

MINUTES
OF
CITY OF WHARTON
SPECIAL CITY COUNCIL MEETING
FEBRUARY 10, 2005

Mayor Bryce D. Kocian declared a Regular Meeting duly open for the transaction of business at 7:02 P.M.

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

Councilmember absent was: Domingo Montalvo, Jr.

Staff members present were: City Manager Andres Garza, Jr., Finance Director Joyce Vasut, City Secretary Lisa Stavena, Assistant to City Manager Jackie Jansky, Community Services Director Jo Knezek, Police Chief Tim Guin, Police Captain Richard Coleman, Building Official Ronnie Bollom, Emergency Management Coordinator Harry Priesmeyer and City Attorney Paul Webb.

Visitors present were: Benjamin Sharp with Wharton Journal Spectator, Mark Jordon, Marine Balke, Martha Judd, Greg Pekar, A. B. Allen, Troy Allen, Willia M. Allen, Gregory Baines, Trina Baldwin, Leroy Barnes, Peggy Barnes, Jewel Blebsant, Claudine Bryant, Sarah Butler, Daisy Carter, Deborah Cenko, Helen Citizen, Jim Cockrell, Ethel Davis, Dr. Vic Driscoll, Paula Earls, Bertha Edwards, Ethel Mae Ephran, Ben Evans, Arthur Feldea, Coby Frankum, Susan Freese, Shirley Hatton, Carolyn Haywood, Billie Heard, Carlton Scott, Latrice Hearse, Clarence Jackson, Vetia Jackson, Mary Jimenez, Bernice Johnson, Jake Johnson, Lurline Johnson, Sadie Johnson, Linda Lathon, Marchette Marks, Norma Marks, Cathy Mason, Leroy Mical, Burnell Neal, Majorie Owens, Mattie Peterson, Robert Philip, Laurie Robinson, Mr. & Mrs. Oscar Sandi, Carmen Scarlett, J. B. Scarlett, Carlton Scott, Victor Scott, Anopawuia Spinks, Hazel Taylor, David Farris, Mary Taylor, Barbara Thearne, Charles Thomas, Clara Vernon, Angela Wallace, Ann Wanner, Lillie Washington, Sandra Washington, Floyd Washington, Thomas Washington, Ellis Williams, Eddie Brinkley, Sr., Jean Brinkley, Darryl Darnell, Peggy Duyka, Louis Edwards, Mary Wiley, Thelma Hayes, Lee Allen, G.

S. Novosad, Karen Novosad, Ellis Hurd, Hazel Hurd,
Wilma Randall, and Larry Jackson.

The second item on the agenda was Roll Call and Excused Absences. Councilmember Ray Linseisen made a motion to excuse the absence of Councilmember Domingo Montalvo, Jr. from the Special City Council Meeting held February 10, 2005. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

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

The fourth item on the agenda was Public Meeting: Home Elevation Project; Unmet Housing Needs:

- A.** Texas Department of Public Safety, Division of Emergency Management; FEMA Disaster DR-1257-TX; Project No. UN50-302-04 – Supplemental Property Elevation Assistance Program.

- B.** Office of Rural Community Affairs; Texas Community Development Program (TCDP) Contract No. 722067.

- C.** Office of Rural Community Affairs; Texas Community Development Program (TCDP); Contract No. 722057.

City Manager Andres Garza, Jr. stated that the Home Elevation Grant consisted of \$375,000 from Federal Emergency Management Agency (Administered through Department of Emergency Management) and \$125,000 from Office of Rural & Community Affairs. He stated

that the Unmet Housing Needs Grant consisted of \$390,000 from Federal Emergency Management Agency (administered through Texas Department of Housing & Community Affairs) and \$130,000 from Office of Rural & Community Affairs. He stated that the Home Elevation Project included elevating three of the original homes, that still remained in the Program He further stated that the three homes were in District #1 and the project was on-going. He then provided the following Chronology for the Home Elevation Project:

- May 31, 2002 - Letter of Project Approval from City Council for \$375,000 from DEM
- November 2002 - Contract with ORCA was signed and executed for \$125,000
- December 2002 to November 2003 - City Staff worked with consultants to develop Home Elevation Project Guidelines; City Staff contacted DEM for assistance
- December 2003 to May 2004 - City Staff completed the program guidelines: General conditions for contracts and work specifications
- June 2004 - Bidding Process Began
- July 12, 2004 - First Bid Opening
- July 19, 2004 - Bidders found to be non-responsive
- July 20, 2004 - City Staff met with program participants to discuss bids and the bidding process
- August 2004 - Bidding Process began again
- September 7, 2004 - Second Bid Opening (received three bids)
- September 27, 2004 - City Staff met with remaining program participants to discuss IRS ruling
- September to October 2004 - Bids were reviewed

