

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
AUGUST 23, 2004**

Mayor Bryce D. Kocian declared a Regular Meeting duly open for the transaction of business at 7:01 p.m. Councilmember David Samuelson led the opening devotion and then Mayor Bryce D. Kocian led the pledge of allegiance.

Councilmembers present were: Mayor Bryce D. Kocian, Councilmembers V. L. Wiley, Jr., David Samuelson, Ken Freese, Don Mueller, Domingo Montalvo, Jr. and Ray Linseisen.

Councilmember absent was: None.

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

Visitors present were: Benjamin Sharp with Wharton Journal-Spectator, David Schroeder with WEDCo, Carlos Cotton, Johnnie Roberts, Bobby Adase, I.O. Coleman, Jr., and Lewis Edwards.

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

The fourth item on the agenda was the Wharton Moment. Councilmember Domingo Montalvo, Jr. publicly commended Wharton County officials on their efforts of working on the drainage issues with the City of Wharton.

Councilmember Ken Freese publicly commended the Emergency Medical Services Support Group for the fundraiser held on Saturday, August 14, 2004, which was a great success. No action was taken.

The fifth item on the agenda was to review and consider the City of Wharton Financial Report for the month of July 2004. Finance Director Joyce Vasut presented the financial report for the month of July 2004, which was at 83% or ten months into the fiscal year. Mrs. Vasut stated that the general fund revenues were at 79.30% and the expenditures were at 86.57%. The total ad valorem taxes collected were \$1,671,484. She said the sales tax for the month of June 2004 was \$156,221 with \$104,147 going to the City and \$52,074 to WEDCo. The TexPool balance for July 2004 was \$323,995.15 with an average monthly yield of 1.2696%. The bank balance was \$1,370,815.16 with an averaged monthly yield of 2.01%. After some discussion, Councilmember V. L. Wiley, Jr. made a

motion to approve the financial report for the month of July 2004. Councilmember David Samuelson seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider the City Manager's submission of the City of Wharton, Texas, Proposed Budget for the Fiscal Year October 1, 2004 to September 30, 2005. City Manager Andres Garza, Jr. presented under separate cover the proposed budget for the City of Wharton fiscal year October 1, 2004 to September 30, 2005 in accordance with the City Charter. Mayor Bryce D. Kocian informed the City Council to review and contact Finance Director Joyce Vasut and City Manager Andres Garza, Jr. if there were any questions. Mr. Garza stated that the budget was balanced with a water and sewer rate increase of 15%, a 3% cost of living increase, a \$500.00 end of the year bonus for all full-time employees and the addition of 4 ½ positions. After some discussion, no action was taken.

The seventh item on the agenda was to review and consider setting a Public Hearing Date for the City of Wharton, Texas Budget for the Fiscal Year October 1, 2004 to September 30, 2005. City Manager Andres Garza, Jr. informed the City Council that under Article VI, Section 53 of the City of Wharton Charter, the City Council shall set a time and place for a public hearing. He then presented a copy of the City's Charter Section pertaining to the budget. He stated that the City Staff would publish the Notice of Public Hearing on Wednesday, August 25, 2004 in the Wharton Journal Spectator. He recommended the public hearing be set for the September 13, 2004 Regular City Council Meeting, whereby the date would comply with Section 53 of the Charter. After some discussion, Councilmember Ken Freese made a motion to approve the setting of the Public Hearing Date for the September 13, 2004 Regular City Council Meeting for the City of Wharton, Texas, Budget for the Fiscal Year October 1, 2004 to September 30, 2005. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider an ordinance approving amendments to the budget for the City of Wharton, Texas, for the Fiscal Year 2003-2004. City Manager Andres Garza, Jr. presented a copy of the proposed budget amendments and draft ordinance for the City of Wharton fiscal year 2003-2004 budget. Finance Director Joyce Vasut informed the City Council that the Amendment reflected an increase in revenues in the amount of \$422,905; offset by an increase in transfers out in the amount of \$125,000, and a increase in Capital Outlay in the amount of \$297,905; Additional Special Project Fund Revenue and Expenditures increased in the amount of \$70,000. After some discussion, Councilmember Ken Freese made a motion to approve Ordinance No. 2004-15, which read as follows:

**CITY OF WHARTON, TEXAS
ORDINANCE NO. 2004 - 15**

**AN ORDINANCE APPROVING AMENDMENTS TO THE
BUDGET FOR THE CITY OF WHARTON, TEXAS FOR
THE FISCAL YEAR 2003 - 2004.**

WHEREAS, the City Council of the City of Wharton, Texas finds and determines it necessary to revise the 2003-2004 budget to better reflect actual revenues and expenditures in operations and activities during the fiscal year; and,

WHEREAS, the City Council finds and determines that these amendments to the budget are for municipal purposes.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Wharton, Texas that the 2003-2004 Budget be amended as per Attachment "A."

And is adopted by the following favorable majority of votes of the members of the City Council of the City of Wharton, Texas in a duly assembled city council meeting by the following majority:

V. L. Wiley, Jr.	Voted	Yes	David Samuelson	Voted	Yes
Councilmember District No. 1			Councilmember District No. 2		
Ken Freese	Voted	Yes	Donald Mueller	Voted	Yes
Councilmember District No. 3			Councilmember District No.4		
Domingo Montalvo, Jr.	Voted	Yes	Ray Linseisen	Voted	Yes
Councilmember At Large Place No. 5			Councilmember at Large Place No. 6		

Bryce D. Kocian Voted Yes
Mayor

Separability

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

Passage and Approval

PASSED AND APPROVED by the City Council of the City of Wharton, Texas this 23rd 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 Ray Linseisen seconded the motion. All voted in favor.

ADMISSION:

JOYCE VASUT

Director of Finance

The ninth item on the agenda was to review and consider an ordinance amending the City of Wharton Code of Ordinances, Chapter 86 Utilities & Services, Article I In General; 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 a savings clause and revoking all ordinances or parts of ordinances in conflict herewith only to the extent same are in conflict herewith otherwise provided herein. City Manager Andres Garza, Jr. stated that during the City Council budget workshop held August 16, 2004, he recommended to the City Council that the water and sewer rates be increased for the 2004-2005 fiscal year. He then presented a draft ordinance amending the City of Wharton Code of Ordinances, Chapter 86 Utilities & Services, Article I In General. After some discussion, Councilmember Ray Linseisen made a motion to approve Ordinance No. 2004-16, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2004-16**

AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 86, UTILITIES AND SERVICES, ARTICLE I IN GENERAL; 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 A SAVINGS CLAUSE AND REVOKING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH ONLY TO THE EXTENT SAME ARE IN CONFLICT HEREWITH OTHERWISE PROVIDED HEREIN.

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

(i) Section I. Amendment

The Code of Ordinances of the City of Wharton, Texas, Chapter 86 Utilities and Services is hereby amended to be enforced by the City of Wharton as follows:

Article I. In General

- Sec. 86-1. Definitions.
- Sec. 86-2. Purpose and policy.
- Sec. 86-3. General requirements for all users.
- Sec. 86-4. Heavy metals and toxic materials.
- Sec. 86-5. Garbage.
- Sec. 86-6. Stormwater and other unpolluted drainage.

- Sec. 86-7. Temperature.
- Sec. 86-8. Radioactive wastes.
- Sec. 86-9. Impairment of facilities.
- Sec. 86-10. Local limits nondomestic users.
- Sec. 86-11. Local limits for industrial users.
- Sec. 86-12. Hauled or trucked in wastewater.
- Sec. 86-13. Required and approved discharges.
- Sec. 86-14. Connections made by City service applications.
- Sec. 86-15. Water and sewer tap charges, deposits, other charges.
- Sec. 86-16. Water service charges.
- Sec. 86-17. Sewer service charges.
- Sec. 86-18. Billing, collection, etc.
- Sec. 86-19. Water and Sewer service for outside city limits.
- Sec. 86-20. Cleaning compounds.
- Sec. 86-21. Bulk Water Rates.
- Sec. 86-22 Bypass.
- Secs. 86-23 – 86-40 Reserved.

ARTICLE I. IN GENERAL

Sec. 86-1. Definitions

The following words, terms and phrases, when used in this and subsequent articles, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Analytical Laboratory (or laboratory) means the independent EPA-approved laboratory specifically contracted by the City to perform required analyses of wastewater discharges subject to the requirements of this Ordinance. Only the laboratory specifically contracted by the City shall be recognized for the analysis of compliance point samples.

Approving Authority The Utility Director his duly authorized representative.

Authorized Representative of the User means

- (1) If the user is a corporation:
 - (a) The president, secretary, treasurer, or a vice-president of the corporation in charge of the principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - (b) The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
- (2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively;

- (3) The individuals described in paragraphs 1 and 2, above may designate another authorized representative if this authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates, or specifies the individual having overall responsibility for environmental matters for the company, and this written authorization is submitted to the city.

Biochemical Oxygen Demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration [milligrams oxygen utilized per liter of wastewater (mg/l)].

Building Sewer means the extension from the building drain to the public sewer or other place of disposal (also called line lateral and line connection).

Categorical Pretreatment Standard or Categorical Standard means any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Sections 307(b) and (c) of the Clean Water Act, which applies to an Industrial User.

City means The City of Wharton, Texas, or the City Council of Wharton, Texas, and those persons authorized by the City Council to represent the City.

Chemical Oxygen Demand (COD) means the measure of the oxygen-consuming capacity of inorganic and organic matter present in the water or wastewater expressed in mg/l as the amount of oxygen consumed from a chemical oxidant in a specific test, but not differentiating between stable and unstable organic matter and thus not necessarily correlating with biochemical oxygen demand.

Composite Sample means the sample resulting from the combination of individual discrete wastewater samples taken at selected intervals based on an increment of either flow or time.

