

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
NOVEMBER 8, 2004**

Mayor Bryce D. Kocian declared a Regular Meeting duly open for the transaction of business at 7:01 P.M. Grace Community Fellowship Children's Group 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, City Secretary Lisa Stavena, Assistant to City Manager Jackie Jansky, Building Official Ronnie Bollom, Community Services Director Jo Knezek, EMS Director John Kowalik, Police Chief Tim Guin, and City Attorney Paul Webb.

Visitors present were: Benjamin Sharp with Wharton Journal Spectator, Lewis Fortenberry, Karen Heintschel, Ray Roberson, Todd Mund, Michael Limas, Diana Matula, Abby Schubach, Karen Heintschel, Carlos Cotton, Louis Edwards, and Raymond Fisher.

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 David Samuelson informed the City Council the Habitat for Humanity completed the official affiliate orientation on December 2004.

Councilmember Ray Linseisen publicly invited all citizens to attend the District Game held on Thursday, November 11, 2004.

Mayor Bryce D. Kocian publicly recognized Karen Heintschel, Raymond Fisher and Abby Schubach as Wharton County Leadership participants for 2004-2005 year.

The fifth item on the agenda was to review and consider the reading of the Wharton City Council minutes from the regular meetings held October 11, 2004 and October 25, 2004. After some discussion, Councilmember Ray Linseisen made a motion to approve the Wharton City Council minutes of the regular meetings held October 11, 2004 and October 25, 2004 as presented. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider Shanghai Days Cowboy Gathering:

A. Request by Ms. Kristi Kocian, President of Shanghai Days/Cowboy Gathering to designate April 1, 2, and 3, 2005 as the event dates and for City of Wharton assistance.

City Manager Andres Garza, Jr. presented a copy of the letter received from Ms. Kristi Kocian requesting the City of Wharton formally designate April 1, 2, and 3, 2005 as the dates for the annual Shanghai Days Cowboy Gathering tourism festival. Ms. Kocian was also requested the City Council approval of the following:

1. Blocking Houston Street and Fulton Street between Burleson and Milam starting April 1, 2005 at 5:00 p.m. until April 3, 2005 at 6:00 p.m.
2. Assistance with port-o-lets from Waste Management.
3. Providing man-power to set-up, tear-down and the clean up after the festival.
4. Appoint Wharton Chamber of Commerce & Agriculture Executive Director Abby Schubach as the designated representative to act in all matters pertaining to the submission of a grant application to the Texas Department of Agriculture Texas YES! Hometown Stars Program.

After some discussion, Councilmember Ken Freese made a motion to approve the request by Ms. Kristi Kocian, President of Shanghai Days/Cowboy Gathering to designate April 1, 2, and 3, 2005 as the event dates and for City of Wharton assistance with: blocking of the streets of Houston and Fulton between Burleson and Milam starting April 1, 2005 at 5:00 p.m. until April 3, 2005 at 6:00 p.m; assistance with port-o-lets from Waste Management; providing man-power to set-up, tear-down and the clean up after the festival; and appoint Wharton Chamber of Commerce & Agriculture Executive Director Abby Schubach as the designated representative to act in all matters pertaining to the submission of a grant application to the Texas Department of Agriculture Texas YES! Hometown Stars Program. Councilmember David Samuelson seconded the motion. All voted in favor.

B. **Resolution:** A resolution of the Wharton City Council supporting an application to the Texas Department of Agriculture under the Texas Yes! Hometown Stars Program and designating Wharton Chamber of Commerce and Agriculture Executive Director Abby Schubach as the designated representative to act in all matters pertaining to the program.

