

MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
FEBRUARY 14, 2005

Mayor Bryce D. Kocian declared a Regular Meeting duly open for the transaction of business at 7:00 P.M. Councilmember Don Mueller 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., City Secretary Lisa Stavena, Assistant to City Manager Jackie Jansky, Building Official Assistant Lori Jaquez, Community Services Director Jo Knezek, Police Chief Tim Guin, and City Attorney Paul Webb.

Visitors present were: Benjamin Sharp with Wharton Journal Spectator, Lewis Fortenberry, Carlos Cotton, Hetchen White, Louis Edwards, Gary Koenig, Jim Cockrell, Cathy Mason, Mr. & Mrs. Oscar Sandi, Hazel Taylor, David Farris, Peggy Duyka, Robert Phillips, Eddie Brinkley, Thema Hayes, Lee Allen, Clarence Jackson, David Schroeder, Loretta Craft, Ethel Davis, Anopawuia Spinks, Helen Citizen, Erich Jaquez, and Mary Jimenez.

The third item discussed on the agenda was the Wharton Moment. Councilmember Ken Freese publicly commended the Beautification Commission for their effort of recognizing citizens to beautify the community. He stated that on Saturday, February 12, 2005, the Beautification Commission held a Dedication Ceremony for the Medical Mural on Fulton Street. He publicly commended Councilmember David Samuelson and City Manager Andres Garza, Jr. for their presentations, Facilities Maintenance employees for their work, and Civic Center employees for preparation of the event held at the Civic Center. No action was taken.

The fourth item discussed on the agenda was to review and consider the reading of the minutes from the regular meetings held January 10, 2005 and January 28, 2005. After some discussion, Councilmember Ray Linseisen made a motion to approve the Wharton City Council minutes of the regular meetings held January 10, 2005 and January 28, 2005 as presented. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The fifth item discussed on the agenda was to review and consider an ordinance calling for a City Officers Election, providing for the date, time, and place of the election, the appointment of

elections officers and clerks, early voting, Notice of the Election, drawing for ballot positions, filing applications, and making election returns. City Manager Andres Garza, Jr. presented a draft ordinance calling for a Regular City Officers Election of May 7, 2005. After some discussion, Councilmember Don Mueller made a motion to approve Ordinance No. 2005-001, which read as follows:

**CITY OF WHARTON, TEXAS
ORDINANCE NO. 2005-001**

AN ORDINANCE CALLING FOR A CITY OFFICERS ELECTION, PROVIDING FOR THE DATE, TIME, AND PLACE OF THE ELECTION, THE APPOINTMENT OF ELECTION OFFICERS AND CLERKS, EARLY VOTING, NOTICE OF THE ELECTION, DRAWING FOR BALLOT POSITIONS, FILING APPLICATIONS, AND MAKING ELECTION RETURNS.

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

Date and Position

An election shall be held in the City of Wharton, Texas on **May 7, 2005**, for the purpose of electing the following officials for the City:

Councilmember - District No. 1
Councilmember - District No. 3
Councilmember at Large - Place No. 5

Location

The election shall be held at the City of Wharton Civic Center at 1924 North Fulton Street, Wharton, Texas.

Time

The polls shall open for voting at **7 a.m.** and shall close at **7 p.m.**

Election Officers

The following-named persons are appointed officers for the election:

Presiding Judge: Magdalena Rodriguez
Alternate Presiding Judge: Genevieve Maerz

The presiding judge shall appoint not more than 12 clerks to assist her.

Ballots

Paper ballots shall be used for voting on election day and for early voting by personal appearance and by mail in each of the elections.

Early Voting

The City Secretary is appointed early voting clerk and the City Secretary is authorized to appoint by written order one or more temporary deputies to serve as early voting clerks.

The early voting by personal appearance for the above-designated election shall take place at the Wharton Community/Civic Center at 1924 North Fulton Street, Wharton, Texas. The place for early voting shall remain open on each day that is not a Saturday, Sunday, or an official state holiday, between the hours of **8 a.m.** and **5 p.m.**, those days and hours being the days and hours that the City Secretary's main office is open for business, beginning on **April 20, 2005** and continuing through **May 3, 2005**.