Contact Cooling Water means water used for cooling which may come into direct contact with any raw material, intermediate product, waste product, or finished product either by deliberate design or by accidental occurrence.

Control Authority means The Utility Director of the City of Wharton.

Control Manhole means a manhole giving access to a building sewer at some point before the building sewer discharge mixes with other discharges into the public sewer.

Control Point means a point of access to course of discharge before the discharge mixes with other discharges in the public sewer. For industrial discharges, the control point is also considered the compliance point.

Compliance Point means a point of access to a course of discharge from an industrial user at which samples are collected and analyzed for flow and quality. These samples must be representative of the total discharge to the public sewer and must be collected prior to commingling with any other

noncontrolled flows. Samples are taken at the compliance point of an industrial user for the purposes of determining the user's compliance with all applicable pretreatment standards and requirements. Samples collected at locations other than at the compliance point are considered for water quality information and background purposes only.

Director means The Utility Director of the City of Wharton, or his/her duly authorized representative.

Domestic Wastewater means waterborne waste normally discharged from the sanitary conveniences of dwellings, residences, hotels, apartments, office buildings and factories, free from storm water, ground water, surface water, and industrial waste. Normal domestic wastewater shall mean domestic wastewater that is "normal" sewage for the city.

Emulsifiers, Surfactants or Lubricants means those chemical compounds, either naturally-occurring or synthetically-derived, which are added to, or incorporated into, an aqueous stream to chemically alter the properties of that stream to improve solubility, viscosity, lubricity or heat transfer characteristics.

Excessive Strength Wastewater means any industrial wastewater in which any of the following concentrations are exceeded:

BOD = 150 milligrams per liter of wastewater

TSS = 200 milligrams per liter of wastewater

Total Oil and Grease =15 milligrams per liter of wastewater

Existing Source means any source of discharge, the construction or operation of which commenced prior to the effective date of this pretreatment Ordinance and prior to the publication date of any EPA proposed Categorical Pretreatment Standards, which would be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Clean Water Act.

Fats, Oils and Greases means the liquid, semisolid or solid substances originating from animal or vegetable sources normally encountered in sewer discharges from food production operations. These substances are discernible from petroleum-based oils and greases, which do not originate from animal or vegetable sources.

Food-Based Oils and Greases means the liquid, semi-solid or solid substances originating from animal or vegetable sources which are encountered in sewer discharges from food processing activities. These substances are discernible from other types of oils and greases, which are not generated from typical food-processing activities.

Food-Processing Activities means those activities specifically involved in the preparation of food items for human consumption. These activities may be conducted at residential, retail, commercial or institutional type facilities.

Garbage means animal and vegetable wastes and residue from the preparation, cooking and dispensing of food and from the handling, processing, storage and sale of food products and produce.

Grab Sample means a sample, which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.

Indirect Discharge means the introduction of pollutants into the public sewer from any nondomestic or industrial source regulated under Section 307(b), (c), or (d) of the Clean Water Act.

Industrial Oils and Greases means those oils and greases present in wastes discharged from industrial facilities as a result of industrial activities conducted at those facilities. Industrial -oils and greases may be food-based, petroleum-based, synthetic or natural products that are employed in industrial operations or which are an integral part of those operations.

Industrial User means any person that discharges industrial wastes to the public sewer system and any other source of "indirect Discharge" as defined above. An industrial facility is one that engages in manufacturing, production or processing operations and which has been identified as such by the Standard Industrial Classification code applicable to that facility.

Industrial Waste means water-borne solids, liquids, or gaseous wastes resulting from an discharged, permitted to flow, or escaping from any industrial, manufacturing, or processing operation, or any mixture of these wastes with water or domestic wastewater. This definition does not apply to food preparation or other institutional wastes, which are considered "nondomestic" wastes.

Industrial Waste Charge means the charge made on those persons who discharge industrial wastes into the public sewer system.

Industrial Waste Permit means the authorization, by way of issuance of a permit, by the Director to an industrial facility to discharge particular waste streams to the public sewer system. The permit describes the wastes and concentrations, which may be discharged by a facility and describes the conditions under which those wastes may be discharged.

Instantaneous Maximum Allowable Discharge Limit means the maximum concentration (or loading) of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference means a discharge which alone or in conjunction with a discharge or discharges from other sources inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal, and therefore, is a cause of a violation of the City's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Act; the Solid Waste Disposal Act, Resource Conservation and Recovery Act (RCRA); any State regulation contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

Milligrams per liter (mg/l) means the same as parts per million and is a weight-to-volume ratio; the milligram-per-liter value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.

Minor Industrial User means any nonsignificant industrial user which may discharge "excessive strength wastewater" (as the term is herein defined) to the public sewer system, but that is not a Significant Industrial User.

National Pollution Discharge Elimination System (NPDES) means the federal wastewater and storm water permitting program authorizing discharges to waters of the U.S. This permitting program sets out requirements for industrial discharges in addition to State and Local permit programs.

Natural Outlet means any outlet into a watercourse, ditch, lake or other body of surface water or groundwater.

New Source means

- (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the effective date of this pretreatment Ordinance or after the publication date of any EPA proposed pretreatment standards under Section 3070 of the Clean Water Act which would be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - (a) The building, structure, facility, or installation is constructed at a site at which no existing source is located; or
 - (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (c) The production or wastewater generated or processed at the building, structure, facility, or installation is substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, will be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1) (b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

- (a) Begun, or caused to begin as part of a continuous onsite construction program
 - (i) any placement, assembly, or installation of facilities or equipment; or
 - (ii) significant site preparation work including clearing, excavation, or removal of existing building structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
- (b) Entered into a binding contractual obligation for the purchase of facilities or equipment, which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Nondomestic User means any person that discharges nondomestic wastes to the public sewer system that is not considered an industrial waste. Nondomestic sources include those wastes from food preparation and processing, commercial and retail facilities and institutional wastes from hotels, hospitals, schools, criminal justice facilities, nursing homes and other miscellaneous nonindustrial activities.

Noncontact Cooling Water means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Overload means the imposition of organic or hydraulic loading on a treatment facility in excess of its engineered design capacity.

Pass Through means a discharge which exits the POTW into water of the U.S. in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's NPDES permit (including an increase in the magnitude or duration of a violation).

Person means any individual, group of individuals, authorized corporate representatives or corporation, which is directly involved in and responsible for the discharge of any wastes to the public sewer system.

Petroleum - Based Oil and Grease means those liquid semi-solid or solid wastes originating from petroleum products, including crude and refined oils, distillates, degreasing solvents, lubricating oils and cooling or thermal oils.

pH means the reciprocal of the logarithm (base ten) of the hydrogen ion concentration expressed in grams per liter.

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive

materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural, food-based, synthetic, and petroleum oil or petroleum oil-containing wastes and industrial wastes, and certain characteristics of wastewater [i.e., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor].

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to (or in lieu of) introducing such pollutant into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means. Dilution of an industrial waste stream with other nonpolluted waters or domestic wastes is, not permitted as a form of pretreatment.

Pretreatment Requirements means any substantive or procedural requirement related to Pretreatment imposed on a user, other than a Pretreatment Standard.

Pretreatment Standards (or Standards) shall mean Prohibited discharge standards, Categorical Pretreatment Standards, and other Federal, State or local limits set out in, this pretreatment Ordinance.

Prohibited Discharge Standards (or Prohibited Discharges) means absolute prohibitions against the discharge of certain substances.

Publicly Owned Treatment Works (POTW) means A "treatment works", or combination of all wastewater collection and treatment facilities owned and operated by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to treatment plant. This definition, however, does not include pipes, sewers, other conveyances, or sampling points located exclusively on private property, and that are physically located anterior to the indirect discharge point.

Sanitary sewer means a public sewer that conveys domestic wastewater or industrial wastes or a combination of both and into which stormwater, surface water, groundwater and other unpolluted wastes are not intentionally passed.

Sewage means the normal mixture of human wastes generated by domestic, residential, institutional, commercial and restaurant facilities. Sewage may include some cleaning compounds such as soaps, detergents or other cleaning products.

Septic Tank Wastes means those liquid and solid wastes collected from underground septic systems. Septic systems are those which use biological processes to treat domestic sewage and do not include industrial waste systems.

Significant Industrial User means:

- (1) A user subject to any Categorical Pretreatment Standards; or
- (2) A user that:

- (a) Discharges an average of 25,000 gallons per day (gpd) or more of nondomestic wastewater to the POTW; or
 - (b) Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - (c) Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
- (3) Upon finding that a user meeting the criteria in Subsection (2) has no reasonable potential for adversely affecting the POTW's operation, or for violating any pretreatment standard or requirement, the City may, at any time, on its own initiative, or in response to a petition received from a user determine that such use should not be considered a significant industrial user.

Slug Load (or Slug) means any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards of this Ordinance.

Standard Methods means the examination and analytical procedures set forth in the latest edition, at the time of analysis, of Standard Methods for the Examination of Water and Wastewater, as prepared, approved and published jointly by the American Public Health Association, the American Water Works Association and the Water Environment Federation (WEF).

Storm Sewer means a public sewer, which carries stormwaters and surface waters and drainage, and into which domestic wastewater or industrial wastes are not intentionally passed.

Stormwater means rainfall or any other forms of precipitation and the natural over land drainage of precipitation.

Suspended Solids means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

To Discharge means to deposit, conduct, drain, emit, throw, run, allow to seep or otherwise release or dispose of or to allow, permit or suffer any of these acts or omissions.

Trap or Grease Trap means a device designed to skim, settle or otherwise remove grease, oil, sand, flammable wastes or other harmful substances.