City Manager Andres Garza, Jr. presented a copy of the letter dated October 26, 2004 from Ms. Abby Schubach, Wharton Chamber of Commerce & Agriculture Executive Director requesting the City's support of a grant application to the Texas Department of Agriculture Texas YES! Hometown Stars Program. He stated that the grant funds would be used towards promoting the Shanghai Days Cowboy Gathering festival. He then presented a draft copy of a resolution supporting a grant application to the Texas Department of Agriculture Texas YES! Hometown Stars Program and appointing Ms. Schubach as the designated representative to act in all matters pertaining to the program. Ms. Abby Schubach addressed the City Council and stated that the matching funds grant was for \$15,000. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2004-96, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004 - 96**

A RESOLUTION OF THE WHARTON CITY COUNCIL SUPPORTING AN APPLICATION

TO THE TEXAS DEPARTMENT OF AGRICULTURE UNDER THE TEXAS YES! HOMETOWN STARS PROGRAM AND DESIGNATING WHARTON CHAMBER OF COMMERCE AND AGRICULTURE EXECUTIVE DIRECTOR ABBY SCHUBACH AS THE DESIGNATED REPRESENTATIVE IN ALL MATTERS PERTAINING TO THE PROGRAM.

WHEREAS, the Wharton City Council wishes to support an application to the Texas Department of Agriculture (TDA) under the Texas Yes! Hometown Stars Program (Program); and

WHEREAS, the City of Wharton (Applicant) is a Texas Yes! Community Member and is fully eligible to receive assistance under the TDA Texas Yes! Hometown Stars Program; and

WHEREAS, the Applicant wishes to designate Wharton Chamber of Commerce Agriculture Executive Director Abby Schubach as the official representative pertaining to all matters pertaining to the program;

WHEREAS, this resolution shall become effective immediately after its passage; and

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 supports the submission of an application to the Texas Department of Agriculture (TDA) under the Texas Yes! Hometown Stars Program and certifies that it is eligible to receive assistance under the program.

Section II. That the Applicant hereby designates Wharton Chamber of Commerce and Agriculture Executive Director Abby Schubach to act in all matters pertaining to the Texas Department of Agriculture Texas Yes! Hometown Stars program.

Section III. That the Applicant hereby specifically authorized the above-named official to submit an application to the Texas Department of Agriculture (TDA) under the Texas Yes! Hometown Stars Program to receive assistance from the Program for the Shanghai Days Cowboy Gathering festival to be held in the City of Wharton, Wharton County, Texas, April 1 – 3, 2005 and that the above-named representative is authorized to execute on behalf of the Applicant all documents related to the program.

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

Passed, Approved, and Adopted this 8th of November 2004.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

LISA STAVENA

City Secretary

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

The seventh item on the agenda was to review and consider the Planning Commission recommendation to consider approving the request by Mr. Robert S. Vineyard, represented by Ms. Linda Baca of Hudgins-Groover Real Estate, for a variance to place a 36' x 56' single-family dwelling over an interior property line located at 217 Correll Avenue, Washington Homes, Block 13, Lot 1, 2A. City Manager Andres Garza, Jr. presented a copy of the memorandum dated November 2, 2004 from Planning Commission Chairman A. J. Rath for a variance to place a 36' x 56' single-family dwelling over an interior property line located at 217 Correll Avenue, Washington Homes, Block 13, Lot 1, 2A. He then presented a copy of the Planning Commission Communications from the meeting held November 1, 2004. Building Official Ronnie Bollom informed the City Council that Mr. Vineyard was desiring to build over the property line of Lots 1 & 2A for placement of a 36' X 56' single-family dwelling. After some discussion, Councilmember Don Mueller made a motion to approve the request by Mr. Robert S. Vineyard, represented by Ms. Linda Baca of Hudgins-Groover Real Estate, for a variance to place a 36' x 56' single-family dwelling over an interior property line located at 217 Correll Avenue, Washington Homes, Block 13, Lot 1, 2A. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The eighth item on the agenda was to review and consider the request for an over 50% variance by Mr. and Mrs. Ray Roberson for a front yard variance for the construction of a 21.6' x 30' garage located at 704 Sunny Lane, Mayfair, Block 18, Lot 13. City Manager Andres Garza, Jr. presented a copy of the memorandum dated November 1, 2004 from Building Official Ronnie Bollom regarding the request by Mr. and Mrs. Ray Roberson for the front yard variance. He then presented a copy of the Planning Commission application for variance and supporting documentation. Mr. Ray Roberson addressed the City Council and requested a 14' variance for placement of an enclosed garage. He stated that the concrete slab had been poured two years prior. He stated that the garage would not obstruct the view of traffic. After some discussion, Councilmember Ken Freese made a motion to approve the request for a 14 foot variance by Mr. and Mrs. Ray Roberson for the construction of a 21.6' x 30' garage located at 704 Sunny Lane, Mayfair, Block 18, Lot 13. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The ninth item on the agenda was to review and consider a resolution amending the City of Wharton Personnel Policy, Section 5.6 Sick Leave. City Manager Andres Garza, Jr. stated that during the November 3, 2004 Department Head meeting, the City Staff discussed a proposed amendment regarding the City of Wharton Personnel Policy, Section 5.6 Sick Leave. He stated that the proposed amendment would be to include a policy creating a voluntary donation of time from employees into a pool for employees who have exhausted all of their sick leave, compensation time, emergency leave, and vacation time and would be absent from work for an extended period of time without pay. He stated that the City Council Finance Committee had met on Monday, November 8, 2004 at 12:00 Noon to discuss the proposed amendment. He was requesting no action on the item be taken at this time. No action was taken.

