

**MINUTES  
OF  
CITY OF WHARTON  
REGULAR CITY COUNCIL MEETING  
AUGUST 9, 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., David Samuelson, Ken Freese, Don Mueller, and Domingo Montalvo, Jr.

Councilmember absent was: Ray Linseisen.

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, Building Official Ronnie Bollom, Community Services Director Jo Knezek, Building Official Assisant Lori Jaquez, EMS Director John Kowalik, and City Attorney Paul Webb.

Visitors present were: Benjamin Sharp with Wharton Journal Spectator, Lewis Fortenberry, David Schroeder, Carlos Cotton, Joyce Barker, Joe Barker, Brenda Muzyka, Tim Muzyka, Merrell "Doc" Barfield, Raymond Fisher, Marilyn Clark, Arthur Araguz, Jr., Karen Munoz, Cherry Grant, Irene Bentancur, Bo Esquivel, Christine Esquivel, Donna Hollis, Milton Hollis, Erin Hollis, Sessley Grant, Monica Fraker, Gloria Guzman, Marcy Garcia, Debbie Hamman, Heidi Jaquez, Herman Bentancur, O.J. Esquivel, Dylan Fraker, Bobby Garcia, Jeremy Garza, Jesmon Grant, Johnnie Gusman, Matthew Hamman, Justin Hobbs, Sean Hollis, Erich Jaquez, Michael Mata, Lucas Munoz, Coach Patrick Parsons, Coach Milton Hollis, and Team Manager Pat Parsons.

The second item on the agenda was Roll Call and Excused Absences. Councilmember Don Mueller made a motion to excuse the absence of Councilmember Ray Linseisen from the Regular City Council meeting held August 9, 2004. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

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

The fourth item on the agenda was the Wharton Moment. Mayor Bryce D. Kocian stated that the Emergency Medical Services Fundraiser would be held on Saturday, August 14, 2004 at the Civic Center.

Mayor Bryce D. Kocian presented the proclamation honoring the Wharton Babe Ruth 13 year old All-Star team, which read as follows:

**WHEREAS,** we realize that participation in organized athletics helps to build character and teaches a wholesome sense of fair play and good sportsmanship among our youth; and

**WHEREAS,** to really excel in baseball, a young person must demonstrate, in addition to a great deal of natural ability, an outstanding spirit of dedication, enthusiasm, and hard work; and

**WHEREAS,** a striking example of this has been brought to my attention in the achievement of the **2004 Thirteen Year Old Wharton Babe Ruth All Star Team** in their accomplishments and who claimed the title of State Champions at the tournament held in Lake Jackson, Texas, July 10 – 13, 2004 and advancing to the Regional Tournament held in Monticello, Arkansas, July 23-27, 2004 where they won Third Place; and

**WHEREAS,** Player Erich Jaquez was named the Most Valuable Player (MVP) during the State Tournament; and

**WHEREAS,** the **THIRTEEN YEAR OLD WHARTON BABE RUTH ALL STAR TEAM** for the 2004 season includes **Herman Bentancur, Trey Drenner, O.J. Esquivel, Matthew Ford, Dylan Fraker, Bobby Garcia, Jeremy Garza, Jesmon Grant, Johnnie Gusman, Matthew Hamman, Justin Hobbs, Sean Hollis, Erich Jaquez, Michael Mata, and Lucas Munoz; Coaches Patrick Parsons and Milton Hollis; and Team Manager Pat Parsons.**

**NOW, THEREFORE** I, Bryce D. Kocian, by virtue of the authority vested in me as Mayor of the City of Wharton, Texas, do hereby proclaim the August 9, 2004, as the **Thirteen Year Old Wharton Babe Ruth All Star Team Day in Wharton, Texas**, and encourage all our citizens to join me in honoring these persons for a job well done in representing our community.

**IN WITNESS THEREOF,** I have hereunto set my hand and caused the seal of the City of Wharton to be affixed this ninth day of August, in the year of our Lord two thousand four, A.D. 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 July 12, 2004 and July 26, 2004 and the special meetings held July 13, 2004 and July 19, 2004. After some discussion, Councilmember David Samuelson made a motion to approve the Wharton City Council minutes of the regular meetings held July

12, 2004 and July 26, 2004 and the special meetings held July 13, 2004 and July 19, 2004 as presented. Councilmember Ken Freese seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider the request by Dr. Merrell Barfield of the Beautification Commission, to submit a grant application to Gulf Coast Medical Foundation to assist in funding the Medical History Mural. City Manager Andres Garza, Jr. informed the City Council that the Beautification Commission was moving forward with the Medical History Mural. He said Dr. Merrell Barifield, Chairman of the Mural Committee had begun fundraising efforts for the Medical History mural that was to be placed on the old Navion Aircraft Building adjacent to the former Rugeley & Blasingame Hospital. He stated that the building was owned by Russell Baird and was located in the 200 block of North Fulton Street. He said the mural would include 27 of the City's former doctors who are 80 years or older or those who have passed on, to honor their service to our communities. He said the cost of each portrait had a contract price of \$350.00 plus \$20.00 for wall preparation. He presented a schedule showing that the cost of the mural would be approximately \$18,695.00. He said the Commission was requesting \$6,000.00 from the foundation to assist with funding the project. He stated that since the Commission was requesting the submission of a grant application, City Council approval was required. Dr. Merrell Barfield addressed the City Council and requested authorization to submit a grant application to Gulf Coast Medical Foundation in the amount of \$6,000 for the medical history mural. After some discussion, Councilmember Ken Freese made a motion to approve the request by Dr. Merrell Barfield of the Beautification Commission, to submit a grant application to Gulf Coast Medical Foundation to assist funding the Medical History Mural in the amount of \$6,000. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The seventh item on the agenda was to review and consider the request by Mr. and Mrs. Timothy Muzyka for the following variances for the construction of a 12' x 20' carport on an existing concrete pad and a 12' x 12' addition for a utility room and storage located at 329 Lazy Lane, Mayfair, Block 11, Lot 6B:

