

MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
MARCH 28, 2005

Mayor Bryce D. Kocian declared a Regular Meeting duly open for the transaction of business at 7:00 P.M. Councilmember V. L. Wiley, Jr. led the opening devotion and then Mayor Bryce D. Kocian led the pledge of allegiance.

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

Councilmember absent was: None.

Staff members present were: City Manager Andres Garza, Jr., Finance Director Joyce Vasut, City Secretary Lisa Stavena, Assistant to City Manager Jackie Jansky, Community Services Director Jo Knezek, EMS Director John Kowalik, Building Official Ronnie Bollom, Facilities Maintenance Director Bob Baker, Assistant City Attorney Amy Rod, and Fire Chief Anthony Abbott.

Visitors present were: Benjamin Sharp with Wharton Journal Spectator, Lewis Fortenberry, Ricky Guzman, Brandon Freudensprung, Hector Hernandez, Jim Thompson, Henry Thiele, David Schroeder, Louis Edwards, Barnaby Evans, Jill Freitas, John Satterfield II, Eddie Scott, Earl Burrell, Mike Wootton, Willia Mae Allen, Dana Black, Debbie Williams, Diane Matula, Carlos Cotton, Steve Van Manen, Rafal Galvan, Don Carlson, E. L. Brinkley, Sr., Mary Ann Billings, Wanda Bonnot, Rosemary Hinze, Carolyn Marling, Richard Johnston, Lurline Johnson, and Prissy Sliva.

The third item on the agenda was Public Comments. Mayor Bryce D. Kocian publicly stated that during Public Comments, the City Council or City Staff could not answer any questions. Ms. Lurline Johnson addressed the City Council and stated that she resided at 1024 Kearney Street and was taken off the HOME Program and wanted to know why.

Mr. Eddie Brinkley addressed the City Council and stated that since the IRS lifted the taxing requirement, what about the individuals desiring to re-enter the program. He asked if the City could look at the strict bidding requirements and revise the requirements thus allowing more contractors to be willing to submit a bid for the project. He stated that time was running out, and if revisions were not be made then they could lose the grant. No action was taken.

The fourth item on the agenda was the Wharton Moment. Mayor Bryce D. Kocian presented a proclamation for the Hidden Garden Tour, which read as follows:

WHEREAS, Wharton, Texas, is situated on the banks of the Colorado River on some of the most productive land on Earth; and

WHEREAS, This setting is one of incredible natural beauty and rich in flora and fauna; and

WHEREAS, The citizens of this fair City seek constantly to enhance and improve upon their environment; and

WHEREAS, Many gardeners seek to extend hospitality to visitors to their gardens and landscapes; and

WHEREAS, Eight of these gardeners have consented to open their gardens for the first annual **WHARTON HIDDEN GARDEN TOUR** on April 16, 17, and April 23, 2005; and

WHEREAS, These are the eight gardens on the Wharton Hidden Garden Tour:

John & Mary Ann Billings, 709 Bob O Link
Joel & Debbie Williams, 821 Sunny Lane
Carlos & Wanda Bonnot, 517 Lake Shore Drive
Rosemary Hinze, 1313 South Caney Drive
Ludvig & Diane Matula, 612 North Resident
Carolyn Marling, 700 North Resident
Robert & Prissy Sliva, 300 Avenue A/Corner of Resident
Clifton & Dana Black; 816 North Resident

WHEREAS, Invitations are extended to local residents and tourist alike; and

WHEREAS, Proceeds from sponsors and ticket sales will benefit the Wharton Beautification Commission on specific beautification projects.

NOW, THEREFORE I, Bryce D. Kocian, by the authority vested in me as Mayor of the City of Wharton, Texas, do hereby proclaim **April 2005 as “Garden and Landscape Month”** in Wharton, Texas, and encourage every citizen to contribute to the success of the Wharton Hidden Garden Tour.

FURTHER, I commend and encourage every effort to enhance the beauty of each residence and business in order that we present our best to each other, to visitors and to potential investors.

IN WITNESS THEREOF, I have set my hand and caused the seal of the City of Wharton to be affixed this 28th day of March in the year of our Lord two thousand five A.D.

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 February 2005. Finance Director Joyce Vasut presented the financial report for the month of February 2005 and stated that the fiscal year was at 42%. Mrs. Vasut stated that the general fund revenues were at 58.58% and the expenditures were at 41.45%. She said the total ad valorem taxes collected were \$1,708,960 and the sales tax for the month of January 2005 was \$136,206 with \$90,804 to the City and \$45,402 to WEDCo. She further stated the TexPool balance for February was \$1,016,383.65 with an average monthly yield of 2.4406% and the bank balance was \$2,511,080.48. After some discussion, Councilmember Don Mueller made a motion to approve the City of Wharton Financial Report for the month of February 2005. Councilmember Ray Linseisen seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider the Presentation by Federal Recycling Technologies, Inc. regarding a proposed project. City Manager Andres Garza, Jr. presented a copy of the letter dated March 22, 2005 from Mr. Robert A. Shapiro, Ph.D., P.E. of Federal Recycling Technologies, Inc. (FRT) requesting to present a power point presentation regarding the proposed project. Mr. Robert Shapiro addressed the City Council regarding a Tire Recycling Facility Plant which would create 63 jobs. He stated that the investment to the company would be \$33 million. He stated that Federal Recycling Technologies, CH Guernsey & Company, and Scott Solutions were in partnership forming SGS, L.L.C. - The Power of One. He stated that the facility would need 10 acres in an industrial park setting, with landscape, security, and good access to major highways. He stated that the plant could be in operation within 10 months from the start of plant funding to the start up process. He stated that the facility would be fully permitable, environmentally friendly, and would provide community enhancement. Wharton Economic Development Corporation Executive Director David Schroeder informed the City Council that the City could issue industrial development bonds for \$15,000,000 to fund the project. Councilmember Domingo Montalvo, Jr. asked about the liability to the City. Mr. Schroeder stated that whoever would issue the bonds, the documents would state that no liability would occur to the City, Wharton County or Wharton Economic Development Corporation. After some discussion, no action was taken.

