

MINUTES
OF
CITY OF WHARTON
SPECIAL CITY COUNCIL MEETING
JULY 3, 2006

Mayor Bryce D. Kocian declared a Special Meeting duly open for the transaction of business at 8:03 A.M. Mayor Bryce D. Kocian led the opening devotion and then led the pledge of allegiance.

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., and Finance Director Joyce Vasut.

Visitors present were: None.

The seconded item on the agenda was roll call and excused absences. Councilmember V. L. Wiley, Jr. made a motion to excuse the absence of Councilmember Domingo Montalvo, Jr. from the Special City Council meeting held July 3, 2006. Councilmember David Samuelson seconded the motion. All voted in favor.

The third item on the agenda was public comments. City Manager Andres Garza, Jr. stated that the City received a letter from LCRA regarding an approval for \$1 million dollars for engineering and design phase for the Onion Creek Wharton Projects. No action was taken.

The fourth item on the agenda was review and consider a resolution of the Wharton City Council rescinding Resolution No. 2006-47 and reinstating Resolution No. 2006-37 awarding the bid for the City of Wharton Santa Fe Trail Electrical Improvements in accordance with bid specifications and authorizing the Mayor of the City of Wharton to execute all documents related to the contract. City Manager Andres Garza, Jr. stated on April 3, 2006, the City of Wharton received competitive sealed bids for the Santa Fe Trail Electrical Improvement Project. He stated that the Wharton City Council awarded the bid to Penner Electric during its regular April 24, 2006 City Council meeting under Resolution No. 2006-37. Penner Electric was issued the contract by Architect Barnaby Evans on May 22, 2006 for review and execution; however, Penner Electric indicated he would not sign the agreement because of cost increases. He then presented a copy of the Resolution No. 2006-37. Mr. Garza stated that he had several conversations with Mr. James Pierce of Penner Electric regarding the contract, which he indicated that he would not sign the contract unless it included a change order to increase the contract by \$6,000.00. He said that he informed Mr. Pierce that the City could not change the contract amount. He then presented a copy of the Resolution No. 2006-47 declaring Penner Electric in default of the contract requirements in accordance with the project bid specifications, which was approved by the City Council during the regular June 12, 2006 City Council meeting.

Mr. Garza further said that since that time, the City Staff had contacted Penner Electric's bonding company, who had strongly advised Penner Electric to execute the contract. He stated that he had met with Mr. James Pierce on Wednesday, June 28, 2006 and discussed the contract and its requirements. He stated that Mr. Pierce had executed the contract and informed him that his company would be willing to work together to complete this project. He then presented a draft resolution rescinding Resolution No. 2006-47 and reinstating Resolution No. 2006-37, and also a copy of the contract. Mr. Garza stated that City Council approval was needed. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve Resolution No. 2006-53, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2006-53**

A RESOLUTION OF THE WHARTON CITY COUNCIL RESCINDING RESOLUTION NO. 2006-47 AND REINSTATING RESOLUTION NO. 2006-37 AWARDING THE BID FOR THE CITY OF WHARTON SANTA FE TRAIL ELECTRICAL IMPROVEMENTS IN ACCORDANCE WITH BID SPECIFICATIONS AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO THE CONTRACT.

- WHEREAS,** On April 3, 2006, the City of Wharton received competitive sealed bids for the City of Wharton Santa Fe Trail Electrical Improvement Project; and
- WHEREAS,** On April 25, 2006, the Wharton City Council awarded the bid to Penner Electric as being the lowest and best qualified bidder in accordance with the bid specifications under Resolution No. 2006-37; and
- WHEREAS,** On June 12, 2006, the Wharton City Council found Penner Electric in default of the contract requirements and adopted Resolution No. 2006-47; and
- WHEREAS,** the Wharton City Council wishes to rescind Resolution No. 2006-47 and reinstate Resolution No. 2006-37 and award the contract to Penner Electric in accordance with the bid specifications; and
- WHEREAS,** the Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute all documents related to the contract and move the project forward.

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

Section I. That the Wharton City Council hereby rescinds Resolution No. 2006-47 and reinstate Resolution 2006-37 awarding Penner Electric the contract for the Santa Fe Trail Electrical Improvement Project.

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Section II. That the Wharton City Council hereby authorizes the Mayor of the City of Wharton to take the necessary action to move the project forward and to execute all necessary documents related to the project.

Section III: That this resolution shall be come effective immediately after its passage.

Passed, Approved, and Adopted this 3rd day of July 2006.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

LISA STAVENA
City Secretary
Councilmember Ken Freese seconded the motion. All voted in favor.

The fifth 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 8:08 a.m.

CITY OF WHARTON, TEXAS

By: _____
BRYCE D. KOCIAN
Mayor

ATTEST:

LISA STAVENA
City Secretary