A. CALL TO ORDER AND ANNOUNCEMENT OF A QUORUM – Mayor Cindy Siegel.

Mayor Cindy Siegel called the City Council of the City of Bellaire, Texas, to order at 7:01 p.m. on Monday, March 3, 2008. 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 77401. Mayor Siegel announced that a quorum was present consisting of herself and the following members of City Council:

Councilman Will Hickman, Position No. 1;
Councilman James P. Avioli, Sr., Position No. 2;
Mayor Pro Tem Peggy Faulk, Position No. 3;
Councilman Phil Nauert, Position No. 4;
Councilman Pat McLaughlan, Position No. 5; and
Councilman John Jeffery, Position No. 6.

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 – Councilman James P. Avioli, Sr.

Councilman James P. Avioli, Sr., presented the inspirational reading for the evening. He began by reciting a definition from Webster’s Dictionary for the word “happiness” as follows: a state of well-being; contentment.

Councilman Avioli noted that he came upon a thought on the subject of happiness that he felt bore a great deal of truth and was worth sharing. The thought was written by Elizabeth Gilbert and was stated as follows:

People universally tend to think that happiness is a stroke of luck, something that will maybe descend on you like fine weather if you’re fortunate enough. But, that’s not how happiness works. Happiness is a consequence of personal effort. You fight for it, strive for it, insist upon it and sometimes even travel around the world looking for it. You have to participate relentlessly in the manifestations of your own blessings. Once you have achieved a state of happiness, you must never become lax about maintaining it. You must make a mighty effort to keep swimming upward to stay afloat on top of it. If you don’t, you will leak away your innate contentment. It’s easy enough to pray when you are in distress, but continuing to pray, even when your crisis has
passed, is like a sealing process, helping your soul hold tight to its good attainments.

C. PLEDGES TO THE FLAGS – Councilman James P. Avioli, Sr.

1. U.S. PLEDGE OF ALLEGIANCE.

2. PLEDGE TO THE TEXAS FLAG.

Councilman James P. Avioli, Sr., 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, February 18, 2008 – Action by Members of City Council to Adopt Minutes (Item submitted by City Clerk Tracy L. Dutton).

MOTION TO ADOPT MINUTES:

A motion was made by Councilman Will Hickman and seconded by Councilman John Jeffery to adopt the minutes of the Special Session (Executive Session) and Regular Session of the City Council of the City of Bellaire, Texas, held Monday, February 18, 2008.

City Clerk Tracy L. Dutton asked City Council to consider an amendment to the minutes. The amendment related to a statement made by Chief Financial Officer Donna Todd. The statement appeared on page 42, line 1942, and should have read as follows: “She noted that she could invest in bank Certificates of Deposit.”

After noting no further amendments or corrections, Mayor Siegel called for a vote on the minutes with the amendment noted by the City Clerk.

VOTE ON MOTION TO ADOPT MINUTES, AS AMENDED:

Motion carried unanimously on a 7-0 vote as follows:

FOR: Siegel, Cindy
Hickman, Will
Avioli, James P., Sr.
Faulk, Peggy
Nauert, Phil
McLaughlan, Pat
Jeffery, John
E. PERSONAL/AUDIENCE COMMENTS.

Robert Riquelmy, 506 Winslow Lane, Bellaire, Texas:

Mr. Riquelmy addressed City Council and advised that he planned to speak about three small matters to supplement the inadequate news coverage that the City of Bellaire got.

The first matter dealt with the Planning and Zoning Commission public hearing held last Tuesday. He complimented the Planning and Zoning Commission for outstanding preparation and diligence with respect to the planned development matter before them. It was obvious to the audience that the Commissioners made a wonderful effort and did a good job. He noted that he would like to see other bodies in the City show such diligence and perseverance.

The second matter was related to the pool located in Bellaire Town Square. Mr. Riquelmy advised that the pool, valued at $4 million, had been sitting unused for months. He had been told that various items needed to be repaired before opening, such as a pump. Those repairs were mentioned back in December. He stated that there was something not quite right about the project.

The third matter related to the last City Council meeting in which a contract add-on for $4,000 was awarded and paid to remove dirt from one water tank. He did not know how many cubic yards of dirt was present, but $4,000 would move a lot of dirt.