- A. Nine feet variance from the interior side yard property line from the required ten feet.
  - B. Four and a half feet variance from the rear street property line from the required fifteen feet.
- City Manager Andres Garza, Jr. presented a copy of the memorandum dated August 5, 2004 from Building Official Ronnie Bollom regarding the variance request by Mr. and Mrs. Timothy Muzyka. He stated that since the variance requests were over 50%, the requests did not go before the Planning Commission but were presented to the City Council directly. He also presented a copy of the application for variance and photos of the property. Mr. Timothy Muzyka addressed the City Council and stated that the property was purchased approximately one month ago and there was an existing concrete pad and requested placement of a carport, utility room and storage building on the pad. He stated that the building would be constructed with wood and hardi-plank, which would fit in with the surrounding buildings in the area. He stated that the house did not have adequate space for a utility room. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the request by Mr. and Mrs. Timothy Muzyka for the variances of nine feet variance from the interior side yard property line from the required ten feet, and four and a half feet variance from the rear street property line from the required fifteen feet for the construction of a 12' x 20' carport on an existing concrete pad and a 12' x 12' addition for a utility room and storage located at 329 Lazy Lane, Mayfair, Block 11, Lot 6B. Councilmember Don Mueller seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider the recommendation by the Electrical Board:

**A. Ordinance:** An ordinance amending the City of Wharton Code of Ordinances, Chapter 18, Building and Construction, Article V. Electrical Code; Providing that a violation of the Ordinances or any part of the Code as adopted hereby shall constitute a penalty upon conviction of a fine.

City Manager Andres Garza, Jr. stated that the Electrical Board met July 27, 2004 and voted to recommend the City Council consider approving an amendment to the City's existing ordinance. He then presented a copy of the memorandum dated August 5, 2004 from Electrical Board Chairman Wayne Adam recommending the City Council consider approving the ordinance amending the City of Wharton Code of Ordinances, Chapter 18, Building and Construction, Article V. Electrical Code. He then presented a copy of his letter dated August 2, 2004 to City Attorney Paul Webb requesting that he review the ordinance. Building Official Ronnie Bollom stated that the City would enforce the state adopted regulations for issuing electrical licenses instead of the local entities issuing the licenses. Assistant City Attorney Amy Rod informed the City Council that she reviewed the Ordinance, which complied with the state code. Mr. Bollom stated that the state also adopted continuing education requirements. City Manager Andres Garza, Jr. stated that the City of Wharton would no longer be allowed to test for electrical licenses, or issue electrical licenses. Mr. Bollom stated that the state law would be effective September 1, 2004. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Ordinance No. 2004-13, which read as follows:

**CITY OF WHARTON  
ORDINANCE NO. 2004-13**

**AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 18, BUILDING AND CONSTRUCTION, ARTICLE V. ELECTRICAL CODE; 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:

**WHEREAS**, it is the desire of the City of Wharton to adopt, in all respects, the National Electrical Code, 2002 Edition with its latest revisions; and amend Article V. Electrical Code.

**DIVISION 1. ADOPTION OF THE TEXAS ELECTRICAL SAFETY AND LICENSING ACT.**

**Sec. 18-136. Law.**

Title 8, Occupations Code Chapter 1305 Administered by the Texas Department of Licensing and Regulation. (Effective September 1, 2003).

**Sec. 18-137. Codes and Rules adopted.**

- (a) The Administrative Rules of the Texas Department of Licensing and Regulation 16 Texas Administrative Code, Chapter 73 are here by adopted, except insofar as they may conflict with provisions of this article.
- (b) Any person violating any provision of these Rules and Regulations shall be subject to the penalties as provided in section 1-5 of this Code of Ordinances.  
(Ord. No. 1997-01, 1-13-97; Ord. No. 1999-05, § I, 4-15-99; Ord. No. 2002-05, 3-11-02)

**Sec. 18-138. Electrical board--Created; membership; organization.**

- (a) There is hereby created an electrical board, which shall consist of five members. Members of the board shall be appointed by the mayor with the approval of the city council at any regular council meeting date between the election date set for the mayor's election and June 30 of the same year. Board members' appointments shall be for a period of two years, and any or all members may be removed by the mayor with council approval for reasons considered justifiable by the city council. Continued absence of any member from regular or called meetings of the board may render any such member subject to immediate removal from office. The chairman of the electrical board shall be elected by a majority vote of the board. Members of the electrical board shall be selected as follows:
  - (1) One member shall be selected from licensed and insured master electricians performing business with an established electrical contracting firm within the jurisdiction of the city. This member need not be the owner of such firm, but must be employed full time by such firm.
  - (2) One member having had at least twenty (20) years of experience as a master electrician, having no other affiliation with any other business that has additional representation on the Electrical Board, or a master electrician as stated in paragraph (1) above, provided that he is employed by a different electrical contracting firm than the person in paragraph (1).
  - (3) One member shall be an employee of the power company, such power company being the one holding a franchise to transmit and distribute electrical energy within the city.
  - (4) One member shall be the city fire marshal/inspector.
  - (5) One member shall be selected at large from the city council.
- (b) No meeting shall be considered official except when a majority is present.
- (c) The city attorney shall be the electrical board's legal consultant.

- (d) The chairman of the electrical board shall appoint a secretary to keep the official records of the board's actions, such records to be open for public inspection upon request of any taxpayer.
- (e) Regular meetings of the electrical board shall be held on a quarterly basis to be determined by the board at the time of appointment. Special meetings of the board may be called by the chairman for conducting urgent business.

