CITY OF BELLAIRE
CITY COUNCIL
Minutes of Meeting
Monday, August 6, 2007

I. SPECIAL SESSION – 6:00 P.M.

A. CALL TO ORDER AND ANNOUNCEMENT OF A QUORUM – Mayor Pro Tem Peggy Faulk.

Mayor Pro Tem Peggy Faulk called the City Council of the City of Bellaire, Texas, to order at 6:10 p.m. on Monday, August 6, 2007. The Bellaire City Council met at that time and on that date in Special Session for the purpose of holding a public hearing to hear any and all persons desiring to be heard on or in connection with revisions proposed by the Planning and Zoning Commission of the City of Bellaire, Texas, to Chapter 24, Planning and Zoning Regulations, Article II, Definitions and Interpretations, Section 24-202, Definitions. The Special Session was held in the Council Chamber, First Floor of City Hall, 7008 South Rice Avenue, Bellaire, Texas. Mayor Pro Tem Faulk announced that a quorum was present consisting of herself and the following members of City Council:

- Councilman Will Hickman, Position No. 1;
- Councilwoman Debra Marz Davison, Position No. 4; and
- Councilman Pat McLaughlan, Position No. 5.

Mayor Cindy Siegel, Councilman John F. Monday, Position No. 2, and Councilman John Jeffery, Position No. 6, were absent. Other officials present were City Manager Bernard M. Satterwhite, Jr., City Attorney Alan P. Petrov, and City Clerk Tracy L. Dutton.

B. READING OF NOTICE OF PUBLIC HEARING – City Clerk Tracy L. Dutton.

City Clerk Tracy L. Dutton read portions of the Notice of Public Hearing and announced that in the interest of time the remainder would not be read. Copies of the Notice of Public Hearing were placed at the entrance to the Council Chamber for those in attendance. For the record, the entire Notice of Public Hearing has been included herein.

Notice is hereby given that the City Council of the City of Bellaire, Texas, has called and will hold a public hearing on the 6th day of August, 2007, at 6:00 p.m. in the Council Chamber, First Floor of City Hall, 7008 South Rice Avenue, Bellaire, Texas, at which time and place any and all persons may appear and be heard on or in connection with any matter or question involving all property located within the

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corporate limits of the City of Bellaire, and that may be affected by the proposed revisions.

Specifically, revisions have been proposed by the Planning and Zoning Commission of the City of Bellaire, Texas, to amend Chapter 24, Planning and Zoning Regulations, Article II, Definitions and Interpretations, Section 24-202, Definitions, by deleting certain definitions and replacing them with definitions that will read as follows:

**Section 24-202. Definitions.**

**Definitions to be deleted:**

(89) Impervious (impermeable) surface. Any material applied to the surface of land which does not permit the natural infiltration or passage of water into the ground, except for the ground area of buildings.

(90) Impervious (impermeable) surface ratio. The ratio of impervious (impermeable) surface to lot area.

(102) Lot coverage (site coverage). The area of a particular lot or tract which is covered with buildings and other impervious (impermeable) surfaces.

(103) Lot coverage ratio (LCR). The ratio of buildings and impervious (impermeable) surfaces to the lot area, including all parts of the lot covered with impervious (impermeable) surfaces of any kind.

**Definitions to be added:**

Other surface. As used in determining lot coverage and lot coverage ratio, any material applied to the surface of land, which does not permit the natural infiltration of water into the ground, including, but not limited to, air conditioning pads, asphalt, bathhouses, concrete, decks, patios, porches, driveways, garbage pads, gazebos, parking areas, paving systems (whether permeable or not), sidewalks, swimming pools, spas, sports courts, except for the ground area of the buildings. The water surface area of a swimming pool or a spa, 50% of an uncovered wood deck constructed over bare soil, and loosely graveled walkways shall be considered an other surface.

Lot coverage (site coverage). The area of a particular lot or tract which is covered with buildings and other surfaces.

Lot coverage ratio (LCR). The ratio of buildings and other surfaces to the lot area, including all parts of the lot covered with other surfaces of any kind.
City Clerk Dutton noted that the Notice of Public Hearing was posted on the City’s bulletin board and website and published in the legal notices section of the *Southwest News* on Tuesday, July 14, 2007. Signs advertising the public hearing were also posted at the intersections of South Rice Avenue and Bellaire Boulevard and Newcastle Drive and Bellaire Boulevard.

C. SUMMARY OF PUBLIC HEARING PROCEDURE – City Manager Bernard M. Satterwhite, Jr.

City Manager Bernard M. Satterwhite, Jr., summarized the public hearing procedure for the evening as follows:

During this evening’s public hearing, a brief presentation will be given by Bill Thorogood of the Bellaire Planning and Zoning Commission (“Commission”), regarding revisions proposed by the Commission to the *Code of Ordinances of the City of Bellaire, Texas, Chapter 24, Planning and Zoning Regulations, Article II, Definitions and Interpretations, Section 24-202, Definitions*, for the purpose of deleting and replacing certain definitions therein as such definitions relate to surface and lot coverage. The presentation will be limited to fifteen (15) minutes.

At the conclusion of the presentation, the Mayor Pro Tem and City Council will have an opportunity to ask questions of Chair Thorogood regarding the proposed revisions. Former Chair Bruce Volkert is also present and available to answer questions from the Mayor Pro Tem and City Council.

At the conclusion of the question and answer session, the Mayor Pro Tem will recognize citizens or other interested parties who have completed the sign-in sheet prior to commencement of the meeting. Comments will be limited to four (4) minutes for each individual.

Following comments from citizens or other interested parties, the Mayor Pro Tem will close the public hearing. Public comment will not be received following the close of the public hearing. Written
comments may be submitted to the City Council in care of the City Clerk prior to final deliberation on the matter. It is anticipated that final deliberation on the matter will occur on Monday, August 20, 2007. Written comments must be submitted by noon on Thursday, August 16, 2007, in order to be considered for the record. The sign-in sheet and written comment sheets have been provided at the entrance to the Council Chamber.

D. PRESENTATION of revisions proposed by the Planning and Zoning Commission of the City of Bellaire, Texas, to the Code of Ordinances of the City of Bellaire, Texas, Chapter 24, Planning and Zoning Regulations, Article II, Definitions and Interpretations, Section 24-202, Definitions, for the purpose of deleting and replacing certain definitions therein as such definitions relate to surface and lot coverage – Chair Bill Thorogood, Planning and Zoning Commission of the City of Bellaire, Texas.

Chair Bill Thorogood, Planning and Zoning Commission of the City of Bellaire, Texas (Commission), asked City Council's permission to have Former Commission Chair Bruce Volkert give the presentation as he was the driver of this particular issue. After noting no objections from City Council, Chair Thorogood introduced Former Chair Bruce Volkert.

Former Chair Bruce Volkert presented the Commission's case for action by noting that existing ordinances limited coverage to a percentage of lot area and computed the coverage on the basis of buildings and other impervious (impermeable) surfaces.

Further, permeable “systems” comprised of impermeable and permeable surfaces had been used as a means to exclude the “systems” from the coverage calculation. This was known due to a lawsuit brought against the City of Bellaire some time ago. Former Chair Volkert advised that this loophole had the effect of increasing lot coverage that was not in the best interest of the community.

In order to address the referenced loophole, a Permeable Paving Materials Task Force (Task Force) was formed and members of the Commission, as well as the Building and Standards Commission, were appointed to the Task Force. The purpose of the Task Force was to discuss the existing Building Code sections that dealt with paving materials and the Zoning Code provisions that dealt with permeability definitions and to determine if any changes should be proposed. The Task Force was also charged with discussing whether there were any paving systems available that would work well in the City of Bellaire.
The Task Force findings were noted as follows:

- The use of "impermeable" in existing ordinances was likely to have been an expedient means to include other manmade surfaces when determining coverage; and

- Coverage limitations were developed for and still remained for both aesthetic and drainage management purposes.

Upon conclusion of the Task Force meetings, a recommendation was made that the Commission (i.e., Planning and Zoning Commission) close the permeability loophole.

Former Chair Volkert presented additional findings related to permeable systems as follows:

- Permeable systems could not contribute substantially to the prevention of drainage problems in Bellaire because of the area’s relatively impermeable soils;

- Permeable systems were not likely to remain permeable because they would be infiltrated with vines and other materials that would close off the entrance of water to the permeable systems unless such systems were maintained very regularly; and

- Excluding permeable systems from coverage calculations would have a highly deleterious effect on the quality and quantity of green space.