- October 1, 2004 - City submits a letter to DEM/ORCA as required by program guidelines, requesting written assurances of reimbursement
- October 6, 2004 - City submitted a letter to ORCA regarding Councilmember Wiley's clearance for conflict of interest and IRS ruling and written assurance for reimbursement
- October 6, 2004 - City receives response from DEM regarding written assurances
- October 11, 2004 - City Council awards contract to Structural Solutions and approved amendments to program guidelines to include IRS determinations
- October 20, 2004 - City received a response from ORCA requesting additional information for ruling on Councilmember Wiley's participation, and ORCA set grant limitation of \$2,500 per home for elevation and remediation
- December 10, 2004 - City submitted response to ORCA that Councilmember Wiley was withdrawing as a participant, and City requested that ORCA pay 25% of all costs to elevate and remediate
- January 28, 2004 - City received letter from ORCA, stating that extension could be granted in exchange for the withdrawal of the City's Community Development Block Grant (CDBG) Application, which would replace sewerlines on the North side of the City

Mr. Garza then presented the Home Elevation Program Guidelines, which read as follows:

CITY OF WHARTON
RESOLUTION NO. 2004-87

A RESOLUTION OF THE WHARTON CITY COUNCIL AMENDING RESOLUTION NO. 2004-44 ESTABLISHING THE GUIDELINES AND PROGRAM DESIGN FOR FEMA ELEVATION GRANT 1257-DR, PROJECT #UN50-3.2.04.

WHEREAS, the Wharton City Council established Guidelines and Program Design for FEMA Elevation Grant 1257-DR, Project E UN50-3.2.04 by Resolution No. 2003-106; and

WHEREAS, the Wharton City Council amended the guidelines and program design for the FEMA Elevation Grant #1257-DR, Project #UN50-3.2.04; and

WHEREAS, the Wharton City of Wharton wishes to further amend the guidelines and program design for the FEMA Elevation Grant #1257-DR, Project #UN50-3.2.04 as follows:

<p>Program Design FEMA Elevation Grant FEMA-1257-DR, Project # UN50-3.2.04</p>

I. Definition and Purpose of Designated Grant. To elevate units located in the defined target area and to repair only those items defined as “qualified eligible expenses” by Texas Department of Public Safety, Division of Emergency Management.

II. Defined Area. The City of Wharton, Texas has designated through application to Texas Department of Public Safety, Division of Emergency Management that the target area to

benefit from stated assistance is defined as the area bounded by FM 102 on North, Highway 59 on the West, the Colorado River on the South and Sunset Street on the East.

III. Type of Assistance. The City of Wharton, Texas has designated through application to Texas Department of Public Safety, Division of Emergency Management that the type of assistance to be provided to qualified applicants will be in the form of a grant.

IV. Application Qualification. The City of Wharton, Texas, has designated through application to Texas Department of Public Safety; Division of Emergency Management that 100% of proposed applicants receiving assistance will be for owner-occupied units.

V. Internal Revenue Service (IRS). The Internal Revenue Service (IRS) determination has determined that grant payments to voluntary participants in the program would be includible in the gross income of the homeowner(s) that receive the funds. Therefore, all voluntary participants who agree to accept the grant award for the elevation of their homes will be required to report the funds to the IRS as gross income. The City of Wharton will issue the necessary IRS forms to all voluntary participants.

VI. Selection Process for Determining Eligibility.

- a. Unit must be owner-occupied.
- b. Unit must be located in designated target area.
- c. Applicants will receive priority scoring if:
 - i. Floodwaters penetrated structure.