**Sec. 18-139. Same-Duties.**

- (a) The electrical board shall review and recommend revisions of the electrical code, ordinances and regulations pertaining to local electrical work.
- (b) The electrical board shall prepare quarterly reports to the city council indicating therein the official actions of the board.
- (c) The electrical board shall hear appeals, conduct hearings of suspension or revoking of licenses prior to final council consideration and prepare reports thereon.
- (d) The electrical board shall make such investigations regarding electrical work as is deemed necessary by a majority of the board members or as directed by the city council, city manager, building official or the chief electrical inspector.

**Sec. 18-140. Same--Appeal from actions.**

Any person dissatisfied with a decision of the electrical board shall have the right to appeal. Such appeal shall be perfected by addressing a letter to the city council within ten days after the action appealed from, stating such person's desire to appeal from such action. Upon receipt of notice of such appeal, the city council shall set the appeal down for hearing, and the city secretary shall notify the appellant and also the chairman of the electrical board of the date of such hearing. The city council shall have the right to affirm, modify or reverse the action and/or decision complained of. The action of the city council shall be final. If no appeal is taken within the time and in the manner provided in this section, the ruling of the electrical board shall be final. The action of the electrical board shall in all things be effective unless and/or until reversed or modified as provided in this section.

**Sec. 18-141. Electrical inspector--Creation of position; appointment; qualifications.**

- (a) The position of electrical inspector is hereby created. This position shall be filled by appointment by the city manager. The electrical inspector shall be the building official.
- (b) The electrical inspector shall be well-versed in the rules and regulations as set out in this article and all local ordinances relating to electrical work shall be thoroughly versed in requirements of the latest edition of the National Electrical Code and the **International**

Fire Code and shall maintain a library of such codes and ordinances in order to be of aid in maintaining uniformity in work requirements.

**Sec. 18-142. Same--Duties.**

- (a) The electrical inspector shall be responsible for the enforcement of this article and any other electrical ordinance, shall make or cause to be made thorough inspections of all electrical work, and may cause to be disconnected from any source of electrical energy any wiring not meeting the requirements as set out in this article and which is deemed hazardous to life and property.
- (b) The electrical inspector shall cause to be issued for each job requiring any type of electrical work a permit and inspection report, shall see that the fees set out in this article are properly paid and that all persons doing electrical work within the city shall comply with this article and all related ordinances.
- (c) The electrical inspector shall submit a written monthly report of the activities of his office to the city council at its second regular meeting.
- (d) The electrical inspector and the electrical board shall work in close harmony: the inspector having authority to recommend and to enforce this article and other related ordinances; the electrical board to recommend standards, procedures and changes in the code and to hear any appeals that may arise from decisions rendered by the electrical inspector.

**Sec. 18-143. Same--Right of entry.**

The electrical inspector shall have the right during reasonable hours to enter any building, manhole or subway in the discharge of their official duties or for the purpose of inspecting the electrical apparatus or appliances therein contained, and for that purpose they shall be given prompt access to all buildings, private or public, and to all manholes and subways on application to the firm or individual owning or in charge or control of the buildings, manholes and subways.

**Sec. 18-144. Liability for damages.**

This article shall not be construed to relieve from or lessen the responsibility of any party owning, operating or controlling any electric wiring, apparatus, devices, appliances, fixtures or equipment for damages to persons or property caused by any defect therein; nor shall the city be held as assuming by this article any such liability because of the inspection authorized in this article or the certificates or approval issued as provided in this article or otherwise.

**Sec. 18-145. Penalties.**

Any person violating any of the terms or provisions of this article shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than \$100.00 nor more than the maximum provided in section 1-5 for each offense. If the terms or provisions of this article

are violated by any corporation or firm, the officers and agents actively in charge of the business of such corporation or firm and the person actually performing the work for such corporation or firm shall be subject to the penalties provided in this section.

## **DIVISION 2. LICENSES AND REGISTRATION**

### **Sec. 18-171. Compliance generally.**

No person shall cause or allow any electric wiring or apparatus to be installed, altered or changed in any building or structure within the City of Wharton unless the person doing such work has been licensed in accordance with rules and regulations of the Texas Department of Licensing and Regulations for electricians.

Each licensed electrical contractor, upon applying for the first permit with the City of Wharton, shall provide the city with certificates of insurance in the same amounts as required by the Texas Department of Licensing and Regulations.

### **Sec. 18-172. Electrical work done only by or under a licensed electrician.**

No person or firm shall engage in the business of installing electrical wiring or apparatus within any building or structure or on any property within the city who does not hold a valid and unexpired State of Texas Master Electrician's License, and a State of Texas Electrical Contractors License.

The only exception to the above, is electrical work performed in a dwelling or on a dwelling premises by the owner who resides in that dwelling. Any work so performed, however, must be permitted, inspected and approved the same as if it was performed by a licensed electrician.

## **DIVISION 3. PERMITS AND INSPECTIONS**

### **Sec. 18-201. Permit required; exceptions.**

- (a) No alteration or change shall be made in the electric wiring or apparatus located within a building nor shall any such electric wiring or apparatus be installed in any building without first securing a permit therefor, except as provided in this section, nor shall any change be made in any wiring or apparatus after inspection without notifying the electrical inspector and securing a new permit therefor.
- (b) No wiring, poles, duct lines, guy anchors, apparatus, devices, appliances, fixtures or equipment for the transmission, distribution or utilization of electrical energy for any purpose shall be installed within the city nor shall any addition be made to any such existing wiring, poles, duct lines, guy anchors, apparatus, devices, appliances, fixtures or equipment without first securing a permit therefor from the building official, except as follows:

- (1) No permit shall be required for replacing fuses or lamps or the connection of portable equipment to suitable receptacles, which have been permanently installed, or for repairs to portable appliances.
  - (2) No permit shall be required for replacing flush or snap switches, receptacles, lamp sockets, the installation of lamps or minor repairs on permanently connected electrical appliances and lighting fixtures.
  - (3) No permit shall be required for the installation, maintenance or alteration of wiring, poles and down guys, apparatus, devices, appliances or equipment for telegraph, telephone, signal service or central station protective service used in conveying signals or intelligence, except where electrical work is done at a voltage over 50 volts and not more than 500 watts.
  - (4) No permit shall be required for the installation, maintenance or alteration of electric wiring, apparatus, devices, appliances or equipment to be installed by an electric public service company for the use of such company in the generation, transmission, distribution, sale or utilization of electrical energy. However, an electric public service company shall not do any wiring on a customer's premises other than wiring or repairs to apparatus which is part of the company's distribution system, including metering equipment, meter cabinets, and meter related connections wherever located and transformer vaults in which the company's transformers are located, nor shall any of its employees do any work other than that done for the company as provided in this subsection by virtue of this exception.
  - 5) No permit shall be required for the installation of temporary wiring apparatus, devices, appliances or equipment used by a recognized electrical training school or college.
  - (6) No permit shall be required for the installation and maintenance of railway crossing signal devices, when such is performed by due authority of the railroad and in accordance with the standards of the American Railroad Association and in collaboration with and approval of the city street department.
- (c) Where no permit is required for the installation or repair of wiring, apparatus, devices or equipment for the transmission, distribution or utilization of electric energy for any purpose, the wiring, apparatus, devices or equipment shall be installed or repaired in conformity with this article.

**Sec. 18-202. Permit issuance to licensed persons only.**

No permit required in this division shall be issued to any person or firm who is not the holder of a Valid and current Texas Master Electrician's License and Texas Electrical Contractor's License.

A licensed contractor may designate, by letter to the Permitting Department, an individual authorized to obtain permits for this contractor. This shall remain in effect until cancelled by the Permitting Department or the electrical contractor.

The only exception to the above is electrical work performed in a dwelling or on the dwelling premises by the owner who resides in that dwelling. Any work performed, however, must be permitted, inspected and approved the same as if it was performed by a licensed electrician.

**Sec. 18-203. Application for permit.**

The application for a permit required in this division shall describe the work to be done and shall be made in writing by a person holding the proper Texas Master Electricians License and Texas Electrical Contractors License. The permit when issued shall be issued to such applicant to cover such work as described and detailed. Any changes or additions must be covered by additional permits at the time changes are made. The application shall be accompanied by such plans, specifications and schedules as may be necessary to determine whether or not the installation as described will be in conformity with the requirements of this article.

**Sec. 18-204. Submitting plans and specifications; criteria for issuance of permit.**

- (a) Plans and specifications. With each application for an electrical permit, when required by the building official for enforcement of this article, two sets of plans and specifications shall be submitted. The building official may require that such plans and specifications be prepared and designed by and bear the seal of a registered professional electrical engineer licensed by the state to practice as such.
- (b) Issuance criteria.
  - (1) The application, plans and specifications filed by an applicant for an electrical permit shall be checked by the chief electrical inspector. Such plans may be reviewed by other departments of the city to check compliance with laws and ordinances under their jurisdiction. If the chief electrical inspector is satisfied that the work described in an application for the permit and the plans filed therewith conform to the requirements of this article and other pertinent laws and ordinances and that the fees as specified in this article have been paid, he shall issue a permit therefor to the applicant.
  - (2) When the chief electrical inspector issues the permit, he shall endorse in writing or stamp on both sets of plans and specifications, "reviewed".
  - (3) The chief electrical inspector may issue an electrical permit covering part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted or approved, provided adequate information and detailed statements have been made complying with all pertinent requirements of this article. The holder of such permit may proceed without

assurance that the permit covering the work in the entire building or structure will be granted.

**Sec. 18-205. Issuance and display of permit.**

- (a) Plans, specifications and schedule shall not be submitted and will not be examined under this article, unless the plans, specifications and schedule are submitted by the holder of the proper electrician's license or electrical sign contractor's license. If it is found that the installation as described will in general conform to the requirements of this section and if the applicant has complied with all provisions of this article and all applicable ordinances of the city, a permit for such installation shall be issued.
- (b) On all new construction, the permit for electrical work shall be displayed in a readily accessible location, or as directed by the building official, throughout the time such installation, as is covered by the permit, is being installed.

**Sec. 18-206. Effect of issuance and display of permit.**

- (a) The issuing or granting of an electrical permit or approval of plans and specifications shall not be construed to be a permit for or an approval of any violation of any of the provisions of this article or any other ordinance. No permit presuming to give authority to violate or cancel the provisions of this article shall be valid, except insofar as the work or use, which it authorizes, is lawful.
- (b) The issuance of a permit based upon plans and specifications shall not prevent the building official from thereafter requiring the correction of errors in plans and specifications or from preventing building operations from being carried on thereunder when in violation of this article or any other ordinance of the city pertaining thereto.

**Sec. 18-207. Lapse of permit.**

Every permit issued by the building official under this article shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within 180 days from the date of such permit or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 120 days. Before such work can be recommenced, a new permit shall be first obtained to do so, and the fee shall be one-half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work and provided, further, that such suspension or abandonment has not exceeded one year.

**Sec. 18-208. Suspension or revocation of permit.**

- (a) The building official may, in writing, suspend or revoke a permit issued under this article whenever the permit is issued in error or on the basis of incorrect information supplied or when in violation of any ordinance, regulation or any of the provisions of this article.

- (b) Any contractor who accepts payment for electrical work, then refuses to finish the work for which a permit was taken, shall, after written notification by the building official, be reported to the Texas Department of Licensing and Regulation for possible license suspension. (See Sec. 1305.251 Requested suspension by Local Government.)
- (c) Upon failure on the part of any electrical contractor or electrical sign contractor to correct any defect, error or deficiency in any work installed under the authority of an electrical permit issued to him within ten calendar days after written notification thereof from the chief electrical inspector, the chief electrical inspector shall, without further notice, stop the issuance of permits to such electrical contractor or electrical sign contractor until such corrections have been made, inspected and approved. This subsection shall be cumulative of all other penalties provided in this article, and in addition thereto the penalties provided in this article may be enforce.