The seventh item discussed on the agenda was to review and consider the request by Mr. and Mrs. Freddie Pekar of Pekar's Body Shop for a variance to place a traveling light sign on the existing pole located at 2720 North Richmond Road, Hawes 3, Block 5, Lot 1, 2, 3, 4, 5, and 6. City Manager Andres Garza, Jr. stated that the Planning Commission met Monday, March 21, 2005 and was recommending the City Council consider approving the variance request made by Mr. and Mrs. Freddie Pekar to place a traveling light sign on the existing pole located at 2720 North Richmond Road, Hawes 3, Block 5, Lot 1, 2, 3, 4, 5, and 6. He then presented a copy of the memorandum dated March 22, 2005 from Planning Commissioner A. J. Rath providing the recommendation. Mr. Freddie Pekar addressed the City Council and requested placement of a two sided sign that included time and temperature. He stated that it would be an enhancement to the community. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the request by Mr. and Mrs. Freddie Pekar of Pekar's Body Shop for a variance to place a traveling light sign on the existing pole located at 2720 North Richmond Road, Hawes 3, Block 5, Lot 1, 2, 3, 4, 5, and 6. Councilmember Don Mueller seconded the motion. All voted in favor.

The eighth item discussed on the agenda was to review and consider a resolution of the Wharton City Council authorizing and approving allowances for cost reimbursements to active volunteer members and benefits to retired volunteers and their spouses of the Wharton Volunteer Fire Department. City Manager Andres Garza, Jr. stated that since the 1960's, the City had been providing Wharton Volunteer Fire Department members and retired members and their spouses City utilities. He stated that newly elected Fire Chief Anthony Abbott had met with Finance Director Joyce Vasut and himself to discuss allowances. He stated that Mr. Abbott indicated that the volunteers that lived outside of the City limits did not receive the same allowances as those who lived in the City limits. He stated that Mr. Abbott had taken the issue to the Wharton Volunteer Fire Department Members to determine allowances and benefits that would be agreeable. He said the allowance and benefit had been approved by the Wharton Volunteer Fire Department members. He stated that on March 7, 2005 the Public Safety Committee and on March 23, 2005 the Finance Committee met and both Committees were recommending the City Council approve allowances be provided to the volunteers of the Wharton Volunteer Fire Department. He then presented a draft resolution, which authorized and approved allowances for cost reimbursements to active volunteer members and benefits to retired volunteers and their spouses of the Wharton Volunteer Fire Department. Councilmember Domingo Montalvo, Jr. publicly thanked Fire Chief Anthony Abbott for bringing the request to the City Council for the volunteer firefighters. He stated that the proposed allowances would be fair and equitable for the volunteers. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2005-12, which read as follows:

**City of Wharton
Resolution No. 2005-12**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING AND APPROVING ALLOWANCES FOR COST REIMBURSEMENTS TO ACTIVE VOLUNTEER MEMBERS AND BENEFITS TO RETIRED VOLUNTEERS AND THEIR SPOUSES OF THE WHARTON VOLUNTEER FIRE DEPARTMENT.

WHEREAS, the Wharton City Council wishes to authorize and approve allowances for cost reimbursements to active volunteer members of the Wharton Volunteer Fire Department; and

WHEREAS, the Wharton City Council wishes to authorize and approve benefits for retired volunteers and their spouses of the Wharton Volunteer Fire Department; and

WHEREAS, the Wharton City Council wishes to establish the following policy for the Wharton Volunteer Fire Department Members:

Reimbursement Allowance and Retirement Benefits for Wharton Volunteer Fire Department
The reimbursement allowance and retirement benefits for the Wharton Volunteer Fire Department will include four categories:

Active Volunteer Firefighter with City Utilities (water, sewer and garbage)

- Active members must be listed on the active volunteer rolls and meet the requirements of an active member having completed the probation period and authorized by the Fire Chief.

- ❑ Active members may elect to receive a \$1,200 (less appropriate taxes) credit on their utility account or may elect to pay their utility bill and receive the same benefit as an active volunteer fire fighter without City utilities (see below).
- ❑ The monthly utility charges for water, sewer and garbage will be deducted from the credit on their account.
- ❑ If their active status terminates at any time, the remaining credit balance is removed from their account.
- ❑ If the credit balance is used up during the year, the member is responsible for paying their utility bill.
- ❑ If there is a remaining balance at year-end, the member may elect to rollover the balance to the next year or to receive a refund for the balance at the end of the calendar year. No refunds or cash will be paid out during the calendar year.
- ❑ The active firefighter must be living in the home receiving the utility service and the account must be in the firefighter's name.