Dr. Larry Cohen, 100 Calvi Court, Bellaire, Texas:

Dr. Cohen addressed City Council and noted that his home was located on the corner of Calvi Court and Evergreen Street. He appreciated what the City Council had done with respect to the street efforts (i.e., lowering the street and improving drainage). The topic he wished to address was the sidewalk to be installed on the north side of the 4500 block of Evergreen Street.

Dr. Cohen continued and remarked that City Council had taken a great deal of time, effort, and money to lower the street and improve drainage, but would then put sidewalks in that would dump more water into the street. He commented that he did not feel that this was a real logical train of thought.
Additionally, the last time Dr. Cohen attended a City Council meeting, there were comments made about collector streets, such as how those streets were set up and why sidewalks were to be installed on those streets. The 4500 block of Evergreen would be the only street in the area with sidewalks on both sides of the street. The 4600 block of Evergreen did not have sidewalks on both sides. The area of Newcastle Drive, which was redone from Bellaire Boulevard to Bissonnet Street, had sidewalks on only one side. Avenue B, which was redone, had sidewalks on only one side. The sidewalk to be installed on the 4500 block of Evergreen would become a sidewalk to nowhere. It was one block bounded by Avenue B and Newcastle Drive.

Dr. Cohen noted that he lived on the corner for ten years and Evergreen did not get much traffic, especially since the freeway had been redone and since the swim meets would no longer be held at the Evergreen Pool. Even with the street torn up and the north side inaccessible due to road construction, there were still people walking in the street rather than using the sidewalk on the south side of Evergreen.

He noted further that the landscaping and trees, the things that really made Bellaire somewhat unique, would be torn up by this project. People moved to Bellaire for a smaller, hometown look—the trees, yards, families outside. He had read in the paper that this was for the greater good of Bellaire. However, anyone who walked on the north side of Evergreen Street would have to cross Calvi Court and Marrakech Court, whereas those walking on the south side would have an uninterrupted walk from Avenue B to Newcastle Drive.

Dr. Cohen closed with a reference to people who had standing water in front of their homes in other areas of Bellaire. He urged City Council to use the money to improve drainage in front of those homes (i.e., Howard Lane). He asked why the City would do something on Evergreen Street when it was not needed.

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**Donna Burnett, 100 Marrakech Court, Bellaire, Texas:**

**Ms. Burnett** addressed City Council and advised that she was present on behalf of her sister, Ira Crain, who had appeared at two of City Council’s other meetings about the sidewalk on the north side of Evergreen Street. Her sister was not able to be present this evening due to some minor surgery she had during the previous week. She noted further that she very much appreciated City Council’s time.

Ms. Burnett indicated that she did not have anything new to add, but wished to summarize a few points that had been previously made. One was that while Evergreen Street was originally a major east-west street, once Loop 610 was rebuilt and entrance ramps changed, the nature of the traffic on
Evergreen Street changed as well. There was no more traffic on Evergreen Street than any of the other east-west streets on the east side of Loop 610. Traffic that had occurred in the past was seasonal due to the swim meets held at Evergreen Pool at the corner of Evergreen Street and Newcastle Drive. The swim meets had been relocated to the Bellaire Pool in Bellaire Town Square, therefore, the residents did not expect traffic to be heavy on a going forward basis.

Lastly, the residents on Evergreen Street believed that the proposed sidewalk on the north side of the street would not materially increase safety due to the fact that a sidewalk currently existed on the south side of Evergreen Street. The installation of the proposed sidewalk would destroy many of the beautiful, mature trees on Evergreen Street.

Ms. Burnett reminded City Council that 96% of the residents on Evergreen Street, Calvi Court, and Marrakech Court signed a petition respectfully asking the City Council to grant a limited exception to the sidewalk policy otherwise in existence.

Kate Marx, 4530 Evergreen Street, Bellaire, Texas:

Ms. Marx addressed City Council and stated that this was the third, and hopefully final, time that the residents would have to appear before City Council and face this situation. She did appreciate the fact that City Council opened up the meeting for comment and thanked Councilman James P. Avioli, Sr., for placing an item on the agenda to address the proposed sidewalk on the north side of Evergreen Street.

