

**MINUTES  
OF  
CITY OF WHARTON  
REGULAR CITY COUNCIL MEETING  
NOVEMBER 22, 2004**

Mayor Bryce D. Kocian declared a Regular Meeting duly open for the transaction of business at 7:00 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 and Councilmembers David Samuelson, V. L. Wiley, Jr, Ken Freese, Don Mueller, Domingo Montalvo, Jr. and Ray Linseisen.

Councilmembers 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, EMS Director John Kowalik, Community Services Director Jo Knezek, City Attorney Paul Webb.

Visitors present were: Benjamin Sharp with Wharton Journal-Spectator, Ron Sanders, David Schroeder with WEDCo, Carlos Cotton, Lewis Fortenberry, Henry Thiele, Johnny Roberts, I. O. Coleman, Jr., Trey Maffett, John McLeod, Ricky Villasomez, Elston Eckhardt, Louis Edwards, Larry Kalina, Raymond Fisher, Loretta Flynn, Michael Siwierka, Doug Calame, Leslie Roades and Coby Frankum.

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 thanked the Wharton Interim Feasibility Study group consisting of the LCRA, Corp. of Engineers, Wharton Independent School District, Gulf Coast Medical Center, and Nan Ya Plastics for maximizing cooperation efforts. 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 October 2004. Finance Director Joyce Vasut presented the financial report for the month of October 2004 to the City Council, which was at 8% or one month into the fiscal year. Mrs. Vasut stated that the general fund revenues were at 1.96% and the expenditures were at 7.26%. The total ad valorem taxes collected were \$601. She said the sales tax for the month of September 2004 was \$136,945 with \$91,297 going to the City and \$45,648 to WEDCo. The TexPool balance for October 2004 was \$325,266.95 with an average monthly yield of 1.7129%. The bank balance was \$1,156,164.45 with an averaged monthly yield of 2.01%. After some discussion, Councilmember David Samuelson made a motion to approve the financial report for the month of October 2004. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider the Wharton Interim Feasibility Study:

A. Presentation by the Lower Colorado River Authority and the U.S. Army Corps of Engineers regarding the Wharton Interim Feasibility Study.

City Manager Andres Garza, Jr. stated on Monday, November 22, 2004, Washington D. C. congressional staff member's from U.S. Senator's Kay Bailey Hutchison and John Cornyn, and Congressman Ron Paul's office visited the City of Wharton to hear presentations regarding flooding concerns from local businesses and governmental entities and to tour the City. He stated the City of Wharton was moving forward with the Wharton Interim Feasibility Study and would be discussing funding opportunities with the congressional representatives. He stated that representatives from the Lower Colorado River Authority (LCRA) and the U.S. Army Corp of Engineers (Corp) were present to give an in depth update regarding the status of the project. Councilmember Domingo Montalvo, Jr. publicly introduced Mr. John McLeod with LCRA, Mr. Elston Eckhardt and Mr. Ricky Villasomez with the U. S. Army Corp of Engineers. Mr. Elston Eckhardt addressed the City Council and stated that the total budget for the Wharton Feasibility Study Project was \$1,110,000, with the Corp of Engineers contributing \$555,000, Texas Water Development Board contributing \$277,500, and the City of Wharton contributing \$277,500. He stated that the focus was for flood damage reduction and to work with the City on local drainage plans. He stated that the following:

#### ACCOMPLISHMENTS

- Continue plan development
- CR levees, varying heights evaluated
- Coordinate levee/channel on Boughman Slough
- Hughes Street drainage feature
- Santa Fe Ditch
- Drainage facility through abandoned T & No. RR near Sunset at Bolton

#### STUDY SCHEDULE

- Complete formulation – February 2005
- Draft Feasibility Report/EIS – October 2004
- Final Feasibility Report/EIS – February 2006
- Chief's Report to Congress – August 2006

#### PRELIMINARY PROJECT FINANCIAL DATA

- Project first cost 17.7 million
- Analyzed Benefits 3.96 million
- Benefit/Cost Ratio -3.4
- City's share would be approximately 35% or \$6.2 million

#### ENVIRONMENT IMPACT STATEMENT

- Increases water in Colorado River
- Levee serves overall impact

Mr. Carlos Cotton, P.E. with Jones & Carter addressed the City Council and stated that the local projects consisted of:

- Ahldag
- Santa Fe Railroad outfall ditch
- Old Caney Creek
- West side drainage ditch
- Wal-Mart outfall
- Boughman Slough Diversion

- Wharton County – Boughman Slough, Barfield Road, Lake Nett drainage, Caney Creek, Cutbirth Road drainage

City Manager Andres Garza, Jr. asked if Boughman Slough would be channelized with Ahldag levee for the 100 year flood, would the project count towards the federal project. Mr. Eckhardt stated that the project would be allowed to be part of the federal project. No action was taken.