Former Chair Volkert cited an example of the effect of a permeable system as follows: a property owner could use a paving material for driveways and walkways and those areas would then be excluded from coverage limitations resulting in larger footprint homes, more paving, and much less green space. In effect, larger homes, less open ground, less grass, and less area for trees.

The Commission’s recommended approach was to remove the ambiguity caused by the use of the term "impervious (impermeable) surfaces" and to define coverage limitations in terms of the area covered by “buildings” and “other surfaces."

Specifically, the Commission recommended that certain definitions be deleted from the Code of Ordinances of the City of Bellaire, Texas, and that other definitions be added. Definitions to be deleted were: impervious (impermeable) surface, impervious (impermeable) surface ratio, lot coverage (site coverage), and lot coverage ratio (LCR).
Definitions to be added were: other surface, lot coverage (site coverage), and lot coverage ratio (LCR).

The recommended definition of “other surfaces” was stated by Former Chair Volkert as follows: *As used in determining lot coverage and lot coverage ratio, any material applied to the surface of land, which does not permit the natural infiltration of water into the ground, including, but not limited to, air conditioning pads, asphalt, bathhouses, concrete, decks, patios, porches, driveways, garbage pads, gazebos, parking areas, paving systems (whether permeable or not), sidewalks, swimming pools, spas, sports courts, except for the ground area of buildings. The water surface area of a swimming pool or a spa, 50% of an uncovered wood deck constructed over bare soil, and loosely graveled walkways shall not be considered an other surface.*

The effect of the recommendation was that it would close the permeability loophole and would leave the other exclusions intact (i.e., pools, wood decks, and loosely graveled walkways). The Commission debated the issue as to whether pools, wood decks, and loosely graveled walkways should be included; however, the goal was to reduce the impact of change associated with permeable systems and not to plow new ground.

The consequences of inaction (i.e., not closing the permeability loophole) were noted as follows: houses would get larger; green space would decrease; trees would become less healthy; runoff would increase; and temperature would rise.

Former Chair Volkert identified the process thus far and going forward. He noted that the Commission held a public hearing on the proposed revisions on June 12, 2007. One citizen spoke in favor of the revisions and one citizen spoke against the revisions. Following this evening’s public hearing, it was suggested that City Council make any revisions they felt were warranted, then take action on the revisions through the adoption of an ordinance. A vote in favor of the ordinance was a vote for green space and was in keeping with the spirit and intent of the original ordinance.

**E. QUESTIONS FROM THE CITY COUNCIL OF THE CITY OF BELLAIRE, TEXAS – Mayor Pro Tem Peggy Faulk.**

{Legend: A – Answer; C – Comment; Q – Question; R – Response}

**Councilman Will Hickman**

Q: Councilman Hickman referred to a slide presented by Former Chair Volkert that discussed permeable systems versus impermeable soils. He asked for one of the bullet points to be
explained to him. For example, if he had an impermeable soil, it did not matter if he put a permeable system on top of it, as the soil would still not absorb water.

**A:** Former Chair Volkert advised that Councilman Hickman was correct. Because a person put a permeable system on top of an impermeable soil, the person had not done anything except to allow paving where there was none before.

**Q:** Councilman Hickman asked for confirmation that this was not really a drainage issue, but rather a green space issue.

**A:** Former Chair Volkert stated that in his opinion this was a green space issue.

**Q:** Councilman Hickman advised that if it were a green space issue, how would swimming pools, wood decks, and gravel walkways be distinguished? In other words, why was permeable paving singled out?

**A:** Former Chair Volkert stated that the Commission’s goal was to close the loophole, which had been identified and exploited by a few homeowners in the past. Pools and decks were not the issue that prompted the question. He noted that if a person were to use a permeable system as their driveway, the driveway would not have to be counted toward their lot coverage.

This issue was really about the status quo. If the loophole were closed, the status quo would be maintained. If the loophole were not closed, it would be exploited and green space would suffer.

**Q:** Councilman Hickman asked for confirmation that green space suffered from pools, gravel walkways, and wood decks.

**A:** Former Chair Volkert advised that Councilman Hickman was correct.

**Q:** Councilman Hickman referred to the drawing of a continuum from grass to concrete foundation and asked if a pool would not be closer to a concrete foundation than a permeable paving system.

**A:** Former Chair Volkert agreed, but stated that the effect was slightly different. For example, if a person did not have a pool and did not have to count the driveway as part of their lot
coverage, then they would build more house (and might still put in a pool). This issue was about air space was well.

**Councilman Pat McLaughlan**

Q: Councilman McLaughlan asked for confirmation that a joint committee of members from the Planning and Zoning Commission and the Building and Standards Commission had looked into this issue.

A: Former Chair Volkert advised that Councilman McLaughlan was correct. The Task Force consisted of members from the Planning and Zoning Commission and the Building & Standards Commission. When it became clear that this was not just a paving issue, but related to definitions of lot coverage, then it fell to the Planning and Zoning Commission to clear it up.

Dialog continued between the Planning and Zoning Commission and the Task Force throughout this process.

Q: Councilman McLaughlan inquired as to the level of support on the Planning and Zoning Commission with regard to the recommendation presented this evening.

A: Former Chair Volkert stated that there was unanimous support of the Planning and Zoning Commission, as well as the Building and Standards Commission. The Task Force was also unanimous.

Q: Councilman McLaughlan asked for confirmation that the Commission was not proposing any changes to the regulations for pools, decks, or walkways.

A: Former Chair Volkert advised that Councilman McLaughlan was correct.

Q: Councilman McLaughlan asked for confirmation that the Commission wanted to focus on the permeable issue and not address a wider scope.

A: Former Chair Volkert advised that Councilman McLaughlan was correct. The Commission was trying to close the loophole. Although the Commission did discuss the possibility of addressing pools, decks, and walkways, it was determined that there were “too many fish to fry” in that respect.
Mayor Pro Tem Peggy Faulk

Q: Mayor Pro Tem Faulk referred to the definition recommended for “other surfaces.” She inquired as to the meaning “except for the ground area of buildings.”

A: Former Chair Volkert stated that buildings were already covered. The lot coverage definition had to do with buildings and other impermeable surfaces. The “impermeable” part of the language was removed and replaced with “other surfaces.”

Q: Mayor Pro Tem Faulk inquired as to whether the Commission had run through any examples. In other words, what the lot coverage would be before the revision and after the revision if it were enacted?

A: Former Chair Volkert stated that the Commission had not run through any specific calculations. With respect to his property, he noted that he had 100’ of driveway that was eight feet wide or 800 square feet that he could drop and add to his home.

C: Mayor Pro Tem Faulk stated that she would like to see three different examples in Bellaire to show what the lot coverage would be under the current regulation and what the lot coverage would be if these revisions were enacted.

R: Former Chair Volkert stated that calculations could be done. The lot coverage in most of Bellaire was currently 55%. A homeowner could build their house to occupy 55% of the lot. The entire remainder of the lot could be permeable paving. He would then not have to mow his grass.

C: Mayor Pro Tem Faulk advised that she would still need to see some calculations. It appeared that some items were being included now that had not been previously.

R: Former Chair Volkert advised that there were no changes. All the Commission was recommending was that the permeable systems were to be included in the quantity called “other surfaces.”

City Manager Satterwhite advised that City Staff had been counting permeable paving systems as impervious.

Q: Mayor Pro Tem Faulk asked for confirmation that City Manager Satterwhite did not see that there was any impact to the change.
A: City Attorney Alan P. Petrov advised that there was an impact if the change were not made. The impact would be to allow more coverage.

He noted that City Staff had always considered the paving systems to count as “coverage.” There was a situation that came up where a person presented the paving system as being impermeable and challenged City Staff’s policy based on the City’s definitions. That matter went to the Building and Standards Commission and Board of Adjustment. Ultimately in a challenge of the Building Official’s determination, the Board of Adjustment ruled that it was a permeable system and could not be counted as coverage.

The logical conclusion of the Board of Adjustment’s decision was that a permeable system could be applied over an entire lot and not be counted as coverage. The recommendation from the Commission was to get back to where the City had traditionally been.