Ms. Marx stated that when she and her husband purchased their home and installed a brick driveway, they had signed a waiver agreeing that the City had the right to widen the street, take out landscaping and put in new sidewalks. She understood that and was not surprised when the infrastructure improvements were proposed. Ms. Marx indicated that what she had an issue with was the fact that Avenue B was dug up and cemented from Maple Street to Bellaire Boulevard and no sidewalks were installed on the west side of Avenue B. Avenue B was a heavily traveled street with respect to both foot traffic and automobile traffic. All of the foot traffic was, therefore, pushed to the east side of Avenue B.

If the City Council was charged with the health, safety, and well-being of its citizenry, and if the City felt it was important to install a sidewalk according to policy, then following the installation of a sidewalk on the north side of Evergreen Street, Ms. Marx would have an expectation that City Council would follow through with that policy by going around the corner to finish the sidewalk from Evergreen Street down the west side of Avenue B to Bellaire.
Boulevard. If this were not done, then it would fly in the face of the policy, which was supposedly being upheld on Evergreen Street. Ms. Marx asked City Council to please take that into consideration.

Chuck Koziol, 4528 Evergreen Street, Bellaire, Texas:

Mr. Koziol addressed City Council and advised that he wished to point out some physical aspects that everyone had been “dancing” around. The fact was that Evergreen Street east of Loop 610 and west of Loop 610 was not the same street in the sense of physical width. For example, Evergreen Street west of Loop 610 was the equivalent of four lanes, two for parking and one lane going each direction. Evergreen Street to the east of Loop 610, for whatever reason, was only approximately three lanes wide. Mr. Koziol suggested that an exception should be made for Evergreen Street east of Loop 610, as it was not the same classification of street as that which existed on the west side. He concluded by stating that he felt this was a way of alleviating the problem and allowing sidewalks to be installed on only one side of the street.

Mildred Schmidt, 104 Berkshire Street, Bellaire, Texas:

Ms. Schmidt addressed City Council and advised that she had resided at her current address since 1951. For the past two decades since Ms. Schmidt had retired, she indicated that she had been an avid walker. As such, she was extremely interested in walking safety. Ms. Schmidt often walked in the street because if sidewalks did exist, those sidewalks were so uneven and dropped in so many areas that she was afraid of falling.

She urged City Council to rethink the policy on the north side of Evergreen Street for the following three reasons:

1. The north side of Evergreen Street was lined with very mature trees and the life of a sidewalk there before it had to be repaired would be greatly shortened by all of the tree roots;

2. If the second sidewalk were built, then twice the money would be needed to maintain two sidewalks instead of one. Ms. Schmidt strongly urged that efforts be focused on maintaining the existing south sidewalk; and

3. Ms. Schmidt noted that she was also concerned with the preservation of the mature trees on the north side of Evergreen Street. The trees that were planted down Evergreen Street and Cedar Oaks were
planted in rows very early in the history of Bellaire. In fact, someone told her that those trees were planted during 1917. The trees in question acted as an extension of the habitat provided by the green space in Russ Pitman Park and The Nature Discovery Center. That park was part of the Great Texas Gulf Coast Birding Trail and hosted numerous species of birds either permanently or during migration.

Ms. Schmidt closed and asked City Council to give very serious consideration to the points that she had made and thanked City Council for letting her be heard.

Karen Schmidt, 4610 Evergreen Street, Bellaire, Texas:

Ms. Schmidt addressed City Council and noted that she had lived in Bellaire for 52 years. She indicated that at the last City Council meeting, Councilman McLaughlan expressed concern about the number of people he saw walking in the street or pushing strollers in the street. Ms. Schmidt appreciated his concern. She also saw many people walking or pushing strollers in the street, but not on the 4500-4600 blocks of Evergreen Street. The few people she saw walking or pushing strollers along Evergreen Street were not in the street, but on the sidewalk on the south side of the street. An additional sidewalk on the north side of Evergreen Street would not help get people out of the street because people were not in the street to begin with.

