

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
SEPTEMBER 27, 2004**

Mayor Bryce D. Kocian declared a Regular Meeting duly open for the transaction of business at 7:00 p.m. Councilmember Ray Linseisen 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 Assistant Lori Jaquez, Police Chief Tim Guin, 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, Willie Welch, Vasaar "Skip" Holman, Jim Gilley, Ron Sanders, Abby Schvbach and Chris Cerny.

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

The fourth item on the agenda was the Wharton Moment. Mayor Bryce D. Kocian stated that Ms. Susie LaFort would be presented with a proclamation on September 28, 2004 honoring her 100th birthday.

Mayor Bryce D. Kocian then presented a proclamation designating the month of October 2004 as "Czech Heritage Month". 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 August 2004. Finance Director Joyce Vasut presented the financial report for the month of August 2004, which was at 92% or eleven months into the fiscal year. Mrs. Vasut stated that the general fund revenues were at 89.17% and the expenditures were at 88.94%. The total ad valorem taxes collected were \$1,677,268. She said the sales tax for the month of July 2004 was \$130,926 with \$87,284 going to the City and \$43,642 to WEDCo. The TexPool balance for August 2004 was \$324,384.72 with an average monthly yield of 1.4029%. The bank balance was \$1,410,489.08 with an averaged monthly yield of 2.01%. After some discussion, Councilmember Ray Linseisen made a

motion to approve the financial report for the month of August 2004. Councilmember Don Mueller seconded the motion. All voted in favor.

The sixth item discussed on the agenda was to review and consider the Planning Commission Recommendation:

A. Request by Ms. Debbie Folks for a variance to place a pole sign at 816 Texas Street; Rust 4, Block 13, Lot 5.

City Manager Andres Garza, Jr. presented a copy of the memorandum dated September 21, 2004 from Planning Commission Chairman A. J. Rath recommending the City Council consider the request. He then presented a copy of the Planning Commission Communications from the meeting held September 20, 2004. He stated that Police Chief Tim Guin had also reviewed the request by Ms. Folks to place a sign at 816 Texas Street. He stated that Police Chief Guin had some concerns regarding the placement of the sign. Building Official Assistant Lori Jaquez stated that the placement of the sign was 5 feet from the assumed property line, behind the telephone poles. Mayor Bryce D. Kocian asked if the sign was placed prior to a permit being issued. Ms. Jaquez stated that the sign was placed prior to the issuance of a permit. Councilmember Ken Freese stated that with the sign at the location, there was a safety issue. Councilmember Ray Linseisen asked if the sign could be moved ten feet. Ms. Debbie Folks stated that moving the sign ten feet would cause the back of the sign to be in concrete and would be costly to move. City Attorney Paul Webb asked why the sign was installed prior to getting a permit. Ms. Folks stated that she was not aware that a permit was required for placement of a sign. Councilmember Domingo Montalvo, Jr. stated that the sign could be raised. Ms. Folks stated that vehicles could already see below the sign and that the vehicles already had to pull up past the stop sign in order to see approaching traffic. She stated that she did not know why this was an issue since the Planning Commission had recommended approval of the request and a person in a vehicle would be able to see under and around the sign. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the request by Ms. Debbie Folks for a variance to place a pole sign at 816 Texas Street; Rust 4, Block 13, Lot 5. The motion died for lack of a second. After some discussion, Councilmember Ken Freese made a motion for Ms. Folks to meet with the Code Enforcement and Legal Department to find a solution for the placement of a sign at 816 Texas Street; Rust 4, Block 13, Lot 5. Councilmember David Samuelson seconded the motion. Councilmembers David Samuelson, Ken Freese, Don Mueller, Domingo Montalvo, Jr., and Ray Linseisen voted for the motion. Councilmember V. L. Wiley, Jr. voted against the motion. The motion passed.

B. Request by Mr. Marshall Francis for a variance to construct a storage facility at 815 North Richmond Road; Wharton, Block 40, Lot 6A.

City Manager Andres Garza, Jr. presented a copy of the memorandum dated September 21, 2004 from Planning Commission Chairman A. J. Rath recommending the City Council consider the request. He then presented a copy of the Planning Commission Communications from the meeting held September 20, 2004. Mr. Marshall Francis addressed the City Council and stated that he was requesting a variance to construct a storage facility. After some discussion, Councilmember David Samuelson made a motion to approve the request by Mr. Marshall Francis for a variance to construct a storage facility at 815 North Richmond Road; Wharton, Block 40, Lot 6A. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The seventh item discussed on the agenda was to review and consider an ordinance adopting the Fiscal Year 2004 – 2005 Annual Budget for the City of Wharton, Texas; Appropriating the several sums established therein; and directing the City Secretary to file copies as required by law. City Manager Andres Garza, Jr. stated that during the regular August 23, 2004 City Council meeting , the City Council received under separate cover a copy of the proposed budget for the City of Wharton, Texas, Fiscal Year October 1, 2004 to September 30, 2005. He stated that during the regular City Council meeting held September 13, 2004 the City Council held the public hearing to receive public input regarding City of Wharton Annual Budget for Fiscal year 2004 – 2005. He then presented a draft ordinance adopting the Fiscal Year 2004-2005 Annual Budget for the City of Wharton, Texas. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Ordinance No. 2004-18, which read as follows:

**CITY OF WHARTON, TEXAS
ORDINANCE NO. 2004-18**

**AN ORDINANCE ADOPTING THE FISCAL YEAR 2004-2005 ANNUAL BUDGET FOR
THE CITY OF WHARTON, TEXAS; APPROPRIATING THE
SUMS ESTABLISHED THEREIN; AND DIRECTING THE
CITY SECRETARY TO FILE COPIES AS REQUIRED BY LAW.**

WHEREAS, the City’s budget for the fiscal year ending September 30, 2005, which is attached hereto, was duly prepared and filed with the City Secretary more than thirty (30) days prior to September 30, 2004.

WHEREAS, a public hearing was duly called and held on said budget not less than fifteen (15) days after the date of such filing with the City Secretary and prior to the time the City Council of the City of Wharton levied taxes for such current fiscal year, public notice of such hearing having been duly given as required by law; and

WHEREAS, all parties desiring to participate and be heard at said public hearing having been heard until no more evidence was offered, and such hearing having been concluded, and the City Council of said City having made such changes in such budget as in its judgment the law warrants and the best interest of the taxpayers of the City of Wharton, Texas, demand, said budget with such changes being attached hereto, as aforesaid.

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

Section 1. **THAT** the findings set out in the preamble of this ordinance are true and correct.