- B. Authorizing the Mayor to submit a letter to U.S. Corp of Engineers regarding Section 104 of the Water Resources Development Act of 1986 for the City of Wharton project.

City Manager Andres Garza, Jr. presented a copy of information the City received from the U.S. Army Corps of Engineers regarding Water Resources Policies and Authorities, General Credit for Flood Control under Section 104 of Public Law 99-662. He said Section 104 authorizes the U.S. Corp of Engineers to consider work done by a local unit of government (City) as a credit to the non-federal match if the work done was part of the overall U.S. Corp of Engineers project. Since the City was moving forward with the Santa Fe Drainage project and the project may end up as part of the federal project then any amounts spent on this project will go towards the City's share. He stated that the City Staff was recommending the City Council authorize the Mayor to submit a letter to the U.S. Corp of Engineers requesting any costs on the Santa Fe project be credited against the non-federal match for the entire project. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to authorize the Mayor to submit a letter to U.S. Corp of Engineers regarding Section 104 of the Water Resources Development Act of 1986 for the City of Wharton project. City Manager Don Mueller seconded the motion. All voted in favor.

The seventh item discussed on the agenda was the report from the Youth Advisory Commission. City Manager Andres Garza, Jr. informed the City Council that the Youth Advisory Commission met November 9, 2004 for their regular monthly meeting. He stated that Youth Advisory Commissioner's Summer Gill, Leslie Roades, Kasey Rhodes, and Shaina Lowe would present a report regarding the activities the Youth Advisory Commission were planning to undertake. Ms. Leslie Roades addressed the City Council and stated that the Youth Advisory Commission approved Adopt-a-Spot, Santa Fe Trail, and city wide events. She stated that the Youth Advisory Commission would participate in the Holiday Parade. She stated that a fundraiser would be held on December 3, 2004, and members would be attending Texas Municipal League Youth Summit Conference to be held in February 2005, and have a holiday party after the regular meeting to be held on December 14, 2004. After some discussion, no action was taken.

The eighth item discussed on the agenda was to review and consider the recommendation by the Planning Commission to approve the request by Mr. Vikas "Vic" Desai, DVD Enterprises, Ltd. (Holiday Inn Express) for the following variances to place signs located at 1200 Highway 59, Abstract 34, Tract 67E, 67H, Acres 1.8718, Wharton:

- A. Request to place a 14' x 21' (294 square feet) freestanding commercial sign on the northeast corner of the property with a 144 square feet variance.
- B. Request for a 15 feet variance on the height of the freestanding commercial sign.
- C. Request to place three 2' x 4' directional signs at the entrance locations with a 5 square feet variance on the size of the signs.

City Manager Andres Garza, Jr. presented a copy of the memorandum dated November 16, 2004 from Planning Commission Chairman A. J. Rath recommending the City Council consider approving the request by Mr. Vikas "Vic" Desai, DVD Enterprises, Ltd. (Holiday Inn Express) to

place signs located at 1200 Highway 59, Abstract 34, Tract 67E, 67H, Acres 1.8718, Wharton. He then presented a copy of the Planning Commission Communications from the Planning Commission meeting held November 15, 2004. Building Official Assistant Lori Jaquez addressed the City Council and stated that the Planning Commission was recommending the placement of the signs located at 1200 Highway 59, Abstract 34, Tract 67E, 67H, Acres 1.8718, Wharton. She stated that the ordinance allowed for a maximum height of 50 feet. After some discussion, Councilmember Don Mueller made a motion to approve the request by Mr. Vikas "Vic" Desai, DVD Enterprises, Ltd. (Holiday Inn Express) for the following variances to place signs located at 1200 Highway 59, Abstract 34, Tract 67E, 67H, Acres 1.8718, Wharton:

- A. Request to place a 14' x 21' (294 square feet) freestanding commercial sign on the northeast corner of the property with a 144 square feet variance.
- B. Request for a 15 feet variance on the height of the freestanding commercial sign.
- C. Request to place three 2' x 4' directional signs at the entrance locations with a 5 square feet variance on the size of the signs.