Mayor Siegel stated that the sidewalks were not just for the people living on a particular street, but to create a network for the City. Ms. Schmidt felt that some citizens had indeed expressed a desire for greater mobility for pedestrians within the City. In the entire City of Bellaire, all but ten streets were zoned as local. It was voted at the last City Council meeting that on all local streets (in other words, all but ten streets in the City), the policy or default setting was now one sidewalk on one side only. This would be sufficient to create the network of sidewalks that City Council wanted to achieve. If one sidewalk on one side only was adequate for the majority of streets in Bellaire, then it was certainly more than adequate for Evergreen Street inside the Loop as those residents had few leisure or recreational walkers.

Ms. Schmidt understood that the Rebuild Bellaire Program bond issue passed by 86% of the vote. The bond issue was to fund infrastructure improvements, such as storm sewer replacements and, among other things, sidewalks. Nowhere was it specifically spelled out to voters, however, that they were voting to fund more than one sidewalk on a particular street. The passage of the bond issue could not be taken as an endorsement of any particular interpretation that City Council wanted. Ms. Schmidt was confident that very few residents were chomping at the bit for a second sidewalk to be
constructed on the north side of Evergreen Street. She was persuaded that they felt well served by the current sidewalk on the south side of the street.

In addition, there had been no demonstrated need for a second sidewalk on the north side of Evergreen Street. No needs analysis, pedestrian traffic study, or concrete evidence that a second sidewalk was needed existed and that the citizens of Bellaire would suffer from lack of a sidewalk on the north side of Evergreen Street.

Prior to the sidewalk amendment passed at the last City Council meeting, the default setting for local streets was sidewalks on both sides. During the time prior to this amendment, four local streets under a two-sidewalk setting, appealed to City Council for an exemption from their default setting by requesting a sidewalk on one side only. Those exemptions were granted. Evergreen Street was currently under a default setting of sidewalks on both sides and the residents, like the residents of Elm Street, Beech Street, and Fifth Street, were coming before City Council and requesting a like exemption from the default setting to one side only.

Ms. Schmidt encouraged City Council to grant a like exception to Evergreen Street just as they did to the residents that came before. City Council had indicated that the engineering had already been done for the north sidewalk on Evergreen Street and that opponents of the north sidewalk should have protested the issue earlier. While it was true that it would have been much preferable to appeal to City Council sooner, Ms. Schmidt urged City Council not to compound the mistake by endangering the mature growth trees. Once a tree was dead, it could not be brought back to life. Such a tree's replacement would take 50 years or more to grow to the same maturity. Without water uptake from the roots, ground saturation would occur more quickly, making the area more susceptible to flooding. When the massive root system decayed eventually, there would be ground subsidence. Healthy, living mature trees aided in temperature moderation, noise abatement, and pollution control. Those benefits, as well as the beauty, would be preserved, not just for the people living on Evergreen Street, but also for the whole of the City.

Council Members were elected by the people to represent them in government. Ms. Schmidt was certain that the Council Members desired to be responsive to the citizens that they served.

Charles Bearden, 4610 Evergreen Street, Bellaire, Texas:

Mr. Bearden addressed City Council and thanked Councilman James P. Avioli, Sr., for placing an item on the agenda this evening concerning the construction of sidewalks on the 4500 block of Evergreen Street.
Mr. Bearden indicated that he and his wife moved into their home in 1995. Their daughter was born that same year. He stated that he and his family used to stroll quite a bit, and he had to cross the street to get to the south side to use a sidewalk. Neither he nor his wife found it a particular hardship to cross the street to use a sidewalk.

He conceded that the best time for him to have spoken out against the sidewalks was during the planning for Phase One of Rebuild Bellaire. In other words, before the engineering was done and the construction had begun. He admitted that he was not really paying attention to civic affairs in Bellaire at that time. He was also aware that there were political realities that might very well determine the outcome of this issue this evening. Nonetheless, he was entitled to speak and that was what he wished to do.

Mr. Bearden reiterated a point made earlier by his wife, which was that the passage of Rebuild Bellaire, which he supported, did not entail an endorsement by the citizens of all decisions subsequently made by the City or the underlying policies guiding those decisions. Particularly, it did not imply an endorsement by the voters of installing sidewalks on both sides of any given street.