**Sec. 18-209. Permit and inspection fees.**

Payment of an electrical permit and inspection fees as established by the City Council of the City of Wharton under separate resolution.

**Sec. 18-210. Same--Double for late payment.**

All electrical permit, inspection, fixture and appliance fees shall apply, except that if any person shall make application for permit as provided in this article after the work has been started or after the work has been partially completed or concealed, such person shall pay double the fee that would originally be required. These double fees shall be paid by the person to whom the permit is issued.

**Sec. 18-211. Inspection--Prior to concealment.**

No person shall conceal or cause to be concealed any electric wiring or apparatus mentioned in this article without the express permission of an electrical inspector. The electrical inspector is hereby authorized and directed to have removed any flooring, lathing or plaster, sheet metal or any other material, which may conceal any electrical wiring or apparatus contrary to this article. On completion of the inspection of any electric wiring or apparatus designed to be concealed and found to be in full compliance with this article, the electrical inspector shall post a notice to that effect at the main disconnecting means or other conspicuous place, and the notice shall be considered as an express permission to conceal the electric wiring and apparatus, but no concealment shall take place until such notice has been posted by an electrical inspector.

**Sec. 18-212. Certificate of satisfactory inspection; turning on current.**

Upon completion of the installation or of any alteration or change of electric wires and apparatus in any building, the person doing the installation shall notify an electrical inspector who shall inspect the installation within a reasonable time. If the installation is in accordance with the ordinances, rules and regulations of the city, the electrical inspector shall issue a certificate of satisfactory inspection which shall contain the date of inspection and an outline of the results of

such examination, but no certificate shall be issued unless all apparatus, wires, etc., connected therewith are in strict conformity with the rules and regulations set forth in this article nor shall current be turned on any wiring apparatus until a certificate of satisfactory inspection is issued. All electrical construction, all material and all apparatus used in connection with electric work and the operation of all electrical apparatus shall be in conformity with this article.

**Sec. 18-213. Remedying dangerous or unsafe conditions.**

Where wires or apparatus are found in dangerous or unsafe condition or are deemed to be an interference with the work of the fire department, the electrical inspector shall notify the person owning, using or operating them to place them in a safe, secure and non-interfering condition. Any person failing, neglecting or refusing within a reasonable time to make the necessary repairs or changes and have the necessary work completed within a reasonable time after the receipt of the notice shall be deemed guilty of violation of this article, and every day which shall elapse after the expiration of the reasonable time until the wires and apparatus are repaired, removed or changed as required by the electrical inspector or fire marshal shall be considered a separate offense within the intent and meaning of this article.

**Sec. 18-214. Interruption of current by Fire Chief or Electrical Inspector.**

The chief of the fire department or an electrical inspector or a competent person delegated by them or either of them shall have the power to at once cause the removal of all wires or the turning off of all electric current where the circuits interfere with the work of the fire department during the progress of a fire. The electrical inspector is hereby authorized and empowered to cause the turning off of electric current from all conductors or apparatus which are deemed by him to be in an unsafe condition or which have not been installed in conformity with this article.

**Sec's. 18-215--18-250. Reserved.**

**DIVISION 4. INSTALLATION AND EQUIPMENT STANDARDS AND SPECIFICATIONS**

**Sec. 18-251. Decision on questions.**

The chief electrical inspector and the electrical board shall decide all questions not provided for in this article pertaining to the installation, operation or maintenance of electric wiring and apparatus.

**Sec. 18-252. Conformity to standards; identification of maker of materials.**

- (a) No electrical material, apparatus, device, appliance, fixture or equipment shall be sold or installed in the city unless it is in conformity with this article, the statutes of the state and the rules and regulations issued by the state department of commerce under authority of the state statutes.

- (b) The maker's name, trademark or other identification symbol shall be placed on all electrical materials, apparatus, devices, appliances, fixtures and equipment used or installed under this article. All items enumerated in this section shall be listed and/or labeled approved by Underwriters' Laboratories, Inc.

**Sec. 18-253. Use of approved wiring.**

In general, any type of electric wiring or wiring system may be used in the city as approved in the national codes adopted in this article, except where specifically prohibited in this article.

**Sec. 18-254. Services and feeders.**

The use of service entrance cable type SE is prohibited.

**Sec. 18-255. Placing meters on street side of buildings.**

The electrical public service company shall never require the placing of a meter on the front or street side of a building unless not practical to locate the meter otherwise. In such cases the location shall be at a point convenient to the electric public service company and as determined by the electrical board.

**Sec. 18-256. Use of conduit for wiring in churches, schools, theaters, gathering places or commercial buildings; wiring residences.**

All wiring for electric light or power installed in churches, schools, theaters or other places used for public gatherings or in any building located within the No. 1 Fire District limits of the city or in any building used for commercial purposes shall be installed a code approved raceway system, and/or code approved cable assembly.

**Sec. 18-257. Aluminum cable, conductors or wire.**

No aluminum or copper-clad aluminum electric cable, conductors or wire shall be used within the city on any building, structure or apparatus wiring except as noted in this section.

Aluminum type conductors may be used in feeders or as service entrance conductors, provided that no such aluminum conductors smaller than number one AWG shall be used. Aluminum conductors, where permitted, shall be installed in conduit and shall only be used in conjunction with compatible lugs, splices, terminals or connectors. Aluminum conductors shall never be used from service equipment to the grounding electrode. In addition thereto, aluminum conductors consisting of either two or three insulated wires wrapped around a messenger cable in sizes number six AWG and larger may be used for outside branch circuits and feeders, provided they are installed in accordance with the provisions of the electrical code.