- ii. Applicant is 62 years of age or older.
- iii. Applicant is disabled as defined by Social Security, SSI, Texas Department of Public Safety or by Doctor's Statement.
- iv. Applicant is below the 30% median income level for Wharton County, Texas.
- v. After environmental assessment, Unit is not found to contain potentially hazardous materials (e.g., asbestos, lead paint) that may require special handling or abatement.
- vi. Applicant can provide satisfactory written evidence to the Director of Community Services, City of Wharton, that Applicant actually occupies the Unit on a full time basis and owns the title to the real estate (land and improvements) at the address in question. (Provide such documents as driver's license; utility bills; title policy; deed; homeowner's insurance policy; Wharton County tax payment certificate, etc.).
- vii. Applicant demonstrates to the satisfaction of the Director of Community Services that Applicant is current (not delinquent) on all property taxes for all taxing entities in Wharton County, or has an officially pending written protest not to pay same.
- viii. Applicant execution of a Right-of-Entry and Temporary Ingress and Egress License Agreement to Perform Environmental Assessment Services at the Unit (legal form provided to Applicants by the Director of Community Services, City of Wharton).

- ix. Applicant execution of the Voluntary Transaction Agreement for Home Elevation Project (legal form provided to Applicants by the Director of Community Services, City of Wharton).
- x. The funding entity must approve all expenditures made to the elevation of the structures prior to construction.
- xi. The contractor must agree to perform all work approved by the funding entity.
- xii. The lower the cost benefit ratio (cost of improvements versus the valuation of the structure) the higher prioritization of the unit.

VII. The Director of Community Services for the City of Wharton will survey potential program beneficiaries, as defined in the City of Wharton, Texas application to Texas Department of Public Safety, Division of Emergency Management to ascertain applicant's interest in designated program.

VIII. Upon receipt of the applicants request and information for assistance, information will be screened for completeness and all information related to employment, income, assets and liabilities will be verified in order to determine the applicant's eligibility according to the Texas Department of Public Safety, Division of Emergency Management Guidelines, Policies, and Procedure. The Program Administrator and/or his/her designee shall be responsible for determining the eligibility of each applicant.

- A. The Program Administrator and/or his/her designee will score completed and eligible applications. Once the applicants are reviewed for the required information and for eligibility, the Program Administrator, and City Building Official shall inspect ALL qualified applicant's homes for the feasibility of elevation of unit. The Program Administrator and the City Building Official will make recommendations to the local governing body based upon application verification and initial inspection of properties.
- B. Upon receipt of the recommendations the approval authority shall approve, disapprove, or modify such recommendations. The funding decisions of the Approval Authority shall be based upon the adopted program policies and procedures and shall be final.

IX. Preferences and/or Prioritization. The City of Wharton will place an emphasis, as defined by Texas Department of Public Safety, Division of Emergency Management, on the elevation of units that do not exceed the designated flood elevation levels, (BFE), and for those units which had floodwaters penetrate the unit. The City of Wharton, Texas is a viable urban community, which includes the encouragement and support for decent housing and suitable living environments for persons of low income, and whereas certain substandard housing conditions exist which represent a health and safety threat to families residing in such structures.

Preferences and priorities will be placed upon applicants through scoring criteria, which is:

- a. based upon the percentage of the area median income for Wharton County Texas of 30% or less,
- b. documented disabilities which applicant may have,
- c. and, if floodwaters penetrated the unit.

X. Priority Rating System. All eligible applicants will be rated on a scoring system in order to establish the priority of funds. This rating process has been designed to incorporate both the family and dwelling characteristics of an applicant in order to establish a system that determines the most needy. Scoring shall be based upon the following factors:

Income: (maximum 25 Points)

- Less than 20% of the applicable median income limits by household size 25pts
- Less than 25% of the applicable median income limits by household size 20pts
- Less than 30% of the applicable median income limits by household size 15pts

Flood Water Penetration of Unit:

- 1. Yes 5pts
- 2. No 0pts

Disability:

- 1. Yes 5pts

2. No

Opts

XI. Participant eligibility. In accordance with 24CFR Part 5, and Technical Guide for Determining Income and Allowances, the City of Wharton has defined a “qualified low income household” as a household whose total income does not exceed 30% of the area median income. However, in accordance with Rider 3 of the Departments Appropriation for the current biennium, in those counties where the median income is lower than the State median income, (51,400), the department shall use the State median income in interpreting this rider. The area median income for Wharton, Wharton County, Texas is \$44,700.00. Therefore, Wharton, Texas, which shall be targeting households at or below 30% AMFI shall utilize the 30% average State median income based upon the number of persons in the household:

30% Average State Median Income							
1 person	2 person	3 person	4 person	5 person	6 person	7 person	8 person
\$10,794	\$12,336	\$13,878	\$15,420	\$16,654	\$17,887	\$19,121	\$20,354

XII. Relocation. The City of Wharton has established that the applicant of the Texas Department of Public Safety, Division of Emergency Management Elevation Grant is a

voluntary program. The applicant's action demonstrates elective and voluntary participation in the program.