Unpolluted Wastewater means water, which does not contain any:

- (1) Free or emulsified grease or oil;
- (2) Acids or alkalis;
- (3) Phenols or other substances producing taste or odor in the receiving water;

- (4) Toxic or poisonous substances in suspension, colloidal state or solution;
- (5) Noxious or otherwise obnoxious or odorous gases;
- (6) More than ten mg/l each of suspended solids and BOD; and
- (7) Color exceeding 50 units as measured by the platinum-cobalt method of determination as specified in Standard Methods.

User (Industrial User or Nondomestic User) means any person who discharges industrial or nondomestic wastewater to the wastewater system, and any other source of of indirect discharge as defined herein.

Waste means rejected, unutilized or superfluous substances in liquid, gaseous or solid form resulting from domestic, agricultural or industrial activities.

Wastewater means liquids and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are discharged into the POTW.

Wastewater Facilities includes all facilities for the collection, pumping, treating and disposing of wastewater and industrial wastes.

Wastewater Service Charge means the charge on all users of the public sewer system whose wastes do not exceed in strength the concentration values established as representative of normal wastewater.

Wastewater Treatment Plant or Treatment Plant means that portion of the POTW, which is designed to provide treatment of sanitary wastewater and industrial waste.

Watercourse means a natural or manmade channel in which a flow of water occurs, either continuously or intermittently.

See 86-2. Purpose and policy

This article sets-forth uniform requirements to be met by all industrial and nondomestic users utilizing the wastewater collection, transportation and treatment system for the City of Wharton, Texas. The Ordinance is written to enable the City of Wharton Wastewater Treatment System to comply with and enforce all applicable State and Federal laws pertaining to industrial wastewater quality control.

Sec. 86-3. General requirements for all users

- (a) General Prohibitions: No user shall introduce or cause to be introduced into a public sanitary sewer or any other component of the POTW any pollutant or wastewater,

which causes pass through or interference. These general prohibitions apply to all industrial and nondomestic users of the POTW whether or not they are subject to Categorical Pretreatment Standards or any other National, State, or local pretreatment standards or requirements.

- (b) No industrial or nondomestic user may discharge to public sewers any waste, which by itself or by interaction with other wastes may:
 - (1) Injure or interfere with wastewater treatment processes or facilities;
 - (2) Constitute a hazard to humans or animals; or
 - (3) Create a hazard in receiving waters or the wastewater treatment plant effluent.
- (c) All discharges shall conform to this Article.
- (d) No industrial or nondomestic discharge to public sewers may contain the following:
 - (1) Gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquids, solids or gases;
 - (2) Strong acid, iron pickling wastes or concentrated plating solutions whether neutralized or not;
 - (3) Substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit (zero and 65 degrees Celsius);
 - (4) Objectionable or toxic substances, exerting an excessive chlorine requirement, to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the approving authority for such materials;
 - (4) Obnoxious, toxic, or poisonous solids, liquids or gases in quantities sufficient to violate this section;
 - (6) Wastewater causing, alone or in conjunction with other sources, the treatment plants effluent to fail a toxicity test; or
- (e) No waste, wastewater or other substances may be discharged into public sewers which have a pH lower than 6 or higher than 9 or any other corrosive property capable of causing damage or hazard to structures, equipment and personnel at the wastewater facilities.
- (f) All waste, wastewater or other substance containing phenols, hydrogen sulfide or other taste- and odor-producing substances shall conform to concentration limits

established by the approving authority. After treatment of the composite wastewater, concentration limits may not exceed the requirements established by State, Federal or other agencies with jurisdiction over discharges to receiving waters.

- (g) Any wastewater of such character or quantity that unusual attention or expense is required to handle such material at the wastewater treatment plant or in the collection system.
- (h) No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment, to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement.

Sec. 86-4. Heavy metals and toxic material limits

- (a) No discharges to the public sewers may contain concentrations of heavy metals greater than the amounts specified in (b) below.
- (b) Maximum allowable concentrations of discharges shall be as follows:
 - (1) Quality levels of inland waters. The allowable concentrations of each of the hazardous metals, stated in terms of milligrams per liter (mg/l), for discharge to inland waters are as follows:

Metal	(a) Average	Not to Exceed	
		Daily Composite	Grab Sample
Arsenic	0.1	0.2	0.3
Barium	1.0	2.0	4.0
Cadmium	0.05	0.1	0.2
Chromium	0.5	1.0	5.0
Copper	0.5	1.0	2.0

Metal	(b) Average	Not to Exceed	
		Daily Composite	Grab Sample
Lead	0.5	1.0	1.5
Manganese	1.0	2.0	3.0
Mercury	0.005	0.005	0.01
Nickel	1.0	2.0	3.0
Selenium	0.05	0.1	0.2
Silver	0.05	0.1	0.2

- (1) Unpolluted stormwater, surface water, groundwater, roof runoff or subsurface drainage;
 - (2) Unpolluted cooling water;
 - (3) Unpolluted industrial process waters; or
 - (4) Other unpolluted drainage.
- (b) In compliance with the Texas Water Quality Act (V.T.C.A., Water Code ' 26.001 et seq.) and other statutes, the approving authority may designate storm sewers and other watercourses into which unpolluted drainage described in subsection (a) of this section may be discharged.
- (c) Polluted stormwaters and cooling waters may be discharged to the public sewer provided that authorization has been granted by the City for such discharges under the requirements' of this Ordinance.

(ii) Sec. 86-7. Temperature

No person may discharge to the public sewers any liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius) or any substance which causes the temperature of the total wastewater treatment plant influent to increase at a rate of ten degrees Fahrenheit or more per hour or a combined total increase of plant influent temperature to 110 degrees Fahrenheit.

(iii) Sec. 86-8. Radioactive wastes

- (a) No person may discharge radioactive wastes or isotopes into public sewers without the permission of the approving authority.
- (b) The approving authority may establish, in compliance with applicable state and federal regulations, regulations for discharge of radioactive wastes into public sewers.

(iv) Sec. 86-9. Impairment of facilities

- (a) No person may discharge into public sewers any substance capable of causing:
- (1) Obstruction to the flow in sewers;
 - (2) Interference with the operation of treatment processes of facilities; or
 - (3) Excessive loading of treatment facilities.

- (4) Discharges prohibited by subsection (a) of this section include but are not limited to materials which exert or cause concentrations of-
 - (1) Inert suspended solids greater than 200 mg/I, including but not limited to:
 - a. Fuller's earth;
 - b. Lime slurries; and
 - c. Lime residues;
 - (2) Dissolved solids greater than 145 mg/I, including but not limited to:
 - a. Sodium chloride; and
 - b. Sodium sulfate;
 - (3) Excessive discoloration, including but not limited to:
 - a. Dye wastes; and
 - b. Vegetable tanning solutions; or
 - (4) BOD, COD or chlorine demand in excess of normal plant capacity.
- (b) No person may discharge into public sewers any substances that may:
 - (1) Deposit grease or oil in the sewer lines in such a manner as to clog the sewers;
 - (2) Pass to the receiving waters without being effectively treated by normal wastewater treatment processes due to the nonamenability of the substance to bacterial action; or wastewater treatment processes due to the nonamenability of the substance to bacterial action; or
 - (3) Deleteriously affect the treatment process due to excessive quantities.
- (c) No person may discharge any substance into public sewers which:
 - (1) Is not amenable to treatment or reduction by the processes and facilities employed; or
 - (2) Is amenable to treatment only to such a degree that the treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (d) The approving authority shall regulate the flow and concentration of slugs when they may:

- (1) Impair the treatment process;
 - (2) Cause damage to collection facilities;
 - (3) Incur treatment costs exceeding those for normal wastewater; or
 - (4) Render the waste unfit for stream disposal.
- (e) No person may discharge into public sewers solid or viscous substances which may violate subsection (a) of this section if present in sufficient quantity or size, including but not limited to:
- (1) Ashes;
 - (2) Cinders;
 - (3) Sand;
 - (4) Mud;
 - (5) Straw;
 - (6) Shavings;
 - (7) Metal;
 - (8) Glass;
 - (9) Rags;
 - (10) Feathers;
 - (11) Tar;
 - (12) Plastics;
 - (13) Wood;
 - (14) Unground garbage;
 - (15) Whole blood;
 - (16) Paunch manure;
 - (17) Hair and fleshings;

- (18) Entrails;
- (19) Paper products, either whole or ground by garbage grinders;
- (20) Slop;
- (21) Chemical residues;
- (22) Paint residues; or
- (23) Bulk solids.

Sec. 86-10. Local limits for nondomestic users

- (a) Maximum allowable concentrations of discharges for all nondomestic users shall be as follows:

(ii) PARAMETER	CONCENTRATION NOT TO EXCEED AT ANY TIME – mg/l
BOD	150
COD	250
TSS	200
Food-Based Oils or Grease	100
Cyanide	1
Chlorides	250
Fluorides	None other than present in the public water supply

- (b) Other specific requirements for nondomestic users shall be as follows:
 - (1) Nondomestic users shall provide pretreatment for fats, oils and greases by the use of grease traps. Nondomestic users will be required to maintain these traps in proper working order to maximize oil and grease removal. All traps shall be of adequate capacity, shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature, and shall so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by users at their expense. These traps will be inspected on a semi-annual basis at the discretion of the City.
 - (2) Nondomestic user's wastewater will be sampled on a periodic basis at the Director's discretion. The frequency of sampling and type of testing to be conducted will be based on a particular facility's potential to exceed certain discharge standard or requirements.

Sec. 86-11. Local limits for industrial users

Certain local limits apply to industrial users, as specified in Article 11. Industrial Waste Disposal and Pretreatment, Section 86-44.