**Sec. 18-258. Type UF cable.**

Type UF electric cable shall be used only for branch circuit wiring on residential properties. Where installed underground, the cable shall be buried 18 inches minimum. The cable shall be protected by rigid conduit on exterior walls and at the points where it enters and leaves the ground.

**Sec. 18-259. Back wired wiring devices.**

The use of back wired wiring devices shall be prohibited unless all wires are terminated either under the screw or by use of a screw-activated clamp. Terminating wires by a spring tension clamp are expressly prohibited.

**Sec. 18-260. Use of 14-gauge conductor or wire in residential applications.**

The use of 14-gauge conductor or wire shall be prohibited for residential branch circuit applications **except when used for switch legs and permanently installed lighting.**

**Sec's. 18-261--18-300. Reserved.**

**Fine and Penalty for Violations**

Section 18-145 Any person violating any of the terms or provisions of this article shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than \$100.00 nor more than the maximum provided in Section 1-5 for each offense. If the terms or provisions of this article are violated by any corporation or firm, the officers and agents actively in charge of the business of such corporation or firm and person actually performing the work for such corporation or firm shall be subject to the penalties provided in this section.

**Separability**

If any court of competent jurisdiction rules that any section, subsection, sentence, clause, phrase, or portion of this ordinance is invalid or unconstitutional, any such portion shall be deemed to be a separate, distinct, and independent provision, and any such ruling shall not affect the validity of the remaining portions hereof.

**Effective Date**

This Ordinance shall become effective on the 1st day of September 2004 at 12:01a.m.

**Passage and Approval**

**PASSED AND APPROVED** by the City Council of the City of Wharton, Texas, on the 9<sup>th</sup> day of August 2004.

CITY OF WHARTON, TEXAS

By: \_\_\_\_\_  
**BRYCE D. KOCIAN**  
Mayor

**ATTEST:**

---

JOYCE VASUT  
City Secretary

**APPROVED AS TO FORM:**

---

PAUL WEBB  
City Attorney

Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor. Mr. Bollom publicly thanked Mr. Wayne Adam, Chairman of the Electrical Board for all the dedication and time towards the changes to the Electrical Ordinance.

**B. Resolution:** A resolution of the Wharton City Council establishing electrical permit and inspection fees.

City Manager Andres Garza, Jr. stated that the Electrical Board met July 27, 2004 and voted to recommend the City Council consider approving adoption of the Resolution. He then presented a copy of the memorandum dated August 5, 2004 from Electrical Board Chairman Wayne Adam recommending the City Council consider approving the resolution establishing electrical permit and inspection fees. He then presented a copy of his letter dated August 2, 2004 to City Attorney Paul Webb requesting that he review the resolution. Building Official Ronnie Bollom stated that the Electrical Board recommended increasing the permit fees. He stated that the increase in permit fees, could possibly make up the difference from revenue lost from electrical licenses that the City of Wharton would no longer collect after September 1, 2004. After some discussion, Councilmember David Samuelson made a motion to approve Resolution No. 2004-66, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2004 - 66**

**A RESOLUTION OF THE WHARTON CITY COUNCIL ESTABLISHING ELECTRICAL PERMIT AND INSPECTION FEES FOR THE CITY OF WHARTON, TEXAS.**

**WHEREAS**, the City of Wharton, Texas hereby establishes electrical permit and inspection fees in accordance with the Code of Ordinances, Chapter 18, Building and Construction, Article V. Electrical Code; Section 18-209 Permit and inspection fees; and

**WHEREAS**, the City Council of the City of Wharton wishes to establish the electrical permit and inspection fees; and

**WHEREAS**, the City of Wharton wishes to authorize the Building Official and/or appointed representative to enforce said charges and the applicable fees.

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

**Section I.** The City Council of the City of Wharton hereby adopts the electrical permit and inspection fees as described below:

The holder of the master electrician's license making or supervising any installation, alteration or change of the electrical wiring and apparatus within the city shall pay the city permit and inspection fees in the following amounts:

Permit fee	\$15.00
Temporary pole	\$10.00
Meter loop and service	\$10.00
Temporary cut-in	\$10.00
Signs	\$10.00
X-Ray machines	\$10.00
Appliances/220 volts	\$ 2.00

Motors:

Up to 5 hp	\$ 3.00
6 hp--50 hp	\$ 5.00
51 hp--150 hp	\$ 8.00
151 hp and up	\$10.00

New residential construction:

Multiple dwelling, per unit \$30.00

Single-family residence:

Less than 1,000 sq. ft.	\$40.00
1,001 to 1,500 sq. ft.	\$45.00
1,501 to 2,000 sq. ft.	\$50.00
2,001 to 2,500 sq. ft.	\$60.00
2,501 and up	\$75.00

Other than New Residential Construction and Commercial Applications:

Light fixtures, outlets, and switches \$ 0.40

Permanently connected electrical appliances and equipment of any nature not otherwise specified shall be charged for as follows:

0 to 5kW, per kW	\$ 1.00
Over 5kW, per kW	\$ 0.45
Re-inspection fee	\$25.00

Any after hours inspection or re-inspection shall be a fee of \$50.00. All such inspections must be paid prior to the inspection and are applicable at the building official's discretion.

**Section II.** The City Council of the City of Wharton hereby authorizes the Building Official and/or appointed representative to enforce charges and the applicable fees.