The tenth item on the agenda was to review and consider the request by Police Chief Tim Guin to purchase the CAD system upgrade from SunGar HTG Inc. under the 2004 Homeland Security Grant. City Manager Andres Garza, Jr. presented a copy of the memorandum dated November 4, 2004 from Police Chief Tim Guin regarding the 2004 Homeland Security Grant funds. He stated that Chief Guin indicated in his memorandum that the grant funds had been released for local purchases and was requesting to purchase the CAD system upgrade from SunGard HTG, Inc. He stated that the system upgrade was a single source product that was available from SunGard. He stated that the system upgrade was also compatible with the City's current software. Police Chief Tim Guin stated that the CAD system would integrate with the current operating system. He stated that a yearly maintenance fee would provide the latest updates and current information. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the request by Police Chief Tim Guin to purchase the CAD system upgrade from SunGar HTG Inc. under the 2004 Homeland Security Grant. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The eleventh item on the agenda was review and consider the City of Wharton Two-Way Radio Equipment:

A. Bid Tabulation.

B. **Resolution:** A resolution of the Wharton City Council awarding the bid for the City of Wharton Two-Way Radio Equipment.

City Manager Andres Garza, Jr. stated that bids were received November 5, 2004 at 2:00 p.m. for the radio equipment. He then presented a bid tabulation and a recommendation from Police Chief Tim Guin. He also presented a draft resolution awarding the bid. Police Chief Tim Guin stated that the two-way radio equipment would be paid through the Homeland Security Grant. He stated that the City received two bids and recommended the bid be awarded the lowest and best qualified bidder Alliance Wireless Technologies, Inc. After some discussion, Councilmember Ray Linseisen made a motion to approve Resolution No. 2004-97, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004-97**

**A RESOLUTION OF THE WHARTON CITY COUNCIL AWARDING THE
BID FOR THE CITY OF WHARTON TWO-WAY RADIO EQUIPMENT.**

WHEREAS, competitive, sealed bids were received on November 5, 2004 for the purchase of two-way radio equipment for the City of Wharton, Texas; and

WHEREAS, Alliance Wireless Technologies, Inc. was deemed to be the lowest and best qualified bidder as per bid specifications for the two-way radio equipment in the total amount of \$28,375.00; 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 Alliance Wireless Technologies, Inc. is hereby awarded the bid for the City of Wharton Two-Way Radio Equipment as per bid specifications in the total amount of \$28,375.00

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

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

Passed, Approved, and Adopted this 8th day of November 2004.

CITY OF WHARTON, TEXAS

BRYCE D. KOCIAN
Mayor

ATTEST:

LISA STAVENA

City Secretary

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

The twelfth item on the agenda was to review and consider the Wharton Economic Development Corporation:

A. Acceptance of Resignation by Mr. Michael Murphy as a Director of the Board.

City Manager Andres Garza, Jr. presented a copy of the letter dated October 18, 2004 from Mr. Michael Murphy resigning his position as a Director of the Board for the Wharton Economic Development Corporation. He stated that City Council acceptance of his resignation was required. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the acceptance of the resignation of Mr. Michael Murphy from the Wharton Economic Development Corporation Board. Councilmember Ray Linseisen seconded the motion. All voted in favor.