Active Volunteer Firefighter without City Utilities (water, sewer and garbage)

- ❑ Active members must be listed on the active volunteer rolls and meet the requirements of an active member having completed the probation period and authorized by the Fire Chief.
- ❑ Active members will receive a \$1,200 (less appropriate taxes) payment at the end of the calendar year.
- ❑ If their active status terminates at any time, the year-end payment will be prorated based on the number of months served

Retired Volunteer Firefighter

- ❑ Retired volunteer firefighters must have completed a total of 15 years of volunteer service to the City as determined by the State Firefighters Service Requirements to be eligible for retirement benefits and authorized by the Fire Chief.
- ❑ Retired members will receive a \$720 credit on their utility account.
- ❑ The monthly utility charges for water, sewer and garbage will be deducted from the credit on their account.
- ❑ If the credit balance is used up during the year, the member is responsible for paying their utility bill.

- ❑ If there is a remaining balance at year end, the balance will be returned to the City.
- ❑ The retired firefighter must be living in the home receiving the utility service and the account must be in the firefighter's name.

Spouse of Retired Volunteer Firefighter

- ❑ The spouse of a retired member will receive a \$720 credit on their utility account.
- ❑ The monthly utility charges for water, sewer and garbage will be deducted from the credit on their account.
- ❑ If the credit balance is used up during the year, the spouse of the retired member is responsible for paying their utility bill.
- ❑ If there is a remaining balance at year end, the balance will be returned to the City.
- ❑ If a spouse remarries, the retirement benefit will be discontinued immediately.
- ❑ The spouse of the retired firefighter must be living in the home receiving the utility service and the account must be in the spouse's name.

Additional Incentives for Current Members

- ❑ The current members may earn additional incentives up to \$500 per year to help promote the members to advance in certifications. The members will receive the following incentives based on their status as of January 1 of each year:

Level I	\$100 for basic status which includes 167 hours of training as specified by the State Firemen's and Fire Marshall's Association of Texas (State).
Level II	\$200 for intermediate status, which includes 191 hours of training as, specified by the State.
Level III	\$300 for advance status, which includes 187 hours of training as, specified by the State.
Level IV	\$400 for being State certified firefighter.
Level V	\$20 for each additional certification held including, EMT, HAZ-MAT, and others up to a maximum of \$100 for additional certifications.

- ❑ This additional incentive will be added to the members \$1,200 benefit and processed as noted above.

WHEREAS, the Wharton City Council wishes to establish the effective date of the aforementioned policy as the calendar year beginning January 1, 2005.

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

Section I. That the Wharton City Council hereby approves the afore-mentioned policy for the Wharton Volunteer Fire Department Members.

Section II. That the policy is hereby effective beginning with the calendar year beginning January 1, 2005.

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

Passed, Approved, and Adopted this 28th day of March 2005.

CITY OF WHARTON, TEXAS

By: _____

BRYCE D. KOCIAN

Mayor

ATTEST:

LISA STAVENA

City Secretary

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

The ninth item discussed on the agenda was to review and consider the City of Wharton Municipal Swimming Pool Replastering Project:

A. Bid Tabulation.

B. **Resolution:** A resolution awarding the bid for the City of Wharton Municipal Swimming Pool Replastering project.

City Manager Andres Garza, Jr. stated that the City Staff issued the notice to bidders to solicit bids from contractors for the Municipal Swimming Pool Replastering project. He stated that the bid opening date was scheduled for 10:00 a.m. on Monday, March 28, 2005. He then presented a bid tabulation and draft resolution awarding the bid. Mr. Barnaby Evans, Architect of Fatter and Evans informed the City Council that one bid was received for the amount of \$62,540.00 with a voluntary alternate bid of \$68,172.00. He stated that City could reject the bids received and re-bid for installation of a PVC liner, which included two layers of materials with a 15-year warranty period. He stated that with the PVC liner, the City would use fewer chemicals and the material would be easier to maintain. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to reject the bids received and to re-bid the project to include the installation of a PVC liner. Councilmember Don Mueller seconded the motion. All voted in favor.

The tenth item discussed on the agenda was to review and consider the City of Wharton Civic Center Sign:

A. Bid Tabulation.

B. **Resolution:** A resolution awarding the bid for the City of Wharton Civic Center Sign. City Manager Andres Garza, Jr. presented a copy of the bid tabulation for the City of Wharton Civic Center Sign project. He stated that the City only received one (1) bid. Mr. Barnaby Evans, Architect of Fatter and Evans, had reviewed the bid and was recommending the bid be awarded to VMC Signs, Inc. He then presented a copy of Mr. Evans' letter of recommendation dated March 23, 2005. He also presented a draft resolution awarding the bid. Mr. Barnaby Evans informed the City Council that the City Staff could straighten the sign brick supports for the sign. After some discussion, Councilmember Ken Freese made a motion to approve Resolution No. 2005-13, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2005-13**

A RESOLUTION AWARDING A BID TO VMC SIGNS, INC. FOR THE CITY OF WHARTON CIVIC CENTER SIGN PROJECT; AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID CONTRACTS.

WHEREAS, the Wharton Civic Center Sign was damaged by tornadoes on June 8, 2004 and is need of repair/replacement; and

WHEREAS, competitive, sealed bids were received on March 21, 2005 for repair/replacement of the sign; and

WHEREAS, VMC Sign, Inc. Services was deemed to be the best and lowest qualified bidder as per bid specifications in the amount of \$8,000.00; and

WHEREAS, the Wharton City Council wishes to award the bid to VMC Sign, Inc. for the Wharton Civic Center Sign project.

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

Section I. That VMC Sign, Inc. is hereby awarded the bid for the Wharton Civic Center Sign Project in the amount of \$8,000 in accordance with the bid specifications.