Section 2. **THAT** the budget of the City of Wharton, Texas for the fiscal year ending September 30, 2005, be and the same is hereby, in all respects, finally approved and adopted including any changes approved by the City Council; and the same shall be and is hereby filed with the City Secretary of the City.

Section 3. **THAT** the General Fund is hereby established to account for resources associated with traditional government activities, which are not required legally or by sound financial management to be accounted for in another fund. The General Fund is hereby approved with \$3,774,214 estimated revenues and \$3,912,814 in appropriations and with transfers-in approved at \$385,000, and transfers-out approved at \$246,400. The amounts are specified for departmental purposes named in said budget and they are hereby appropriated to and for such purposes at the departmental level.

Section 4. **THAT** the Hotel Motel Fund is created to account for the occupancy tax levied on hotel rooms within the City as adopted by city ordinance and consistently with Chapter 351 of the Texas Tax Code. The Hotel Motel Fund is hereby approved with \$57,200 in estimated revenues and \$26,450 in appropriations and transfers-out approved at \$30,750 with beginning fund balance of approximately \$8,755.

Section 5. **THAT** the Narcotics Seizure Fund is created to account for the resources and uses of assets seized in illegal narcotics activities. The uses are limited to law enforcement activities. The Narcotics Seizure Fund is hereby approved with \$2,500 in estimated revenues, \$10,000 in appropriations, \$3,500 in transfers-out with beginning fund balance of \$11,518.

Section 6. **THAT** the D.A.R.E. Fund is hereby created to account for resources and uses associated with providing drug education to students. The D.A.R.E. Fund is hereby approved with \$38,500 in estimated revenues, \$57,713 in appropriations and transfer-in approved at \$7,500 and a beginning fund balance of approximately \$14,534.

Section 7. **THAT** the Debt Service Fund is hereby created to account for the accumulation of resources collected for Interest and Sinking requirements and for the disbursement of those resources for debt requirements. The Debt Service Fund is hereby approved with \$352,490 in estimated revenues and \$352,490 in appropriations, estimated beginning fund balance of \$376,188.

Section 8. **THAT** the Capital Improvement Fund is created to account for infrastructure improvements authorized by the City Council. The Capital Improvement is approved with \$1,720,260 in estimated revenues including a transfer-in of \$30,000 and \$1,789,860 in appropriations and an estimated beginning fund balance of \$70,400.

Section 9. **THAT** the Water and Sewer Fund is created to account for the resources and uses associated with the delivery of utility services to citizens of Wharton as an enterprise fund. The Water & Sewer Fund is hereby approved with \$2,187,990 in estimated revenues. Water and sewer is approved with \$2,187,990 in appropriations, which includes a franchise fee of 5% of water and sewer sales or \$103,000, and transfers-out approved at \$385,000.

Section 10. **THAT** the Solid Waste Fund is created to account for the financial activities of the City's solid waste collection contract and delivery to citizens of Wharton as an enterprise fund. The Solid Waste Fund is approved with \$1,181,500 in estimated revenues and \$1,181,500 in appropriations.

Section 11. **THAT** the Emergency Medical Services Fund is created to account for the financial activities of the emergency medical services provided to the city and surrounding areas as an enterprise fund. The Emergency Medical Services Fund is approved with \$569,423 in estimated revenues and \$715,323 in appropriations and transfers-in approved at \$175,900 and transfers-out at \$30,000.

Section 12. **THAT** the Civic Center Fund is created to account for the financial activities of the Civic Center as an enterprise fund. The Civic Center is approved with \$64,449 in estimated revenues and \$158,199 in appropriations and transfers-in approved at \$93,750.

Section 13. **THAT** the Airport Fund is created to account for the financial activities of the Wharton Regional Airport as an enterprise fund. The Airport Fund is approved with \$119,108 in estimated revenues and \$80,589 in appropriations.

Section 14. **THAT** the City Secretary shall file copies of this Ordinance and of such budget with the County Clerk of Wharton County, Texas.

PASSED AND APPROVED by a favorable majority of the members of the City Council of the City of Wharton, Texas, in council meeting, this 27 day of September duly assembled in accordance with Article VI of the Charter of the City of Wharton, Texas by the following vote:

Bryce D. Kocian, Mayor	Voted	Yes
V. L. Wiley, Jr., Councilmember District 1	Voted	Yes
Dr. David Samuelson, Councilmember District 2	Voted	Yes
Ken Freese, Councilmember District 3	Voted	Yes
Donald Mueller, Councilmember District 4	Voted	Yes
Domingo Montalvo, Jr., Councilmember at Large Position 5	Voted	Yes
Ray Linseisen, Councilmember at Large Place 6	Voted	Yes

Separability

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

CITY OF WHARTON

By: _____
Bryce D. Kocian, Mayor

ATTEST:

Joyce Vasut, City Secretary

APPROVED FOR ADMINISTRATION:

Andres Garza, Jr., City Manager

APPROVED AS TO FORM:

Paul Webb, City Attorney
Councilmember Ray Linseisen seconded the motion. All voted in favor.

APPROVED FOR FUNDING:

Joyce Vasut, Finance Director

The eighth item discussed on the agenda was to review and consider an Ordinance: Levying a Tax Rate for the City of Wharton, Texas, for the Tax Year 2004; directing the Tax Assessor-Collector to assess, account for and distribute the taxes as herein levied; and providing repealing and severability clauses. City Manager Andres Garza, Jr. presented the draft ordinance levying a tax rate for the City of Wharton, Texas, for the Tax Year 2004; directing the Tax Assessor-Collector to assess, account for and distribute the taxes as herein levied; and providing repealing and severability clauses. After some discussion, Councilmember Don Mueller made a motion to approve Ordinance No. 2004-19, which read as follows:

**CITY OF WHARTON, TEXAS
ORDINANCE NO. 2004 - 19**

AN ORDINANCE LEVYING A TAX RATE FOR THE CITY OF WHARTON, TEXAS, FOR THE TAX YEAR 2004; DIRECTING THE TAX ASSESSOR-COLLECTOR TO ASSESS, ACCOUNT FOR AND DISTRIBUTE THE TAXES AS HEREIN LEVIED; AND PROVIDING REPEALING AND SEVERABILITY CLAUSES.

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

Section 1. **THAT** there be and is hereby levied for the year 2004 on all real and personal property within and all real and personal property and mineral royalties owned within the city limits of the City of Wharton, Texas for the year 2003, except so much thereof as may be exempt by the constitution and of the State of Texas and of the United States, the following:

General Fund Operations	.47430/\$100 valuation
For Debt Service Requirements	.11121/\$100 valuation
Total Tax Rate	.58551/\$100 valuation

Section 2. THAT the Tax Assessor-Collector and/or Finance Director is hereby directed to assess, extend and enter upon the certified tax rolls of the City of Wharton, Texas, for the current taxable year, as provided by the Wharton County Appraisal District, the amounts and rates as herein levied, to keep correct amount of same, and when collected, to be distributed in accordance with this ordinance.