XIII. Homeowner Responsibility. Homeowner(s) must execute all required contracts developed by the City of Wharton. The Homeowner will accept all responsibility for the removal of contents of property if required or for the relocation of self, if required. The nature of this Grant is for the elevation of units that are located within flood plains and are not located above designated flood plain elevations. The City, nor Contractor, will be responsible for:

- i. Homeowner's contents.
- ii. Homeowner's relocation.
- iii. Disconnection of utilities.
- iv. Or, any other unforeseen circumstance, during the phases of elevating or repairing a unit.

XIV. "Local Opportunity Plan". The City of Wharton will advertise for local contractors. The City will obtain a list of qualified contractors. General Contractors will be urged to break down tasks into smaller tasks and seek out local trades, locally owned businesses and low-income residents.

XV. Contractor Requirements. All contractors will be required to execute contract documents developed by the City of Wharton.

XVI. Standards and Specifications. The City of Wharton has adopted the 2000 International Builders Congress Code. All work required will meet or exceed the City of Wharton inspections.

XVII. Historically Underutilized Businesses, (HUBS). The City will give opportunities to HUBs and will make an affirmative effort to encourage bids from such contractors. General Contractors will be encouraged to “break out” tasks into smaller tasks to encourage participation. The City will also develop lists of HUBs in the area for general contractors to obtain bids for break out tasks. The City of Wharton will advertise, “break out tasks” in the local newspaper, notices posed in high visible areas, and maintain a master list at City Hall.

WHEREAS, the City of Wharton wishes to establish these guidelines for this program.

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 accepts the Guidelines and Program Design for FEMA Elevation Grant #1257-DR, Project #UN50-3.2.04, for the following activities:

To elevate units located in the defined target area and to repair only those properties defined as "qualified eligible expenses" by the Texas Department of Public Safety, Division of Emergency Management; and

That grant funds of \$500,000.00 be used to carry out owner-occupied housing elevation projects, eligible soft costs and for administration.

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

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

Passed, Approved, and Adopted this 11th day of October 2004.

CITY OF WHARTON, TEXAS

By: _____

BRYCE D. KOCIAN

Mayor

ATTEST:

City of Wharton
Special City Council Meeting
February 10, 2005

JOYCE VASUT

City Secretary

Mr. Garza then presented the Home Elevation Project, which read as follows:

CITY OF WHARTON HOME ELEVATION PROJECT FEMA 1257-DR, PROJECT UN50-3.2.04 - ORCA CONTRACT #722067

Package # 1						
	Childress Construction Company, Inc. Jackson, Mississippi	DAB Engineering & Testing Houston, Texas	Structural Solutions Jackson, Mississippi	Environmental Assessment/ Remediation	Estimated Cost to Elevate and Remediate per bid	Wharton County Appraisal District Value
Willa Mae Allen 1607 Columbine	\$94,140.00	\$130,000.00	No Bid	\$5,000 - \$25,000	No Bid	\$40,330
V. L. Wiley, Jr. 1512 W. Milam	\$84,915.00	\$147,000.00	\$95,500.00	\$5,000 - \$25,000	\$105,500 - \$120,500	\$47,070
Total	\$179,055.00	\$277,000.00	\$95,500.00	\$10,000 - \$50,000	\$105,500 - \$120,500	\$87,400

Package #2	Childress Construction Company, Inc.	DAB Engineering & Testing	Structural Solutions	Environmental Assessment/ Remediation	Estimated Cost to Elevate and Remediate per bid	Wharton County Appraisal District Value
Ellis Hurd 624 Branch	\$44,646.00	\$41,965.00	\$54,000.00	\$5,000 - \$25,000	\$59,000 - \$79,000	\$26,500
Mary Barnes 1618 Columbine	\$30,184.00	\$38,475.00	\$37,000.00	\$5,000 - \$25,000	\$42,000 - \$62,000	\$9,500
Lurlyne Johnson 1024 Kearney	\$39,936.00	\$37,935.00	\$46,750.00	\$5,000 - \$25,000	\$51,750 - \$71,750	\$16,760
Eddie Brinkley, Sr. 1908 MLK	\$98,304.00	\$97,730.00	\$106,400.00	\$5,000 - \$25,000	\$111,400 - \$131,400	\$69,450