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

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

Passed, Approved, and Adopted this 28th day of March 2005.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

LISA STAVENA

City Secretary

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

The eleventh item discussed on the agenda was to review and consider the City of Wharton Home Elevation Project:

A. Bid Tabulation.

B. **Resolution:** A resolution awarding the bid for the City of Wharton Home Elevation Project and authorizing the Mayor of the City of Wharton to execute all agreements related to the project.

City Manager Andres Garza, Jr. stated that the City Staff issued the notice to bidders to solicit bids from contractors a fourth time for the Home Elevation project. He stated that the bid opening date was scheduled for 10:00 a.m. on Monday, March 28, 2005, which no bids were received. He stated that Mr. Eddie Brinkley requested the City of Wharton be more lenient; however the City would be spending taxpayers money and would need assurance that if the company would not pay the supplier for the materials then a mechanics lien would not be placed on the property. He stated that the bonding requirements look at the financial strength of the company. Councilmember Don Mueller requested that the City advertise in larger cities. Councilmember V. L. Wiley, Jr. stated that something needed to be done. Councilmember Domingo Montalvo, Jr. stated that the property owners should obtain flood insurance for their protection. Councilmember David Samuelson stated if there was another flood, the City, State, or Federal governments would not have enough money to get every house out of the floodzone. He stated that there were other parts of the City that flood, besides the West side of the community. He stated that if individuals resides in the floodzone, then individuals should obtain flood insurance for their own protection. After some discussion, no action was taken.

C. Update on the Home Elevation Project.

City Manager Andres Garza, Jr. stated that on March 16, 2005, the Office of Rural Community Affairs Director of Community Development Ms. Oralia Cardenas responded to the City's February 15, 2005 letter requesting to extend the ORCA Contract No. 722067. He stated that Ms. Cardenas indicated in her letter that ORCA would approve the extension to the contract; however, the City would be disqualified to participate in the 2005/2006 Community Development Fund program. He stated that on March 22, 2005, he had met with Ms. Jacqueline Larkin of ORCA and requested a status of the contract amendment and revised performance statement. He said the performance statement would dictate to the City the legal requirements for disbursing the State's 25%. He stated that ORCA had assured him that the City would receive a response the week of March 28th. After some discussion, no action was taken.

The twelfth item discussed on the agenda was to review and consider the City of Wharton Annual Financial Report for Fiscal Year October 1, 2003 to September 30, 2004 by Harrison,

Waldrop & Uherek, L.L.P. City Manager Andres Garza, Jr. presented a draft copy of the City of Wharton Annual Financial Report for fiscal year October 1, 2003 to September 30, 2004 to the City Council. Mayor Bryce D. Kocian asked if an independent audit was conducted. Mr. Steve Van Manen with Harrison, Waldrop & Uherek, L.L.P. addressed the City Council and stated that the financial report was prepared in compliance with the legal requirement set forth by Section 31 of the Charter of the City of Wharton, which served to fully disclose financial data on an annual basis to management, the elected Council and Mayor, the public, investors, and other interested persons. He stated that the firm of Harrison, Waldrop & Uherek, L.L.P., Certified Public Accountants, engaged by the City satisfied the requirement. Councilmember David Samuelson asked Mr. Van Manen that as a Certified Public Accountant, was an independent audit conducted. Mr. Van Manen stated that as a Certified Public Accountant, Harrison, Waldrop & Uherek, L.L.P. conducted an independent audit for the City of Wharton. He stated that the financial statements have been prepared in accordance with generally accepted accounting principals as prescribed by the Government Accounting Standards Board (GASB). He stated that assets of the City exceeded its liabilities at the close of the fiscal year ended September 30, 2004 by \$16,239,613. Of this amount, \$1,750,835 of unrestricted net assets was available to meet the City's ongoing obligations to citizens and creditors; at September 30, 2004, the City's governmental funds reported combined ending fund balances of \$1,896,472, an increase of \$59,293 in comparison with prior years. The amount available for governmental discretion (unreserved fund balance) was \$1,517,702; at September 30, 2004, unreserved fund balances for the General Fund was \$1,195,181 or 30.50% of total General Fund expenditures; the total cost of all City activities was \$10,648,193 for the fiscal year. The net expense was \$3,409,209; and during the year, the City's general revenues exceeded net expenses of the governmental activities by \$123,660, which represents a 2.34% increase in net assets from the previous fiscal year as a result from operations. After some discussion, Councilmember Ray Linseisen made a motion to approve the City of Wharton Annual Financial Report for Fiscal Year October 1, 2003 to September 30, 2004 by Harrison, Waldrop & Uherek, L.L.P. Councilmember Ken Freese seconded the motion. All voted in favor.

The thirteenth item discussed on the agenda was Executive Session: City Council may adjourn into an Executive Session in accordance with Section 551.074 of the Government Code, Revised Civil 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: The evaluation of City Manager and Finance Director regarding the City's financial matters.

Mayor Bryce D. Kocian adjourned into Executive Session at 8:48 p.m.

Mayor Bryce D. Kocian returned to open session at 9:10 p.m.

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

A. Review & Consider: The evaluation of City Manager and Finance Director regarding the City's financial matters.

Mayor Bryce D. Kocian stated that no action would be taken.