Passage and Approval

PASSED AND APPROVED by a favorable majority of the members of the City Council of the City of Wharton, Texas, in a council meeting, this 13th day of September, 2004, duly assembled in accordance with Article VI of the Charter of the City of Wharton, Texas by the following vote:

Bryce D. Kocian, Mayor	Voted	Yes
V. L. Wiley, Jr., Councilmember District 1	Voted	Yes
Dr. David Samuelson, Councilmember District 2	Voted	Yes
Ken Freese, Councilmember District 3	Voted	Yes
Donald Mueller, Councilmember District 4	Voted	Yes
Domingo Montalvo, Jr., Councilmember at Large Place 5	Voted	Yes
Ray Linseisen, Councilmember at Large Place 6	Voted	Yes

Separability

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

CITY OF WHARTON

By: _____
Bryce D. Kocian, Mayor

ATTEST:

Joyce Vasut, City Secretary

APPROVED FOR ADMINISTRATION:

Andres Garza, Jr., City Manager

APPROVED AS TO FORM:

Paul Webb, City Attorney

APPROVED FOR FUNDING:

Joyce Vasut, Finance Director

Councilmember seconded the motion. All voted in favor.

The ninth item discussed 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. stated that during the September 13, 2004 City Council Finance Committee meeting, the Committee voted to recommend the City Council approve amendments to the City of Wharton 2003-2004 fiscal year budget. He then presented a draft ordinance approving the budget amendments. Finance Director Joyce Vasut stated that the amendments would maintain a balanced budget for the General, Hotel Motel, Seizure Funds. The Expenditures would exceed the revenues in the Water & Sewer, Solid Waste, EMS, and Civic Center Funds; thus reducing the fund balances. After some discussion, Councilmember Ken Freese made a motion to approve Ordinance No. 2004-20, which read as follows:

**CITY OF WHARTON, TEXAS
ORDINANCE NO. 2004 - 20
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. Councilmember District No. 1	Voted Yes	David Samuelson Councilmember District No. 2	Voted Yes
--	--------------	---	--------------

Ken Freese Councilmember District No. 3	Voted Yes	Donald Mueller Councilmember District No.4	Voted Yes
--	--------------	---	--------------

Domingo Montalvo, Jr. Councilmember At Large Place No. 5	Voted Yes	Ray Linseisen Councilmember at Large Place No. 6	Voted Yes
---	--------------	---	--------------

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 27th day of September 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 tenth item discussed on the agenda was to review and consider Write-off of delinquent Utilities and EMS Accounts for fiscal year 2003-2004. City Manager Andres Garza, Jr. stated that during the September 13, 2004 City Council Finance Committee, the Committee voted to recommend the City Council approve to write-off the delinquent Utility and EMS accounts for fiscal year 2003-2004. He then presented a copy of the memorandum dated September 9, 2004 from Finance Director and himself regarding the write-off's. Finance Director Joyce Vasut stated that EMS write-offs consisted of \$212,708.42 for the period October 1, 2001 to February 28, 2003. She stated that the utility write-offs consisted of \$10,796.16 from October 2003 through September 2004. Councilmember Domingo Montalvo, Jr. requested that a City Council Public Safety Committee be established to discuss items related to the Fire, EMS, and Police Departments. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to authorize the City Staff to Write-off delinquent Utilities and EMS Accounts for fiscal year 2003-2004. Councilmember David Samuelson seconded the motion. All voted in favor.

The eleventh item discussed on the agenda was to review and consider a resolution of the Wharton City Council establishing the City of Wharton Personnel Policy effective October 1, 2004. City Manager Andres Garza, Jr. stated that under separate cover, the City Council received a copy of the proposed City of Wharton Personnel Policy. He stated that the City Staff was requesting City Council approval to adopt the policy effective October 1, 2004. He then presented a draft resolution establishing the policy. Finance Director Joyce Vasut informed the City Council that the Finance

Committee reviewed the policy and recommended approval. After some discussion, Councilmember Ray Linseisen made a motion to approve Resolution No. 2004-78, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004 - 78**

A RESOLUTION OF THE WHARTON CITY COUNCIL ESTABLISHING THE CITY OF WHARTON PERSONNEL POLICY EFFECTIVE OCTOBER 1, 2004.

WHEREAS, the Wharton City Council has determined there was a need to improve the City of Wharton Personnel Policy; and

WHEREAS, the Wharton City Council wishes to establish an updated personnel policy for the City of Wharton; and

WHEREAS, the Wharton City Council wishes to authorize the City Manager to enforce the policies and procedures as set for in the policy.

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 City of Wharton Personnel Policy to be effective October 1, 2004.

Section II. That the Wharton City Council hereby authorizes the City Manager to enforce the policies and procedures as set forth in the policy.

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

Passed, Approved, and Adopted this the 27th day of September 2004.

CITY OF WHARTON

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT

City Secretary

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

The twelfth item discussed on the agenda was to review and consider a resolution authorizing the Mayor of the City of Wharton to execute a contract with the Wharton Chamber of Commerce and Agriculture for Visitor and Convention Bureau Services for October 1, 2004 to September 30, 2005 Fiscal Year. City Manager presented a draft resolution authorizing the Mayor of the City of Wharton to execute a contract with the Chamber of Commerce and Agriculture for Visitor Convention Bureau

Services for October 1, 2004 to September 30, 2005 Fiscal Year. City Manager Andres Garza, Jr. requested the City Council defer this item until the next regular meeting. He stated that he was reviewing the contract contents to the Hotel/Motel law. No action was taken.

The thirteenth item on the agenda was to review and consider a resolution authorizing publication of Notice of Intention to Issue Certificates of Obligation. City Manager Andres Garza, Jr. stated that during the August 23, 2004 regular Wharton City Council meeting, the City Council approved the contracts with Vinson and Elkins and Coastal Securities for services to issue bonds. He stated that one of the first steps the City needed to take was to publish a Notice of Intention to issue the Certificates of Obligation. He then presented a draft resolution authorizing the publication of the Notice of Intention to Issue Certificates of Obligation. He stated that the Notice of Intention would need to be published in the newspaper, then the City could sell the bonds on October 25, 2004. After some discussion, Councilmember David Samuelson made a motion to approve Resolution No. 2004-79, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004-79**

**A RESOLUTION AUTHORIZING PUBLICATION OF NOTICE OF
INTENTION TO ISSUE CERTIFICATES OF OBLIGATION**

**THE STATE OF TEXAS §
COUNTY OF WHARTON §
CITY OF WHARTON §**

WHEREAS, the City Council of the City of Wharton, Texas (the "City"), deems it advisable to issue certificates of obligation of the City in accordance with the notice hereinafter set forth; Now, Therefore

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

Section 1. The facts and recitations contained in the preamble of this resolution are hereby found and declared to be true and correct.