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Alfred Bryant 114 S. Sheppard	\$36,240.00	\$55,750.00	\$37,200.00	\$5,000 - \$25,000	\$42,200 - \$62,200	\$16,370
Willie Jackson 1203 W. Caney	\$45,144.00	\$60,635.00	\$48,900.00	\$5,000 - \$25,000	\$53,900 - \$73,900	\$27,160
Robert Ephram 1603 W. Milam	\$30,952.00	\$38,475.00	\$31,800.00	\$5,000 - \$25,000	\$36,800 - \$56,800	\$9,750
Margie Owens 515 Wilkes	\$39,936.00	\$41,485.00	\$40,950.00	\$5,000 - \$25,000	\$45,950 - \$65,950	\$18,610
Total	\$365,342.00	\$412,450.00	\$403,000.00	\$45,000 - \$225,000	\$443,000 - \$603,000	\$194,160
Total Combined	\$544,397.00	\$689,450.00	\$498,500.00	\$55,000 - \$275,000	\$548,500 - \$723,500	\$281,560

Mr. Garza stated that the Unmet Needs Program allowed for reconstruction of nine (9) homes; however there were seven (7) homes that were reconstructed for qualified applicants because only seven met the ORCA approved guidelines. He stated all homes were in District #1 and the project was completed. He said the Office of Rural and Community Affairs had approved the grant. He then presented the Unmet Housing Needs Project Chronology as follows:

- March 2002 - City received notice that FEMA Program funds would be administered by TDHCA
- August 2002 - ORCA notified the City that funding had become available
- November 2002 - City received executed ORCA contract
- June 2003 - City Staff and Consultant discussed DPS and HTF positions regarding Unmet Needs Rehabilitation Grants
- June 23, 2003 - City Council approved the recommendations of the City Staff and Consultant to revise performance statement to include reconstruction of nine (9) homes versus rehabilitation of homes
- August 2004 - Certificate of occupancy were issued for last three homes
- September 30, 2004 - Close-out monitoring visit by State

Mr. Garza then presented the Unmet Needs Grant Guidelines as follows:

I. Program Marketing.

- a. The City of Wharton, Texas will inform the general public and homeowners by placing newspaper advertisements, posting notices at Wharton City Hall and at business locations. The City of Wharton will also notify outreach organizations and social service agencies that work with minorities, disabled individuals, or other protected groups, such as Meals on wheels, Churches, and senior citizen organizations, which have personal knowledge of individuals who may require federal assistance.
- b. The City of Wharton will have informational pamphlets at the Wharton, Texas City Hall to explain the qualifications and procedures of the program. Question and answer material will also be provided.
- c. The City of Wharton will hold a Public Informational meeting where the program is explained as well as qualifications, i.e. income guidelines, homeownership, etc. A question and answer period will be held at the end of the Public Information Meeting.
- d. All forms of program marketing will depict the Equal Housing Opportunity logotype or slogan.

II. Application Procedures

- a. The availability of the Program funds shall be announced and publicized in notices advertised in the local newspaper and posted in public places within the community, and publicized through advertised informational meeting held at

The City of Wharton City Hall.

- b. The Administrator will directly accept applications from potential program beneficiaries during regular business hours on days specified in notices advertised in the local newspaper and posted in public places in the community. In order to reach ALL interested qualified candidates, those candidates who are "home bound" and are "not physically able to travel" to the announced application location on the designated day and time, the HOME Program Administrator and/or designee will travel to the candidates place of residence for application purposes. The HOME Program Administrator, and/or designee shall be responsible for advertising the availability of the program and for accepting applications.
- c. Upon receipt of the applications for rehabilitation/reconstruction assistance, applications will be screened for completeness and all information related to employment, income, assets and liabilities will be verified in order to determine the applicant's eligibility according to the 2003 HOME Guidelines, Policies, and Procedures. The HOME Program Administrator and/or his/her designee shall be responsible for determining the eligibility of each applicant.
- d. The Program Administrator and/or his/her designee will score completed and eligible applications. Once all applications are reviewed for the required information and all applicants are reviewed for eligibility according to the Texas Department of Housing and Community Affairs, HOME Implementation Manual, the Program Administrator and/or his/her designee.