The fifteenth item discussed on the agenda was to review and consider the creation of an Industrial Development Corporation (IDC) pursuant to Article 5190.6, Texas Civil Statutes. City

Manager Andres Garza, Jr. presented a copy of the request dated March 14, 2005 from Wharton Economic Development Corporation (WEDCo) Executive Director David Schroeder. He stated that Mr. Schroeder was requesting the City Council consider establishing an Industrial Development Corporation that would have the authority to issue industrial development bonds. He then presented a copy of the letter dated March 15, 2005 from Attorney Frank McCreary of Vinson & Elkins that briefly described the procedures for creating an industrial development corporation and information regarding this type of corporation. After some discussion, Councilmember Ray Linseisen made a motion to refer the item to the City Council Finance Committee for their review and comment. Councilmember David Samuelson seconded the motion. All voted in favor.

The sixteenth item discussed on the agenda was to review and consider City of Wharton Emergency Medical Services (EMS):

A. Request by City Staff to sell Unit 1121 and solicit bids for the replacement of Unit 1121. City Manager Andres Garza, Jr. stated that during the regular September 13, 2004 Wharton City Council meeting, the City Council authorized EMS Director John Kowalik to pursue grant funds to replace ambulance unit 1121. He then presented a copy of the memorandum dated March 21, 2005 from Mr. Kowalik indicating the amount of grant funds that was obtained for the ambulance replacement. He stated that the City Staff was requesting City Council authorization to proceed with this project by soliciting bids to replace the ambulance and to also place the Unit 1121 for sale. EMS Director John Kowalik informed the City Council that a grant was received from the Johnson Foundation in the amount of \$50,000 and Gulf Coast Medical Foundation in the amount of \$20,000. He stated that the cost of a new ambulance would be approximately \$82,000; however the City could sell the existing ambulance for approximately \$11,000 to cover the balance of the estimated cost of the new unit. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to authorize the solicitation of bids for the replacement of Unit 1121. Councilmember Ray Linseisen seconded the motion. All voted in favor.

B. Staffing of the EMS Department.

City Manager Andres Garza, Jr. stated that on March 7, 2005, the Public Safety Committee and on March 23, 2005, the Finance Committee discussed the EMS Department and its operations. He stated that both committees were recommending that the City Council approve to authorize new part-time positions within the EMS Department to allow for coverage of two (2) crews for twenty-four (24) a day – seven (7) days per week. He then presented a copy of the information that was provided to both Committees: an analysis of the EMS transfers, EMS Billing and Collections, and an EMS response report comparison's. He stated that the additional staff would allow EMS to provide the transfer service by making available personnel for the transfer. The analysis indicated that in 2004, 180 transfers were lost due to the staff needed to provide the service. The lost revenue could have paid for the additional part-time staff. EMS Director John Kowalik informed the City Council that the additional staffing would eliminate the existing gap of one unit from 5 p.m. to 8 a.m. to two fully staffed units, which could also cover 911 calls. Mayor Bryce D. Kocian stated that the additional staff would be part-time employees with no benefits. Finance Director Joyce Vasut stated that the City Staff met with Gulf Coast Medical Center and would be presenting a contract to City Council for approval in April. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the staffing the

EMS Department with additional part-time employees. Councilmember Ken Freese seconded the motion. All voted in favor.

C. Recommendation by the Wharton City Council Public Safety Committee concerning the Wharton EMS Medical Director.

City Manager Andres Garza, Jr. stated that the City received one Request for Qualifications (RFQ) March 21, 2005 at 10:00 a.m. by Dr. Larry Lipscomb; however, the proposal did not meet the liability insurance requirements as specified by the RFQ. He stated that the City Council Public Safety Committee met on March 28, 2005 at 6:00 p.m. to discuss the proposal. He stated that the Public Safety Committee recommended the City Council reject the proposal received, modify the insurance requirements set forth in the RFQ, re-advertise and extend the contract with Dr. Larry Lipscomb for an additional sixty (60) days. Councilmember V. L. Wiley, Jr. asked if the City was satisfied with the service provided by Dr. Larry Lipscomb. Councilmember Ray Linseisen stated that other physicians had inquired about becoming the City of Wharton's Medical Director; therefore, the City Staff recommended solicitation of the RFQ from other physicians. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to reject the RFQ submitted by Dr. Larry Lipscomb received on March 21, 2005, solicit RFQ's with lower limits of liability insurance requirements and a 60 day extension to Dr. Larry Lipscomb's current contract. Councilmember Don Mueller seconded the motion. All voted in favor.

The seventeenth item discussed on the agenda was to review and consider the issuance of City of Wharton Ambulance Provider permits for the following:

A. Quality Elite E.M.S.

City Manager Andres Garza, Jr. presented a copy of the memorandum dated March 16, 2005 from City Secretary Lisa Stavena regarding the permit application submitted by Quality Elite E.M.S., which included a copy of the permit application. He then presented a copy of the memorandum dated March 22, 2005 from EMS Director John Kowalik that indicated that he had reviewed the application and found that Quality Elite was in compliance with the Texas Department of Health rules and regulations. He stated that Mr. Kowalik was recommending the permit be renewed. After some discussion, Councilmember David Samuelson made a motion to authorize the renewal permit of Quality Elite E.M.S. for the period March 25, 2005 to March 24, 2006. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

B. Phoenix EMS, Inc.

City Manager Andres Garza, Jr. presented a copy of the memorandum dated March 16, 2005 from City Secretary Lisa Stavena which provided a copy of the permit application filed by Phoenix EMS, Inc. He stated that Ms. Stavena had submitted the application to City Attorney Paul Webb for his review. He also presented a copy of the memorandum dated March 14, 2005 from EMS Director John Kowalik indicating that he recommended the issuance of the provider permit ambulance service. Ms. Amy Rod informed the City Council that no legal issues were found with Phoenix EMS, Inc. Mr. Richard Johnston with Phoenix EMS, Inc. addressed the City Council and stated that Phoenix EMS, Inc. had a main officer in Katy and a field office in Richmond and Weimar. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the ambulance provider permit for Phoenix EMS, Inc. for the period March 29, 2005 to March 28, 2006. Councilmember Don Mueller seconded the motion. All voted in favor.