**Section III.** That this resolution shall become effective on the 1<sup>st</sup> day of September 2004 at 12:01 a.m.

**Passes, Approved, and Adopted** this 9th day of August 2004.

**CITY OF WHARTON, TEXAS**

By: \_\_\_\_\_  
**Bryce D. Kocian**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**Joyce Vasut**  
City Secretary

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

The ninth item on the agenda was to review and consider the request by City Staff to solicit bids for City of Wharton Surplus Property. City Manager Andres Garza, Jr. presented a copy of the list of surplus property provided by Police Chief Tim Guin. He stated that the City Staff was requesting that the City Council authorize the staff to solicit bids for the surplus property. Police Chief Tim Guin stated that the list of surplus property consisted of mostly seized vehicles. He stated that vehicles left from the sealed bids could be sold at a public auction. After some discussion, Councilmember Ken Freese made a motion to authorize the City Staff to solicit bids for City of Wharton Surplus Property and authorize the sale of the surplus property left from the sealed bid at a public auction. Councilmember Don Mueller seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider request by Fiesta Hispano Americana for the following:

- A. Use of Riverfront Park for festival activities.
- B. Temporary Permit for the consumption/possession of alcoholic beverages in City Parks.
- C. Allow vehicles in Riverfront Park.

City Manager Andres Garza, Jr. stated that the Fiesta Hispano Americana Festival had been scheduled for September 11, 2004. He then presented a copy of the letter dated August 5, 2004 from Fiesta Hispano Americana President Bruno Ybarbo requesting City Council approval of the afore-mentioned items. He also presented a copy of the permit application for the temporary permit for consumption/possession of alcoholic beverages in City Parks and Police Chief Tim Guin's memorandum dated April 5, 2004. He stated that Chief Guin had reviewed the permit application and found that it appeared to be in compliance with the City of Wharton Ordinance No. 2002-22. He then presented the City of Wharton Code of Ordinances, Chapter 54, Section 54-2, Operating or parking motor vehicles in parks that stated that any motor vehicles were not allowed in City Parks. He stated that Mr. Ybarbo was requesting City Council approval to allow vehicles in Riverfront Park during the event. He said the event participants would begin setting up for the festival on Friday, September 10, 2004. He stated that the Facilities Maintenance Department would help with the event set-up and clean-up. Councilmember V. L. Wiley, Jr.

asked if electricity was available at the Riverfront Park. Mr. Garza stated that electricity was available and that the Fiesta Hispano Americana would also use generators. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the request by Fiesta Hispano Americana for the use of Riverfront Park for festival activities, Temporary Permit for the consumption/possession of alcoholic beverages in City Parks and to allow vehicles in Riverfront Park. Councilmember David Samuelson seconded the motion. All voted in favor.

The eleventh item on the agenda was review and consider Jr's Texas Best, LLC Project, Texas Capital Fund No. 723092 – Change Order No.'s 5 and 6. City Manager Andres Garza, Jr. presented a copy of the Change Order No.'s 5 and 6 for the Jr's Texas Best, LLC Project, Texas Capital Fund Contract No. 723092. He said the change orders represented changes requested by the tenant (Jr's Texas Best, LLC.) He said the City of Wharton, as owner, must approve the change orders. He said that any cost associated with the change orders would be bore by the tenant. After some discussion, Councilmember Ken Freese made a motion to approve Jr's Texas Best, LLC Project, Texas Capital Fund No. 723092 – Change Order No.'s 5 in the amount of \$16,434.00 and 6 in the amount of \$4,691.51. Councilmember Don Mueller seconded the motion. All voted in favor.

The twelfth item on the agenda was to review and consider a request by A+ Ambulance Service, Inc. for a City of Wharton Ambulance Provider Permit. City Manager Andres Garza, Jr. presented a copy of the Ambulance Provider Permit Application filed by A+ Ambulance Service, Inc. He stated that the City Staff had reviewed the permits to ensure compliance with the City's ordinance. He then presented a copy of the memorandum dated August 5, 2004 from Deputy City Secretary Lisa Stavena that indicated no deficiencies were found. Councilmember Domingo Montalvo, Jr. asked if the service would be transfer service only. EMS Director John Kowalik stated that the Ambulance Provider Permit was for transfer service only and that A+ Ambulance Service, Inc. was aware of the provision. After some discussion, Councilmember David Samuelson made a motion to approve the request by A+ Ambulance Service, Inc. for a City of Wharton Ambulance Provider Permit. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The thirteenth 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 82-55 School Crossings and Article IV Parking, Section 82-133. Same – Designated Hours; Establishing a penalty clause; Providing for severability; and setting an effective date. City Manager Andres Garza, Jr. presented a copy of the letter dated August 5, 2004 from Ms. Marilyn Clare, Principal of Minnie Mae Hopper Elementary School to Police Chief Tim Guin requesting the City of Wharton to create a no parking area along the east side of Abell Street beginning 270 feet from Alabama Street and continuing 134 feet north and to create a crosswalk north of the pick-up zone that would begin adjacent to the first handicapped parking place. He then presented a draft ordinance amending the City of Wharton Code of Ordinances Chapter 82 Traffic, Article II Operation of Vehicles, Section 82-55 School Crossings and Article IV Parking, Section 82-133. Same – Designated Hours. Police Chief Tim Guin stated that the parents would park along the street, thus creating a hazardous situation. He said the parents would walk the children from that area to the school. He stated that the placement of the

crosswalk would eliminate the hazard since the crosswalk would be located on the north side of the road. He stated that Ms. Clark requested specific hours for the crosswalk; however if a crosswalk was present then the traffic would have to yield to the pedestrians in the crosswalk at all times. Councilmember Domingo Montalvo, Jr. asked if the designated fire zone would also be extended. Mr. Guin stated that the red marked line would be a pick-up and drop-off zone, with no parking or stopping. Councilmember Domingo Montalvo, Jr. stated that the Fire Department would still need access to the building. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve Ordinance No. 2004-14, which read as follows:

**CITY OF WHARTON  
ORDINANCE NO. 2004-14**

**AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 82, TRAFFIC, ARTICLE II OPERATION OF VEHICLES, SECTION 82-55 SCHOOL CROSSINGS AND ARTICLE IV PARKING, SECTION 82-133. SAME – DESIGNATED HOURS; ESTABLISHING A PENALTY CLAUSE; PROVIDING FOR SEPARABILITY AND SETTING AN EFFECTIVE DATE.**

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

Chapter 82, Traffic, Article II Operation of Vehicles, Section 82-55 School Crossings be amended to read as follows:

Sec. 82-55. School Crossings.