An Early Voting Ballot Board is hereby established for the purpose of early voting results. Magdalena Rodriguez is appointed the Presiding Judge of the Early Voting Ballot Board. The Presiding Judge shall appoint not less than two (2) nor more than four (4) resident qualified voters of the City to serve as members of the Early Voting Ballot Board. The City Secretary shall act as Early Voting Ballot Board Clerk.

Voters may send ballot applications and mailed ballots to the City Secretary's office at 120 East Caney, Wharton, Texas 77488.

Compensation for Election Officials and Clerks

The election officials and clerks shall be compensated in the following manner:

The Election Judge for the May 7, 2005 General Election shall be paid \$6.00 per hour. The Election Judge shall also be paid \$25.00 for delivering the precinct records, keys to ballot box or other election equipment and unused election supplies after the election.

The Early Voting Ballot Board Presiding Judge for the May 7, 2005 General Election shall not be paid.

The members of the Early Voting Ballot Board for the May 7, 2005 General Election shall not be paid.

The Early Voting Ballot Board Clerk for the May 7, 2005 General Election shall not be paid.

The Election Clerk(s) for the May 7, 2005 General Election shall be paid \$6.00 per hour.

The City Secretary shall, in accordance with the terms and provisions of the Texas Election Code, order the candidate names to be printed on the ballots for said General Election.

Eligibility to Vote

The election shall be held in accordance with the Election Code of the State of Texas. Only qualified resident voters of the City of Wharton, Texas shall be eligible to vote in the election.

Notice of City Officers' Election

The Mayor shall cause a notice by publication of this election to be published at least once in a newspaper that is published in the City of Wharton, Texas and that is in the jurisdiction of the City of Wharton, Texas, which publication shall be not earlier than the **30th day** nor later than the **10th day** before election day.

The Mayor shall also give notice of the election by causing a copy of the notice of election to be posted not later than the **21st day** before election day on the bulletin board located at the City Hall, 120 East Caney, Wharton, Texas and used for posting notices of meetings of the Wharton City Council. The notice shall include the location of the polling place.

Returns

Immediately after the election, the officers holding the election shall make returns of the results thereof to the Mayor of this City, as required by the Election Code of the State of Texas.

Writ of Election

A copy of this ordinance shall also serve as a writ of election, which shall be delivered to the above-appointed presiding judge for the election not later than the **15th day** before election day or the **7th day** after the date the election is ordered, whichever is later.

Filing

Candidates must file applications for a place on the ballot with the City Secretary of the City of Wharton, Texas beginning on **February 5, 2005** and continuing through **5 p.m.** on **March 7, 2005**. A declaration of write-in candidacy must be filed not later than 5:00 P.M. on **March 14, 2005**, the 5th day after an application for a place on the ballot is required to be filed.

Candidates for City Councilmember must designate the position filed for, either Councilmember - District No. 1, Councilmember - District No. 3, or Councilmember at Large - Place No.5.

Ballot Positions

On **March 9, 2005 at 10:00 a.m.**, a drawing will take place in the office of the City Secretary for the purpose of determining the order of the candidates' names as they are to appear on the ballot.

The City Secretary shall post in her office a notice of the date, hour, and place of the drawing and this notice shall remain posted continuously for at least 72 hours immediately preceding the scheduled time of the drawing.

Order

The City Council of the City of Wharton, Texas shall order the election, in accordance with the foregoing provisions.

Separability

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

Passage and Approval

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, on this **14th** day of **February, 2005**.

ATTEST:

CITY OF WHARTON, TEXAS

Lisa Stavena
City Secretary

By: _____
Bryce D. Kocian
Mayor

APPROVED AS:

Paul Webb
City Attorney

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

The sixth item discussed on the agenda was to review and consider recommendation from the Planning Commission to consider approving the following requests for variances:
A. Request by Mr. Jerry Colquette, Hartz Chicken for a five feet variance from the required ten feet interior side setback for the placement of drive-thru canopy located at 1261 Hwy. 59 Ste. A, Outparcel #2. City Manager Andres Garza, Jr. presented a copy of the memorandum dated February 8, 2005 from Planning Commission Vice-Chairman Mike Wootton recommending City Council approve the request for the variance. He then presented a copy of the Planning Commission Communications from the meeting held February 7, 2005. Building Official Lori Jaquez addressed the City Council and stated that Mr. Jerry Colquette of Hartz Chicken was requesting the variance for placement of the canopy on the south side of the interior property line. After some discussion, Councilmember Don Mueller made a motion to approve the request by Mr. Jerry Colquette of Hartz Chicken for a five feet variance from the required ten feet

interior side setback for the placement of drive-thru canopy located at 1261 Hwy. 59 Ste. A, Outparcel #2. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