Section 2. The City Secretary is hereby authorized and directed to cause to be published in the manner required by law and in substantially the form attached hereto, a notice of intention to issue certificates of obligation.

Section 3. The notice shall be published once a week for two (2) consecutive weeks in a newspaper which is of general circulation in the City, the date of the first publication to be at least fifteen (15) days before the date tentatively set in said notice for the passage of the ordinance authorizing the issuance of such certificates of obligation.

Section 4. The Mayor, City Secretary, and other officers and agents of the City are hereby authorized and directed to do any and all things necessary or desirable to carry out the provisions of this resolution.

Section 5. This resolution shall take effect immediately upon its passage.

Section 6. The NOTICE OF MEETING relating to this meeting and heretofore posted by the City Secretary, and the posting thereof, are hereby authorized, approved, and ratified.

PASSED AND APPROVED this 27th day of September 2004.

CITY OF WHARTON

Mayor
City of Wharton, Texas

ATTEST:

City Secretary

(SEAL)

NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION

NOTICE IS HEREBY GIVEN that the City Council of the City of Wharton, Texas (the "City"), will meet at the City Hall, 120 E. Caney Street, Wharton, Texas, at 7:00 p.m. on the 25th day of October, 2004, which is the time and place tentatively set for the passage of an ordinance and such other action as may be deemed necessary to authorize the issuance of the City's certificates of obligation, payable from ad valorem taxation and from a limited pledge of a subordinate lien on the net revenues of the City's water and sewer system, in the maximum aggregate principal amount of \$1,715,000, bearing interest at any rate or rates not to exceed the maximum interest rate now or hereafter authorized by law, as shall be determined within the discretion of the City Council at the time of issuance, and maturing over a period of years not to exceed thirty (30) years from the date thereof, for the purpose of evidencing the indebtedness of the City for all or any part of the cost of constructing water and sewer system improvements, drainage improvements, including acquisition of right-of-way, and street improvements, and the cost of professional services incurred in connection therewith.

WITNESS MY HAND this 27th day of September 2004.

/s/ Joyce Vasut

City Secretary
City of Wharton, Texas

Published in the Wharton Journal Spectator Saturday, October 9, 2004 and Saturday, October 16, 2004. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The fourteenth item on the agenda was to review and consider a resolution amending the lease agreement between the City of Wharton and Dupre Transport, LLC for the lease of approximately three-fourths of one acre at Wharton Regional Airport; Authorizing the Mayor of the City of

Wharton to execute all documents related to said agreement. City Manager Andres Garza, Jr. presented a draft resolution authorizing the Mayor of the City of Wharton to execute an amendment to the Dupre Transports, LLC agreement with the City of Wharton for the lease of approximately three-fourths of one acre at Wharton Regional Airport. He stated that the contract was amended during the regular December 9, 2003 City Council meeting for the remainder of the contract period. The contract expired September 30, 2004 and Mr. Duncan Cameron of Dupre Transport, LLC was requesting that the contract be extended on a month to month basis. He then presented a draft copy of the contract amendment. He stated that the current monthly rental was \$600. After some discussion, Councilmember Ray Linseisen made a motion to approve Resolution No. 2004-80, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004 - 80**

A RESOLUTION AMENDING THE LEASE AGREEMENT BETWEEN THE CITY OF WHARTON AND DUPRE TRANSPORTS LLC FOR THE LEASE OF APPROXIMATELY THREE-FOURTHS OF ONE ACRE AT THE WHARTON REGIONAL AIRPORT; AUTHORIZING THE MAYOR OF THE CITY OF WHARTON, TEXAS TO EXECUTE A LEASE AGREEMENT WITH THE DUPRE TRANSPORTS LLC.

WHEREAS, the City of Wharton and Dupre Transports entered into a lease agreement for the use of approximately three-fourths of a one acre site to be used as a parking facility at the Wharton Regional Airport; and

WHEREAS, the Wharton City Council wishes to amend its agreement between the City of Wharton and Dupre Transports, LLC; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute all documents related to the agreement; and

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

Section I. That the City Council of the City of Wharton hereby approves an amendment to the lease agreement between the City of Wharton and Dupre Transports, LLC for a parking facility at the Wharton Regional Airport.

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

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

Passed, Approved, and Adopted this 27th day of September 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 fifteenth item on the agenda was to review and consider Santa Fe Trail Project:

A. Resolution: A resolution of the Wharton City Council authorizing the submission of an application to the Lower Colorado River Authority, Community Development Partnership Program for funding the Santa Fe Trail Project and authorizing the Mayor of the City of Wharton to execute all documents related to said application. City Manager Andres Garza, Jr. stated that during the regular May 24, 2004 City Council meeting, the City Council approved the request by the Beautification Commission to move forward with the Santa Fe Trail Project. He stated that Mr. Paul Scallon of LCRA had been working with the Commission to develop a conceptual plan for the project. On Monday, September 29, 2004 the Commission approved the conceptual plans and was requesting City Council authorization to submit grants to the Lower Colorado River Authority (LCRA) through the Community Development Partnership Program for funding for the project. He then presented a copy of a draft resolution authorizing the submission of the grant applications for funding to LCRA. Mr. Garza stated that the total cost of the project would be \$115,000 to \$120,000 without lighting. Finance Director Joyce Vasut stated that the City received \$2,000 in cash contributions and \$9,000 in pledges. After some discussion, Councilmember Domingo Montalvo, Jr. made the motion to approve Resolution No. 2004-81, which read as follows:

City of Wharton
RESOLUTION NO. 2004-81

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE LOWER COLORADO RIVER AUTHORITY, COMMUNITY DEVELOPMENT PARTNERSHIP PROGRAM FOR FUNDING FOR THE SANTA FE TRAIL PROJECT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON, TEXAS, TO EXECUTE ALL DOCUMENTS RELATED TO THE APPLICATION.

WHEREAS, the City of Wharton Beautification Commission has been authorized by the Wharton City Council to proceed with the Santa Fe Trail Project – Phase I; and

WHEREAS, the City of Wharton wishes to submit an application to the Lower Colorado River Authority through the Community Development Partnership Program to assist in funding the Santa Fe Trail Project; and

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

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

Section I. The City Council authorizes the City Manager to prepare and submit an application to the Lower Colorado River Authority through the Community Development Partnership Program for funding for the Santa Fe Trail Project – Phase I.