Mr. Garza stated that the Unmet Needs Program participants for reconstruction were: Alma Curtis - 1816 Azalea, Kenneth Harris - 1633 Connie, Frankie Mangum - 1607 W. Milam, Anselma Ramirez - 416 S. Sheppard, Barbara Ray - 1612 W. Milam, Canterino Rivera - 502 S. Ford, and Olivia Scarlett - 221 S. Sheppard

He stated that the 1999 HOME Program included of rehabilitating four (4) homes and reconstructing one (1) home. The 1999 HOME Program consisted of \$198,545 from Texas Department of Housing & Community Affairs, which three (3) homes were in District #1 and one (1) home was in District #4; and that the project was completed. He stated that the participants for rehabilitation were: Halena Baker - 400 S. East Avenue, Vernell Edwards - 902 Edwards Lane, Callie Moses - 220 Correll, and Gwendolyn Johnson - 1513 Bailey. He stated that the participant for reconstruction was Pedro Mireles, Sr. - 700 S. East Avenue.

He stated that the 2001 HOME Program included reconstructing nine (9) homes with \$495,000 from Texas Department of Housing & Community Affairs. He stated that all nine (9) homes were in District #1 and the project was completed. He stated that the participants were: Eugene Aubrey - 604 Murphy, Ramon Rodriguez - 624 Murphy, Ethel Formby - 327 Lincoln, Theresa Farris - 614 S. East Avenue, Mary Garza - 505 S. Sunset, Rosalie Bryant - 613 1/2 Mattie, Eula Bryant - 613 Mattie, Willie Moore - 909 Spanish Camp, and Ruby Simmons - 1012 W. Milam.

Mr. Garza stated that the 2003 HOME Program included of reconstructing nine (9) homes with \$495,000 from Texas Department of Housing & Community Affairs. He stated that all nine (9)

homes were in District #1 and that the project was on-going. He stated that the participants were:

Kathleen Aykes - 304 Pecan, Hope Espinosa - 621 Washington, Lola B. Grays - 1621 Connie,
 Lester Haynes - 522 Branch, Teodora Ortiz - 808 E. Caney, Daniel Partida - 209 Washington,
 Bernice Ragston - 504 Correll, Charlie Simmons - 307 Hughes, and Lovenia Brown - 1521
 Hendon.

He then presented a HOME Program Recap, which read as follows:

Program	Homes Rehabilitated	Homes Reconstructed	Status
1999 Home Program (Rehabilitation & Reconstruction)	4	1	Completed
2001 Home Program (Reconstruction)	0	9	Completed
2003 Home Program (Reconstruction)	0	9	On-going
2004 Home Program (Reconstruction/ Special Needs)	0	7	On-going
Unmet Housing Needs Program	0	7	Complete
Totals	4	33	37

Mr. Greg Pekar the Governor's Division of Emergency Management addressed the City Council and stated that the Hazard-Mitigation Grant was funded for disasters, which was limited funding with a 25/75 Match. He stated that there was a Pre-Disaster Mitigation Annual program also with limited funding. He stated that there were approximately five times more applicants than funding. He stated that the buy-out grant was also available, in which the property owner could sell their property and the space would have to be dedicated as open land with no structures built on the property. He stated if a city applied for this grant and could not complete the project, the funds would be returned to FEMA. He stated that FEMA would be responsible for reallocating the fund. He stated that OCRA would support 25% for hazard mitigation grant but would not contribute towards the pre-disaster mitigation program. He stated that a City would have to provide the funding up front and then request reimbursement from the State; however if a City did not comply with the guidelines then the State would not honor the reimbursement request.

City Manager Andres Garza, Jr. stated that statement were made that the City of Wharton purposely delayed the project; however the City Staff had been continually working on the project. He stated that the City needed assurance that reimbursements would be made by the State so that the taxpayers of the City of Wharton would not have to pay for improvements to private homes. He stated that in the early 1990's the City of Wharton almost went bankrupt because no procedures were in place to assure City funds were spent appropriately; however he assured the public that would not happen under his administration.

Mr. Eddie Brinkley, Sr. addressed the City Council and stated that one would have to be a lawyer to understand the information that was provided. He stated that he did not understand

why the participants were not informed about the change in the grant from rehabilitation to reconstruction. He stated that he was concerned about the bids received for the elevation project, and that it seemed to him that the City did not want the project. He stated that the City informed the participants of the IRS ruling, which made the participants frustrated. He stated there needed to be better communication for keeping the participants fully informed. City Manager Andres Garza, Jr. stated that he met with Mr. Brinkley, at which time he explained the information that was provided by the State. He also stated that the Elevation Project was a voluntary project.