Sec. 86-12. Hauled or trucked in wastewater

- (a) Trucked in wastes to any City treatment facilities are subject to the same pretreatment standards and requirements of this Ordinance. Prior approval must be obtained from the City before any trucked in wastes can be accepted for treatment at any treatment facilities. Industrial users transporting wastes over land for disposal at a POTW must obtain a waste haulers permit from the State regulatory authorities. The City may request information considering the nature of trucked in wastes. This information may include, but is not limited to, Material Safety Data Sheets (MSDS), process information, quantity to be treated and sample results.
- (b) Septic tank waste may be introduced into the POTW only at locations designated by the Director, and at such times as are established by the Director. Such waste shall not violate any standard or requirement of this Ordinance. Wastewater discharge pen-nits for individual vehicle to discharge septic waste may be issued by the Director.
- (c) The Director shall issue wastewater discharge permits to any haulers of industrial waste who discharge any industrial waste or wastewater into a public sewer or any other component of the POTW. The Director may issue wastewater discharge permits to any generators of hauled industrial waste so discharged. The Director may also prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other standards and requirements of this Ordinance unless otherwise authorized by the Director.
- (d) Industrial waste haulers may discharge loads only at locations designated by the Director. No load may be discharged without prior consent of the Director. The Director may collect samples of each hauled load to ensure compliance with applicable standards. The Director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- (e) Industrial waste haulers who discharge any waste or wastewater into a public sewer or any other component of the POTW must provide a waste tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

Sec. 86-13. Required and approved discharges

- (a) Unless exception is granted by the approving authority, the public sewer system shall be used by all persons discharging:
 - (1) Wastewater;
 - (2) Industrial waste;
 - (3) Polluted liquids; or
 - (5) Certain unpolluted waters or liquids.
- (b) Unless authorized by the state water development board, no person may deposit or discharge any waste included in subsection (a) of this section on public or private property in or adjacent to any:
 - (1) Natural outlet;
 - (2) Watercourse;
 - (3) Storm sewer; or
 - (4) Other area within the jurisdiction of the City.
- (c) The approving authority shall verify prior to discharge that wastes authorized to be discharged will receive suitable treatment within the provisions of laws, regulations, Ordinances, rules and Orders of Federal, State and local governments.

Sec. 86-14. Connections made by City; Service Applications.

- (a) All connections or taps to the City's water and sewer systems shall be made by employees of the City under the direction and supervision of the water superintendent.
- (b) New customers are required to complete an application for utility services including a confidentiality notice at the time that the service is requested.
- (c) All utility service customers are required to certify that any city ordinances regarding utility services will be complied with as amended from time to time by the City Council. This certification is included in the service application referred to in subsection (b) of this section.

Sec. 86-15. Water and Sewer Tap Charges, Connection Fees, Deposits, and Other Charges

Water and sewer tap charges; connection fees; deposits and other charges shall be as follows:

- (1) *Water.* Water tap fees for customers inside the City limits and outside the City limits are as follows:

	<i>Size of Tap</i>	<i>Inside City Limits</i>	<i>Outside City Limits</i>
a.	¾- inch T-off	\$ 150.00	\$ 250.00
b.	¾-inch	\$ 300.00	\$ 400.00
c.	1-inch	\$ 400.00 + cost of meter	\$ 500.00 + cost of meter
d.	1½-inch	\$ 600.00 + cost of meter	\$ 700.00 + cost of meter
e.	2-inch	\$ 800.00 + cost of meter	\$ 900.00 + cost of meter

Customers must also pay for the cost of the meter for taps one inch and larger. Tap fees for taps larger than two inches shall be determined upon cost to install plus cost of water meter.

- (2) *Sewer.* Sewer tap fees for customers inside the City limits and outside the City limits are as follows:

	<i>Size of Tap</i>	<i>Inside City Limits</i>	<i>Outside City Limits</i>
a.	4-inch	\$ 300.00	\$ 400.00
b.	6-inch	\$ 500.00	\$ 600.00

- (3) *Deposits.* As a condition of receiving water, sewer and garbage service, the following deposits shall be charged:

- (a) Deposit Amount
- | | |
|-----------------|----------------------------|
| All customers | \$75.00 |
| Senior citizens | \$40.00 (60 Years or Over) |
- (b) Deposits will not be required for public schools, counties, and other governmental entities.
- (c) Customers may transfer their deposits from one account to another account if they move from one address to another. The account must be current before the deposit can be transferred and the new service enacted.
- (d) Renters transferring from one address to another must have paid the maximum deposit or must pay the difference between the deposit paid and the maximum deposit before the deposit can be transferred and the new service enacted.
- (e) Customers' deposits will be refunded by crediting the deposit amount to the customer's account when the account is finalized. Any remaining deposit will be mailed to the forwarding address provided by the customer.
- (f) Letters of Credit are not acceptable in lieu of cash for payment of deposits as required in this section.

- (g) In the event a current utility service customer requests service at an additional address, the deposit may be waived if the customer has had no more than two delinquent payments on the existing account for the previous twelve (12) months prior to the date of the request. In the event that either the initial account or any additional accounts are not maintained in a non-delinquent status, an additional deposit may be required for each account.

- (4) *Administrative Penalty:* If payment is not received on a delinquent account and is placed on the cut-off list and water is due to be or is disconnected, an administrative penalty will be assessed as follows:

Administrative Penalty	\$20.00
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- (5) Other charges include the following:

- (a) *Late charges:* If payment is not received by the 15th of each month, a penalty will be assessed on the 16th of each month at the rate noted below:

Late Charges	5% of balance due
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- (b) Charges of Damages

Charges shall also be made for damages to equipment, such as meters, cutoff valves and locks. These charges shall be based on the actual cost of replacement, including labor, where applicable.

- (c) Industrial Users

Industrial users may be subject to additional charges and fees, relating to permitting and noncompliance issues, as outlined in Article II. Industrial Waste Disposal and Pretreatment, § 86-41 through 86-78.

- (d) Restaurants, Food Preparation Facilities and Other Commercial Users

Restaurants, food preparation facilities, institutional facilities and other commercial type facilities utilizing grease traps will be subject to a \$100 fee for each exceedance of the local oil and grease limit of 100 mg/l. This fee is not a surcharge. The payment of this fee does not authorize the discharge of wastes containing oil and grease in concentrations greater than 100 mg/l. This limit applies only to food grade oils of animal or vegetable origin. The concentration of petroleum-based oil and grease is limited to 15 mg/l. The oil and grease exceedance fee will be assessed for each sample result, which indicates an excess oil and grease concentration in sewer discharges from the facility. The City will be responsible for collecting and analyzing all oil and

grease samples from grease traps. Oil and grease trap sampling will be conducted on a periodic basis at the city's discretion.

- (e) Septic tank waste hauled or trucked into Wastewater Treatment Plant as outlined in Article II, Section 86-54 will be billed at the following rate:

Fees for Hauling Waste \$50.00 per 1,000 gallons

Sec. 86-16. Water Service Charges.

- (a) The monthly charges for water service rendered by the City shall be as follows:

Volume	Charges
First 2,000 gallons (minimum)	\$ 9.10
Next 2,000 gallons	\$ 1.82per 1,000
Next 3,000 gallons	\$ 1.88per 1,000
Next 4,000 gallons	\$ 1.96 per 1,000
Next 4,000 gallons	\$ 2.05 per 1,000
Next 35,000 gallons	\$ 2.18per 1,000
Next 50,000 gallons	\$ 2.31per 1,000
Next 50,000 gallons	\$ 2.51per 1,000
Next 50,000 gallons	\$ 2.71per 1,000

- (b) Customers requesting temporary water services (7 day increments) can apply for a temporary water rate based on the following:

Volume Charges
First 8,000 gallons
\$ 28.75for 7 days
Over 8,000 gallons
\$ 2.18per 1,000

The temporary water rate is intended as a temporary service for water only and will not be extended for more than 14 consecutive days without a deposit or connection fee being made in accordance with Section 86-2 subsections (4) and (5).

Sec. 86-17. Sewer Service Charges.

- (a) The monthly charges for sanitary sewer services rendered by the City shall be as follows:

- (b) *Volume Charges*

First 2,000 gallons (minimum)	\$9.80
Next 2,000 gallons	\$1.51per 1,000

Next 3,000 gallons	\$1.89per 1,000
Next 4,000 gallons	\$2.07 per 1,000
Next 4,000 gallons	\$2.24 per 1,000
Next 35,000 gallons	\$2.41 per 1,000
Next 50,000 gallons	\$2.58 per 1,000
Next 50,000 gallons	\$2.76per 1,000
Next 50,000 gallons	\$2.93 per 1,000

- (b) Residential customers. Monthly service charges for sewer service is based on the average water consumption for three winter months' (December, January, February). The winter averaging is calculated in February and is reflected in the March bill. New residential customers with no historical usage shall be billed for sewer usage based on the average residential customers' usage based on the most current winter averaging.
- (c) Regular commercial customers. Monthly service charge for sewer service shall be based on the monthly-metered water usage at the rates set forth above.
- (d) Industrial cost recovery charge. Applicable to industrial customers pursuant to the Environmental Protection Agency's assistance grant cost recovery requirements, the industries shall be subject to an annual charge required to recover their proportionate share of any federal grant monies utilized to construct new, or make upgrades to existing, sewer facilities. This cost recovery program shall cover the life of the project (20 years). Based on average daily flow, BOD and TSS loading, the annual charge to each applicable industry shall be the sum of the following unit charges:

Annual charge = Flow charge + BOD charge + TSS charge.

Flow charge = \$316.35/20 per 1,000 gpd (avg. daily flow).

BOD charge = \$121.09/20 per lb. Of BOD per day (avg. Daily BOD load).

TSS charge = \$33.64/20 per lb. of TSS per day (avg. daily TSS load).