Section II. The City Council 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 27th day of September 2004.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN, Mayor

ATTEST:

JOYCE VASUT, City Secretary

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

B. Resolution: A resolution of the Wharton City Council authorizing the submission of an application to the Gulf Coast Medical Foundation for funding for the Santa Fe Trail Project and authorizing the Mayor of the City of Wharton to execute all documents related to said application.

City Manager Andres Garza, Jr. stated that during the regular May 24, 2004 City Council meeting, the City Council approved the request by the Beautification Commission to move forward with the Santa Fe Trail Project. He stated that on Monday, the Commission approved the conceptual plans and were requesting City Council authorization to submit grants to the Gulf Coast Medical Center Foundation (GCMF) for funding for the project. He then presented a copy of a draft resolution authorizing the submission of the grant applications for funding to GCMF. Mr. Garza stated that the City would ask for \$25,000 from GCMF. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2004-82, which read as follows:

**City of Wharton
RESOLUTION NO. 2004-82**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE GULF COAST MEDICAL FOUNDATION FOR FUNDING FOR THE SANTA FE TRAIL PROJECT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON, TEXAS, TO EXECUTE ALL DOCUMENTS RELATED TO THE APPLICATION.

WHEREAS, the City of Wharton Beautification Commission has been authorized by the Wharton City Council to proceed with the Santa Fe Trail Project – Phase I; and

WHEREAS, the City of Wharton wishes to submit an application to the Gulf Coast Medical Foundation to assist in funding the Santa Fe Trail Project; and

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

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

Section I. The City Council authorizes the City Manager to prepare and submit an application to the Gulf Coast Medical Foundation for funding for the Santa Fe Trail Project – Phase I.

Section II. The City Council 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 27th day of September 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 sixteenth item on the agenda was to review and consider Public Works Committee recommendation to request the Texas Department of Transportation to consider traffic lane reconfigurations:

- A. East FM 1301 from Alabama Road past H.E. B. to the City limits.
- B. Business 59 from Burluson to FM 102.

City Manager Andres Garza, Jr. stated that on September 16, 2004, the City Council Public Works Committee met and discussed the proposed traffic lane reconfigurations. He stated that currently, going East on FM 1301, the road transitions from a four lane with a turn lane to a two lane road. He stated that the Committee was recommending Texas Department of Transportation to review the traffic lane alignment and consider a continuous left turn lane from the transition to the City limits line past the Wharton County Precinct 1 property. He stated that Business 59 from Burluson Street to FM 102 was a four lane road, with narrow lanes. The Committee discussed the possibility of realignment of the lanes to create a continuous left turn lane with one south bound lane and one

north bound lane. He stated that the Committee was recommending the City Council authorize the City Staff to request the Texas Department of Transportation to review the request and consider reconfigurations, if feasible. He then presented a map indicating the locations of the requested reconfigurations. Councilmember David Samuelson stated that the turning lane should be extended on FM 1301 in order to make turning safer. He stated that the Speed Limit should be reduced to the Wharton County Precinct facility. City Manager Andres Garza, Jr. stated that he would contact Texas Department of Transportation. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the Public Works Committee recommendation to request the Texas Department of Transportation to consider traffic lane reconfigurations for: East FM 1301 from Alabama Road past H.E. B. to the City limits with reduction of the speed limit to the Wharton County Precinct facility; and Business 59 from Burleson to FM 102. Councilmember David Samuelson seconded the motion. All voted in favor.

The seventeenth item on the agenda was to review and consider Home Elevation Project – Texas Department of Public Safety, Division of Emergency Management, FEMA Disaster DR-1257-TX; Office of Rural Community Affairs, Contract No. 722067. City Manager Andres Garza, Jr. stated that on September 7, 2004 the City received three bids for the Home Elevation Project from the following companies:

1. Structural Solutions.
2. DAB Engineering.
3. Childress Retrofitting, Inc.

He then presented a copy of information that he received from Jersey Village City Manager Dale Brown regarding a determination/ruling recently issued by the Internal Revenue Service (IRS). He stated that Mayor Kocian had also submitted a letter to Congressman Ron Paul's office for his review. He stated that according to the ruling, the proceeds from the grant elevation program were taxable benefits to the property owners and the City was required to issue tax forms to each property owner receiving the elevation grant. He stated the program participants would be notified in writing of this ruling. He stated that he had met with seven of the ten participants today at City Hall to inform them of the IRS ruling. He stated that the City Staff planned to complete the bid review and identify the lowest and best qualified bidder and proceed with a recommendation to the City Council. He said the State had provided the City an extension of time on the project to August 31, 2005. He stated that all participants that wish to continue in the program would be allowed to do so with the understanding of the IRS ruling. After some discussion, no action was taken.

The eighteenth item on the agenda was to review and consider the authorization for the City Staff to prepare an application for funding to the Texas Department of Housing and Community Affairs, Texas Community Development Program. City Manager Andres Garza, Jr. stated the Texas Department of Housing and Community Affairs would be accepting applications for the Texas Community Development Program on November 5, 2004 for infrastructure improvements. He then presented a copy of the Community Development Fund Selection Criteria. He stated the City Staff was requesting City Council authorization to proceed with the application process to prepare an application for submission. He stated that previous projects funded under this program were the MLK Waterline Project and the Abell Street waterline improvement project. Mr. Garza stated that a public hearing would need to be set in order to receive public input for submission towards the project. After some discussion, Councilmember Ray Linseisen made a motion to approve authorization for the City Staff to prepare an application for funding to the Texas Department of

Housing and Community Affairs, Texas Community Development Program. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The nineteenth item on the agenda was to review and consider City of Wharton Police Vehicles Bid:
A. Bid Tabulation.

B. **Resolution:** A resolution awarding the bid for the City of Wharton Police Vehicles; Authorizing the Mayor of the City of Wharton to execute all documents related to said agreements.