B. Appointment of a Director of the Board.

City Manager Andres Garza, Jr. stated that in accordance with the Wharton Economic Development Corporation (WEDCo) Articles of Incorporation, Article VIII Directors, any vacancy occurring on the board of directors through, death, resignation or otherwise shall be filled by the Councilmember then holding the position of Councilmember who originally nominated the director. He stated that Councilmember Domingo Montalvo, Jr. recommended Mr. Michael Murphy as a WEDCo Director of the Board on November 11, 2002. Therefore, he said Councilmember Montalvo may make a recommendation to fill the vacant position. He stated that any recommendation to fill the position was subject to approval by the full City Council. He then presented a copy of the Article VIII Directors. Mayor Bryce D. Kocian stated

that a recommendation would be presented at the next City Council meeting. No action was taken.

The thirteenth item on the agenda was to review and consider the request by Councilmember V. L. Wiley, Jr. to discuss the City of Wharton Travel Policy. City Manager Andres Garza, Jr. stated that Councilmember V. L. Wiley, Jr. requested the City of Wharton Travel Policy be placed on the agenda for discussion. He then presented a copy of the policy. Councilmember V. L. Wiley, Jr. addressed the City Council and stated that he did not understand the motion made by Councilmember Domingo Montalvo, Jr. during the Regular October 25, 2004 City Council meeting regarding the travel reimbursement for the 2004 Annual TML conference to include registration fees only. He stated that he had never abused the travel policy and should not be required to pay for a conference that would benefit the City of Wharton. Councilmember Ray Linseisen stated that the registration form and travel advancement form should be completed and submitted to City Council for approval prior to the event. Councilmember Domingo Montalvo, Jr. stated that he made the motion for the City to reimburse registration fees for himself, however the discussion and the second was to only reimburse the registration fees to those attending the conference. He stated that the travel should be determined on a case by case basis. Mayor Bryce D. Kocian stated that travel expense budget was for all the City Councilmembers and Mayor and the adopted budget was not large enough to pay 100% of the expenses associated with the event. After some discussion, no action was taken.

The fourteenth item on the agenda was to review and consider the Travel Reimbursement Request for City Manager. City Manager Andres Garza, Jr. presented a copy of the travel reimbursement request for the period October 12, 2004 to October 25, 2004 in the amount of \$351.14. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the Travel Reimbursement Request for City Manager Andres Garza, Jr. for the period October 12, 2004 to October 25, 2004 in the amount of \$351.14. Councilmember David Samuelson seconded the motion. All voted in favor.

The fifteen item on the agenda was to review and consider City Council Committees, Boards and Commission's meetings:

- A. Mayor's Local Committee on People with Disabilities meeting held Thursday, October 28, 2004.
- B. Planning Commission meeting held November 1, 2004.
- C. Wharton Regional Airport Board meeting held November 2, 2004.

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

The sixteenth item on the agenda was to review and consider a resolution approving the contract between Driving Safety Services and the City of Wharton for alcohol and drug testing services. City Manager Andres Garza, Jr. presented a copy of the resolution and the proposed contract for alcohol and drug testing services with Driving Safety Services. He stated that Driving Safety Services (previously known as TranScreen Substance Abuse Service) had provided the City with alcohol and drug testing services for compliance with the U.S. Department of Transportation since February 1997. He stated that the new contract would provide random alcohol and drug testing services for all employees in accordance with the adopted Personnel Policy. After some

discussion, Councilmember David Samuelson made a motion to approve Resolution No. 2004-98, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2004 - 98**

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF WHARTON, WHARTON COUNTY, TEXAS TO EXECUTE AN AGREEMENT WITH THE DRIVING SAFETY SERVICES FOR ALCOHOL AND DRUG TESTING SERVICES.

WHEREAS, the City of Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute an agreement with Driving Safety Services for alcohol and drug testing services; and,

WHEREAS, the City of Wharton and Driving Safety Services hereby agrees 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 City Council of the City of Wharton hereby authorizes the Mayor of the City of Wharton to execute an agreement with the Driving Safety Services.

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

Passed, Approved, and Adopted this 8th day of November 2004.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

LISA STAVENA

City Secretary

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

The 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 adjourned at 7:36 p.m.

City of Wharton
Regular City Council Meeting
November 8, 2004

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

LISA STAVENA
City Secretary