freese stated that Falitsek Paving was awarded the bid last year and the

only complaint he had received was that if a car would be parked in the road, the paving would be laid down around the vehicle and requested that the vehicles be removed prior to laying down the material. Public Works Director Phillip Bush stated that he would advise Faltisek Paving Partnership of his concerns. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2004-59, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004 - 59**

A RESOLUTION APPROVING A CONTRACT BETWEEN FALTISEK PAVING PARTNERSHIP, LTD. AND THE CITY OF WHARTON FOR THE 2004 STREET IMPROVEMENT PROJECT.

WHEREAS, competitive, sealed bids were received on July 7, 2004 for 2004 Street Improvement Project; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton, Texas to execute an agreement with Faltisek Paving Partnership, LTD. and the City of Wharton for the 2004 Street Improvement Project; and

WHEREAS, the City of Wharton and Faltisek Paving Partnership, LTD. wishes to be bound by the conditions as set forth in the agreement.

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

Section I. That the Wharton City Council hereby authorizes the Mayor of the City of Wharton, Texas to execute an agreement Faltisek Paving Partnership, LTD. and the City of Wharton for the 2004 Street Improvement Project.

Section. II. That Faltisek Paving Partnership, LTD. and the City of Wharton are hereby bound by the conditions as set forth in the agreement.

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

Passed, Approved, and Adopted this the 12th day of July 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 thirteenth item on the agenda was to review and consider City Council authorization for the submission of an application to the Texas Department of Agriculture Texas Capital Fund for the Downtown Revitalization Program. City Manager Andres Garza, Jr. presented a copy of the Texas Department of Agriculture, Texas Capital Fund Downtown Revitalization Program Guidelines for Program Year 2004. He stated that the City Staff was requesting City Council authorization to prepare an application for submission to the State for the program. He stated that the program would allow the City, if funded, to address some improvements to the downtown area. A public hearing would be held to receive public input. He stated that the application was due August 6, 2004. He stated that a formal resolution would be submitted to the City Council's for consideration at the July 26, 2004 meeting. The funding would cover only construction costs. He stated that architectural or engineering costs were not eligible. Eligible uses of the funds included sidewalks, lighting, etc. He stated that the Wharton County Lighting Project and the downtown sidewalks could be improved through the Downtown Revitalization Program. Councilmember Ray Linseisen asked if the City would apply for the maximum amount. Mr. Garza stated that the maximum grant was for \$150,000 per city. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to authorize the submission of an application to the Texas Department of Agriculture Texas Capital Fund for the Downtown Revitalization Program. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The fourteenth item on the agenda was to review and consider a resolution approving a Third Party Agreement between the City of Wharton, Jr's Texas Best, LLC and R. B. Stewart Petroleum Products, Inc. for Jr's Texas Best Smokehouse and Bakery Project, Texas Capital Fund Contract No. 723092 and authorizing the Mayor of the City of Wharton to execute said agreement on behalf of the City of Wharton. City Manager Andres Garza, Jr. stated that Mr. Scott Chambers of Jr's Texas Best, LLC had requested the City Council consider entering into a three party agreement for funding they needed with their petroleum supplier. He then presented a copy of the current lease agreement between the City of Wharton and Jr's Texas Best, LLC for the Texas Best Smokehouse and Bakery Project, Texas Capital Fund Contract No. 723092. He also presented a copy of the third party agreement between the City, Jr's Texas Best, LLC and R. B. Stewart Petroleum Products, Inc. He stated that City Attorney Paul Webb had reviewed the contract. He then presented a draft resolution approving the third party contract. City Attorney Paul Webb informed the City Council that the third party agreement would ensure continuation of operations and recommended approval. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2004-60, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004 - 60**

A RESOLUTION APPROVING A THIRD PARTY AGREEMENT BETWEEN THE CITY OF WHARTON, JR'S TEXAS BEST, LLC, AND R. B. STEWART PETROLEUM PRODUCTS, INC. FOR JR'S TEXAS BEST SMOKEHOUSE AND BAKERY PROJECT, TEXAS CAPITAL FUND CONTRACT NO. 723092 AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE SAID AGREEMENT ON BEHALF OF THE CITY OF WHARTON.

WHEREAS, the Wharton City Council wishes to approve a third party agreement between the City of Wharton, Jr's Texas Best, LLC, and R. B. Stewart Petroleum for the Jr's Texas Best Smokehouse and Bakery Project; and

WHEREAS, the Wharton City Council wishes the third party agreement to be made part of the lease agreement between the City of Wharton and Jr's Texas Best, LLC; and

WHEREAS, the City of Wharton, Jr's Texas Best, LLC, and R. B. Stewart Petroleum Products, Inc. wishes to be bound by the conditions as set forth in the agreement; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor the City of Wharton to execute all documents related to extending the contract.

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 approves the third party agreement between the City of Wharton, Jr's Texas Best, LLC, and R. B. Stewart Petroleum for the Jr's Texas Best Smokehouse and Bakery Project and authorizes the Mayor of the City of Wharton, Texas, to execute all documents related to the contract.

Section. II. That Jr's Texas Best, LLC, R. B. Stewart Petroleum, Inc. and the City of Wharton are hereby bound by the conditions as set forth in the agreement.

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

Passed, Approved, and Adopted this the 12th day of July 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 fifteenth item on the agenda was to review and consider Nominations to the Board of Trustees of the Texas Municipal League Intergovernmental Risk Pool. City Manager Andres Garza, Jr. presented a copy of the letter dated June 22, 2004 from the Texas Municipal League Intergovernmental Risk Pool requesting that nominations be made to the Board of Trustees

whose terms were to expire. Nominations are to be made to the Board Secretary by Thursday, August 12, 2004. The terms for Places 6, 7, 8, and 9 would expire October 1, 2004 and nominations to fill those places may be made. He stated that he had been serving as Board Trustee Place 9 for approximately 20 years and was requesting the City Council submit his name as a candidate for Position 9. He also requested the use of City of Wharton letterhead for mailing out candidate support letters. After some discussion, Councilmember Ray Linseisen made a motion to nominate Mr. Andres Garza, Jr. to the Texas Municipal League Intergovernmental Risk Pool Place 9 and also to authorize the approval to use City of Wharton letterhead for mailing out candidate support letters. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

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

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

Councilmember Andres Garza, Jr. presented a copy of the list of Boards, Commissions, and Committee members whose terms had expired or had a vacant position. He stated that Mr. Doug Smolik had indicated that he would fill the vacant position on the Holiday Light Decorating Committee and Mrs. Loretta Flynn had indicated that she would fill the vacant position on the Youth Advisory Commission. Mr. Steven May had told the City Staff that he would renew his term as an adult advisor on the Youth Advisory Commission. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to appoint Mr. Doug Smolik to the Holiday Light Decorating Committee and Mrs. Loretta Flynn and Mr. Steven May to the Youth Advisory Commission for the term ending June 30, 2006. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

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

- A. City Council Finance Committee meeting held July 1, 2004.
- B. City Council Finance Committee meeting held July 9, 2004.
- C. Wharton Regional Airport Board meeting held July 6, 2004.

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

The eighteenth 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 8:54 p.m.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN

City of Wharton
Regular City Council Meeting
July 12, 2004

Mayor

ATTEST:

JOYCE VASUT
City Secretary