Councilmember Ken Freese asked Mr. Brinkley if the article in the Wharton Journal Spectator was to the City Council or the public. Mr. Brinkley stated that he was a flood victim and he was not made aware of the information regarding the grant. Councilmember Ken Freese stated that every citizen in the City of Wharton has a Councilmember that represent their District who is available to the public. Councilmember V. L. Wiley, Jr. stated that he keeps everyone in District #1 informed. Councilmember Ken Freese stated that the City received three bids. He also stated that Mr. Brinkley stated that he had contacted DAB Engineering who offered him a price of \$55,000, which was \$48,000 less than the bid submitted to the City of Wharton. Councilmember Ken Freese asked if this was price gouging. Councilmember Ken Freese asked Mr. Brinkley if he was related to or used to be related to representatives of DAB Engineering. Mr. Brinkley stated that he used to be related to the representative of DAB Engineering; however that had nothing to do with this.

Mr. Darryl Darnell addressed the City Council and stated that he served as City Councilmember for District #2 from 2002-2004. He stated that he was lied to by City Staff when they stated that

OCRA recommended changing the rehabilitation to reconstruction. He stated that OCRA had not recommended that. He stated that the whole story should be told.

Ms. Peggy Duyka addressed the City Council and stated that she had background experience in elevation. She stated that in May 2003 she received a bid specification for Contract Administrator, but was informed that there were no bid specifications because the requirements were changing. She stated that she called again, at a later time, and was advised that the requirements were changing again. She stated that the changes to the requirements were a critical factor in the delay of the project. She stated that the guidelines should be different since the guidelines provided did not allow the opportunity to use the federal funds.

Mr. Louis Edwards addressed the City Council and stated that he attended a meeting held November 23, 2004 with the LCRA. He stated that he obtained information that 25 counties in the Coalition received \$5.5 million dollars. He asked "Where is all the money?"

Mr. Mark Jordon with LCRA addressed the City Council and stated that Mr. Edwards was referring to 50 counties, which the funds were used for a number of projects. He stated that the City of Wharton did not receive \$5.5 million dollars. He stated that some of the funds referred to would be used for floodplain maps.

Ms. Thelma Hayes addressed the City Council and stated that the Mayor had wrote a letter stating that he felt that the homes were not feasible enough to fix. She stated that Ms. Willia Mae Allen gave a copy of that letter to Councilmember V. L. Wiley, Jr. at a Regular City Council

Meeting. She stated that during that time, the City Councilmembers were surrounding Ms. Allen, which was disrespectful. Councilmember Ken Freese stated that he was told by Ms. Allen that it was a racist letter, which got his attention. Ms. Hayes stated that the City Council should show respect toward others.

Mr. G. S. Novosad addressed the City Council and stated that there were three sides to every story, his, theirs and the truth. He stated that the City applied for the Elevation Grant on August 27, 2002 and 2 ½ years later, no houses had been lifted. He stated on June 23, 2004, the grant was changed from rehabilitating 50 home to reconstructing 9 homes. He stated that the City of Wharton did not hold a Public Hearing at that time and the City was required to hold a Public Hearing to revise the grant. He stated that a Public Hearing was published in the Legal Section of the Wharton Journal Spectator; however the participants were not informed of the revision to the grant. He stated that the Public Hearing was on a Tuesday, which the Public Hearing should have been held during a City Council Meeting for citizen participation. He stated that on April 9, 2003 an email was sent regarding a contract to Bud Love; however the City Council did not award the contract until April 29, 2003. Councilmember David Samuelson asked Mr. Novosad what he thought about the IRS ruling. Mr. Novosad stated that he felt that the IRS ruling would be overruled. Mr. Novosad said that the City of Wharton spent \$32,000, which reimbursement was requested from FEMA; however no amount had been requested for reimbursement from ORCA. He stated that Gus Garcia emailed Mr. Garza stating that he needed to speak to him at the Coalition Meeting in January regarding the grant application. He stated that Mr. Gus Garcia informed the City not to apply towards any more grants since the City had two other outstanding applications. Councilmember David Samuelson stated that the grant was for \$500,000; however

if the City of Wharton would not receive reimbursement then the taxpayers would be contributing towards private property. Councilmember David Samuelson stated that the City had to prepare fifteen legal documents. Mr. Novosad stated that the plan should have been submitted with the grant application.