The first industrial cost recovery charge shall be due 12 months after placing the new treatment facilities into operation and annually thereafter for a period of 20 years. Charges and industrial load data shall be reviewed not less than annually and adjustments made as required. When applicable, any new industry shall be added when served by the treatment facilities.

Sec. 86-18. Billing, Collection, etc.

- (a) Meters shall be read approximately every thirty days. Utility bills will be processed and mailed by the 1st day of each month.
- (b) All monthly bills for services rendered by the water and sewer systems are due upon issuance by the City of Wharton and are payable by the due date noted on the bill.

- (c) A delinquent charge (penalty) will be assessed to each account if not paid by the due date. Delinquent notices will be mailed on the next working day of the month following the due date as stated on the bill. In addition to delinquent notices, the City may use other forms of notification on delinquent accounts.
- (d) The City may discontinue service if payment is not received in full by 5:00p.m. on the 5th business day after the issuance of delinquent notices. The City is not responsible for delays in the mail.
- (e) In the event of discontinuation of service, all amounts due the City including any penalties and charges are required to be paid in full before reconnection to the system. If the account is not paid in full by the 10th of the following month the account will be finalized and the deposit will be applied to the balance.
- (f) Customers may appeal incorrect or improper billings with the supervisor of the utility administration department within fifteen (15) days of issuance of the monthly bills. The customer service division shall investigate the validity of customer complaints and provide a report on their findings within three (3) days of such filing. No late charges shall be applied to any account with an appeal pending. The failure of any customer to receive a bill or the subsequent reminder notice shall not be grounds for appeal. If, in the sole opinion of the supervisor of the department, the investigation supports the appeal, the account may be adjusted, as appropriate.
- (g) All checks issued for payment of water and/or sewer service returned unpaid shall incur a processing fee equal to the maximum amount allowed by law.
- (h) Deposits: If any person attempts to pay a required deposit by check or similar instrument and such instrument is dishonored, the service for which such deposit was made shall be subject to disconnection without notice. A processing fee as prescribed in section 86-5(g) and an administrative penalty in accordance with the schedule set out in section 86-15(4) will be charged.
- (i) Account payment. If any person attempts to pay an account bill by check or similar instrument and such instrument is dishonored, then the person obligated on the corresponding account shall be notified by letter sent by the United States first class mail that if he does not pay the bill, plus a processing fee as prescribed in section 86-5(g), in full, by cash or money order, within five (5) business days, the service for which such bill was prepared shall be discontinued and corresponding account will be charged an administrative penalty in accordance with the schedule set out in section 86-15(4). A certificate of mailing by the United States Postal Service shall be prima facie evidence of delivery of such notice. The payment on account by dishonored check or similar instrument shall constitute nonpayment and shall be subject to penalties therefor.
- (j) Payment by cash, cashier's check or money order. The City may refuse to accept payment by check or similar instrument from any person who has had three (3) or more payments to the City made by check or similar instrument dishonored. The

City shall notify the person in writing that only cash, cashier's check, or money order will be accepted from that person.

- (k) A customer who deems his account to have had an extraordinary increase in consumption may appeal to the utility billing department for a credit adjustment. This appeal shall be made in writing and will denote all the relevant facts relating to the situation as known by the customer. Upon examining the facts, the City Manager or his designee shall render a decision in writing to the customer explaining the City's decision and the credit adjustment to be given, if any. Consideration may be given for unavoidable leaks and unexplainable consumption which amounts to one hundred fifty (150) percent or more of the normal consumption for that account with normal consumption defined as the consumption of the same account for the same month in the prior year or the average consumption for the account for the past twelve (12) months, whichever is greater. The credit adjustment will be limited to 1/2 of the amount determined to be over the normal consumption.
- (l) Utility customers may have their service temporarily disconnected for a period of not less than thirty (30) days" by notification to the Utility Department. The account is said to be on-hold which means the service is disconnected by City Employees and no charges are billed to the customer during that time. The City retains the deposit in order for the account to remain on-hold status. The account may remain "on-hold" status for a period not to exceed six months from the date the "on-hold" status began. Once the six month period has lapsed, the account will become active. The account must have an active status for at least six months before the account may be put back "on-hold" status. However, all meters are checked on a monthly basis. Therefore, if there is any usage on the meter during the time the account is on vacation, the account will become active and all charges for water, sewer and garbage shall be billed to the customer.
- (m) Final bill. Upon termination of utility services, a final bill will be calculated based on the customers usage. The billed amount will also be prorated based on the date of the request to terminate services.

Sec 86-19. Water and Sewer Service for Outside City Limits

- (a) The City council may approve water and sewer service for customers outside the City limits.
- (b) Charges for water and/or sewer service usage for customers outside the City limits shall be twice the rate charged for the same service to customers within the City.

Sec 86-20. Cleaning compounds.

- (a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Cleaning compound means a cleaning compound in liquid, bar, spray, tablet, flake, powder or other form used for cleaning purposes. The term "cleaning compound" shall not mean:

- (1) A metal cleaner, degreasing compound, commercial cleaner, industrial cleaner, or other substance that is intended to be used for industrial cleaning purposes.
- (2) A phosphorus acid product, including a sanitizer, brightener, acid cleaner or metal conditioner.
- (3) A detergent manufactured, stored or distributed for use or sale outside the City limits.

Phosphorus means elemental phosphorus.

(b) Restrictions.

- (1) It shall be unlawful for any person to sell, offer or expose for sale, give or furnish any cleaning compound containing more than 0.5 percent phosphorus by weight except that dish washing formulations may contain up to 8.70 percent phosphorus by weight within the City from and after October 1, 1992.
- (2) The concentration of phosphorus by weight, expressed, as elemental phosphorus in any synthetic detergent or detergent shall be determined by the current applicable method prescribed by the American Society for Testing and Materials (A.S.T.M.).

- (c) Voluntary limits. The City will try to operate its wastewater treatment system so that the amount of phosphorus discharged from the system is less than 2.5 milligrams per liter (2.5 mg/l) on a daily average. Samples will be taken and tested at the same time other samples are taken for regulatory purposes.

Sec 86-21. Bulk Water Rates

- (a) Bulk Sales through fire hydrant water meters temporarily installed at locations remote from the Wharton Volunteer Fire Department on Fulton Street will require the following:
1. Advance, non-refundable payment of \$50.00 to the City of Wharton at City Hall for setting the meter connection at the fire hydrant or other appropriate locations as the City may determine; and

2. Payment of Bulk Sales Rate of \$50.00 per month for the first 1,000 gallons of water dispensed, or any fraction thereof. \$20.00 per month per 1,000 gallons dispensed, or any fraction thereof, beyond the initial 1,000 gallons dispensed; and
 3. Advance, refundable fire hydrant meter deposit payment of \$200.00 to the City of Wharton at City Hall.
- (b) Bulk Sales through permanently installed water meter dispensation point at the Wharton Volunteer Fire Department on Fulton Street will require the following:
1. No requirement for payment of meter setting fee; and
 2. Payment of Bulk Sales Rate of \$50.00 for the first 1,000 gallons of water dispensed, or any fraction thereof. \$20.00 per 1,000 gallons dispensed, or any fraction thereof, beyond the initial 1,000 gallons dispensed; and
 3. No requirement for payment of the \$200.00 fire hydrant meter deposit, however each water dispensation transaction authorized under subparagraph 9B must be prepaid to the City of Wharton at City Hall where a one-day dispensation voucher will be issued for presentation to the Water Plant Operator to authorize a one-day dispensation of a not to exceed amount of water in gallons. The one-day dispensation voucher identifying the cumulative number of gallons purchased will allow for scheduled multiple withdrawals of water, but only during the same City of Wharton working day upon which initial dispensation commences.

Bulk Sales Water Service customers must provide a suitable mobile water containment vessel of sound quality for receiving and hauling water for use or consumption at any location within the Wharton Water System.

Public or private volunteer fire fighting organizations that procure water only for fire prevention and control purposes and do not resell such water for other purposes, are exempt from this Classification, Rates and Fees Schedule. Contractors constructing City of Wharton Public Works projects requiring potable water for dust control and construction operations shall also be exempt from this Classification, Rates and Fees Schedule.

Any \$200.00 refundable fire hydrant meter deposit paid to the City of Wharton may be applied by the City of Wharton to the payment of any Bulk Sales Customer unpaid bills, and when so partially consumed through past-due account application, shall be restored by the Bulk Sales Customer to the original \$200.00 amount.

Bulk Sales Water Service dispensation to consumers having only an occasional need for such water service are encouraged to utilize the permanently installed water meter dispensation point at the Wharton Volunteer Fire Department located on Fulton Street.

Use of the Fulton Street permanently installed water meter dispensation point requires advanced payment by check or cash to the City of Wharton at City Hall and at least (4) four hours advanced scheduling of prospective water withdrawals which shall also only occur during the following City working hours Monday – Friday 9:00 A.M. – 12:00 P.M. and 1:00 P.M. – 4:00 P.M. (Saturday, Sunday and city Holidays excluded).

Sec. 86-22. Bypass.

- (a) For the purposes of this section:
 - (1) *Bypass* means the intentional diversion of wastestreams from any portion of a user's treatment facility.
 - (2) *Severe property damage* means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (b) A user may allow a bypass to occur which does not cause pretreatment standards or requirements only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (c) and (d) of this section.
- (c)
 - (1) If a user knows in advance of the need for a bypass it shall submit it prior notice to the Control Authority, at least ten (10) working days before the date of the bypass, if possible.
 - (2) A user shall submit oral notice to the Control Authority of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) working days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Control Authority may waive the written report on a case by case basis if the oral report has been received within twenty-four (24) hours.
- (d)
 - (1) Bypass is prohibited, and the Control Authority may take an enforcement action against a user for a bypass unless:
 - (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

- (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, pump and truck, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed during normal periods of equipment downtime or as preventive maintenance in the exercise of reasonable engineering judgment or prevent a bypass;
 - (c) The user submitted notices as required under paragraph (c) of this section.
- (2) The Control Authority may approve an anticipated bypass, after considering its adverse effects, if the Control Authority determines that it will meet the three conditions listed in paragraph (d) of this section.