City Manager Andres Garza, Jr. informed the City Council that bids were received on September 9, 2004 for the City of Wharton Police Vehicles. He then presented a copy of the bid tabulation, and a copy of the memorandum dated September 14, 2004 from Police Chief Tim Guin. He stated that Chief Guin was recommending that the two (2) 2005 Four Door Sedan Rear Wheel Drive vehicles be awarded to Von-Wil Ford, Inc. and the 2005 ¾ Ton Cargo Van Rear Wheel Drive be awarded to Philpott Ford. He then presented a draft resolution awarding the bids. Police Chief Tim Guin stated that Caldwell Country Chevy did not meet the bid specifications since the bid submitted was for a front-wheel drive and Philpott Ford did not meet the bid specifications on the two 2005 Four Door Sedar Rear Wheel Drive vehicles since the proposals did not include: silicone hoses, stainless clamps, rear deck release, and rear window delete. He stated that he was recommending the bid be awarded to Von-Wil Ford, Inc. for being the lowest and qualified bidder for the two (2) 2005 Four Door Sedan Rear Wheel Drive. He stated that Philpott Ford was the lowest and qualified bidder for the one 2005 ¾ Ton Cargo Van Rear Wheel Drive. After some discussion, Councilmember Ray Linseisen made a motion to approve Resolution No. 2004-83, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004-83**

**A RESOLUTION AWARDING A BID TO VON-WIL FORD FOR TWO 2005
FOUR DOOR SEDANS, REAR WHEEL DRIVE AND PHILPOTT FOR ONE
2005 ¾ TON CARGO VAN, REAR WHEEL.**

WHEREAS, competitive, sealed bids were received on September 9, 2004 for City Vehicles;
and

WHEREAS, Von-Wil Ford was deemed to be the best and lowest qualified bidder as per bid specifications for two 2005 four door sedans, rear wheel drive in the amount of \$21,150.00 each, \$42,300.00 total and

WHEREAS, Philpott Ford was deemed to be the best and lowest qualified bidder as per bid specifications for one 2005 ¾ ton cargo van, rear wheel drive in the amount of \$14,667.00; and

WHEREAS, this resolution is passed in accordance with this bid.

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

Section I. That Von-Wil Ford is hereby awarded the bid for two 2005 four-door sedans, rear wheel drive in the amount of \$21,150.00 each, \$42,300.00 total for the City of Wharton in accordance with the bid specifications.

Section II. That Philpott Ford is hereby awarded the bid for one 2005 ¾ ton cargo van, rear wheel drive in the amount of \$14,667.00 for the City of Wharton in accordance with the bid specifications.

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

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

Passed, Approved, and Adopted this 27th day of September 2004.

CITY OF WHARTON, TEXAS

BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT

City Secretary

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

The twentieth item on the agenda was to review and consider an ordinance approving the 2004 Chamber of Commerce & Agriculture Holiday Parade Permit and authorizing the Police Department of redirect traffic. City Manager Andres Garza, Jr. presented a copy of the ordinance approving the 2004 Chamber of Commerce & Agriculture Holiday Parade Permit and authorizing the Police Department to redirect traffic and a map indicating the parade route. Councilmember Domingo Montalvo, Jr. requested that Texas Department of Transportation Engineer be advised of the Holiday Parade traffic route. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Ordinance No. 2004-21, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2004 - 21**

AN ORDINANCE APPROVING THE 2004 CHAMBER OF COMMERCE & AGRICULTURE HOLIDAY PARADE PERMIT AND AUTHORIZING THE POLICE DEPARTMENT TO REDIRECT TRAFFIC.

WHEREAS, the Wharton Chamber of Commerce and Agriculture has filed an application for a parade permit with the City of Wharton Police Department as required under the City of Wharton Code of Ordinances, Chapter 82, Article III, Sec. 82-91; and

WHEREAS, the requested parade route requires the City of Wharton to close State Highway 60 (Burleson Street and Milam Street) from its intersection with Alabama Road and Polk Street; and

WHEREAS, the closure of State Highway 60 will be for a time of less than four (4) hours; and

WHEREAS, the closure will require the detouring of all traffic according to the map (Attachment A) attached to this ordinance; and

WHEREAS, the routing of all traffic will include truck traffic to Alabama Road which is prohibited by ordinance; and

WHEREAS, the City Council wishes to suspend for the duration of the parade the enforcement of said ordinance of trucks traveling on Alabama Road; and

WHEREAS, if there are any other ordinances that would be violated because of the re-routing of all traffic their suspension is hereby authorized.

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

Section I. The parade permit for the Wharton Chamber of Commerce and Agriculture is hereby approved.

Section II. The parade route is hereby approved as detailed in the attached map (Attachment A) which is hereby made part of this ordinance.

Section III. The closure of all streets as indicated in said map identified in Section II are hereby authorized.

Section IV. The traffic detour plan as identified in Section III above is hereby approved.

Section V. The Chief of Police and City Staff are hereby authorized to make the necessary expenditures needed to ensure the safety of the public.

Section VI. This ordinance shall become effective on the 27th day of September 2004 and remain in effect until such time that the parade concludes.

Passed, Approved and Adopted this 27th day of September 2004.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST

JOYCE VASUT

City Secretary

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

The twenty-first item on the agenda was to review and consider a resolution of the Wharton City Council authorizing the City Manager to sell seized vehicles as surplus property. City Manager Andres Garza, Jr. stated that Police Chief Tim Guin had requested that the City Council consider adopting a resolution authorizing the City Manager to sell seized vehicles as surplus property as they became property of the City. He stated that Chief Guin had indicated that when the vehicles were kept in storage for a long period of time, the vehicles depreciate. He then presented a draft resolution authorizing the City Manager to sell seized vehicles as surplus property as the vehicles were awarded to the City of Wharton. Police Chief Tim Guin stated that the surplus property would be sold through sealed bids process. Mayor Bryce D. Kocian stated that the proceeds would be deposited in the Seizure Fund. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2004-84, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004 - 84**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE CITY MANAGER TO SELL SEIZED VEHICLES AS SURPLUS PROPERTY.

WHEREAS, in accordance with the Texas Penal Code, Chapter 59, the City of Wharton Police Department is granted the authority to seize vehicles that have been used to commit a felony; and

WHEREAS, the Wharton Police Department is also granted the authority to seize abandoned vehicles that have not been used to commit a felony; and

WHEREAS, the City of Wharton has limited storage facilities to hold the seized vehicles until such time the vehicles are sold in auction or as surplus property by the authority of the City Council; and

WHEREAS, the seized vehicles deteriorate and depreciate in value until such time as an auction or bid for surplus property is held; and

WHEREAS, the Wharton City Council wishes to authorize the City Manager of the City of Wharton to sell, in accordance with the City of Wharton Code of Ordinances, the seized vehicles as surplus property as such vehicles are deemed City of Wharton property.

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 City Manager to in accordance with the City of Wharton Code of Ordinances, the seized vehicles as surplus property as such vehicles are deemed City of Wharton property.