Q: Mayor Pro Tem Faulk asked for confirmation that the City was not trying to add anything back in other than trying to better cover how the City viewed impervious or permeable paving systems.

A: City Attorney Petrov advised that Mayor Pro Tem Faulk was correct. He noted that resident Carol Phillips actually showed up at the Planning and Zoning Commission hearing and had prepared some diagrams that showed a “worst case” scenario.

Councilman Will Hickman

Q: Councilman Hickman inquired as to the reason that 50% of an uncovered wood deck was penalized as compared to a swimming pool or a loosely covered gravel walkway.

A: Former Chair Volkert stated that he did not know the answer to Councilman Hickman’s question, but thought that a pool was excluded because it caught water. He agreed that a wood deck should either count or not count.

Q: Councilman Hickman asked for confirmation that the Commission imported the wood deck portion of the ordinance at 50%. In other words, it was not changed.

A: Former Chair Volkert advised that Councilman Hickman was correct.
Councilman Pat McLaughlan

C: Councilman McLaughlan advised that rather than looking at the terms as impervious or pervious, he looked at it as manmade material versus nature.

F. RECOGNITION OF CITIZENS AND/OR OTHER INTERESTED PARTIES – Mayor Pro Tem Peggy Faulk.

Richard Franke, 1104 Howard Lane, Bellaire, Texas:

Mr. Franke noted that he moved into Bellaire nine years ago. He considered purchasing property in West University Place as well, but found a larger lot in Bellaire. Since he desired to install a pool, the Bellaire lot was more desirable.

He expressed concerns that the Planning and Zoning Commission, and then City Council, addressed issues, on a piecemeal basis. Since his lot was only 6,900 square feet, many of the recommended changes could affect him. He noted that he did not understand the change with respect to pools.

[Chair Bill Thorogood, Planning and Zoning Commission, stated that there were no changes to pools].

Mr. Franke advised that he would withdraw some of his previous concerns since there were no changes to pools. He continued by acknowledging hardworking Mayor Siegel for responding to his email while on vacation.

Mr. Franke stated that he wished the Commission and Council would look at the issues from a broader context. Each zoned area should be reviewed to determine what effect the changes would have on individual areas.

With respect to air conditioning pads, he suggested that the pads be elevated to get them out of the flood zone and protect the units (i.e., piers similar to those used in South Braeswood).

In closing, Mr. Franke stated that he originally thought this issue was related to drainage, but now understood that it was related to green space. He did not believe that the charge for the City of Bellaire was to tell everyone how much green space they needed.
Dirk Stiggins, 4531 Merrie Lane Drive, Bellaire, Texas:

**Mr. Stiggins** advised that he was Chair of the Building and Standards Commission and wished to endorse the proposal this evening. The Building and Standards Commission had received several concerns from citizens regarding this issue. The Building and Standards Commission felt that the new definition proposed this evening would clarify both sides of the argument and concurred with the proposed wording.

Melanie Levine, 4546 Elm Street, Bellaire, Texas:

**Ms. Levine** noted that she moved to Bellaire three years ago after living in Meyerland in a house that flooded. She and her husband built a home on Elm Street and were the ones that installed a permeable system. It was not “permeable pavers,” it was a system, which was different.

Ms. Levine respectfully encouraged City Council to challenge the status quo. She felt that rather than saying it was one or the other, City Council should look at the fact that it was a drainage system. There was grass in the backyard when the Levines originally moved in. Water pooled on top of the grass and mosquitoes were a problem as a result. The Levine’s built a pool and put in a permeable drainage system. The water sat underground in the system and drained slowly to the street. She welcomed City Council to come to her home to spray water on the surface to see what happened.

She advised that two committees heard this information because the Levines were originally told to appear before the Building and Standards Commission and then told they had to appear before the Board of Adjustment. Her husband showed a video to both committees of water being sprayed on the surface and draining underneath. In addition, Ms. Levine brought more documentation to the City and referred to information that could be obtained from the Internet with respect to these systems. She added that the systems were a great help with flooding and drainage problems.

Ms. Levine also noted that someone had commented that the system would not last. She advised that it was a long-lasting system. This system set on top of the “gumbo” soil, so the soil was no longer a problem. If everyone used a permeable system for their driveway, the City would have made a great headway toward alleviating some of the drainage issues. Further, if retailers, who were allowed 100% coverage, were encouraged to put in permeable systems, the headway
toward alleviating some of the drainage issues would be even greater. She closed by encouraging City Council to be open-minded with respect to this issue.

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**Bill Borden, 4406 Basswood Lane, Bellaire, Texas:**

Mr. Borden advised that he was not affected either way with respect to the issue before City Council this evening, but did have some concerns about it.

He concurred with many of the valid points brought forward by Mr. Franke this evening. Mr. Borden was on the Board of Adjustment that addressed Ms. Levine’s issue. When that case came forward, he had many doubts about it. The Levines proved their case, and he sided in their favor on the matter.

One of the bigger concerns he had was that the thumbnail purpose and the intent of zoning in any city (going back to the early part of the last century) was to protect private property rights and community property rights that could be measured in benefits from the marketplace. The decisions could not be arbitrary and capricious and needed to be made on hard facts or a hard range of facts.

Bellaire had gotten to a point where some of the decisions being made were arbitrary and capricious. The recent case that went to litigation came to mind. He asked City Council to address some of these matters and seriously consider some of the consequences of the decisions that were made.

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**Lynn McBee, 5314 Evergreen Street, Bellaire, Texas:**

Ms. McBee stated that this was the fourth or fifth time that the City had addressed the Levine’s “violation” of the status quo in Bellaire. The Levines even got the Board of Adjustment to agree with them that they were attempting to improve a situation not covered by the regulations.

She continued by reading the definitions that the City of West University Place used for pervious area and pervious pavement as follows:

*Pervious area. An area which (1) is natural ground or landscaped area that receives rainwater and allows it to pass through or be absorbed,
thus preventing excess water flow away from the area, or (2) is specifically designated as pervious area in the Projections Schedule.

Pervious pavement include both (1) specially manufactured pavement blocks or grids that have holes filled with pervious materials, and (2) stones, bricks or pavers laid with intervening gaps filled with pervious arterials. Pervious pavement must have a pervious base.

Ms. McBee stated that the Levines were not trying to change their lot coverage; they were trying to improve drainage. Twenty years ago, Bellaire’s leading environmentalist Hana Ginzbarg, fought the City on the installation of a permanent concrete driveway at Russ Pitman Park. She prevailed when grasscrete was put in as drainage amelioration.

The proposal before City Council simply stamped on innovation, prohibited change, denied incentives, and avoided new standards and change. Ms. McBee was offended by the arrogance that the proposal was delivered with. There was no discussion about retaining water and no serious effort to get the commercial district to build detention ponds. There was also no serious description of the proposal as being for aesthetic purposes or drainage purposes. If something were to be changed, then it should be identified as to why the change was necessary.

Finally, she indicated that the proposal was merely lengthening the list of what was to be counted as coverage, many of which had been internal staff policy for years and years, but no one knew anything about it. Ms. McBee closed by noting that she totally opposed the proposal, as it was restrictive, unenlightened, and did not help anyone. If a system proposed by a builder was being used to extend the lot coverage, then that should be the dividing line. If a system could be included with all good intent to effect a drainage improvement and had no relevance to the building and other surfaces, then it should be left alone. The proposal needed a great deal of work.

[The speaker’s allotted time ended at this point]

Mayor Pro Tem Peggy Faulk noted that the City had received two written comments to be read into the record as follows:

Carol Phillips, Civil Engineer, 540 South Second Street, Bellaire, Texas:

Mayor and City Council:
I hope you will make the proposed changes so that paving systems will be included in lot coverage calculations, rather than treating them as grass or gardens.

Recently some homeowners have exploited a loophole that allows them to build unreasonably large homes. They can make the driveway, patio and walks out of pavers instead of concrete so they won’t count toward the 55% lot coverage limit. This allows the house to be about 20% larger, eliminating the backyard (See the attached calculations and sketch).

Because pavers don’t count in the 55% limit, there is no incentive to make a small efficient driveway. Large circular drives can fill the front yard, replacing landscaping and trees.