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

The ninth item discussed on the agenda was to review and consider the recommendation by the Beautification Commission:

A. Santa Fe Trail Project:

1. Project Funding – Wharton Rotary Club and Wharton Lions Club.

City Manager Andres Garza, Jr. stated that on November 10, 2004, the Beautification Commission met and discussed the Santa Fe Trail Project funding. He said as of November 10, 2004, there had been \$7,100.00 in cash contributions to the project and \$69,300.00 in pledges. He said the Commission was presented the commitments by Wharton Rotary Club and Wharton Lions Club. He then presented copies of the letters from the clubs with their commitments. He stated that the City Council Finance Committee met Monday, November 22, 2004 to discuss the project funding and proposals from the clubs. Mr. Trey Maffett addressed the City Council and stated that the project would benefit the community by increasing health wellness for the citizens. After some discussion, Councilmember Ken Freese made a motion to accept the Santa Fe Trail Project Funding from the Wharton Rotary Club in the amount of \$10,000 and contribute to the City \$8,000 per year for the next five years and Wharton Lions Club in the amount of \$4,000 and contribute to the City \$1,600 per year for the next five years. Councilmember Ray Linseisen seconded the motion. All voted in favor.

2. Submission of a grant application to the Lower Colorado River Authority Partnership in Parks Program.

City Manager Andres Garza, Jr. stated that the City Staff had been informed that the LCRA Community Development Partnership Program application submitted for the project had not been funded. He said the comments received were that it was a great project; however, the match funding had not been secured and to strengthen the application, the match must be secured. He said that in discussing the project with Ms. Lola Flores, LCRA Community Service Representative, she informed him that LCRA's Parks in Partnership Program could be accessed by the City for funding. He then presented a copy of information regarding the program. He stated the City Staff was requesting City Council authorization to prepare the necessary application. He said the application was due December 15, 2004 and if authorized, a formal resolution would be presented to the City Council during the December 13, 2004 meeting for consideration. After some discussion, Councilmember Don Mueller made a motion to authorize the submission of a grant application to

the Lower Colorado River Authority Partnership in Parks Program for the Santa Fe Trail Project. Councilmember Ken Freese seconded the motion. All voted in favor.

B. **Resolution:** A resolution to support a Regional Household Hazardous Waste & Reusable Materials Collection event for the citizens of the City of Wharton.

City Manager Andres Garza, Jr. stated that the Beautification Commission had met November 10, 2004 and voted to recommend the City Council allocate \$4,000 to help defray the costs associated with the Household Hazardous Waste Collection Project to be held tentatively in April 2005. He recommended the City fund the \$4,000.00 being requested from the Water/Sewer Fund. Since this type of waste usually ended up in the City's sewer collection system. Any amount that could be removed from the waste stream would be helpful, not only to the environment but also to the City's wastewater treatment plants. He then presented a copy of the proposed budget indicating the costs associated with this event and a draft resolution supporting the event. After some discussion, Councilmember David Samuelson made a motion to approve Resolution No. 2004-99, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2004-99**

**A RESOLUTION TO SUPPORT A REGIONAL HOUSEHOLD HAZARDOUS WASTE & REUSABLE MATERIALS COLLECTION EVENT FOR THE CITIZENS OF THE CITY OF WHARTON.**

**WHEREAS,** the City of Wharton, in cooperation with the County of Wharton, City of East Bernard, City of El Campo, the Lower Colorado River Authority, Colorado River Foundation, and the Texas Commission on Environmental Quality, are planning a regional Household Hazardous Waste (HHW) and reusable materials collection and education program for the citizens of the City of Wharton; and

**WHEREAS,** the City of Wharton is aware that the improper management and disposal of Household Hazardous Waste is a potential threat to public health, and safety; and

**WHEREAS,** the HHW and Reusable Materials Collection and Education program will support efforts to prevent HHW from entering surface and groundwater through municipal waste streams, sanitary or storm sewers or illegal dumping; and

**WHEREAS,** the HHW and Reusable Materials Collection and Education program will support efforts to minimize HHW generation by promoting the reuse of good quality household chemical products; and

**WHEREAS,** the HHW and Reusable Materials public awareness and education program will help educate the children of the City of Wharton and their families about the importance of proper natural resource conservation and management.