The eighteenth item discussed on the agenda was to review and consider a resolution of the Wharton City Council establishing transportation priorities for the City of Wharton in accordance with the State of Texas Transportation Department. City Manager Andres Garza, Jr. stated that during the March 15, 2005 City Council Public Works Committee meeting, the Committee met and was recommending that the City Council approve the transportation priorities that were outlined in the draft resolution. He then presented a copy of the transportation priorities that were submitted to the Texas Department of Public Safety on March 11, 2003. He stated that the Public Works Committee had amended the 2003 priorities to reflect those listed in the draft resolution. He stated that during the March 15th meeting, the Committee attended the Texas Department of Transportation (TxDOT) public meeting that was held regarding the three year transportation improvement plan (TIF) for Wharton County. He stated that the Public Works Committee was also requesting the City Council to authorize Mayor Bryce D. Kocian to submit the City's 2005 transportation priorities to TxDOT. After some discussion, Councilmember Ray Linseisen made a motion to approve Resolution No. 2005-14, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2005-14**

**A RESOLUTION OF THE WHARTON CITY COUNCIL ESTABLISHING
TRANSPORTATION PRIORITIES FOR THE CITY OF WHARTON.**

WHEREAS, the Wharton City Council wishes to establish transportation priorities for the City of Wharton; and

WHEREAS, the transportation priorities that were identified are as follows:

Short Range 1 – 3 Year Priorities:

- Priority #1 – Improve the interchange at FM 102 and Hwy. 59 to interstate standards within the existing right-of-way.
- Priority #2 – Improvement of ADA ramp accessibility around the downtown square area.
- Priority #3 - Widening Richmond Road to five lanes from Joan Street to Jane Street and to realign Halford Road for a perpendicular intersection at Hwy. 59.
- Priority #4 - Curb and gutter FM 3012 (Old Lane City Road) from Hwy. 60 to City limits.

Long Range 4 Years and Beyond Priorities

- Priority #1 – East Loop around City from Hwy. 60 to FM 1301.
- Priority #2 – Extension of FM 1301 to Hwy. 59 and on to Owens Road.

WHEREAS, the Wharton City Council wishes to authorize the Mayor of the City of Wharton to submit the transportation priorities to the Texas Department of Transportation.

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

Section I. The Wharton City Council hereby establishes the afore-mentioned transportation priorities for the City of Wharton, Texas.

Section II. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to submit the established transportation priorities to the Texas Department of Transportation.

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

Passed, Approved, and Adopted this 28th day of March 2005.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

LISA STAVENA
City Secretary

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

The nineteenth item discussed on the agenda was to review and consider the Acceptance of Utility Easements:

A. Fifteen (15) Feet Utility Easement from Mr. Edward Guajardo; William Kincheloe League, Abstract 38, Lots 1 and 2, Block 14, Hawes Fourth Addition.
City Manager Andres Garza, Jr. stated that the City of Wharton had requested a fifteen (15) feet utility easement from Mr. Edward Guajardo to be located on his property described as William Kincheloe League, Abstract 38, Lots 1 and 2, Block 14, Hawes Fourth Addition in order to provide better utility service to the surrounding properties. He then presented a copy of the easement that has been signed by Mr. Guajardo. He stated that location of the property was Jr. College Blvd. and Belle Street. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the acceptance of the (15) Feet Utility Easement from Mr. Edward Guajardo; William Kincheloe League, Abstract 38, Lots 1 and 2, Block 14, Hawes Fourth Addition. Councilmember Don Mueller seconded the motion. All voted in favor.

B. Sixteen (16) Feet Utility Easement from Mr. Edward A. Richard and Ms. June R. Jones; William Kincheloe League, Abstract 38, Lot 5, Block 58, Washington Homes Addition.
City Manager Andres Garza, Jr. stated that the City of Wharton was working with Mr. Ben Bell (Reina Family Trust), who is in the process of providing new affordable homes for residents in the City. He stated that the property was bordered by the property owned by Mr. Edward A. Richard and Ms. June R. Jones. He stated that the City had requested Mr. Richard and Ms. Jones to provide a sixteen (16) feet utility easement in order to provide the needed water and sewer infrastructure to the lots. He then presented a copy of the easement that has been signed by each

property owner. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the acceptance of the sixteen (16) Feet Utility Easement from Mr. Edward A. Richard and Ms. June R. Jones; William Kincheloe League, Abstract 38, Lot 5, Block 58, Washington Homes Addition. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The twentieth item discussed on the agenda was to review and consider the City of Wharton Santa Fe Trail Water Fountain Project:

- A. Bid Tabulation.
- B. **Resolution:** A resolution awarding the bid for the City of Wharton Santa Fe Trail Water Fountain project.