Runoff and flooding will increase as pavers and additional roof replace grass and trees. As the gravel between the pavers becomes clogged with dirt or weeds, runoff will increase further. The paver manufacturer’s brochure admitted that clogging can be a problem, but did not say how or if the gravel could be kept clean.

According to the Army Corp of Engineers, clean gravel allows water to percolate 1,000 times faster than the same gravel contaminated with just 7 percent fine soil.* The paver manufacturer’s video shows gallons of water disappearing into the clean gravel between the pavers. Imagine how much would instead run off and contribute to flooding after weeds and sediment build up.

One homeowner threatening to sue argued that Bellaire’s soil is so clayey that no rain soaked into the soil anyway, so lot coverage does not matter. This isn’t true. The Corps of Engineers’ article shows that clayey soils are made much more permeable by vegetation and weathering. And plants take up water, making the soil like a dry sponge, ready to absorb more rain.

In summary, it is important to make the proposed changes to include pavers in the 55% lot coverage calculations. Pavers do not provide as much runoff capacity as the vegetated soil they replace, and they can become clogged and ineffective. The proposed change also allows the lot coverage limit to serve its additional intended purpose of preventing unreasonably large houses that overwhelm the neighbors.

Failure to support this change will increase flooding and make green space optional in Bellaire.

Thank you.
*See the Army Corps of Engineers article at www.usace.army.mil/publications/eng-manuals/em1110-3-136/c-4.pdf.

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**Cathy Riggs, 5125 Linden Street, Bellaire, Texas:**

I urge you to accept the revisions to Section 24-202 regarding terminology of surface and lot coverage and take Mrs. Phillips’ comments into consideration.

Thank you.

**G. CLOSE OF PUBLIC HEARING – Mayor Pro Tem Peggy Faulk.**

Mayor Pro Tem Peggy Faulk announced that the public hearing before the City Council of the City of Bellaire, Texas, regarding revisions proposed by the Planning and Zoning Commission of the City of Bellaire, Texas, to Chapter 24, Planning and Zoning Regulations, of the Code of Ordinances of the City of Bellaire, Texas, was closed at 6:56 p.m. on Monday, August 6, 2007. Mayor Pro Tem Faulk advised that oral comment concerning the revisions would not be received following the close of the public hearing. Written comments could be submitted to the City Council of the City of Bellaire, Texas, prior to final deliberation on the matter. It was anticipated that final deliberation would occur on Monday, August 20, 2007. Written comments could be submitted in care of the City Clerk by noon on Thursday, August 16, 2007, in order to be considered for the public record.

**H. ADJOURNMENT.**

**MOTION TO ADJOURN:**

A motion was made by Councilwoman Debra Marz Davison and seconded by Councilman Pat McLaughlan to adjourn the Special Session (Public Hearing) of the City Council of the City of Bellaire, Texas, at 6:57 p.m. on Monday, August 6, 2007.

**VOTE ON MOTION TO ADJOURN:**

Motion carried unanimously on a 4-0 vote as follows:

**FOR:** Hickman, Will  
Faulk, Peggy  
Davison, Debra Marz
II. REGULAR SESSION – 7:00 P.M.

A. CALL TO ORDER AND ANNOUNCEMENT OF A QUORUM – Mayor Pro Tem Peggy Faulk.

Mayor Pro Tem Peggy Faulk called the City Council of the City of Bellaire, Texas, to order at 7:03 p.m. on Monday, August 6, 2007. The Bellaire City Council met at that time and on that date in Regular Session in the Council Chamber, First Floor of City Hall, 7008 South Rice Avenue, Bellaire, Texas. Mayor Pro Tem Faulk announced that a quorum was present consisting of herself and the following members of City Council:

- Councilman Will Hickman, Position No. 1;
- Councilwoman Debra Marz Davison, Position No. 4; and
- Councilman Pat McLaughlan, Position No. 5.

Mayor Cindy Siegel, Councilman John F. Monday, Position No. 2, and Councilman John Jeffery, Position No. 6, were absent. Other officials present were City Manager Bernard M. Satterwhite, Jr., City Attorney Alan P. Petrov, and City Clerk Tracy L. Dutton.

B. INSPIRATIONAL READING AND/OR INVOCATION – Mayor Pro Tem Peggy Faulk.

Mayor Pro Tem Peggy Faulk referred to the recent passing of Marvin Zindler and advised that her inspirational reading this evening would be about his life and achievements. Marvin Zindler was born August 10, 1921, and passed away on July 29, 2007. He was born in Houston and raised in Bellaire in a two-story colonial on three acres at the corner of Post Oak and Bellaire Boulevard. There was a barn out back and a self-powered lawn care system consisting of several sheep. The family also owned a cow for milk, butter and cottage cheese, as well as horses for the five energetic boys. His father, Abe Zindler, served as mayor from 1937-1943 and from 1945-1947. It was under Abe Zindler’s first term as mayor that an ordinance for zoning was passed.
His reports on KTRK included international stories, many involving trips to various third-world countries, segments in which local business owners (known as Marvin’s Angels) provided services to a less fortunate person in dire financial or physical health, and stories focused on the elderly, including nursing home abuse reports that were similar to his trademark restaurant reports. On his Friday reports, Zindler had also reported birthday and wedding anniversary greetings on air, usually involving those celebrating their 100th birthday or at least a 50th wedding anniversary. The station stated that over 100,000 requests for help from Zindler were received yearly. In choosing stories, Zindler focused on two factors, neediness and chance of success. While low income was a key factor, being selected for a story had more to do with an injustice than with income. Marvin Zindler’s trademark signoff at the end of each report was, nearly shouting: “Maaarvin Zindler . . . Eyewitness News!” To which the anchor, usually longtime KTRK newscaster Dave Ward, calmly replied, “Thank ya, Marvin.”

C. PLEDGES TO THE FLAGS – Mayor Pro Tem Peggy Faulk.

1. U.S. PLEDGE OF ALLEGIANCE.
2. PLEDGE TO THE TEXAS FLAG.

Mayor Pro Tem Peggy Faulk noted that the Texas State Legislature had made a change to the "Pledge to the Texas Flag" which was effective on June 15, 2007. That change included the addition of the words "one state under God" after the statement "I pledge allegiance to thee, Texas." Mayor Pro Tem Faulk next led the audience and City Council in the U.S. Pledge of Allegiance and the Pledge to the Texas Flag.

D. APPROVAL OR CORRECTION OF MINUTES:

APPROVAL of minutes of the Special Session (Executive Session) and Regular Session of the City Council of the City of Bellaire, Texas, held Monday, July 16, 2007 – Action by Members of City Council (Item submitted by City Clerk Tracy L. Dutton).

MOTION TO APPROVE MINUTES:

A motion was made by Councilman Pat McLaughlan and seconded by Councilman Will Hickman to approve the minutes of the Special Session (Executive Session) and Regular Session of the City Council of the City of Bellaire, Texas, held Monday, July 16, 2007.
VOTE ON MOTION TO APPROVE MINUTES:

Motion carried unanimously on a 4-0 vote as follows:

FOR: Hickman, Will  
     Faulk, Peggy  
     Davison, Debra Marz  
     McLaughlan, Pat

OPPOSED: None

ABSENT: Siegel, Cindy  
         Monday, John F.  
         Jeffery, John

E. PERSONAL/AUDIENCE COMMENTS.

Lynn McBee, 5314 Evergreen Street, Bellaire, Texas:

Ms. McBee stated that this was the third time that she had asked City Council to investigate and receive a report about an illegal, privately erected reserved parking sign located on Third Street in front of Condit Elementary School. The last time the City Manager responded to City Council on this issue, he advised that he would have to conduct a survey of other illegal signs in Bellaire. It had been a month or more since Ms. McBee started this query and the sign was still in place. She asked that City Council require a response from management as to why there was an illegal sign in the City right-of-way erected by a private party reserving a place that was public space for one individual who was the principal of the school. It was wrong and enforceable, but not being enforced.

Secondly, Ms. McBee referred to the area in front of The Bead Shop, which, from a recent application, had been determined to be located immediately adjacent to the City of Bellaire’s Bellaire Boulevard street right-of-way. This area served as the parking area for The Bead Shop and other shops located nearby. It was noted that the area was hazardous. The City had a legal obligation to maintain this right-of-way in a safe manner. She suggested that the area be paved. This right-of-way had been ignored for years and now that the ownership had been determined, she urged that it be fixed.