**NOW, THEREFORE,** the Wharton City Council does approve and support a Household Hazardous Waste & Reusable Materials Collection Event benefiting the residents of the City of Wharton and does approve an application to the Houston-Galveston Area Council of Government for a solid waste management grant to support a HHW program.

**Passed, Approved, and Adopted** this 22<sup>nd</sup> day of November 2004.

**CITY OF WHARTON**

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

**ATTEST:**

\_\_\_\_\_  
**LISA STAVENA**

City Secretary

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

The tenth item discussed on the agenda was to review and consider the recommendation by the City Council Finance Committee:

A. City of Wharton Photocopiers:

1. Bid Tabulation.

2. **Resolution:** A resolution awarding the bid for the City of Wharton Photocopiers. The City Staff received bids for the City of Wharton photocopiers on October 21, 2004. City Manager Andres Garza, Jr. presented a copy of the bid tabulation. He stated that on November 11, 2004, the Finance Committee had met and was recommending the City Council award the bid to Ikon Office Solutions, Inc. He also presented a draft resolution awarding the bid. Finance Director Joyce Vasut stated that the software provided with Canon would be beneficial to the City Staff making work productivity more efficient. She stated that the City was currently paying \$1,230.00 monthly; however, with the digital systems the City would be paying \$1,309.00 monthly and would be networked at some city locations and having a color copier at City Hall. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2004-100, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2004 – 100**

**A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF WHARTON, WHARTON COUNTY, TEXAS TO EXECUTE AN AGREEMENT WITH THE IKON OFFICE SOLUTIONS, INC. FOR PHOTOCOPIERS.**

**WHEREAS,** the City of Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute an agreement with Ikon Office Solutions, Inc. for photocopiers; and,

**WHEREAS,** the City of Wharton and Ikon Office Solutions, Inc. 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 Ikon Office Solutions, Inc.

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

**Passed, Approved, and Adopted** this 22<sup>nd</sup> day of November 2004.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

\_\_\_\_\_  
**LISA STAVENA**  
City Secretary

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

**B. Resolution:** A resolution of the Wharton City Council approving a contract with Linebarger Goggan Blair & Sampson, LLP for Court Fees and Fines Collection Services and authorizing the Mayor of the City of Wharton to execute all documents related to said contract. City Manager Andres Garza, Jr. stated on November 2, 2004, the City Staff, City Attorney Paul Webb, Municipal Court Judge Mary Garcia met with representatives from Line barger Goggan Blair & Sampson, LLP and discussed Linebarger's proposal regarding the services they could provide the City of Wharton for the collection of delinquent Municipal Court fees and fines. He then presented a copy of the draft contract and a resolution approving the contract. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2004-101, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2004 - 101**

**A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A CONTRACT WITH LINEBARGER GOGGAN BLAIR & SAMPSON, LLP FOR COURT FEES AND FINES COLLECTION SERVICES AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID CONTRACT.**

**WHEREAS,** the City of Wharton wishes to enter into an agreement with Linebarger Goggan Blair & Sampson, LLP for Court Fees and Fines Collection Services; and

**WHEREAS,** the Wharton City Council and Linebarger Goggan Blair & Sampson, LLP wishes to be bound by the conditions as set forth in the agreement; and

**WHEREAS**, the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute all documents related to 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 approves an agreement with Linebarger Goggan Blair & Sampson, LLP for Court Fees and Fines Collection Services.

**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 22<sup>nd</sup> day 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.