Mr. Ellis Hurd addressed the City Council and stated that he felt that the grant was a hindrance to the City of Wharton. He stated that first it was about the lead in the paint, then to find their own contractor, then that what was torn before would not be repaired, then to pay for permits, then to pay the difference for additional plumbing pipes and electrical wires, and then the IRS ruling.

Mrs. Randall addressed the City Council and stated that she resided at 311 Mahan and stated that since Alabama Road had been elevated, the houses on Mahan had been flooded. She stated that she had been flooded four times in the last three years. Councilmember Don Mueller stated that the Santa Fe Ditch would bring the drainage to Highway 60 and then to the Colorado River.

City Manager Andres Garza, Jr. stated that the City Staff and Community Services Director Jo Knezek was dedicated to working on housing for the City of Wharton.

Councilmember David Samuelson stated that a flood was a natural disaster, and that other parts of the City had received flooding also not just the westside. He stated that was was not a black or white issue. He stated that his house was his responsibly and everyone else's house was their responsibility. He stated if there was a fire at someone's house, the Fire Department would put

the fire out; however they would not be responsible for the losses obtained. He stated during a flood, the City's responsibility was to protect the citizens. He stated that he could promise that if a hurricane went through the City of Wharton, then homes would be flooded. He stated that we must take care of our property. He stated that flooding was a weather issue, not a racist issue. He also stated that each person was responsible for flood insurance and if someone needed to give up something else to afford flood insurance, they would need to make that decision.

Councilmember V. L. Wiley, Jr. stated that he had been flooded two or three times and that we would continue to fight for the residents.

The fifth item discussed on the agenda was to review and consider a resolution of the Wharton City Council authorizing the submission of an application to the Governor's Division of Emergency Management for the 2005 Pre-Disaster Mitigation Grant Program; and authorizing the Mayor of the City of Wharton to act as the City's authorized representative in all matters pertaining to the City's participation in the Pre-Disaster Mitigation Grant Program. After some discussion, Councilmember David Samuelson made a motion to approve Resolution 2005-003, which read as follows:

City of Wharton

Resolution No. 2005 - 003

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE GOVERNOR'S DIVISION OF EMERGENCY MANAGEMENT FOR THE 2005 PRE-DISASTER MITIGATION GRANT PROGRAM; AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO

**ACT AS THE CITY'S AUTHORIZED REPRESENTATIVE IN ALL MATTERS
PERTAINING TO THE CITY'S PARTICIPATION IN THE PRE-DISASTER
MITIGATION GRANT PROGRAM.**

WHEREAS, the Governor's Division of Emergency Management has issued a notice of the availability of funding for the acquisition of property under the 2005 Pre-Disaster Mitigation Grant Program; and

WHEREAS, the City of Wharton is eligible to apply for this funding provided under the Pre-Disaster Mitigation Grant Program; and,

WHEREAS, the total project amount for the City of Wharton 2005 Pre-Disaster Mitigation Grant Program (Buyout) is estimated at an amount not to exceed \$325,976.00; and

WHEREAS, the Wharton City Council wishes to approve the submission of an application to the Governor's Division of Emergency Management to apply for funding under the 2005 Pre-Disaster Mitigation Grant Program, in the amount not to exceed \$325,976.00; and

WHEREAS, the Wharton City Council certifies that the City of Wharton is able to meet the financial obligations of at least 25% of the cost share under this program and more if federal funding is limited; and

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton to act as the City's authorized representative in all matters pertaining to the City's participation in the Pre-Disaster Mitigation Grant Program.

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

Section I. The Wharton City Council hereby authorizes the submission of an application to the Governor's Division of Emergency Management to apply for the funding under the 2005 Pre-Disaster Mitigation Grant Program, in the amount not to exceed \$325,976.00 for property acquisition.

Section II. The Wharton City Council certifies that the City of Wharton is able to meet the financial obligations of at least 25% of the cost share under this program and more if federal funding is limited.

Section II. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to act as the City's authorized representative in all matters pertaining to the City's participation in the Pre-Disaster Mitigation Grant Program.

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

Passed, Approved and Adopted this 10th day of February 2005.

CITY OF WHARTON, TEXAS

By: _____

BRYCE D. KOCIAN

Mayor

ATTEST:

LISA STAVENA

City Secretary

Councilmember Don Mueller 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. abstained. The motion passed.

The sixth 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 9:06 p.m.

CITY OF WHARTON, TEXAS

By: _____

BRYCE D. KOCIAN

Mayor

ATTEST:

LISA STAVENA

City Secretary