Finally, there was a month left for citizens interested in running for a City Council election post. The election would take place on November 6, 2007. Monday, July 30, 2007, was the first day to apply for a place on the ballot. The last day to apply was Tuesday, August 28, 2007. She noted further that there were two vacancies as Councilman John F. Monday, Position No. 2, and Councilwoman Debra
Marz Davison, Position No. 4, were termed out. The Mayor’s term was up for re-election or other election. Councilman John Jeffery, Position No. 6, was also up for re-election or other election. Ms. McBee advised that the citizens needed and wanted choices. She also reminded citizens that the government was their government.

Robert Riquelmy, 506 Winslow Lane, Bellaire, Texas:

Mr. Riquelmy advised that he expected to be a candidate for office in Bellaire in November. He stated that he was often at City Hall in the evenings to attend various meetings of boards, commissions, and committees. It was rare that one did not find the City Clerk at City Hall in the evenings. He advised that she was stretched to the limit. One would hope that City Council would take good care and concern of the welfare of all City employees.

If he were on City Council, he would immediately propose that an Assistant City Clerk be added to the City Staff.

Mayor Pro Tem Peggy Faulk advised that one written comment had been received this evening and read it into the record as follows:

Marc Heidemann, 5221 Mimosa Street, Bellaire, Texas:

Please help Mimosa Drive turn on street lights. No street lights working. Very dangerous. Can’t walk at night—not safe. Cars not safe—get broken into. No notice given that lights would be cut off due to sewer repair. Told Public Works Director—said he can’t turn on street by street. Has to wait until Ferris completed. This wrong—not safe to walk after dark. Strangers follow us and want to rob us. Have you notified Reliant Energy to give credit to City for lights not working also?

Thank you.

F. REPORTS:

1. CITY MANAGER’S REPORT – City Manager Bernard M. Satterwhite, Jr.

City Manager Satterwhite presented a video of Marvin Zindler interviewing former City Clerk Joy Moore and Harris County Commissioner Bob Eckels wherein Commissioner Eckels
threatened to withhold any county services that Bellaire was entitled to as a result of the Police Chief not allowing him to land his helicopter in Bellaire.

City Manager Satterwhite next presented the City Manager’s Report to City Council, which consisted of the following Mission Areas: Residential Safety, Residential Mobility, Residential Quality of Life, Communications/Technology, Employees, and Internal Operations/Productivity. Also included in the report were Current Issues/Information and Upcoming City Council Meetings/Events.

**MISSION AREAS:**

**Residential Safety**

With respect to residential safety, it was noted that several members of City Staff would attend the Texas Public Officials’ Workshop on Emergency Management on Wednesday sponsored by the State of Texas and hosted by the City of West University Place. This Workshop was mandatory for the City Manager, the Emergency Management Coordinator, and the Police Chief. Other personnel in the City that would attend included the Assistant City Manager and the Director of Public Works.

On Thursday, the Assistant City Manager and Director of Library would attend a Public Information Seminar at TranStar. This seminar was also related to emergency management.

It was noted further that Tuesday was “National Night Out,” and the Bellaire Police Department had 16 events scheduled at this point.

**Residential Mobility**

The Rebuild Bellaire Program, Phase 1, would be commencing within the next week. This phase would begin at 4500 Elm Street and include complete street reconstruction, new storm sewers, and sidewalks on the south side of the street.

The reconstruction project along Ferris Street was progressing despite the weather. Concrete had been poured, but sidewalks and curbs still needed to be constructed. It was expected that the normal traffic flow and parking would be available for Bellaire High School students by the time school started.
Residential Quality of Life

City Manager Satterwhite noted that wrought iron fencing was currently being installed at Evergreen Park and was 2/3 completed. This project was budgeted within the Parks Master Plan.

The celebration to commemorate the end of the Summer Reading Program would be held on Thursday at 6:30 p.m. There was a large turnout for this program this year.

Communications/Technology

City Manager Satterwhite advised that the public access to the City’s Geographic Information System was available now. The best way to access the system was through the City’s website (i.e., a link could be found on the home page).

Employees

Congratulations were offered to Charles Hawkins of the Bellaire Public Works Department who was selected as the Employee of the Quarter.

Internal Operations/Productivity

In the near future, citizens would receive refrigerator magnets that showed the City of Bellaire solid waste and recycling holidays. The magnets did not cost the City anything as they were being distributed through a grant that the City received from the Texas Commission on Environmental Quality (TCEQ) and the Houston-Galveston Area Council (H-GAC).

CURRENT ISSUES/INFORMATION:

With respect to the Aquatics Facility, it was noted that the contractor was working diligently to complete the facility. The major holdup was being able to pour the decking which was needed before other items could be installed. City Manager Satterwhite felt that some dramatic progress could be made within the next few weeks. The Community Center and bathhouse were also coming along.

In summary, City Manager Satterwhite did believe that there would be some type of opening and swimming available this year in the new Aquatics Facility.
UPCOMING CITY COUNCIL MEETINGS/EVENTS:

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Type of Meeting</th>
</tr>
</thead>
<tbody>
<tr>
<td>08/20/2007</td>
<td>6:00 p.m.</td>
<td>Budget Public Hearing</td>
</tr>
<tr>
<td>08/20/2007</td>
<td>7:00 p.m.</td>
<td>Regular Session</td>
</tr>
<tr>
<td>08/21/2007</td>
<td>7:00 p.m.</td>
<td>Special Session for Budget Discussions</td>
</tr>
<tr>
<td>08/27/2007</td>
<td>7:00 p.m.</td>
<td>Centennial Planning Committee</td>
</tr>
<tr>
<td>09/06/2007</td>
<td>7:00 p.m.</td>
<td>Strategic Planning Committee</td>
</tr>
</tbody>
</table>

City Manager Satterwhite noted that September 3, 2007, was the Labor Day holiday, so City Council would not meet that evening. The Regular Sessions for September would be held on the 10th and 17th.

QUESTIONS/COMMENTS FROM CITY COUNCIL:

{Legend:  A – Answer; C – Comment; Q – Question; R – Response}

Councilman Will Hickman

Q: Councilman Hickman inquired as to whether it was possible for the contractor to work evenings on the swimming pool.

A: City Manager Satterwhite stated that the contractor was working from 7:00 a.m. until 7:00 p.m. The contractor had worked on some weekends although the contract indicated that they were not supposed to. Due to the proximity of the facility to the residential neighborhood, the City preferred that the contractor not work at night.

Q: Councilman Hickman asked if City Manager Satterwhite might be able to guess as to opening day of the Aquatics Facility.

A: City Manager Satterwhite stated that he believed it would be around the 1st of October.

Q: Councilman Hickman referred to the 4700-5000 blocks of Holt, Maple, and Holly Streets, noting that all of those blocks had been torn up approximately one week ago. He inquired as to the normal timeframe for resurfacing.
A: City Manager Satterwhite and Director of Public Works Joe Keene advised that they would find out and get back with Councilman Hickman.

Councilman Pat McLaughlan

C: Councilman McLaughlan echoed the comment made by Councilman Hickman with respect to Holt, Maple, and Holly Streets. The streets had been milled off for some time.

R: City Manager Satterwhite advised that this was fairly typical due to the scheduling needs of a contractor’s equipment.

C: Councilman McLaughlan referred to the written comment received from a citizen regarding streetlights that were turned off. This problem was also evident on Pine and Valerie Streets and all along the Ferris Street construction route. He hoped that the lights could be turned back on as soon as possible.

R: City Manager Satterwhite agreed and noted that it was frustrating and that the same situation had occurred on Avenue B during a reconstruction project.

Mayor Pro Tem Peggy Faulk

Q: Mayor Pro Tem Faulk referred to an email that was received from a citizen, which she had found to be true as well. The Recycling Center conditions seemed to have gone downhill. She was wondering what the City’s plans were going forward for that center.

A: City Manager Satterwhite stated that City Staff had discussed the Recycling Center on many different fronts. The whole area needed improvement. The City did continue to man the Recycling Center. The Center was overfilled during the weekend, which happened from time to time.

Q: Mayor Pro Tem Faulk referred to the Condit Elementary School parking sign. She inquired as to whether the survey of similar situations had been completed.
A: City Manager Satterwhite stated that it was his understanding that the sign had been removed. He advised that he would double-check into it.