**C. Resolution:** A resolution of the Wharton City Council authorizing the collection fee in the amount of 30% of debts and accounts receivable such as unpaid fines, fees, court costs, forfeited bonds, and restitution ordered paid by a Municipal Court serving the City of Wharton, and amounts in cases in which the accused has failed to appear. City Manager Andres Garza, Jr. stated that the City Council Finance Committee had met November 11, 2004 and was recommending the City Council consider approving the attached draft resolution setting the collection fee for delinquent Municipal Court fees and fines at 30% of the debts and accounts receivable. He presented a copy of the memorandum dated November 17, 2004 from the Finance Committee providing their recommendation. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2004-102, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2004-102**

**A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE COLLECTION FEE IN THE AMOUNT OF 30% OF DEBTS AND ACCOUNTS RECEIVABLE SUCH AS UNPAID FINES, FEES, COURT COSTS, FORFEITED BONDS, AND RESTITUTION ORDERED PAID BY A MUNICIPAL COURT SERVING THE CITY**

**OF WHARTON AND AMOUNTS IN CASES IN WHICH THE ACCUSED HAS FAILED TO APPEAR.**

The City Council of the City of Wharton, Texas, convened at a regular meeting of said Council at the City Hall of said city on the 22<sup>nd</sup> day of November 2004, when among other business, the following was transacted with a quorum of members present:

RESOLUTION AUTHORIZING COLLECTION FEE IN THE AMOUNT OF 30% OF DEBTS AND ACCOUNTS RECEIVABLE SUCH AS UNPAID FINES, FEES, COURT COSTS, FORFEITED BONDS, AND RESTITUTION ORDERED PAID BY A MUNICIPAL COURT SERVING THE CITY, AND AMOUNTS IN CASES IN WHICH THE ACCUSED HAS FAILED TO APPEAR:

- 1) AS PROMISED UNDER SUBCHAPTER A, CHAPTER 543, TRANSPORTATION CODE, OR OTHER LAW;
- 2) IN COMPLIANCE WITH A LAWFUL WRITTEN NOTICE TO APPEAR ISSUED UNDER ARTICLE 14.06(b), TEXAS CODE OF CRIMINAL PROCEDURE, OR OTHER LAW;
- 3) IN COMPLIANCE WITH A LAWFUL SUMMONS ISSUED UNDER ARTICLE 15.03(b), TEXAS CODE OF CRIMINAL PROCEDURE;
- 4) IN COMPLIANCE WITH A LAWFUL ORDER OF A COURT SERVING THE CITY; OR
- 5) AS SPECIFIED IN A CITATION, SUMMONS, OR OTHER NOTICE AUTHORIZED BY SECTION 682.002, TRANSPORTATION CODE, THAT CHARGES THE ACCUSED WITH A PARKING OR STOPPING OFFENSE, WHEN SUCH DEBTS, ACCOUNTS RECEIVABLE AND AMOUNTS ARE MORE THAN 60 DAYS PAST DUE AND HAVE BEEN REFERRED TO AN ATTORNEY OR OTHER VENDOR FOR COLLECTION.

Councilmember Ken Freese introduced the resolution and made a motion that the same be adopted. Councilmember Domingo Montalvo, Jr. seconded the motion for adoption of the resolution. The motion, carrying with it the adoption of the resolution, prevailed by the following vote:

AYES:	Six
NAYS:	Zero
ABSTENTIONS:	Zero

The Mayor thereupon announced that the motion had duly and lawfully carried and that the resolution had been duly and lawfully adopted. The resolution thus adopted follows:

**WHEREAS**, the City of Wharton wishes to defray its costs of collection that it incurs under a contract for collection of delinquent court fines and fees between said City and a collection firm as authorized under the provisions of Article 103.0031, Texas Code of Criminal Procedure;

**WHEREAS**, under said article, the governing body of said City is empowered to authorize the addition of 30% on each debt and account receivable, including fines and fees, and on each

amount in cases in which the accused has failed to appear, when each is more than 60 days past due and has been referred for collection.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS, SITTING AS THE GOVERNING BODY OF SAID CITY, THAT:**

***Section 1: THE RECITALS SET FORTH IN THIS RESOLUTION ARE TRUE AND CORRECT.***

***Section 2: (a) A COLLECTION FEE IS HEREBY AUTHORIZED AND IMPOSED, AS PROVIDED BY ARTICLE 103.0031, TEXAS CODE OF CRIMINAL PROCEDURE, IN THE AMOUNT OF 30% OF DEBTS AND ACCOUNTS RECEIVABLE, SUCH AS UNPAID FINES, FEES, COURT COSTS, FORFEITED BONDS, AND RESTITUTION ORDERED PAID BY A MUNICIPAL COURT SERVING THE CITY WHEN SUCH DEBT OR ACCOUNT RECEIVABLE IS MORE THEN 60 DAYS PAST DUE AND HAS BEEN REFERRED TO AN ATTORNEY OR PRIVATE VENDOR FOR COLLECTION; AND***