Secs. 86-23 – 98-40 Reserved.

Section II. 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 a separate, distinct, and independent provision, and any such ruling shall not affect the validity of the remaining portions hereof.

Section III. Penalties and Fines

Any person convicted of a violation of this ordinance shall be fined in an amount not to exceed \$2,000.00. Each day or fraction of a day during which this ordinance or any part thereof is violated shall be deemed a separate offense and punishable as such.

Section IV. Effective Date

This ordinance shall be effective on October 1, 2004 at 12:01 a.m.

Section V. Passage and Approval

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, this 23rd day of August 2004.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT
City Secretary

APPROVED AS:

PAUL WEBB

City Attorney

Published in the Wharton Journal Spectator Wednesday, August 25, 2004 and Wednesday, September 1, 2004.

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

The tenth item on the agenda was to review and consider a resolution of the Wharton City Council authorizing the submission of a pre-application request to the United States Department of Commerce Economic Development Administration Public Works Program for the Wharton Industrial Foundation, Industrial Park Infrastructure project and authorizing the Mayor of the City of Wharton, Texas, to execute all documents related to application. City Manager Andres Garza, Jr. stated that during the May 10, 2004, the City Council approved Resolution No. 2004-35 authorizing the submission of a pre-application to the United States Department of Commerce Economic Development Administration (EDA) Public Works Program for the Wharton Industrial Foundation, Industrial Park Infrastructure project. He then presented a copy of the letter dated June 4, 2004 from Mr. Pedro R. Garza, Regional Director of EDA informing the City that the application was not approved. He stated that since that time, Mr. Armando Ruiz, President of the Ruiz Companies, Mr. David Schroeder, Executive Director of the Wharton Economic Development Corporation, and himself had met with Mr. Pedro Garza regarding the City's application. He stated that Mr. Pedro Garza had indicated that the City should submit a new pre-application for consideration. He then presented a draft resolution authorizing the submission of a new pre-application to EDA. He stated that eight prospects were identified and the Industrial Park would require sewer services. He stated that the requested grant funds were for the amount of \$490,000, which was 56% of the project. After some discussion, Councilmember David Samuelson made a motion to approve Resolution No. 2004-67, which read as follows:

City of Wharton
RESOLUTION NO. 2004-67

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

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

WHEREAS, these funds are available for economic development in rural areas and the pre-application request is for \$498,000 or 56% of the total project cost; and

WHEREAS, the City of Wharton has applied and has been awarded respectively \$275,000 and \$117,000 of matching funds for this project from the United States Department of Agriculture and Wharton Economic Development Corporation (WEDCO)

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

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

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

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

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

PASSED, APPROVED and ADOPTED at a regular meeting of the City Council of the City of Wharton, Texas, on the 23th day of August 2004.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN, Mayor

ATTEST:

JOYCE VASUT, City Secretary

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

The eleventh item on the agenda was to review and consider an ordinance amending the City of Wharton Ordinance No. 2001-16 pertaining to the Cable Television Franchise with Falcon Video Communications, L.P., d/b/a Charter Communications, as to the Customer Service Standards pertaining to Saturday office hours in the City of Wharton, in accordance with the authority granted in this ordinance. City Manager Andres Garza, Jr. presented a copy of the letter dated August 2,

2004 from Mr. Rick Almand, General Manager of Charter Communications requesting to reduce the local Wharton office hours by allowing the Wharton office to be closed on Saturdays. He stated that in accordance with the City of Wharton Cable Television Franchise Customer Service Standards, Section 8 Office/Home Delivery-Pickup, Item ii, the local office was required to be open Monday through Friday for at least seven hours a day and four hours on Saturday. He stated that he had talked with Mr. Clarence West, the City's telecommunications attorney, who recommended that the ordinance could be amended with City Council approval. He then presented a draft ordinance amending the City's Cable Television Franchise Ordinance No. 2001-16. City Attorney Paul Webb informed the City Council that he spoke to Mr. Clarence West and advised that the office hours could be changed by City Council approval. Councilmember Don Mueller asked if the closing on Saturdays would reflect only the office clerk. Mr. Bobby Adase with Charter Communications addressed the City Council and stated that Charter has a call center in Spring and also an after hours phone service for customers. Mayor Bryce D. Kocian requested that the 800 number remain on the billing statement as well as Channel 43. After some discussion, Councilmember Don Mueller made a motion to approve Ordinance No. 2004-17, which read as follows:

**CITY OF WHARTON, TEXAS
ORDINANCE NO. 2004-17**

AN ORDINANCE AMENDING ORDINANCE NO. 2001-16 PERTAINING TO THE CABLE TELEVISION FRANCHISE WITH FALCON VIDEO COMMUNICATIONS, L.P., d/b/a CHARTER COMMUNICATIONS, AS TO THE CUSTOMER SERVICE STANDARDS PERTAINING TO SATURDAY OFFICE HOURS IN THE CITY OF WHARTON, IN ACCORDANCE WITH THE AUTHORITY GRANTED IN THIS ORDINANCE.

The following statements are true and correct and constitute the basis upon which the City Council of the City of Wharton, Texas (the "City") may pass, approve, and adopt this ordinance;

WHEREAS, Falcon Video Communications, L.P., d/b/a Charter Communications, was granted a cable franchise with the City by Ord. No. 2001-16, which was subsequently assigned to Charter Communications VI, LLC ("Charter"); and

WHEREAS, the Customer Service Standards to that cable franchise are attached to it as Exhibit B; and

WHEREAS, Charter has by a letter dated August 2, 2004 from Rick Almand, General Manger, Charter Communications, requested revisions to the current Customer Service Standards pertaining to the local office being open on Saturday; and

WHEREAS, the City Council wishes to amend the Customer Services Standards and authorize the Mayor of the City of Wharton to execute the documents, as required for the amendment; and

WHEREAS, as set forth herein, the terms and conditions of the Franchise Customer Service Standards, Exhibit B, are amended as follows.

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

Section 1. In the Customer Service Standards, Exhibit B of the Franchise, paragraph 8, entitled “Office/Home Delivery-Pick Up:”, in subpart ii. after the words “seven (7) hours a day” there is a deletion of the phrase “and four (4) hours on Saturday”, so that as amended subpart ii. shall read as follows:

“a. The cable operator shall maintain a “virtual office” within the City consisting of:

ii. one or more conveniently located bill payment office within the City (open Monday through Friday for at least seven (7) hours a day) where subscribers can pay their bills.”

Section 2. This Ordinance is effective, as is required by the City Charter.

PASSED AND ADOPTED this 23rd 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 Ray Linseisen seconded the motion. All voted in favor.

The twelfth item on the agenda was to review and consider the request by Mr. R. B. Falks of Center Point Energy for a variance to the City of Wharton, Code of Ordinances, Chapter 82, Traffic, Article I In General, Section 82-58 Truck Routes. City Manager Andres Garza, Jr. presented a copy of the letter dated August 12, 2004 from Mr. R. B. Falks, Center Point Energy, Supervisor of Contract Transmissions Services requesting a variance from the City of Wharton, Code or Ordinances, Chapter 82, Traffic, Article I In General, Section 82-58 Truck Routes. He stated that Mr. Falks indicated in his letter that Center Point had contracted with North Houston Pole Line Company who would be transporting large poles through the City of Wharton. He stated that Mr. Falks had indicated that the normal truck routes located in the City of Wharton would prove to be unsafe in transporting these poles and had requested to transport the poles along Alabama Road. He stated that Mr. Falks had also indicated that he would coordinate with Police Chief Tim Guin when the actual time to transport the poles would occur. He then presented a copy of the City of Wharton ordinance regarding truck routes and a map indicating the current truck routes in the City and the

proposed route. Mr. Garza also presented a copy of the memorandum dated August 16, 2004 from Police Chief Tim Guin requesting this item be placed on the City Council agenda for council consideration. He stated that City Council approval of the request was required to grant the variance to the ordinance. Police Chief Tim Guin stated that Center Point Energy was requesting a variance since the truck route on Burleson Street would not allow the space needed for transportation of the poles. He stated that the project would begin after the harvest season. He then stated that the trucks would be permitted for poles. Councilmember Ken Freese requested police department officials be present and restrict the use of the proposed route while school zones were active. After some discussion, Councilmember Ken Freese made a motion to approve the request by Mr. R. B. Falks of Center Point Energy for a variance to the City of Wharton, Code of Ordinances, Chapter 82, Traffic, Article I In General, Section 82-58 Truck Routes with the Police Department officials present and to restrict the use of the proposed route while school zones hours were active. Councilmember Don Mueller seconded the motion. All voted in favor.

The thirteenth item on the agenda was to review and consider a resolution approving a contract for Financial Advisory Services related to the proposed bond issue with Coastal Securities and authorizing the Mayor of the City of Wharton to execute all documents related to said contract. City Manager Andres Garza, Jr. stated that during the August 16, 2004 City Council Budget Workshop, he presented information to the City Council regarding the proposed bond issue to fund certain projects in the City of Wharton. He stated that in order for the City to move forward with the proposed bond issue, a contract for financial advisory services would need to be executed. He then presented a copy of a contract for Financial Advisory Services provided by Mr. Jim Gilley of Coastal Securities and a draft resolution approving the contract. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2004-68, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004 - 68**

A RESOLUTION APPROVING A CONTRACT FOR FINANCIAL ADVISORY SERVICES RELATED TO THE PROPOSED BOND ISSUE WITH COASTAL SECURITIES AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID CONTRACT.