MOTION TO ACCEPT REPORT INTO THE RECORD:

A motion was made by Councilman Will Hickman and seconded by Councilwoman Debra Marz Davison to accept the City Manager’s Report as presented by City Manager Bernard M. Satterwhite, Jr., into the record.

VOTE ON MOTION TO ACCEPT REPORT INTO THE RECORD:

Motion carried unanimously on a 4-0 vote as follows:

FOR: Hickman, Will
     Faulk, Peggy
     Davison, Debra Marz
     McLaughlan, Pat

OPPOSED: None

ABSENT: Siegel, Cindy
         Monday, John F.
         Jeffer, John

2. PRESENTATION, DISCUSSION, and possible approval of a plan for parking for the Aquatic Facility located in Bellaire Town Square and a plan to enhance safety for pedestrians crossing South Rice Avenue in the vicinity of Condit Elementary School and Bellaire Town Square – Members of City Council (Item presented by City Manager Bernard M. Satterwhite, Jr.; Item submitted by Director of Public Works Joe Keene).

City Manager Bernard M. Satterwhite, Jr., asked that this item be removed from the agenda, as he would like an opportunity to make the presentation to more than four members of City Council so that everyone could hear it at one time.

Mayor Pro Tem Peggy Faulk, after noting no objections from City Council, advised that the item would be removed from the agenda.
G. NEW BUSINESS:

1. PROCLAMATION:

PROCLAMATION issued by Mayor Cynthia Siegel in tribute and recognition of the lifetime contributions of Marvin Zindler to the people of our community by proclaiming Marvin Zindler’s birthday, August 10, 2007, and every August 10th thereafter as Marvin Zindler Day in the City of Bellaire, Texas – No action required (Item submitted by City Clerk Tracy L. Dutton on behalf of Mayor Cynthia Siegel).

Mayor Pro Tem Peggy Faulk read the proclamation issued by Mayor Cynthia Siegel in recognition of Marvin Zindler as follows:

Whereas, Marvin Zindler moved to Bellaire as a young child with his parents, Abe and Udith Zindler, and siblings; and

Whereas, Marvin Zindler grew up in Bellaire at the corner of Post Oak and Bellaire; and

Whereas, Marvin Zindler had long term ties to Bellaire, including watching his father, Abe, serve as Mayor of the City of Bellaire, for four terms in the 1930’s and 1940’s; and

Whereas, Marvin Zindler served for over 30 years as a defender and guardian angel of people with the greatest need, whether poor, sick, or elderly, throughout the Bellaire and Houston area, the State of Texas, and the world; and

Whereas, Marvin Zindler’s legacy of tenacity in working to overcome difficulties and kindness and generosity to others are tributes that everyone should try to emulate; and

Whereas, no one person will ever completely fill the shoes left by Marvin Zindler; and

Whereas, no man can ever take the place of Marvin Zindler in Bellaire’s heart as Bellaire’s favorite son;

Now, Therefore, I, Cynthia Siegel, Mayor of the City of Bellaire, Texas, join the citizens of Bellaire and Houston in recognizing the lifetime contributions made by Marvin Zindler to the people of our community by proclaiming Marvin Zindler Day in the City of Bellaire, Texas.
Zindler’s birthday on August 10, 2007, and every August 10th thereafter as:

Marvin Zindler Day

in the City of Bellaire, Texas.

In Witness Whereof, I have hereunto set my hand and caused the seal of the City of Bellaire, Texas, to be affixed this 3rd day of August, 2007.

Cynthia Siegel, Mayor
City of Bellaire, Texas

2. ITEM FOR INDIVIDUAL CONSIDERATION:

Rebuild Bellaire Program

CONSIDERATION of and possible action regarding the acceptance of a Preliminary Official Statement and timetable for the sale of $5,000,000 in General Obligation Bonds, Series 2007, to be used for issuance costs, street and drainage improvements, and building and facilities improvements under the Rebuild Bellaire Program – Action by Members of City Council (item presented by James F. Gilley, Partner, Coastal Securities; Item submitted by City Manager Bernard M. Satterwhite, Jr.).

SUMMARY:

City Manager Bernard M. Satterwhite, Jr., noted that the City issued bonds around this time almost every year. James Gilley, Partner, Coastal Securities, was present to answer any questions City Council might have with respect to the Preliminary Official Statement and to discuss the timetable and the process for the bond sale.

During the past week, City Staff had spoken with Moody’s and Standard & Poor’s bond raters who had affirmed Bellaire’s Aa2 and AA+ bond ratings for this particular issue.

James F. Gilley, Partner, Coastal Securities, advised City Council that the City Manager and new Chief Financial Officer should be complimented on the job they had done with the rating agencies.
The focus of Mr. Gilley’s presentation was to bring the City Council up to date on what City Council would be asked to do, which was to move forward with the issuance of $5,000,000 of General Obligation Bonds (i.e., the second installment of the Rebuild Bellaire Program voter authorization). The bonds as programmed in the preliminary planning would mature over a 25-year period in 2032. This represented an average life of approximately 18 years. Mr. Gilley estimated that the rate would be similar to last year at 4-½% plus or minus.

In addition to receiving the Aa2 and AA+ ratings, the City’s prospective issue was qualified with bond insurance companies and had already received at least two commitments from the insurance companies. A notice of the sale and the Preliminary Official Statement would be electronically published. Notice would also be published in the Southwest News and the Texas Bond Reporter. At 2:00 p.m. on August 20th, Coastal Securities would receive electronic bids. It was anticipated that the bids would be brought forward to City Council that evening for consideration. The bonds were expected to be delivered on or about September 25th.

QUESTIONS/COMMENTS FROM CITY COUNCIL:

{Legend:  A – Answer; C – Comment; Q – Question; R – Response}

Councilman Will Hickman

Q: Councilman Hickman inquired as to whether the use of the proceeds was limited to this particular program.

A: City Attorney Alan P. Petrov advised that the use of the proceeds was limited. There were two voting propositions that the City was working out of. The amount of funds to be used for either facilities or streets and drainage would be identified.

Mr. Gilley advised that it was proposed that $4,000,000 be issued from the street authorization proposition and $1,000,000 be issued from the facilities authorization proposition. If this proposal were accepted, the City would have $34,000,000 remaining in the street authorization and almost $5,800,000 remaining in the facilities authorization.

Q: Councilman Hickman referred to the bond market and sub-primes and inquired as to whether that had any effect on bond rates or the City’s ability to get bonds.
Mr. Gilley noted that the situation Councilman Hickman referred to occurred in the taxable market. There had not been much effect on the municipal sector. The bonds the City issued would be designated bank qualified, which put them in a special category. Bank qualified securities were particularly attractive to financial institutions, such as banks. So far, the sub-prime market had not had a significant impact on the municipal sector.

Councilman Hickman asked for confirmation that banks would be bidding an interest rate, and the City would accept the lowest interest rate.

Mr. Gilley advised that Councilman Hickman was correct. It was expected that dealers would also bid for resale to financial institutions.

Councilman McLaughlan referred to the City’s strong bond rating. He inquired as to what Bellaire would have to do to qualify for an AAA rating.

Mr. Gilley noted that the City had asked the rating agencies the same question. Both agencies indicated that Bellaire was as high as it could go for a city of its size.

City Manager Satterwhite noted that both agencies agreed to send representatives to Bellaire next year to see what was going on.

Councilman Hickman asked what the spread would be on the interest rate if the City were rated AAA.

Mr. Gilley advised that the spread would be negligible at around 2-4 basis points. If the bidder selected the insurance, his price would reflect that.

Councilman McLaughlan referred to various consulting fees involved in a bond issuance, such as bond counsel, disclosure counsel, certified public accountants, financial advisor, and project engineer. He inquired as to
percentage of fees each of the consultants earned on the bond issue.

A: City Manager Satterwhite stated that he did not know off of the top of his head; however, the financial advisor’s fee was approximately 1% of the issue or $50,000.

Q: Councilman McLaughlan inquired of City Attorney Petrov as to his fee.

A: City Attorney Petrov advised that his fee was based on a sliding scale that started at 1% and slid downward.

Q: Councilman McLaughlan inquired as to whether any attempt had been made to negotiate the fees. He indicated that some of the fees seemed steep.