***(b) A COLLECTION FEE IS HEREBY AUTHORIZED AND IMPOSED, AS PROVIDED BY ARTICLE 103.0031, TEXAS CODE OF CRIMINAL PROCEDURE, IN THE AMOUNT OF 30% OF AMOUNTS IN CASES IN WHICH THE ACCUSED HAS FAILED TO APPEAR:***

***(1) AS PROMISED UNDER SUBCHAPTER A, CHAPTER 543, TRANSPORTATION CODE, OR OTHER LAW;***

***(2) IN COMPLIANCE WITH A LAWFUL WRITTEN NOTICE TO APPEAR ISSUED UNDER ARTICLE 14.06 (b) OR OTHER LAW;***

***(3) IN COMPLIANCE WITH A LAWFUL SUMMONS ISSUED UNDER ARTICLE 15.03(b), TEXAS CODE OF CRIMINAL PROCEDURE;***

***(4) IN COMPLIANCE WITH A LAWFUL ORDER OF A COURT SERVING THE CITY; OR***

***(5) AS SPECIFIED IN A CITATION, SUMMONS, OR OTHER NOTICE AUTHORIZED BY SECTION 682.002, TRANSPORTATION CODE, THAT CHARGES THE ACCUSED WITH A PARKING OR STOPPING OFFENSE, WHEN SUCH AMOUNTS ARE MORE THAN 60 DAYS PAST DUE AND HAVE BEEN REFERRED TO AN ATTORNEY OR PRIVATE VENDOR FOR COLLECTION.***

PASSED, APPROVED and ADOPTED this 22<sup>nd</sup> day of November 2004.

CITY OF WHARTON

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

ATTEST:

\_\_\_\_\_  
**Lisa Stavena**  
City Secretary

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

The eleventh item discussed on the agenda was to review and consider the appointment of a Board Member to the Wharton Economic Development Corporation Board of Directors. City Manager Andres Garza, Jr. stated that during the regular November 8, 2004 Wharton City Council meeting, the City Council accepted the resignation of Wharton Economic Development Corporation Boardmember Michael Murphy. He stated that a recommendation would be made by Councilmember Domingo Montalvo, Jr. to fill the vacant position, whose term would expire the first Tuesday of June 2006. No action was taken.

The twelfth item discussed on the agenda was to review and consider the appointment to the Wharton Volunteer Fire Department Local Pension Board. City Manager Andres Garza, Jr. presented a copy of the Annual Report 2003 for the Local Board of Texas Statewide Emergency Services Personnel Retirement Fund. He stated that City Secretary Lisa Stavena had served as the City's representative for five – two year terms. He recommended that the City Council reappointment Ms. Stavena as the City's representative to the City of Wharton Fire Department Local Pension Board. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to appoint City Secretary Lisa Stavena to the Wharton Volunteer Fire Department Local Pension Board as the City Representative for the term ending December 31, 2006. Councilmember David Samuelson seconded the motion. All voted in favor.

The thirteenth item on the agenda was to review and consider the a resolution of the Wharton City Council authorizing the City Manager to register the City of Wharton Water Wells with the Coastal Bend Groundwater Conservation District. City Manager Andres Garza, Jr. presented a copy of a letter from the Coastal Bend Ground Water Conservation District (CBGCD) requesting that all wells be registered with the District in accordance with their rules and regulations. He stated that the Public Works Department had identified nine wells that belong to the City. He said some of the wells identified were inactive wells that were located on property acquired by the City. He said that although the wells are inactive, they must still be registered. He said the City had only six approved functioning wells. He stated that the Public Works Department was reviewing the three inactive wells to determine if they would need to remain accessible or be capped in accordance with State regulations and removed from the District registrar. He further stated that the resolution would allow the City Manager to register the wells with the District. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2004-103, which read as follows:

**CITY OF WHARTON  
RESOLUTION NO. 2004-103**

**A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE CITY MANAGER TO REGISTER THE CITY OF WHARTON WATER WELLS WITH THE COASTAL BEND GROUNDWATER CONSERVATION DISTRICT.**

**WHEREAS,** the Coastal Bend Groundwater Conservation District, created in November 2001, adopted rules and regulations for the District April 13, 2004 which became effective May 15, 2004; and

**WHEREAS,** both the District rules and the Texas Water Code require the District to register all new and existing water wells within its boundaries; and

**WHEREAS,** the City of Wharton should register its new and existing water wells in accordance with the District rules and Texas Water Code; and

**WHEREAS,** the Wharton City Council wishes to authorize the City Manager to register its water wells.

**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 City Manager to regular the City of Wharton's new and existing water wells in accordance with the Coastal Bend Groundwater Conservation District rules and regulations and the Texas Water Code.

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

**Passed, Approved, and Adopted** this 22<sup>nd</sup> day of November 2004.

**CITY OF WHARTON**

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

**ATTEST:**

\_\_\_\_\_  
**LISA STAVENA**

City Secretary

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

The fourteenth item on the agenda was to review and consider the US 59/Regional Medical Drive Sewer Line Improvements. City Manager Andres Garza, Jr. stated that on November 17, 2004 the

Public Works Department was installing the sewer taps for the Holiday Inn Express on the sewer line located along Regional Medical Drive. He stated while conducting the work, the crew observed that the 15" clay pipe was cracked; therefore the crew did not make the sewer tap and informed Public Works Director Phil Bush of their finding. After consulting with Mr. Bush, the line was then televised. He stated that the video indicated that the sewer line was extensively cracked and could collapse if it was not repaired. He said the Public Works Committee had met on Monday, November 22, 2004 at 10:30 a.m. to discuss the line and recommended the followings:

A. Three alternative bids:

1. To replace the entire 1,800 feet sewer line.
2. To conduct pipe bursting on the sewer line at various point locations.
3. To conduct slip-lining on the sewer line at various point locations.

B. For the bids to be issued as an addendum and added to the Richmond Road Sanitary Sewer Rehabilitation Project and/or the Waterline and Sanitary Sewer Replacement Project.

Mayor Bryce D. Kocian stated that the line was less than 20 years old. Mr. Carlos Cotton addressed the City Council and stated that the estimated cost to replace the line was \$40.00 to \$50.00 per foot. City Manager Andres Garza, Jr. stated that the cost of the line could be added to the bond fund. After some discussion, Councilmember Don Mueller made a motion to approve the US 59/Regional Medical Drive Sewer Line Improvements. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The fifteenth item on the agenda was to review and consider the City of Wharton 2004 Street Improvement Project – Pay Request No. 1 – Faltisek Paving, Inc. City Manager Andres Garza, Jr. presented a copy of the Pay Request No. 1 from Faltisek Paving, Inc. for the 2004 Street Improvement Project for the amount of \$62,238.30. Public Works Phil Bush stated that the City of Wharton Public Works parking lot was still pending on the project. After some discussion, Councilmember David Samuelson made a motion to approve the City of Wharton 2004 Street Improvement Project – Pay Request No. 1 – Faltisek Paving, Inc. in the amount of \$62,238.30. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The sixteenth item on the agenda was the report on the update on the City of Wharton Projects. City Manager Andres Garza, Jr. presented a copy of his memorandum dated November 18, 2004 outlining the progress of the City of Wharton projects, which stated the following:

**DRAINAGE:**

1. Sanitary Sewer Manhole Survey.

Jones & Carter, Inc. had completed the inspection on all of the accessible manholes and were compiling the data into a report for submission to the City. They should have a completed report in approximately two weeks.

2. Ahldag Ditch Design.

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

3. Santa Fe Outfall Ditch.

Jones & Carter, Inc. had completed 90% of the preliminary design and cost estimates. A telephone conference was held with the U.S. Army Corps of Engineers concerning the incorporation of the Santa Fe Outfall Ditch project into the federal funded project to help with the flooding issues in the center of Wharton. This added 55 acres of drainage area to the Santa Fe Ditch, which would require some revisions to the preliminary design. Jones & Carter, Inc. had received the maps of the 24 inch pipeline from Houston Pipeline Company and was preparing the preliminary engineering report with cost estimates. This should be completed in the next two weeks.