City Manager Andres Garza, Jr. stated that the City Staff issued the notice to bidders to solicit bids from contractors a second time for the Santa Fe Trail Water Fountain project. He stated that the bid opening date was scheduled for 10:00 a.m. on Monday, March 28, 2005. He then presented a bid tabulation and a draft resolution awarding the bid. He stated that the bid received was for the amount of \$74,400. He stated that he met with Project Coordinators Ron Sanders and Randy Michael and requested that the City Staff meet with Richard's Total Backyard Solutions to reduce the cost. He stated that the City of Wharton would be in charge of the project. He stated that the fountain would be placed on the railroad property easement on the east side of Fulton Street. Councilmember Don Mueller stated that he felt that a fountain would not be feasible for the City of Wharton due to liability reasons. Councilmember David Samuelson stated that the City of Wharton would also have to maintain the fountain. After some discussion, no action was taken.

The twenty-first item on the agenda was to review and consider the City of Wharton Project Status Report. City Manager Andres Garza, Jr. presented a copy of a memorandum dated March 24, 2005 that provided an update on the City of Wharton ongoing projects, as follows:

FLOOD PLAIN MANAGEMENT

- A. Wharton Interim Feasibility Study. This project was on going. The Corps of Engineers report should complete for the first phase of this project by June 2006. However, preparations have begun on the second phase, which was the pre-construction engineering and design. Also, by mid-summer of 2005, the City Council would need to make decisions on the final alternatives for the project.
- B. FEMA-Flood Maps. In early March 2005, the City Staff received the proposed new flood maps. The City would have 30 days to review the streets and sub-divisions shown within the mapping areas to determine if the locations are correct. After the 30 day comment period, the City would receive a letter from FEMA that would begin a 90-day public comment period. The City Council Public Works Committee would be meeting to discuss the mapping and the public input process.

DRAINAGE:

1. Sanitary Sewer Manhole Survey.

Jones & Carter, Inc. had completed the manhole report and would be submitting the report to the City.

2. Ahldag Ditch Design.

On March 3, 2005, the City Staff held a meeting with the property owners and had requested the submission of an answer on the City's offer to purchase the needed property to complete this project. On March 14th, the City was notified by one of the property owners that the Hawes family was still in consideration of the City's offer.

3. Santa Fe Outfall Ditch.

Jones & Carter, Inc. had completed the preliminary design and cost estimates. The City submitted a letter to the U.S. Army Corps of Engineers requesting a determination of the applicable credit of the proposed project under Section 104 of the Water Development Act of 1986 (PL 99-662). The City's request was being reviewed by the Corps of Engineers. The incorporation of the Santa Fe Outfall Ditch project into the federal funded project could help with the flooding issues in the center of Wharton. Jones & Carter had completed the preliminary engineering report except for the final cost estimates that were needed from Houston Pipeline, Inc. to lower the 24" line under the proposed ditch. Mid-Coast Title Company had submitted the property owner information that was requested by the City. That information had been provided to Jones & Carter, Inc.

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.

5. Nan Ya Drainage Ditch.

The City Staff was working with Nan Ya Plastics and J&M Manufacturing on the alignment of the ditch to the necessary improvements the companies need to make in order to provide adequate access to their properties.

WATER/SEWER IMPROVEMENTS:

1. Richmond Road Sanitary Sewer Rehabilitation.

RePipe-Texas, Inc. had completed the construction phase of this project. Jones & Carter would be reviewing the post construction tapes and conduct a final inspection in order to close the contract.

2. Richmond Road to Fulton Sewer Line Replacement.

Uticon, Inc. had been awarded this project which would be added to the Waterline Replacement

project contract. The City Staff had worked with Mr. Edwin Hawes Vineyard on the details of the easement agreement which was submitted to City Attorney Paul Webb. Mr. Webb had submitted a final agreement to Mr. Vineyard for his approval.

3. Waterline Replacement Project.

Uticon, Inc. had completed laying the 95% of the waterlines. Uticon would begin tying the lines into the system, running bacteria tests, and switching over the house services the week of March 28th.

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) for authorization. Jones & Carter had prepared two exhibits showing options of bringing truck traffic around the backside of Nan Ya Plastics. A meeting of the Public Works Committee had been scheduled for March 31st to discuss the options.

2. 2004 Street Improvement Project.

This project was complete.

WHARTON REGIONAL AIRPORT – 2005 RAMP PROGRAM

The City was waiting on reimbursement from the State for the work completed by Faltisek Paving. Also, the City was waiting on the State's response on if the cost to replace the entrance sign could be included in the 2005 RAMP program.

NON-PRIMARY ENTITLEMENT (NPE) FUNDS

The City submitted a letter to the Texas Department of Transportation – Aviation Division requesting additional time to determine projects that could be funded by this program. The City was informed that the 2003 funds must be used by September 2006; however, the projects to be completed should be submitted as soon as possible. The Airport Board had scheduled a special meeting for March 29th to determine those projects.

AIRPORT TERMINAL PROJECT

The City submitted a Letter of Interest to the Texas Department of Transportation Aviation Division on February 15, 2005 for the Airport Terminal Program. On March 17, 2005, the State responded with the necessary documents to initiate the project for the airport. The Wharton Regional Airport Board would meet April 5th to discuss the project and begin the selection process for professional engineering services.

AIRPORT DEVELOPMENT PLAN

O'Malley Engineers was working with the Airport Board in looking at different layouts for the airport development plan. This project was ongoing.

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. This was a special needs grant.

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. The nine applicants had been identified and their names had been submitted to the State for approval. The State had 21 days to review the applicants. The City Staff anticipates beginning to build homes the first of June 2005.