A: City Manager Satterwhite stated that he had not attempted to negotiate the fees. He had looked at what was reasonable, noting that Director of Public Works Joe Keene did that as well every time the City contracted with our consulting engineers. With respect to the bond rater fees, the City had no choice. The alternative would be not to get the bonds rated, which would mean the bonds would probably not get sold.

Q: Councilman McLaughlan inquired as to whether Fulbright & Jaworski had been talked with about their fees.

A: City Manager Satterwhite advised that he had not talked with them.

C: Councilman McLaughlan asked that they be talked to before we issue more bonds.

MOTION TO ACCEPT AND APPROVE THE PRELIMINARY OFFICIAL STATEMENT AND TIMETABLE FOR THE SALE OF BONDS:

A motion was made by Councilman Pat McLaughlan and seconded by Councilwoman Debra Marz Davison to accept and approve the Preliminary Official Statement and timetable for the sale of $5,000,000 in General Obligation Bonds, Series 2007, to be used for issuance costs, street and drainage improvements, and building and facilities improvements under the Rebuild Bellaire Program.
VOTE ON MOTION TO ACCEPT AND APPROVE THE
PRELIMINARY OFFICIAL STATEMENT AND TIMETABLE
FOR THE SALE OF BONDS:

Motion carried unanimously on a 4-0 vote as follows:

FOR: Hickman, Will
     Faulk, Peggy
     Davison, Debra Marz
     McLaughlan, Pat

OPPOSED: None

ABSENT: Siegel, Cindy
        Monday, John F.
        Jeffery, John

3. ADOPTION OF ORDINANCES:

Code Amendment

a. CONSIDERATION of and possible action on the adoption of an ordinance amending the Code of Ordinances of the City of Bellaire, Texas, Chapter 27, Streets, Sidewalks and Public Places, Article VI, Sale and Abandonment of Public Property, Section 27-101, Policy, Section 27-102, Petition required, Section 27-104, Survey required, Section 27-105, Review by city staff, Section 27-106, Notice of public hearings on the petition, Section 27-108, Public hearing, Section 27-109, Passage of ordinance, and Section 27-110, Conditions precedent to granting of petition, for the purpose of developing procedures for the management of aerial easements – Action by Members of City Council (Item presented by Chair Bill Thorogood, Planning and Zoning Commission of the City of Bellaire, Texas; Item submitted by Community Development Administrative Secretary Rebecca Eppler).

SUMMARY:

Chair Bill Thorogood, Planning and Zoning Commission of the City of Bellaire, Texas, advised that the Planning and Zoning Commission began reviewing aerial easements 2-1/2 years ago. He identified aerial easements as the spaces above the
property or surface land owned by the City. He noted further that the topic arose from a particular incident where an aerial easement occurred in the City. City Council then asked the Planning and Zoning Commission to look at aerial easements.

The last time the Planning and Zoning Commission appeared before City Council on this issue was the 2nd of April, 2007. At that time, City Council gave instructions to the City Attorney to draft an ordinance for aerial easements. Included in City Council’s packet this evening was a final draft of the ordinance and a marked draft of the ordinance.

In summary, the Planning and Zoning Commission, under the current statute in the City related to the abandonment and disposal of property, included aerial easements. In other words, the same way the City handled streets and alleyways was now the way aerial easements would be handled.

City Attorney Alan P. Petrov concurred with the summary and introduction provided by Chair Bill Thorogood. He indicated that what was included in the packet was a black lined version of the current sections of the Code showing the specific changes that were being proposed.

Chair Thorogood advised that the language was modified a little bit with the help of some of the members of the Planning and Zoning Commission that were very familiar with aerial easements. Many larger cities had aerial easements and some cities smaller than Bellaire had aerial easements. He welcomed the opportunity for Bellaire to also have an ordinance regulating aerial easements.

QUESTIONS/COMMENTS FROM CITY COUNCIL:

{Legend: A – Answer; C – Comment; Q – Question; R – Response}

Councilman Will Hickman

Q: Councilman Hickman referred to Sections 27-102, 27-104, and 27-106 (and possibly other places as well) and noted that there was the added language “all property abutting or affected
by.” He advised that this statement was broader than the statement “all property abutting.” He inquired as to what was meant by the “affected property.” In other words, one might be “affected by” an aerial easement when driving past it in the broadest sense.

A: City Attorney Petrov advised that the Planning and Zoning Commission meant it to be a more direct effect. It was an attempt to capture properties that did not necessarily abut it, but were nearby.

Q: Councilman Hickman inquired as to whether it were up to him as a prospective purchaser and petitioner of an aerial easement to state who the affected property owners were. It seemed a little vague to him as to who needed to be on the survey, who needed to be at the public hearing, and so on.

A: City Attorney Petrov advised that it would be clearly up to the City to make the determination as to whether or not the petitioner had covered the affected property owners.

Q: Councilman Hickman asked for confirmation that the first step was for the petitioner to bring forward the abutting property owners and the affected property owners and then the City would make a determination if all appropriate parties were included.

A: City Attorney Petrov advised that Councilman Hickman was correct. He felt that there might be some give and take with the City in working toward and reaching an agreement on the determination of affected property owners.

Councilman Pat McLaughlan

Q: Councilman McLaughlan understood that the Planning and Zoning Commission had worked on this issue. He inquired as to whether any other boards or groups were involved as well.
A: Chair Thorogood indicated that City Staff was intensely involved. To his knowledge, there were no other boards that looked into the issue.

Q: Councilman McLaughlan inquired as to whether this recommendation was strongly supported by the Planning and Zoning Commission.

A: Chair Thorogood advised that the Planning and Zoning Commission strongly and unanimously supported the recommendation. They felt it would keep the City out of trouble in the future and noted that most communities had ordinances in place to address aerial easements.

Mayor Pro Tem Peggy Faulk

C: Mayor Pro Tem Faulk expressed her appreciation for the numerous hours that the Planning and Zoning Commission put into so many different things. She knew how hard working the Commission was.

MOTION TO ADOPT ORDINANCE:

A motion was made by Councilman Will Hickman and seconded by Councilman Pat McLaughlan to adopt an ordinance amending the Code of Ordinances of the City of Bellaire, Texas, Chapter 27, Streets, Sidewalks and Public Places, Article VI, Sale and Abandonment of Public Property, Section 27-101, Policy, Section 27-102, Petition required, Section 27-104, Survey required, Section 27-105, Review by city staff, Section 27-106, Notice of public hearings on the petition, Section 27-108, Public hearing, Section 27-109, Passage of ordinance, and Section 27-110, Conditions precedent to granting of petition, for the purpose of developing procedures for the management of aerial easements.

VOTE ON MOTION TO ADOPT ORDINANCE:

Motion carried unanimously on a 4-0 vote as follows:

FOR: Hickman, Will Faulk, Peggy
Correction of Clerical Error

b. CONSIDERATION of and possible action on the adoption of an ordinance amending Ordinance Nos. 07-009, 07-010, and 07-044, related to the appointment of Presiding Judges and an Associate Judge of the Municipal Court of the City of Bellaire, Texas, for the purpose of correcting a clerical error made in the amount of monthly compensation to be paid to said Presiding Judges and Associate Judge – Action by Members of City Council (Item submitted by City Clerk Tracy L. Dutton).

SUMMARY:

City Manager Bernard M. Satterwhite, Jr., noted that approximately one year ago City Council adjusted the compensation to be paid to the Judges of the Municipal Court. The Judges had been receiving the compensation that was approved by City Council, but the ordinance did not reflect that approved compensation. The purpose of the ordinance this evening was to correct that clerical error.

QUESTIONS/COMMENTS FROM CITY COUNCIL:

{Legend:  A – Answer;  C – Comment;  Q – Question;  R – Response}

Councilman Pat McLaughlan

Q: Councilman McLaughlan advised that he had no problem with the correction of the clerical error, but inquired as to what the City paid the Judges in the Municipal Court each month. He understood the monthly compensation to be $578.00 and then a per docket fee of $189.00.
A: City Clerk Tracy L. Dutton indicated that Councilman McLaughlan was correct in the amounts, but she did not know how many dockets the Judges had per month.

City Manager Satterwhite noted that City Council had calculated that number when the monthly compensation was considered, but he did not recall the number of dockets either.