- (a) Designation. The following areas are designated as school crossings, and crosswalks shall be delineated in these areas:

*Abell Street*, 46 feet north of Avenue C.

*Alabama Road*, at its intersection at Sunny Lane.

*Alabama Road*, at the juncture of the 1700 and 1800 blocks.

*Alabama Street*, at its intersection with Abell Street.

*Martin Luther King Boulevard*, immediately west of its intersection with Allen Street.

*Martin Luther King Boulevard*, approximately 35 feet east of Sanders Street.

*Mattie Street*, at its intersection with Hendon Street.

*Milam Street*, for 50 feet on either side of its intersection with East Avenue.

*North Abel*, between Wharton High School parking lot and the field house beginning at a distance of more or less 240 feet from the intersection of Ahldag Street and North Abell.

*North Fulton*, at its south side intersection of Kelly Street.

*North Rusk*, at its south side intersection of Kelly Street.

*Tiger Avenue*, at its 100 block adjacent to Wharton County Junior College.

- (b) Boundaries of crosswalks. The city shall use white markings on pavements to designate the boundaries of the crosswalks. These markings may be in lieu of or in addition to other traffic signs and signals.
- (c) Right-of-way. Pedestrians may proceed across the roadways described in subsection (a) of this section within the boundaries of the crosswalks, and drivers of all vehicles shall yield the right-of-way to any pedestrians crossing in any such areas.

Chapter 82, Traffic, Article II Operation of Vehicles, Section 82-133 Same—Designated hours.

Sec. 82-133. Same--Designated hours.

The following no parking zones are established in the city during the designated times:

- (1) From 7:30 a.m. to 4:00 p.m.:

Alabama Road, both sides from FM 1301 to Stadium Street and along the west side of Alabama Road from Stadium Street to Ahldag Avenue.

Lazy Lane, both sides, from a distance of 325 feet in a easterly direction of its intersection with North Rusk Street.

Pioneer Avenue, both sides, from its intersection with FM 1301 to Ahldag Avenue.

- (2) From 7:30 a.m. to 8:30 a.m. and from 3:00 p.m. to 4:00 p.m.:

*Abell Street*, beginning on the east side of Abell Street 270 feet from its intersection with Alabama Street and continuing 134 feet north.

Martin Luther King Boulevard, north side.

- (3) From 8:00 a.m. to 4:00 p.m.:

Frankie Avenue, one block off Pioneer Avenue.

Helms Street, one block off Pioneer Avenue.

Lennie Avenue, one block off Pioneer Avenue.

University Avenue, one block off Pioneer.

- (4) From 8:00 a.m. to 5:00 p.m.:

Fulton Street, in the 200 block between the south boundary line and the north boundary line of the New Hope Baptist Church property, Monday through Friday, inclusive, of each week, except vehicles of the city fire department and city ambulance service.

- (5) From 9:00 p.m. to 6:00 a.m.:

South Wilkes Street, west side.

- (6) From 6:00 a.m. to 3:00 a.m.:

Branch Street, west side, from its intersection with Hendon Street to the south a distance of 300 feet.

Branch Street, east side, from its intersection with Canton Street to its intersection with Wilson Street.

#### **Penalty Clause**

The maximum fine for violating any ordinance, rule or police regulation that governs fire safety, zoning or public health and sanitation, including dumping of refuse, shall not exceed \$2,000.00; for all other violations, the maximum fine shall not exceed \$500.00. Each day any violation of this Code or of any ordinance shall continue shall constitute a separate offense.

#### **Severability**

If any court of competent jurisdiction rules that any section, subsection, sentence, clause, phrase, or portion of this ordinance is invalid or unconstitutional, any such portion shall be deemed a separate, distinct, and independent provision, and any such ruling shall not affect the validity of the remaining portions hereof.

#### **Effective Date**

This ordinance shall be effective on the 20<sup>th</sup> day of August 2004 at 12:01 a.m.

#### **Passage and Approval**

**PASSED AND APPROVED** by the City Council of the City of Wharton, Texas this 9<sup>th</sup> day of August 2004.

**CITY OF WHARTON, TEXAS**

---

**BRYCE D. KOCIAN**  
Mayor

**ATTEST:**

---

**JOYCE VASUT**  
City Secretary

**APPROVED AS TO FORM:**

---

**PAUL WEBB**  
City Attorney

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

The fourteenth item on the agenda was to review and consider Executive Session: City Council may adjourn into an Executive Session in accordance with Section 551.074 of the Government Code, Revised Civil Statutes of Texas. Final action, decision or vote, if any with regard to any matter considered in Executive Session shall be made in Open Meeting.

**A. Discussion:** Performance Evaluation of City Manager.

Mayor Bryce D. Kocian adjourned into Executive Session at 7:45 p.m.

Mayor Bryce D. Kocian returned to Open Session at 8:21 p.m.

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

**A. Review & Consider:** Performance Evaluation of City Manager.

Mayor Bryce D. Kocian stated that no taken was taken. Councilmember Ken Freese publicly thanked City Manager Andres Garza, Jr. for his honesty and professionalism and stated that the City has fortunate to have him as the City Manager.

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

A. Wharton Economic Development Corporation meeting held July 20, 2004.

B. Electrical Board meeting held July 27, 2004.

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

The seventeenth 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 8:21 p.m.

**CITY OF WHARTON, TEXAS**

City of Wharton  
Regular City Council Meeting  
August 9, 2004

By: \_\_\_\_\_  
**BRYCE D. KOCIAN**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**JOYCE VASUT**  
City Secretary