B. Request by Mr. Gary Koenig of Koenig Welding Service, Inc. for a five feet variance from the required twenty feet rear property setback from residential property for the expansion of a building located at 2305 North Richmond Road, Wharton, Block 60 – Ext., Lot 1, 6A.1, and 7A. City Manager Andres Garza, Jr. presented a copy of the memorandum dated February 8, 2005 from Planning Commission Vice-Chairman Mike Wootton recommending City Council approve the request for the variance. He then presented a copy of the Planning Commission Communications from the meeting held February 7, 2005. Mr. Gary Koenig addressed the City Council and stated that Koenig Welding Services, Inc. had been in business since 1956, which had previously extended the business four times; however another extension was needed for storage of equipment. After some discussion, Councilmember David Samuelson made a motion to approve the request by Mr. Gary Koenig of Koenig Welding Service, Inc. for a five feet variance from the required twenty feet rear property setback from residential property for the expansion of a building located at 2305 North Richmond Road, Wharton, Block 60 – Ext., Lot 1, 6A.1, and 7A. Councilmember Ray Linseisen seconded the motion. All voted in favor.

C. Request by Mr. David Voulgaris of Caney Auto for a three feet variance from the required twenty-five feet front property setback for the construction of a 27' x 15' addition located at 607 FM 102, Abst. 38, Tract 61B-3 and Tract 61B-8. City Manager Andres Garza, Jr. presented a copy of the memorandum dated February 8, 2005 from Planning Commission Vice-Chairman Mike Wootton recommending City Council approve the request for the variance. He then presented a copy of the Planning Commission Communications from the meeting held February 7, 2005. Mr. David Voulgaris addressed the City Council and stated that Caney Auto had been in business for 25 years. He stated that the current property had an existing loading dock, which he requested that area be extended in order to add to the existing office space. After some discussion, Councilmember Ray Linseisen made a motion to approve the request by Mr. David Voulgaris of Caney Auto for a three feet variance from the required twenty-five feet front property setback for the construction of a 27' x 15' addition located at 607 FM 102, Abst. 38, Tract 61B-3 and Tract 61B-8. Councilmember Ken Freese seconded the motion. All voted in favor.

The seventh item discussed on the agenda was to review and consider a resolution adopting the City of Wharton Investment Policy. City Manager Andres Garza, Jr. stated that the City Council Finance Committee met February 10, 2005 and recommended the City Council adopt the City of Wharton Investment Policy. He stated that State Law required the investment policy be reviewed and adopted by the governing body on an annual basis. He then presented a draft copy of a resolution adopting the policy. After some discussion, Councilmember David Samuelson made a motion to approve Resolution No. 2005-004, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2005-004**

A RESOLUTION ADOPTING THE CITY OF WHARTON INVESTMENT POLICY.

WHEREAS, the Public Funds Investment Act, requires the City Council to review and adopt, by resolution, the investment policies and strategies for the City of Wharton on an annual basis; and

WHEREAS, the City of Wharton designates the City Manager and the Finance Director as investment officers; and

WHEREAS, the City of Wharton approves the training courses sponsored or endorsed by the Texas Municipal League, the Government Finance Officers Association of Texas, the Government Treasurers Organization of Texas, or the North Central Texas Council of Governments as adequate to meet the investment training requirements; and

WHEREAS, the attached investment policy, including no revisions since last years approval, complies with the Public Funds Investment Act and authorizes the investment of City funds in safe and prudent investments.

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

Section I. The City of Wharton has complied with the requirements of the Public Funds Investment Act and the Investment Policy attached hereto as "Exhibit A" is hereby adopted as the Investment Policy of the City of Wharton effective February 14, 2005.

Section II: That this resolution shall be come effective immediately upon its passage.

Passed, Approved, and Adopted this 14th day of February 2005.