Councilwoman Debra Marz Davison

Q: Councilwoman Davison stated that she was curious as to how we discovered the error.

A: City Clerk Dutton advised that when she submitted the paperwork for newly appointed Associate Judge Randy Smith, Bellaire’s Accounts Payable Clerk discovered the error in the ordinance.

MOTION TO ADOPT ORDINANCE:

A motion was made by Councilman Pat McLaughlan and seconded by Councilwoman Debra Marz Davison to adopt an ordinance amending Ordinance Nos. 07-009, 07-010, and 07-044, related to the appointment of Presiding Judges and an Associate Judge of the Municipal Court of the City of Bellaire, Texas, for the purpose of correcting a clerical error made in the amount of monthly compensation to be paid to said Presiding Judges and Associate Judge.

VOTE ON MOTION TO ADOPT ORDINANCE:

Motion carried unanimously on a 4-0 vote as follows:

FOR: Hickman, Will
      Faulk, Peggy
      Davison, Debra Marz
      McLaughlan, Pat

OPPOSED: None

ABSENT: Siegel, Cindy
         Monday, John F.
         Jeffery, John
4. ADOPTION OF RESOLUTIONS:

Depository Bank

a. CONSIDERATION of and possible action on the adoption of a resolution of the City Council of the City of Bellaire, Texas, designating certain officials to open and maintain an account or accounts with the City of Bellaire’s Depository Bank; establishing procedures for the deposit, transfer, and withdrawal of the City funds; establishing procedures for the approval, release, or substitution of securities pledged to secure City deposits; repealing any and all resolutions in conflict therewith; and containing other provisions relating to the subject – Action by Members of City Council (Item submitted by City Manager Bernard M. Satterwhite, Jr.).

SUMMARY:

City Manager Bernard M. Satterwhite, Jr., advised that several years ago the City had adopted a resolution that established the signers for City checks. There were two facsimile signers (the City Manager and Chief Financial Officer) and two others. The resolution established the signers by title rather than name so that the City would not have to change the resolution on a continual basis. When the resolution was adopted, the City did not have an Assistant City Manager. In addition, the Community Development Director had been listed as the former Director had filled in for the City Manager when he was unavailable or out of the office.

The positions were restated in the resolution before City Council as follows: the City Manager, the Chief Financial Officer, the Assistant City Manager, and the Police Chief.

QUESTIONS/COMMENTS FROM CITY COUNCIL:

{Legend: A – Answer; C – Comment; Q – Question; R – Response}
Councilman Will Hickman

Q: Councilman Hickman referred to the fact that withdrawals equal to or in excess of $1,000.00 must also contain the actual signature of one of the signatories. He inquired as to whether other cities had two signature requirements for certain excesses, such as $10,000.00 or $100,000.00.

A: City Manager Satterwhite advised that there was a two-signature requirement on all checks. The additional handwritten signature was on checks over $1,000.00.

Q: Councilman Hickman inquired as to whether the two-signature requirement was a facsimile or stamp signature.

A: City Manager Satterwhite stated that facsimile could be used for the two signatures, but the City also had to have a handwritten signature.

Q: Councilman Hickman asked if, for example, any of the signers could write a check for $1 million on their own.

A: City Manager Satterwhite advised that the signers could not.

Q: Councilman Hickman inquired as to whether the reason was because City Manager Satterwhite held onto his own stamp and others held onto their own stamp.

A: Chief Financial Officer Donna Todd stated that the facsimile signature on the checks were not stamps that the signatories kept in their drawers. It was an electronic, controlled signature. It was her understanding for Bellaire that if the check was over $1,000.00 that an additional handwritten signature was required.

Since she was not officially a signer yet, she had not witnessed that process firsthand nor did she know how many checks were over $1,000.00. She had not seen this particular requirement in any other places that she had been employed.
The facsimile signatures were all that were required in her other places of employment.

**Q:** Councilman Hickman stated that he really did not understand the facsimile process.

**A:** Chief Financial Officer Todd indicated that there was a form on file with the people that processed the City’s checks and they prepared a dual set of signatures. Currently, the signatures were those of City Manager Satterwhite and Vickey O’Donnell who had served as Interim Chief Financial Officer. Upon approval of the resolution this evening, the signatures would be changed to City Manager Satterwhite and Chief Financial Officer Todd.

City Manager Satterwhite added that there were two sets of approvals on the list of checks to be printed up. Therefore, those checks could not be printed up without the proper set of approvals.

**Q:** Councilman Hickman asked for confirmation that anything over $1,000.00 required two people to look at the form and agree to it.

**A:** City Manager Satterwhite advised that all checks required two people to look at the form. Anything over $1,000.00 required a third actual signature.

**Q:** Councilman Hickman asked for confirmation that there could not be one single person writing checks.

**A:** City Manager Satterwhite stated that there could not.

Chief Financial Officer Todd added that it would be very difficult. There were internal controls in place to review the processes and review the check runs.

City Manager Satterwhite noted that the auditors looked at the City’s internal controls to make sure everything was in place.
MOTION TO ADOPT RESOLUTION:

A motion was made by Councilwoman Debra Marz Davison and seconded by Councilman Will Hickman to adopt a resolution of the City Council of the City of Bellaire, Texas, designating certain officials to open and maintain an account or accounts with the City of Bellaire’s Depository Bank; establishing procedures for the deposit, transfer, and withdrawal of the City funds; establishing procedures for the approval, release, or substitution of securities pledged to secure City deposits; repealing any and all resolutions in conflict therewith; and containing other provisions relating to the subject.

VOTE ON MOTION TO ADOPT RESOLUTION:

Motion carried unanimously on a 4-0 vote as follows:

FOR: Hickman, Will
Faulk, Peggy
Davison, Debra Marz
McLaughlan, Pat

OPPOSED: None

ABSENT: Siegel, Cindy
Monday, John F.
Jeffery, John

{Resolution was subsequently numbered: 07-07}

Donation

b. CONSIDERATION of and possible action on the adoption of a resolution of the City Council of the City of Bellaire, Texas, accepting a donation of furniture and electronics in the amount of $4,548.01 from the Bellaire Volunteer Firefighters Association in support of the Bellaire Fire Department – Action by Members of City Council (Item submitted by Fire Chief Darryl Anderson).

SUMMARY:

Fire Chief Darryl Anderson advised that this donation was largely unexpected by anyone except for the
volunteers. While he was on vacation, the volunteers decided that it was time to do some housecleaning and made this very generous donation of furniture and electronics for the Fire Station. He encouraged everyone to come over and take a look at it.

He thanked the volunteers for their support of the Bellaire Fire Department and City as a whole and for their generous donation.

**MOTION TO ADOPT RESOLUTION:**

A motion was made by Councilwoman Debra Marz Davison and seconded by Councilman Will Hickman to adopt a resolution of the City Council of the City of Bellaire, Texas, accepting a donation of furniture and electronics in the amount of $4,548.01 from the Bellaire Volunteer Firefighters Association in support of the Bellaire Fire Department.

**VOTE ON MOTION TO ADOPT RESOLUTION:**

Motion carried unanimously on a 4-0 vote as follows:

**FOR:** Hickman, Will
Faulk, Peggy
Davison, Debra Marz
McLaughlan, Pat

**OPPOSED:** None

**ABSENT:** Siegel, Cindy
Monday, John F.
Jeffery, John

{Resolution was subsequently numbered: 07-08}

**H. COUNCIL CORRESPONDENCE AND COMMENTS.**

Discussion only.

**I. ADJOURNMENT.**

**MOTION TO ADJOURN:**

A motion was made by Councilman Will Hickman and seconded by Councilwoman Debra Marz Davison to adjourn the Regular Session.
of the City Council of the City of Bellaire, Texas, at 8:09 p.m. on Monday, August 6, 2007.

**VOTE ON MOTION TO ADJOURN:**

Motion **carried** unanimously on a **4-0** vote as follows:

**FOR:** Hickman, Will  
Faulk, Peggy  
Davison, Debra Marz  
McLaughlan, Pat

**OPPOSED:** None

**ABSENT:** Siegel, Cindy  
Monday, John F.  
Jeffery, John

Respectfully submitted,

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Tracy L. Dutton, TRMC  
City Clerk  
City of Bellaire, Texas

Approved:

____________________________
Peggy Faulk, Mayor Pro Tem  
City of Bellaire, Texas