3. Home Elevation Project.

The City Staff issued the notice to bidders to solicit bids from contractors a fourth time for the Home Elevation project. The bid opening date was scheduled for 10:00 a.m. on Monday, March 28, 2005. A recommendation would be presented to the City Council during the meeting. On March 16, 2005, the Office of Rural Community Affairs Director of Community Development Ms. Oralia Cardenas responded to the City's February 15, 2005 letter requesting to extend the ORCA Contract No. 722067. Ms. Cardenas indicated in her letter that ORCA would approve the extension to the contract; however, the City would be disqualified to participate in the 2005/2006 Community Development Fund program. On March 22, 2005, Mr. Garza met with Ms. Jacqueline Larkin of ORCA and requested a status of the contract amendment and revised performance statement. The performance statement would dictate to the City the legal requirements for disbursing the State's 25%. They had assured me that the City would receive a response the week of March 28th.

OTHER PROJECTS:

1. Tropical Storm Fay – Buy-Out Project:

The City and Mr. and Mrs. Edward Guajardo completed the closing on the property located at 2821 Texas Street and the property was being scheduled for demolition. Mr. Lowe Frietag had indicated that he wished the City to consider increasing the amount offered by the City to \$70,000 or to request FEMA to reimburse them for the cost to complete the repairs to the home. The Frietags had not submitted a second appraisal.

2. Hazard Mitigation Grant Program – Pre-Disaster Mitigation Grant Program.

The City's application had been accepted by the State of Texas Governor's Division of Emergency Management and had been included in the State's application to the Federal Office. The City should receive a response in June 2005.

3. Santa Fe Trail Park Project.

The City Staff had issued the second round of the request for bids for this project and would hold the bid opening March 28, 2005. The City Public Works Department was continuing the dirt work efforts.

4. Southern Pacific Railroad Depot Restoration Project.

Stern & Bucek Architects had presented the final plans and specifications and contract documents. Final details of the bid process was being determined and the City plans to submit for bids for construction within the next few weeks. After some discussion, no action was taken.

The twenty-second item on the agenda was a request for Travel Reimbursement for City Manager. City Manager Andres Garza, Jr. presented the request for travel reimbursement for the period March 10, 2005 through March 22, 2005 in the amount of \$388.80. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the travel reimbursement for City Manager Andres Garza, Jr. for the period March 10, 2005 through March 22, 2005 in the amount of \$388.80. Councilmember Don Mueller seconded the motion. All voted in favor.

The twenty-third item on the agenda was Executive Session: City Council may adjourn into an Executive Session in accordance with Section 551.072 of the Government Code, Revised Civil 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:** Acquisition of right-of-way from the Hawes Estate for the Ahldag Addition drainage project.
- B. Discussion:** Acquisition of right-of-way from Mr. and Mrs. Edward Guarjardo; Hawes 5th, Block 40, Lot's 5, 6, & 7.
- C. Discussion:** Acquisition of property from Mr. Lowe Frietag and Wife, Viola Frietag, 2619 Abell Street, under the Governor's Division of Emergency Management, Hazard Mitigation Grant Program, FEMA-1434-DR-TX-002 Tropical Storm Fay Acquisition Project.

Mayor Bryce D. Kocian adjourned into Executive Session at 9:49 p.m.
Mayor Bryce D. Kocian returned to open session at 10:23 p.m.

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

- A. Review & Consider:** Acquisition of right-of-way from the Hawes Estate for the Ahldag Addition drainage project.

After some discussion, Councilmember David Samuelson made a motion to authorize the City Attorney to proceed with the acquisition of right-of-way from the Hawes Estate for the Ahldag Addition drainage project. Councilmember Ken Freese seconded the motion. All voted in favor.

B. Review & Consider: Acquisition of right-of-way from Mr. and Mrs. Edward Guarjardo; Hawes 5th, Block 40, Lot's 5, 6, & 7.

After some discussion, Councilmember Ken Freese made a motion to authorize the City Manager to proceed with the acquisition of right-of-way from Mr. and Mrs. Edward Guarjardo; Hawes 5th, Block 40, Lot's 5, 6, & 7 pursuant to the appraisal from Mr. Dick Hudgins.

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

C. Review & Consider: Acquisition of property from Mr. Lowe Frietag and Wife, Viola Frietag, 2619 Abell Street, under the Governor's Division of Emergency Management, Hazard Mitigation Grant Program, FEMA-1434-DR-TX-002 Tropical Storm Fay Acquisition Project.

After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to authorize the City Attorney to close out by April 30, 2005 with the acquisition of Mr. Lowe Frietag and Wife, Viola Frietag, 2619 Abell Street property, under the Governor's Division of Emergency Management, Hazard Mitigation Grant Program, FEMA-1434-DR-TX-002 Tropical Storm Fay Acquisition Project. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

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

- A. City Council Public Works Committee meeting held March 15, 2005.
- B. Wharton Economic Development Corporation meeting held March 15, 2005.
- C. Building Standards Commission meeting held March 17, 2005.
- D. Planning Commission meeting held March 21, 2005.
- E. City Council Finance Committee meeting held March 23, 2005.
- F. City Council Public Safety Committee meeting held March 28, 2005.

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

The twenty-sixth item on the agenda was to review and consider the City Manager's Reports:

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

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

The twenty-seventh item on the agenda was adjournment. After some discussion, Councilmember Don Mueller made a motion to adjourn. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The meeting adjourned at 10:26 p.m.

City of Wharton
Regular City Council Meeting
March 28, 2005

CITY OF WHARTON, TEXAS

By: _____
DONALD MUELLER
Mayor Pro-Tem

ATTEST:

LISA STAVENA
City Secretary