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 eighth item discussed on the agenda was to review and consider the recommendation by the Wharton Regional Airport Board for City Council authorization to submit a Letter of Interest (LOI) to the Texas Department of Transportation – Aviation Division to participate in the Airport Terminal Grant Program. City Manager Andres Garza, Jr. stated that on October 25, 2004, Wharton Economic Development Corporation Executive Director David Schroeder, Mr.

Ed Addicks, P.E. of O'Malley Engineers, and himself met with Mr. David Fulton of the Texas Department of Transportation – Aviation Division regarding the proposed airport terminal building. He stated that the State had requested the City of Wharton to submit a Letter of Interest (LOI) before any further action could be taken by the State for this proposed project. He stated that the Wharton Regional Airport Board met February 1, 2005 and discussed the Airport Terminal Grant Program, which was a program designed to fund improvements to airport terminals. He said this grant was a 50/50 matching grant. He stated that the Airport Board was recommending the City Council consider approving the submission of the LOI to the State. He then presented a letter dated February 7, 2005 from Ms. Linda Howard from the Texas Department of Transportation-Aviation Division regarding funding available for the Wharton Regional Airport under the Non Primary Entitlement (NPE) Funds, which indicated that the following amount were available for federally-eligible projects:

FY 2003 \$150,000

FY 2004 \$150,000

FY 2005 \$ 66,667

He stated that in order for hangar development to be eligible, all other airport capital needs must be met. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to authorize the submission of a Letter of Interest (LOI) to the Texas Department of Transportation – Aviation Division to participate in the Airport Terminal Grant Program. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The ninth item discussed on the agenda was to review and consider a resolution authorizing the submission of an application to the Texas Department of Housing & Community Affairs for the HOME Investment Partnership Program – Disaster Relief Housing Assistance (DRHA) Program and authorizing the Mayor of the City of Wharton to execute all documents related to said application. City Manager Andres Garza, Jr. presented a copy of information obtained from the Texas Department of Housing and Community Affairs HOME Investment Partnerships Program – Disaster Relief Housing Assistance (DHRA) application regarding the program and criteria for disaster relief housing assistance. He stated that the City Council Housing Committee met January 31, 2005 to discuss the program and was recommending City Council approval to submit an application for the DRHA program. He then presented a draft resolution authorizing the submission of the grant application and authorizing the Mayor to execute all documents related to the application. He stated that the application could be submitted for reconstruction or rehabilitation of homes or acquisition / new construction as outlined on Page 5. He stated that the City Staff had recommended in the past that the City pursue reconstruction, which would allow the recipient a total housing solution. He stated that grant was for a maximum of \$500,000 with no matching contributions. He stated that the City would follow the criteria guidelines as applicant must be 62 years of age or older, and within the 30% median income range; however applicants with disabilities would take precedence. Mr. Garza stated that the number one priority for the City would be to assist the elderly. Councilmember Ray Linseisen stated that the thirty homes that were constructed through the HOME Program had not been flooded. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2005-005, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2005-005**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS, AUTHORIZING THE SUBMISSION OF A HOME PROGRAM APPLICATION TO THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS HOME INVESTMENTS PARTNERSHIPS PROGRAM FOR DISASTER RELIEF HOUSING ASSISTANCE FOR HOME FUNDS; ADOPTING THE HOME PROGRAM GUIDELINES; AND AUTHORIZING THE MAYOR TO ACT AS THE CITY'S CHIEF ELECTED OFFICER AND AUTHORIZED REPRESENTATIVE IN ALL MATTERS PERTAINING TO THE CITY'S PARTICIPATION IN THE PROGRAM.

WHEREAS, THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS, DESIRES TO DEVELOP A VIABLE URBAN COMMUNITY, INCLUDING DECENT HOUSING AND A SUITABLE LIVING ENVIRONMENT PRINCIPALLY FOR PERSONS OF LOW/MODERATE INCOME; AND

WHEREAS, CERTAIN SUBSTANDARD HOUSING CONDITIONS EXIST WHICH REPRESENT A HEALTH AND SAFETY THREAT TO FAMILIES RESIDING IN SUCH STRUCTURES; AND

WHEREAS, THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS, SUPPORTS THE CITY'S APPLICATION FOR FUNDING;

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

SECTION I: THAT, A HOME APPLICATION FOR HOME FUNDS IS HEREBY AUTHORIZED TO BE FILED ON BEHALF OF THE CITY WITH THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS.