WHEREAS, the Wharton City Council has determined there was a need to issue bonds to finance improvements in the City of Wharton; and

WHEREAS, the Wharton City Council wishes to engage the services of Coastal Securities for financial advisory services related to the proposed bond issue; and

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

WHEREAS, the Wharton City Council wishes to authorize the Mayor the City of Wharton to execute all documents related to 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 contract for financial advisory services related to the proposed bond issue with Coastal Securities and authorizes the Mayor of the City of Wharton, Texas to execute all documents related to the contract.

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

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

Passed, Approved, and Adopted this the 23rd day of August 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 fourteenth item on the agenda was to review and consider a resolution approving a letter of engagement with the law firm of Vinson & Elkins for bond counsel legal services for the proposed bond issue. City Manager Andres Garza, Jr. presented a copy of the letter of engagement for bond counsel for the proposed bond issue between the City of Wharton and Vinson & Elkins, Attorney's at Law. He then presented a draft resolution approving the letter of engagement. City Attorney Paul Webb recommended approval. After some discussion, Councilmember Don Mueller made a motion to approve Resolution No. 2004-69, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004 - 69**

A RESOLUTION APPROVING A LETTER OF ENGAGEMENT WITH THE LAW FIRM VINSON & ELKINS FOR BOND COUNSEL LEGAL SERVICES FOR THE PROPOSED BOND ISSUE AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID CONTRACT.

WHEREAS, the Wharton City Council has determined there was a need to issue bonds to finance improvements in the City of Wharton; and

WHEREAS, the Wharton City Council wishes to engage the services of the law firm Vinson & Elkins for bond counsel legal services related to the proposed bond issue; and

WHEREAS, the City of Wharton and Vinson & Elkins wishes to be bound by the conditions as set forth in the letter of engagement; and

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

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 letter of engagement for bond counsel legal services related to the proposed bond issue with the law firm Vinson & Elkins and authorizes the Mayor of the City of Wharton, Texas to execute all documents related to letter of engagement.

Section II. That Vinson & Elkins and the City of Wharton are hereby bound by the conditions as set forth in the letter of engagement.

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

Passed, Approved, and Adopted this the 23rd day of August 2004.

CITY OF WHARTON

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT

City Secretary

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

The fifteenth item on the agenda was to review and consider a resolution expressing intent to Finance Expenditures to be incurred. City Manager Andres Garza, Jr. presented a draft copy of a resolution allowing the City to reimburse itself from Bond Proceeds for expenditures it would incur on the proposed improvements within the City of Wharton. He then presented a copy of the proposed projects for the 2004 Bond Issue. He stated that the City would receive the funds from the bonds in mid November 2004; therefore the City could start the progress on the projects and pay for any expenditures that occur prior to receiving the bond funds. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2004-70, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004-70**

RESOLUTION EXPRESSING INTENT TO FINANCE EXPENDITURES TO BE INCURRED.

WHEREAS, the City of Wharton, Texas (the "City"), is a home rule city of the State of Texas, authorized to issue obligations to finance its activities pursuant to the Texas Government Code and other laws of the State, the interest on which is excludable from gross income for federal income tax purposes ("tax-exempt obligations") pursuant to Section 103 of the Internal Revenue of 1986, as amended (the "Code"); and

WHEREAS, the City will make, or has made not more than 60 days prior to the date hereof, payments with respect to the acquisition, construction, reconstruction or renovation of the property listed on Exhibit A attached hereto; and

WHEREAS, the City desires to reimburse itself for the costs associated with the property listed on Exhibit A attached hereto from the proceeds of tax-exempt obligations to be issued subsequent to the date hereof; and

WHEREAS, the City reasonably expects to issue tax-exempt obligations to reimburse itself for the costs associated with the property listed on Exhibit A attached hereto;

NOW, THEREFORE, be it resolved that:

Section 1. The City reasonably expects to reimburse itself for all costs that have been or will be paid subsequent to the date that is 60 days prior to the date hereof and that are to be paid in connection with the acquisition, construction, reconstruction or renovation of the property listed on Exhibit A attached hereto from the proceeds of tax-exempt obligations to be issued subsequent to the date hereof.

Section 2. The City reasonably expects that the maximum principal amount of tax-exempt obligations issued to reimburse the City for costs associated with the property listed on Exhibit A attached hereto will not exceed \$1,700,000.

Section 3. All resolutions and parts of resolutions in conflict herewith are hereby repealed to the extent of the conflict only.

Section 4. If any word, phrase, clause, sentence, paragraph, section or other part of this resolution or the application thereof to any person or circumstance shall ever be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of this resolution and the application of such word, phrase, clause, sentence, paragraph, section, or other part of this resolution to any other person or circumstance shall not be affected thereby.

PASSED AND APPROVED this 23rd day of August 2004.

CITY OF WHARTON, TEXAS

BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT
City Secretary

EXHIBIT A

DESCRIPTION OF PROPERTY

<u>Item or Fund--Described by Character, Type or Purpose</u>	<u>Amount--Described by Cost, Quantity or Size</u>
Ahldag Outfall Ditch	\$ 237,000
Santa Fe Railroad Outfall Ditch	1,000,000
Waterline Replacement Project—Rusk, Fulton, Hamilton, Schley, Sorrell, Old Boling, Moore, Grayson	214,000
Richmond Road Sewerline Rehabilitation	142,000
Fulton Street Sewerline Replacement	61,360

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

The sixteenth item on the agenda was to review and consider Wharton Economic Development Corporation (WEDCo):

A. Resolution: A resolution approving the agreement between the City of Wharton and Wharton Economic Development Corporation for administrative services and office space; Authorizing the Mayor of the City of Wharton to execute all documents relating to said agreement. City Manager Andres Garza, Jr. presented a copy of the agreement for administrative services and office space between the City of Wharton and the Wharton Economic Development Corporation. He said Section I, Item 1 (A) had been amended to include office space located at the new wing of the Wharton Civic Center that had been renovated. He stated that the area was 1,539 square feet of office space including a conference room for a total estimated value on an annual basis of \$13,851.00. He said that the WEDCo Board had approved the agreement and was wanting to occupy that space for their offices. He said that the space would require some renovations and the renovation cost of \$8,975 was included in the agreement. He then presented a draft resolution approving the agreement. Councilmember Domingo Montalvo, Jr. asked how it would affect the City budget if WEDCo would lease the space for \$1 per year. City Manager Andres Garza, Jr. stated that the transfer-in to the Civic Center would need to be increased and the transfer-out from the General Fund would also have

to be increased in order to balance the budget. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2004-71, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004 - 71**

A RESOLUTION APPROVING THE AGREEMENT BETWEEN THE CITY OF WHARTON AND WHARTON ECONOMIC DEVELOPMENT CORPORATION FOR ADMINISTRATIVE SERVICES AND OFFICE SPACE; AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID AGREEMENT.

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton, Texas to execute an agreement with Wharton Economic Development Corporation for Administrative Services and Office Space; and

WHEREAS, the City of Wharton and Wharton Economic Development Corporation 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 Administrative Services and Office Space with the Wharton Economic Development Corporation.

Section. II. That the City of Wharton and the Wharton Economic Development Corporation 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 23rd day of August 2004.

CITY OF WHARTON

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT

City Secretary

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

B. Approving budget amendments to the Wharton Economic Development Corporation Fiscal Year 2003-2004 Budget. City Manager Andres Garza, Jr. presented the proposed budget

amendments for the Wharton Economic Development Corporation 2003-2004 fiscal year budget, which consisted of Revenues of \$1,163,000; Appropriations: Administration of \$205,766; Infrastructure of \$31,000; Strategic Planning of \$69,367; Marketing of \$44,150; Municipal Facilities of \$21,600; and Business Development of \$797,000. After some discussion, Councilmember Ray Linseisen made a motion to approve the Wharton Economic Development Corporation Fiscal Year 2003-2004 Budget Amendment. Councilmember David Samuelson seconded the motion. All voted in favor.

C. Approving the Wharton Economic Development Corporation Fiscal Year 2004-2005 Budget. City Manager Andres Garza, Jr. presented the proposed budget for the Wharton Economic Development Corporation 2004-2005 fiscal year budget, which consisted of Revenues of \$922,000; Appropriations: Administration of \$220,125; Infrastructure of \$192,000; Strategic Planning of \$15,000; Marketing of \$50,000; and Business Development of \$325,000. After some discussion, Councilmember Ray Linseisen made a motion to approve the Wharton Economic Development Corporation Fiscal Year 2004-2005 Budget. Councilmember David Samuelson seconded the motion. All voted in favor.

The seventeenth item on the agenda was to review and consider a request by Ace Ambulance Service for a City of Wharton Ambulance Provider Permit. City Manager Andres Garza, Jr. presented a copy of the Ambulance Provider Permit Application filed by Ace Ambulance Service. He stated that the City Staff had reviewed the permits to insure compliance with the City's ordinance. He then presented a copy of the memorandum dated August 17, 2004 from Deputy City Secretary Lisa Stavena that indicated the response of EMS Director John Kowalik, Police Captain Richard Coleman, and herself. He stated that City Attorney Paul Webb was providing the final legal review and would present his final recommendation. City Attorney Paul Webb stated that the City Staff would need to acquire the Texas Department of Health Certification since the existing certificate would expire on September 30, 2004, and the Certificate of Insurance since it would expire on January 20, 2005. After some discussion, Councilmember David Samuelson made a motion to approve the request by Ace Ambulance Service for a City of Wharton Ambulance Provider Permit. Councilmember Ken Freese seconded the motion. All voted in favor.