4. Crestmont / Kelving Way Drainage.

Jones & Carter, Inc. had completed their analysis of the capacities of the existing storm sewer system and at what points it was overloaded. They were currently reviewing the options to re-route some of the run-off to the ditch running from the end of Hodges Lane to Caney Creek. A report should be complete in two weeks.

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 and were working on acquiring the necessary right-of-ways.

**WATER/SEWER IMPROVEMENTS:**

1. Richmond Road Sanitary Sewer Rehabilitation.

The plans and specifications had been completed by Jones & Carter, Inc. The project had been advertised for bid. A pre-bid conference would be held on December 2, 2004 and the bids would be received on December 9, 2004.

2. Richmond Road to Fulton Sewer Line Replacement.

The plans for this project had been completed by Jones & Carter, Inc. and had been incorporated with the waterline replacement project.

3. Waterline Replacement Project.

Jones & Carter, Inc. had completed the plans and specifications. The project had been advertised for bid. A pre-bid conference would be held on December 2, 2004 and bids would be received on December 9, 2004.

4. Stavena Road Sewer/Water line Installation.

The City Crews had completed the water and sewer line installation.

**STREET IMPROVEMENTS**

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

Jones & Carter, Inc. had completed the schematic drawings and had submitted them to the Texas Department of Transportation (TxDOT). TxDOT had confirmed that the one-way service roads needed to remain. TxDOT had requested the City to look at how the City could incorporate a loop street around Nan Ya and JM's property coming off of FM 102 and tying it back into US 59. TxDOT had indicated that some of the cost of this option could be included in the overall project costs. Jones and Carter would be looking into this over the next few weeks.

2. 2004 Street Improvement Project.

Street Rehabilitation had been completed.

### **WHARTON REGIONAL AIRPORT – RAMP PROGRAM**

1. The all-weather road leading to the AWOS system had been completed.
2. The City Staff with the assistance of O'Malley Engineers had found a remedy to install the apron that satisfies Houston Pipeline Company. The concrete work had been completed along with the placement of the limestone. The prime oil and asphalt would be completed as soon as the weather permits.
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. 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 was held September 30, 2004.

### **OTHER PROJECTS:**

1. Police Station Electrical Protection.

Jones & Carter, Inc. had been authorized to proceed with the next phase of this project. This would consist of determining the solutions to the problems identified and preparing cost estimates.

2. Animal Control Facility.

The construction of the building had been completed except for some work on the cabinets. The fence installation had been completed.

3. Tropical Storm Fay – Buy-Out Project:

The City Staff had met with the two property owners. A formal offer letter was issued to the property owners and the City Staff was awaiting their response. One property owner has submitted their own appraisal. It has been forwarded to the Department of Emergency Management for their review. The other property owner had also questioned the value and has been in contact with an appraiser.

After some discussion, no action was taken.

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

- A. City Council Finance Committee meeting held November 8, 2004.
  - B. Youth Advisory Commission meeting held November 9, 2004.
  - C. Beautification Commission meeting held November 10, 2004.
  - D. City Council Finance Committee meeting held November 11, 2004.
  - E. Planning Commission meeting held November 15, 2004.
  - F. Mayor's Local Committee on People with Disabilities meeting held November 18, 2004.
- City Manager Andres Garza, Jr. presented the reports to the City Council. No action was taken.

The eighteenth item on the agenda was the City Manager's Reports:

- A. Police Department.
- B. City Secretary/Personnel.
- C. Municipal Court.
- D. E.M.S. Department.
- E. Fire Department Incidents/Inspections.
- F. Code Enforcement Department.
- G. Water & Sewer Department.
- H. Public Works Department.
- I. Engineer/Planning Department.
- J. Facilities Maintenance Department.
- K. Community Services Department/  
Civic Center.
- L. Wharton Municipal Pool.
- M. Wharton Regional Airport.
- N. Legal.
- O. Weedy Lots/Sign Ordinance.

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

The nineteenth 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 8:06 p.m.

**CITY OF WHARTON, TEXAS**

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

**ATTEST:**

\_\_\_\_\_  
**LISA STAVENA**  
City Secretary