SECTION II: THAT, THE APPLICATION BE FOR \$495,000.00 OF GRANT FUNDS TO CARRY OUT OWNER OCCUPIED HOUSING RECONSTRUCTION/REHABILITATION PROJECTS AND ELIGIBLE SOFT COSTS AND \$19,800.00 FOR ADMINISTRATION/OPERATING FUNDS.

SECTION III: THAT, THE CITY ADOPT THE OWNER OCCUPIED ASSISTANCE PROGRAM DESIGN.

SECTION IV: THAT, THE CITY COUNCIL DIRECTS AND DESIGNATES THE MAYOR AS THE CITY'S CHIEF ELECTED OFFICER AND AUTHORIZED REPRESENTATIVE TO ACT IN ALL MATTERS IN CONNECTION WITH THE APPLICATION AND THE CITY'S PARTICIPATION IN THE HOME PROGRAM.

PASSED, APPROVED AND ADOPTED THIS 14TH DAY OF FEBRUARY 2005.

CITY OF WHARTON

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

LISA STAVENA

City Secretary

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

The tenth item discussed on the agenda was to review and consider the authorization to submit a letter to the Texas Department of Housing and Community Affairs regarding the rehabilitation of the University Place Apartments. City Manager Andres Garza, Jr. presented a copy of the letter dated January 25, 2005 from Ms. Kimberly Dennison, Project Development Officer for Fieser Development, Inc. He stated that Ms. Dennison was requesting the City of Wharton submit a letter to the Texas Department of Housing & Community Affairs stating the City of Wharton does not have a zoning ordinance and that development fulfills a need for affordable housing. After some discussion, Councilmember David Samuelson made a motion to authorize the submission of a letter to the Texas Department of Housing and Community Affairs regarding the rehabilitation of the University Place Apartments. Councilmember Don Mueller seconded the motion. All voted in favor.

The eleventh item discussed on the agenda was to review and consider the response to the Office of Rural Community Affairs letter dated January 25, 2005 regarding the extension of the Contract No. 722067 – Home Elevation Grant Program. City Manager Andres Garza, Jr. presented a copy of the letter dated January 25, 2005 from the Office of Rural Community Affairs (ORCA) responding to the City's letter dated December 10, 2004 approving the City's request to extend the Contract No. 722067. He stated that the extension would be contingent upon the City's application to the 2005/2006 Community Development program to be withdrawn. He stated that the application was submitted in order to obtain funding for the sewer improvements in the Ahldag Addition. He then presented a copy of the email dated January 27, 2005 from Mr. Robie Kight of Structural Solutions, Inc. informing the City that his company could not perform the reduced scope since seven participants of the Home Elevation Grant program had voluntarily withdrawn. He stated that the City Council should determine if the City would accept the extension being granted by the ORCA and re-bid the project for the remaining three participants of the Home Elevation Grant Program or inform ORCA that the City's position would be to not accept the contract extension. Mr. Garza stated that the three applicants for the Home Elevation Grant Program were: Ms. Marjorie Owens, Mr. Eddie Brinkley, and Ms. Willia Mae Allen. Councilmember V. L. Wiley, Jr. asked if the applicants were aware of the IRS ruling. Mr. Garza stated that written notification was sent to applicants. He stated that the City of Wharton would send 1099's to the beneficiaries of the project. Councilmember David Samuelson stated that approximately 150 homes could be affected with the replacement of the sewer lines in the Ahldag Addition, which he felt was a higher priority. Mayor Bryce D. Kocian stated that the HOME Elevation Grant funds were available; however the Ahldag Sewer Line Replacement Grant would have to go through the application process, which the City may not be granted. Mr. Garza stated if the extension was approved for the HOME Elevation Grant Program then the City of Wharton would not be eligible to apply for a grant through the Community Development Program until November 2006. Councilmember Don Mueller stated if the sewer lines would collapse in that area, then the City would have to repair or replace through the tax payer funds. Mr. Garza stated that he could not predict how long the sewer lines would last for another 1-½ years. After some discussion, Councilmember David Samuelson made a motion to

reject the extension of the Contract No. 722067 – Home Elevation Grant Program. Councilmember Ken Freese seconded the motion. Councilmembers David Samuelson, Ken Freese, and Don Mueller voted for the motion. Councilmembers V. L. Wiley, Jr., Domingo Montalvo, Jr., Ray Linseisen, and Mayor Bryce D. Kocian voted against the motion. The motion failed.