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

Passed, Approved, and Adopted this 27th day of September 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 twenty-second item on the agenda was to review and consider the Recommendations by the Mayor's Local Committee on People with Disabilities:

A. Resolution: A resolution amending the City of Wharton Resolution No. 2003-37 on the establishment of the Mayor's Local Committee on People with Disabilities in accordance with the guidelines set forth by the Governor's Committee on People with Disabilities.

City Manager Andres Garza, Jr. stated that during the September 13, 2004 regular Wharton City Council meeting, the City Council was presented with the recommendation by the Mayor's Local Committee on People with Disabilities to amend the City of Wharton Resolution No. 2003-37, which established the Committee. He stated that the City Council deferred the item until the next regular City Council meeting in order for City Attorney Paul Webb to make additional recommendations to be considered in the resolution. He then presented a draft resolution amending the City of Wharton Resolution No. 2003-37. Vassar "Skip" Holman addressed the City Council and stated that the Committee met on September 16, 2004 and a quorum was present. He stated that the Committee requested alternate members. He stated that the meeting was also changed from the fourth Thursday of each month at 4:00 p.m. to the third Thursday of each month at 8:30 a.m. Councilmember Domingo Montalvo, Jr. recommended the Committee have 5 to 7 members instead of 3 to 5 members. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2004-85, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004 – 85**

A RESOLUTION AMENDING RESOLUTION 2003-27 ON THE ESTABLISHMENT OF THE MAYOR'S LOCAL COMMITTEE ON PEOPLE WITH DISABILITIES IN ACCORDANCE WITH THE GUIDELINES SET FORTH BY THE GOVERNOR'S COMMITTEE ON PEOPLE WITH DISABILITIES.

WHEREAS, the Wharton City Council wish to amend Resolution No. 2003-27 to read as follows:

WHEREAS, the Governor of the State of Texas has requested all municipalities establish committees to promote and support programs and activities for people with disabilities; and

WHEREAS, the Governor's Committee looks to local committees for grass roots efforts to include people with disabilities in all aspects of life and to operate autonomously to develop a mission, goals, objectives, bylaws and a work plan; and

WHEREAS, the City of Wharton for many years has supported programs addressing the needs of handicapped citizens; and

WHEREAS, the City of Wharton City Council wishes to extend the Governor's Committee on People with Disabilities by creating a local volunteer committee that would complete a network extending from the local, state, and national level; and

WHEREAS, the Committee would serve as a resource to the community and to the sponsoring elected official by providing insight and effective communication on issues of importance to citizens of Wharton, Texas with disabilities; and

WHEREAS, the Committee would be developed to promote the following activities:

1. Employment of people with disabilities (career fairs, business summits.)
2. Positive change in local, state and national policies, programs and funding.
3. Educational opportunities (scholarships to students with disabilities and resource directories)
4. Access and the ADA (educational seminars, parking monitoring programs, housing and transportation efforts)
5. Recognition and awards (employment, empowerment awards, and media awards)
6. A local long-range plan to improve quality for people with disabilities and providing input to the Governor's Committee long-range state plan.

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

Section I. The Wharton City Council hereby extends the Governor's Committee on People with Disabilities by creating a local volunteer committee would complete a network extending from the local, state, and national level.

Section II. The City of Wharton Mayor's Local Committee on People with Disabilities will promote the afore-mentioned activities.

Section III. The Wharton City Council formally recognize the Mayor's Committee on People with Disabilities as one of the City's Standing Committees.

Section IV. The Committee will be comprised of no less than five (5) and no more than seven (7) members and will be appointed by the Mayor of the City of Wharton, and the majority members shall be citizens or taxpayers of the City of Wharton.

Section V. The Secretary of the Mayor's Local Committee on People with Disabilities shall report to the Mayor of the City of Wharton the name of any committee member absent from three consecutive meetings. Upon receiving this report, the Mayor may remove such member and name a replacement.

Section VI. This resolution become effective immediately upon its passage.

FURTHER RESOLVE, the City Council reaffirms its commitment to the Mayor's Committee on People with Disabilities and directs the City Manager to provide for the necessary staff support as needed.

Passed, Approved, and Adopted this 27th of September 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.

B. City of Wharton Transition Plan.

City Manager Andres Garza, Jr. stated that the Mayor's Local Committee on People with Disabilities met September 16, 2004 and was recommending the City Council consider approving the City of Wharton Transition Plan. He then presented a copy of the memorandum dated September 21, 2004 from Chairman Vassar Holman regarding the Committee's recommendation. He also presented a copy of the proposed transition plan including a five (5) year plan. He stated the City Staff, Building Official Ronnie Bollom and Facilities Maintenance Director Bob Baker, assessed the City's facilities and prepared the list of items that need to be addressed for ADA compliance. He stated that it was his recommendation that the City Council authorize the City Staff to further study the items to determine if there were any "reasonable accommodations" that could be made to the transition plan before implementation. Councilmember David Samuelson asked about the downtown sidewalks. City Manager Andres Garza, Jr. stated that the Public Works Committee could further study the areas of the sidewalks for replacement and/or removal. He stated that the City could complete some items this fiscal year under the building maintenance line items per department. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion that City Council should determine if there were any reasonable accommodations that could be made to the City of Wharton

Transition Plan before its implementation. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The twenty-third item on the agenda was to review and consider Jr's Texas Best, LLC Project, Texas Capital Fund Contract No. 722092, Pay Request No. 1 – BLS Construction, Inc. City Manager Andres Garza, Jr. presented a copy of the Pay Request No. 1 for BLS Construction, Inc. for the Jr's Texas Best, LLC Project, Texas Capital Fund Contract No. 722092 in the amount of \$136,108.64. He stated that the retainage fee should be 5% instead of 10%; therefore the Pay Request No. 1 would be \$143,567.02. After some discussion, Councilmember Ken Freese made a motion to approve Jr's Texas Best, LLC Project, Texas Capital Fund Contract No. 722092, Pay Request No. 1 – BLS Construction, Inc. in the amount of \$143,567.02. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The twenty-fourth item on the agenda was a report on the Update on the City of Wharton Projects. City Manager Andres Garza, Jr. presented a copy of his memorandum dated September 23, 2004 providing an update on the City of Wharton projects, which stated as follows:

DRAINAGE:

1. Sanitary Sewer Manhole Survey.

Jones & Carter, Inc. had completed the inspection on approximately 210 manholes that could be located and opened. There were approximately 406 manholes to be surveyed. They were working with the City's personnel to locate and open the remaining manholes, most of which were located in the streets and were 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 had 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 would take at least another month to complete the survey. No work had been performed since the last status report.

2. Ahldag Ditch Design.

Jones & Carter, Inc. had completed the design calculations and the required right-of-way had been determined. A formal letter to the property owner informing the property owner's of the City's interest in acquiring some of their property had been drafted and would be sent. Mr. Dick Hudgins had been engaged to perform the appraisal for the acquisition.