The eighteenth item on the agenda was to review and consider City of Wharton Uniform Bid:

A. Bid Tabulation.

B. **Resolution:** A resolution awarding a bid for Employee Uniforms for the City of Wharton;

Authorizing the Mayor of the City of Wharton to execute all documents relating to said contracts. City Manager Andres Garza, Jr. stated that on August 16, 2004, the City Staff received bids for the City of Wharton employee uniforms. He then presented a copy of the bid tabulation and a draft resolution awarding the bid to G&K Services. After some discussion, Councilmember Ray Linseisen made a motion to approve Resolution No. 2004-72, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004-72**

A RESOLUTION AWARDED A BID TO G & K SERVICES FOR EMPLOYEE UNIFORMS FOR THE CITY OF WHARTON; AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID CONTRACTS.

WHEREAS, the City Council of the City of Wharton recognizes that there is a need for the City to provide employee uniforms; and

WHEREAS, competitive, sealed bids were received on August 16, 2004, for employee uniforms; and

WHEREAS, G & K Services was deemed to be the best and lowest qualified bidder as per bid specifications for employee uniforms; and

WHEREAS, the City Council of the City of Wharton has determined that is in the best interest of the City of Wharton to enter into such an agreement.

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

Section I. That G & K Services is hereby awarded the bid for employee uniforms for the City of Wharton in accordance with the bid specifications.

Section II. That Bryce D. Kocian, 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 23rd day of August 2004.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT

City Secretary

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

The nineteenth item on the agenda was to review and consider Jr's Texas Best, LLC Project, TCF Contract No. 723092 Change Order's No.'s 7, 8, 9, and 10. City Manager Andres Garza, Jr. City Manager Andres Garza, Jr. presented a copy of the letter dated August 18, 2004 from Mr. Don Naiser, PE, General Manager/CEO of Energy Engineering Consultants regarding Jr's Texas Best, LLC Project, TCF Contract No. 723092 Change Order's No.'s 7, 8, 9, and 10. He stated that the change orders represent changes requested by the tenant (Jr's Texas Best, LLC.) and that the City of Wharton, as owner, must approve the change orders. He stated that any cost associated with the change orders would be bore by the tenant. After some discussion, Councilmember David Samuelson made a motion to approve Jr's Texas Best, LLC Project, TCF Contract No. 723092 change order # 7 in the

amount of (\$500.00) ; change order # 8 in the amount of \$2,340.80; change order # 9 in the amount of (\$3,000.00); and change order # 10 in the amount of \$2,810.00. Councilmember Ken Freese seconded the motion. All voted in favor.

The twentieth item on the agenda was to review and consider the request by the Public Works Department to purchase a 1991 GMC Dump Truck from the Texas Department of Transportation. City Manager Andres Garza, Jr. presented a copy of the letter dated August 10, 2004 to Public Works Director Phil Bush from Mr. Gary Quinn, Texas Department of Transportation, Property Manager of the General Services Division regarding the purchase of a 1991 GMC Dump Truck. He stated that Mr. Bush had inspected the truck and was requesting City Council authorization to purchase the vehicle. He stated that during the Budget meetings, the City Staff discussed the replacement of this type of equipment in the Public Works Department that would be with used equipment that was newer than what the City currently had in its fleet. He stated that the truck would replace a 1981 International truck that was currently in service. Public Works Director Phil Bush informed the City Council that in 1991 the City of Wharton purchased the 1981 International truck. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the request by the Public Works Department to purchase a 1991 GMC Dump Truck from the Texas Department of Transportation. Councilmember David Samuelson seconded the motion. All voted in favor.

The twenty-first item on the agenda was to review and consider an Update of the City of Wharton Projects. City Manager Andres Garza, Jr. presented an update on the status of the City of Wharton projects. He then presented a memorandum stating the following:

DRAINAGE:

1. Sanitary Sewer Manhole Survey.

Jones & Carter, Inc. had completed the inspection on approximately 210 manholes that could be located and opened. There wer approximately 406 manholes to be surveyed. They are working with the City's personnel to locate and open the remaining manholes, most of which were located in the streets and are paved over. The City's crews have had to remove the asphalt overlay, open them for Jones & Carter's inspection, and then repair the asphalt. The availability of the City's crews to work on this project has been limited due to their many other responsibilities. Jones & Carter, Inc. was working on this survey when the City's crews schedules allow. It was estimated that it will take at least one more month to complete the survey.

2. Ahldag Ditch Design.

Jones & Carter, Inc. had completed the topographical survey's and were finalizing the drainage areas and design flows. This would allow them to determine the required right-of-way widths. A meeting with the property owner was being scheduled for next week to discuss the acquisition of this right-of-way.

3. Santa Fe Outfall Ditch.

Jones & Carter, Inc. had put together the base information to determine the drainage areas and design flows and had obtained the calculated flows for the existing box storm sewer along Alabama Road. They were currently working on determining what flows should be put into this proposed ditch and the sizing of this ditch.

4. Crestmont / Kelving Way Drainage.

In connection with the Santa Fe Outfall Ditch Project, Jones & Carter, Inc. was reviewing the capacities of the existing drainage system for this area to determine its deficiencies. Jones & Carter, Inc. was approximately 50% complete with this analysis. The Wharton County Commissioner's Court have been contacted and assistance on the Caney Creek has been requested.

5. Nan Ya Drainage Ditch.

The City Staff was currently working on identifying ownership of the necessary right-of-way. The Staff have requested titles searches for the properties involved.

WATER/SEWER IMPROVEMENTS:

1. Richmond Road Sanitary Sewer Rehabilitation.

The televising of this line indicated severe deterioration of the concrete sewer pipe. Jones & Carter, Inc. was 95% complete with the plans and specifications for the rehabilitation with the plans and specifications for the rehabilitation of this line by using a cast-in-place liner or if necessary by pipe bursting. The plans include the construction of two additional manholes for this line and two point repairs. The estimated bid date for this project was October 2004.

2. Richmond Road to Fulton Sewer Line Replacement.

The City Staff was scheduling a meeting with the property owners to determine if the line might be relocated to reduce its impact to the development of this tract of land. The outcome of the meeting would determine the schedule for the line improvement.

3. Waterline Replacement Project.

Jones & Carter, Inc. and the City Staff have reviewed the design drawings. Jones & Carter was currently making final adjustments. They should be completed in approximately two weeks with the plans and specifications.

4. Stavena Road Sewer/Water line Installation.

The City Crews would complete the sewer line installation the week of August 23, 2004 at which time they would begin the installation of the waterline. The waterline installation would take approximately 1-1/2 weeks.

5. Waterline Replacement from Melburn on Rusk Street to Lazy Lane.

The City Crews have completed the waterline replacement. The City Crews were now making the transition (water taps) to the new line.

STREET IMPROVEMENTS

1. U.S. 59/FM 102 Intersection Upgrade.

The topographical surveys were complete and Jones & Carter, Inc. was approximately 25% complete with the design schematics. A review set of the drawings should be ready in approximately three weeks. The City had received a letter from J-M Manufacturing Company

expressing a concern about the service road being one-way which would required their southbound trucks and employees to travel to F.M. 961, make a u-turn and come back to the plant site to exit. The City would be responding to this letter.

2. 2004 Street Improvement Project.

Street Rehabilitation had begun on all of the streets approved by the City Council for improvement except for Texas and Center Streets and have been prepared for lime. The lime would be placed during the week of August 23, 2004.

WHARTON REGIONAL AIRPORT – RAMP PROGRAM

1. The all-weather road leading to the AWOS system had been completed.
2. Construction on the cross-over from one apron to the other would begin on August 23rd. Houston Pipeline gave the necessary authorization for construction over the pipeline on August 20th. Construction should take two week to complete.
3. Construction of a security fence should begin next week. All materials for the fencing had been bought. Facilities Maintenance Personnel would be installing the approximately 600 feet of chain link fence.

HOME PROJECTS

1. 2003 HOME Program.

The City Staff was currently accepting applications now and should complete the application process. Once this process had been completed, the City Staff would advertise, submit the information to the State for approval. By mid-November, construction of the nine new homes should begin.

2. HOME Elevation Project.

The City Staff had published the invitation to bid this project and the bid opening would be held August 26, 2004. Once the City received a responsive bid, the contracts would be placed on the City Council agenda during September. Extensions to the Office of Rural Community Affairs and the Texas Department of Public Safety Division of Emergency Management agreements have been requested. However, no response had been received. The City Staff expects to complete this project December 31, 2004.

3. Unmet Needs DR-1257-TX (1998 Flood) Home Reconstruction Project.

The construction of seven new homes under this grant had been completed and the City was waiting on reimbursement from the State.

4. 2004 HOME Program.

The City Staff had received notification that the City was approved for this grant which would enable the City to build 7 new low to moderate income homes. The City Staff was waiting on the contracts to be submitted for execution.

OTHER PROJECTS:

1. Police Station Electrical Protection.

A final report from Jones & Carter, Inc. would be submitted next week detailing their findings and recommendation for surge and lightning protection.

2. Animal Control Facility.

The construction of the building had been completed except for some work on the cabinets, doors and restroom facilities. The fence installation on the bays was complete and the City Crews had begun the outside fence installation.

After some discussion, no action was taken.

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

A. Beautification Commission meeting held August 11, 2004.

B. Wharton Economic Development Corporation meeting held August 17, 2004.

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

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

A. Police Department.

I. Engineer/Planning Department.

B. City Secretary/Personnel.

J. Facilities Maintenance Department.

C. Municipal Court.

K. Community Services Department/
Civic Center.

D. E.M.S. Department.

E. Fire Department Incidents/Inspections.

L. Wharton Municipal Pool.

F. Code Enforcement Department.

M. Wharton Regional Airport.

G. Water & Sewer Department.

N. Legal Department.

H. Public Works Department.

O. Weedy Lots/Sign Ordinance.

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

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

The meeting was adjourned at 8:14 p.m.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT
City Secretary