Councilmember Domingo Montalvo, Jr. made a motion to extend Contract No. 722067 – Home Elevation Grant Program. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The twelfth item discussed on the agenda was to review and consider the request by Wharton County for funding assistance for the Wharton County Courthouse lighting project. City Manager Andres Garza, Jr. stated that on February 24, 2004, Wharton County Judge John W. Murrile requested City of Wharton assistance in funding a portion of the cost of the Wharton County Courthouse lighting project. He stated at that time, the City Council did not take any action on the request for \$15,000. He stated that the City of Wharton submitted an application to the Texas Department of Agriculture (TDA), Texas Capital Fund under the Downtown Revitalization Grant Program on August 6, 2004 in order to obtain the necessary funds to assist Wharton County with their request. He stated that during that time period, the City was not eligible to apply for other Texas Capital Fund grants, which disqualified the City's Downtown Revitalization Grant funding. He stated that on February 9, 2005, during a telephone conversation with Judge Murrile, he again requested the City's assistance with the Wharton County Courthouse lighting project. Mr. Garza recommended that the City Council authorize the \$15,000 toward the Wharton County lighting project. He stated that Wharton Economic Development Corporation had previously contributed \$15,000 towards the Wharton County Lighting Project. After some discussion, Councilmember Ray Linseisen made a motion to authorize \$15,000 toward the Wharton County Lighting Project. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The thirteenth item discussed on the agenda was to review and consider the City of Wharton Santa Fe Trail Water Fountain Project. City Manager Andres Garza, Jr. stated that on February 7, 2005, the City of Wharton opened bids for the City of Wharton Santa Fe Trail Water Fountain Project. He stated that one bid was received, which he had forwarded to City Attorney Paul Webb for his review. He then presented a copy of Assistant City Attorney Amy Rod's response indicating that the bid was insufficient and unresponsive to the instructions to bidders in several respects. He stated that the City Staff's recommendation was to reject the bid and authorize solicitation of bids a second time. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to reject the bid received and authorize the City Staff to solicit bids for the project. Councilmember David Samuelson seconded the motion. All voted in favor.

The fourteenth item discussed on the agenda was to review and consider Jr's Texas Best, LLC Project – BLS Construction, Inc., Pay Request No. 4. City Manager Andres Garza, Jr. presented a copy of the pay request in the amount of \$104,005.35. After some discussion, Councilmember Ray Linseisen made a motion to authorize Jr's Texas Best, LLC Project – Pay Request No. 4 for BLS Construction prepared by Mr. Donald Naiser, P.E. of Energy Engineering, Inc. in the amount of \$104,005.35. Councilmember Don Mueller seconded the motion. All voted in favor.

The fifteenth item discussed on the agenda was to review and consider Extension of the City of Wharton two inch waterline to 2926 East Alabama Road:

- A. Acceptance of ten feet utility easements from the following:
1. Georgia Bessie Gordon.
 2. Teresa Ford.
 3. Etta Mae Aubry.
- B. **Resolution:** A resolution authorizing the Mayor of the City of Wharton to execute a Utility Service Extension Agreement with Ms. Robbie Lee, 2926 East Alabama Road for the extension of a two-inch waterline outside the City of Wharton City Limits.

City Manager Andres Garza, Jr. stated that during the July 26, 2004 regular Wharton City Council meeting, the City Council approved to extend the City's two-inch water line to 2926 East Alabama Road. However, the City Council stated the waterline would not be extended until the City was provided with the necessary easements to lay the line and that the cost of the construction of the line was paid in full. He stated that the City Staff had received the three required easements that were signed by Georgia Bessie Gordon, Teresa Ford, and Etta Mae Audry. He stated on February 4, 2005, Ms. Robbie Lee paid the construction costs in full. City Council acceptance of the utility easements was required. He then presented a copy of a draft utility extension easement that was required by the City in order for the line to be constructed. He stated that in the event another property owner wished to receive water service located along the extended two-inch waterline, the agreement would allow for Ms. Lee to receive a portion of the costs paid by the other property owner as reimbursement. He then presented a draft resolution authorizing the Mayor of the City of Wharton to execute the Utility Service Extension agreement. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2005-006, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2005-006**

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE A UTILITY SERVICE EXTENSION AGREEMENT WITH MS. ROBBIE LEE, 2926 EAST ALABAMA ROAD FOR THE EXTENSION OF A TWO-INCH WATERLINE OUTSIDE THE CITY OF WHARTON CITY LIMITS.