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. Jones & Carter had mapped out a couple of routes and was currently working on cost estimates for each one.

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 90% complete with this analysis.

5. Nan Ya Drainage Ditch.

The City Staff was currently working on identifying ownership of the necessary right-of-way. The Staff had 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. had completed 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 City was currently reviewing the plans. 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. No work had been performed since the last status report.

3. Waterline Replacement Project.

Jones & Carter, Inc. had completed the plans and specifications, which the City was currently reviewing.

4. Stavena Road Sewer/Water line Installation.

The City Crews had completed the sewer line installation. The waterline should be completed September 24, 2004.

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

The City Crews waterline replacement was complete and the line was in service.

STREET IMPROVEMENTS

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

Jones & Carter, Inc. had completed 95% of the schematic drawings, which have been submitted to the City for comments. Mr. Carlos Cotton, Phil Bush and himself had met with Mr. Jeff Tsu of J & Manufacturing to discuss J&M's concern regarding the one-way service road. The City Council Public Works Committee reviewed the plans on September 16, 2004 and recommended the drawings be submitted to the Texas Department of Transportation for their review and comment. The preliminary schematic plans had been submitted to the Texas Department of Transportation for their review and comment.

2. 2004 Street Improvement Project.

Street Rehabilitation had begun on all of the streets approved by the City Council for improvement and had been prepared for lime. The lime had been placed and the City Crews were now setting up and finishing the streets for prime oil. The placing of prime oil began September 24, 2004. Completion of this project was estimated for mid-October.

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 had been placed on hold due to concerns that Houston Pipeline had concerning the cross-over. O'Malley Engineers had worked with Houston Pipeline to come to a consensus regarding the cross-over.
3. Construction of a security fence had been completed.

HOME PROJECTS

1. 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.

2. 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 (9) new homes should begin.

3. 2001 Program.

The City of Wharton was awarded \$495,000 for the construction of nine new homes under this grant, which had been completed. The homeowners were:

Eugene Aubrey

404 Murphy

Ramon Rodriguez	624 Murphy
Ethel Formby	327 Lincoln
Theresa Farris	614 S. E. Avenue
Mary Garza	505 S. Sunset
Rosalie Bryant	613 ½ Mattie
Eula Bryant	613 Mattie
Willie Moore	909 Spanish Camp Road
Ruby Simmons	1012 West Milam

4. 1999 HOME Program:

The City of Wharton was awarded \$143,775.00 for the rehabilitation of four homes (HOME has since discontinued the rehab program) and \$54,770 for one total reconstruct for a total grant award of \$198,545. The homeowners were:

Halena Baker	400 S. E. Avenue
Vernell Edwards	902 Edwards Lane
Callie Moses	220 Correll
Gwendolyn Johnson	1513 Bailey

The homeowners who received a new home was Pedro and Maria Mireles, Sr.

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

The construction of seven new homes under this grant had been completed. The close-out monitoring visit had been scheduled for September 30, 2004. The homeowners were:

Barbara Ray	1612 West Milam
Frankie Mangum	1607 West Milam
Olivia Harris	221 South Sheppard
Ansalma Ramirez	416 South Sheppard
Alma Curtin	1816 Azalea
Kenneth Harris	1633 Connie
Canterino Rivera	502 S. Ford

6. HOME Elevation Project.

Three bids were received on September 7, 2004 in response to the request for bids that was published in August 2004. The City Staff was currently reviewing the bids. The City was also notified on September 16, 2004 by Ms. Mildred Reno, DEM Mitigation Specialist, that the City received approval to extend the project completion date to August 31, 2005. Also, on September 16, 2004, he received a copy of the letter dated June 28, 2004 by IRS Chief Council Donald L. Korb regarding an Internal Revenue Service (IRS) ruling concerning grant funds that were used to assist homeowners under this program. A copy was sent to City Attorney Paul Webb for his review. Mayor Kocian had also submitted a letter to Congressman Ron Paul's office for their review. As the ruling states, the proceeds from the grant elevation program are taxable benefits to the property

owners and the City was required to issue the tax forms to each property owner receiving the elevation grant. Unless the City Staff hears something different from the IRS, program participants would be notified in writing of this ruling.

7. Section 8 Housing.

Section 8 Rental Assistance Voucher Program was through the Texas Department of Housing and Community Affairs Statewide Housing Assistance Payments Program. The State of Texas participates in this and receives their funds from the federally funded program known as HUD or the United States Department of Housing and Urban Development. The City of Wharton currently has 35 families who receive assistance with their rent. This program pays either all or a portion of their rent directly to the landlord from the State. Monthly monitoring inspections are required to ensure the tenants and the landlords adhere to the guidelines of this federal program. We have 15 open vouchers and are currently waiting clearance from the State to award these vouchers to those on the waiting list who qualify.

8. Habitat for Humanity.

A local affiliation of Habitat for Humanity which would be know as “Habitat for Humanity of East Wharton County, Inc.” was being formed. It will be incorporated as a 501(c)(3) tax exempt organization that will assist in developing better human habitat for economically disadvantaged people. The City would be able to work with the organization by identifying and making available surplus City land that can be used for the homes that would be constructed.

OTHER PROJECTS:

1. Police Station Electrical Protection.

A final report had been submitted by Coastal Bend Consultants, Inc. and was currently being reviewed by the City Staff.

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 should be complete the week of September 27th.

3. Tropical Storm Fay – Buy-Out Project:

The City Staff had met with the two property owners. A formal offer letter had been prepared and would be sent to them.

After some discussion, no action was taken.

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

A. Finance Committee meeting held September 13, 2004.

B. Public Works Committee meeting held September 16, 2004.

- C. Mayor's Local Committee on People with Disabilities meeting held September 16, 2004.
 - D. Beautification Commission meeting held September 20, 2004.
 - E. Planning Commission meeting held September 20, 2004.
 - F. Youth Advisory Commission meeting held September 20, 2004.
 - G. Wharton Economic Development Corporation meeting held September 21, 2004.
- City Manager Andres Garza, Jr. presented the reports to the City Council. No action was taken.

The twenty-sixth 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. | L. Wharton Municipal Pool. |
| E. Fire Department Incidents/Inspections. | M. Wharton Regional Airport. |
| F. Code Enforcement Department. | N. Legal. |
| G. Water & Sewer Department. | O. Weedy Lots/Sign Ordinance. |
| H. Public Works Department. | |

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

The twenty-seventh 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 8:51 p.m.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

JOYCE VASUT
City Secretary