- WHEREAS,** Ms. Robbie Lee requested the Wharton City Council to extend the 2-inch water line outside the Wharton City Limits to her property located at 2926 East Alabama Road; and
- WHEREAS,** On July 26, 2004, the Wharton City Council approved the extension of a 2-inch water line outside the Wharton City Limits to 2926 East Alabama Road; and
- WHEREAS,** the Wharton City Council wishes to enter into a Utility Service Extension agreement with Ms. Robbie Lee, property owner of 2926 East Alabama Road; and
- WHEREAS,** the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute all documents related to the contract.

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

- Section I. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to enter into a Utility Service Extension Agreement with Ms. Robbie Lee, 2926 East Alabama Road.
- Section II. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute all documents related to the contract.
- Section III: That this resolution shall be come effective immediately upon its passage.

Passed, Approved, and Adopted this 14th day of February 2005.

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 sixteenth item discussed on the agenda was to review and consider a resolution approving an interlocal agreement between the City of Wharton and Wharton County for assistance with the Santa Fe Trail Project and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. presented a draft interlocal agreement between the City of Wharton and Wharton County for Wharton County assistance for in-kind services for the Santa Fe Trail Project. He then presented a draft resolution approving the agreement. He stated that he had spoke with Wharton County Commissioner Chris King with the County to provide labor and equipment and the City to provide materials with the beginning date of March 1, 2005. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2005-007, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2005 - 007**

A RESOLUTION APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF WHARTON AND WHARTON COUNT FOR ASSISTANCE WITH THE SANTA FE TRAIL PROJECT AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, The Wharton City Council wishes to approve an interlocal agreement between the City of Wharton and Wharton County for in-kind assistance for the Santa Fe Trail Project; and

WHEREAS, The Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute said agreement on the City behalf; and

WHEREAS, The City of Wharton and Wharton County wishes to be bound by the conditions of 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 approves the interlocal agreement between the City of Wharton and Wharton County for in-kind assistance for the Santa Fe Trail Project and authorizes the Mayor of the City of Wharton to execute the agreement on behalf of the City.

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

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

Passed, Approved, and Adopted this the 14th day of February 2005.

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 seventeenth item discussed on the agenda was Public Comments. Ms. Anopawuia Spinks publicly commended the City Council for the prior decision made addressing the HOME Program. She then presented a Petition to Save the West End House-Raising Grant and the Housing Rehabilitation Grant with 167 names and addresses. No action was taken.

The eighteenth item on the agenda was Executive Session: City Council may adjourn into an Executive Session in accordance with Section 551.072 of the Government Cost, Revised Civic Statutes of Texas. Final action, decision, or vote if any with regard to any matter considered in Executive Session shall be made in Open Meeting.

A. Discussion: Litigation - Alfred Sabrsula/Wharton County/City of Wharton.

Mayor Bryce D. Kocian adjourned the meeting into Executive Session at 7:45 p.m.

Mayor Bryce D. Kocian returned to open session at 8:05 p.m.

The nineteenth item on the agenda was Return to Open Session: Action on items discussed in Executive Session:

A. Review & Consider: Litigation - Alfred Sabrsula/Wharton County/City of Wharton.
Mayor Bryce D. Kocian stated that no action would be taken.

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

- A. City Council Housing Committee meeting held January 31, 2005.
- B. Wharton Regional Airport Board meeting held February 1, 2005.
- C. Planning Commission meeting held February 7, 2005.
- D. Beautification Commission meeting held February 9, 2005.
- E. City Council Finance Committee meeting held February 10, 2005.

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

The twenty-first 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 8:05 p.m.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

LISA STAVENA
City Secretary