It was certainly plausible that a citizen could be in favor of at least one sidewalk on every street in Bellaire and not in favor of both sides of every collector street, for instance. He did not know what the actual level of broad popular support in Bellaire for that was, but he certainly had an idea of what it was on the 4500-4600 blocks of Evergreen Street.

Mr. Bearden stated that he opposed sidewalks on the north side of Evergreen Street for several reasons. First, there seemed to be a lack of empirical evidence or demonstrated popular demand for those sidewalks. Secondly, it seemed clear that sidewalks were very unpopular with the residents of the 4500-4600 blocks of Evergreen Street, as well as Calvi Court and Marrakech Court. So far as Mr. Bearden had been able to ascertain, there had not been any study of pedestrian traffic that would give empirical warrant to the need for sidewalks on both sides of Evergreen Street.

Mr. Bearden also noted that the City’s 2005 Quality of Life Survey did not necessarily provide evidence of popular support for a “two sidewalks per street” policy. The participants did cite the availability of sidewalks as the second greatest area of dissatisfaction, after drainage requirements. However, that opinion was stated in very general terms and it was unclear whether the bulk of concern was with the complete lack of sidewalks in some blocks or the lack of sidewalks on both sides of the street in other blocks. The summary of the focus group feedback in that study also made no mention of the desire for sidewalks on both sides of any street.
As far as Mr. Bearden could see at this time, there was no warrant in the form either of empirical evidence or of demonstrated demand for a general “two sidewalks per street” policy or for the application of that policy for the 4500 block of Evergreen Street. In the absence of such warrant, it seemed to Mr. Bearden that the decision to install a sidewalk on the north side of the 4500 block of Evergreen Street was a policy preference or choice on the part of the City. Mr. Bearden did accept that those in favor of the policy sincerely believed it was for the public good. He was not questioning anyone’s motives in this matter.

Mr. Bearden did contend that in the absence of empirical evidence from a traffic study, the anecdotal evidence from the residents of the area about whether there was pedestrian traffic deserved credence. Mr. Bearden felt that the evidence presented at the last three City Council meetings had been unanimous. Mr. Bearden also contended that in the absence of evidence of general popular demand for sidewalks on both sides of the 4500 block of Evergreen Street, the opinions of the residents of the two-block area, plus the opinions of the residents of Calvi Court and Marrakech Court, should be given serious consideration.

Based on resident Ira Crain’s petition, it appeared that residents in 2/3 of the households in the two-block area of Evergreen Street had at least one signature on the petition opposing the construction of the sidewalks. Mr. Bearden stated that the signatures on Ms. Crain’s petition were from a politically diverse group who were united on this issue.

{The speaker’s allotted time ended at this point}

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Joe Brown, 4534 Evergreen Street, Bellaire, Texas:

Mr. Brown addressed City Council and thanked them for the opportunity to express his opinion on a matter that was of great importance to he and his wife, as well as a number of people in the City of Bellaire. People were surprised that City Council, made up of intelligent, educated members, could make a costly decision affecting the neighborhood on what appeared to be essentially a subjective basis. The citizens were told that installing a sidewalk during street construction would cost one-half as much as it would if done at another time. He inquired as to whether the members of City Council would buy something they did not need at a 50% discount.

Based on what citizens were told at the last City Council meeting, the decision regarding sidewalks on the north side of Evergreen Street was made by what sounded like a “rule of thumb.” That might have been appropriate in most cases, which was the reason that the decision had been reversed on other occasions. One size did not fit all.
Mr. Brown asked why data, including a neighborhood study obtaining basic statistical data on vehicular and pedestrian traffic, was not obtained. He was told by the Bellaire Public Works Department that such a study was not done. If a study had been done, City Council would have seen that there was a difference in vehicular and pedestrian traffic patterns on Evergreen Street outside the Loop versus inside the Loop.

Evergreen Street from the Loop east to the end (at Newcastle Drive) consisted of two blocks. If that were reviewed carefully and objectively, one would see that Avenue B and Newcastle Drive were the primary access streets inside the Loop. If memory served him correctly, Loop 610 was originally designed with a northbound exit for Evergreen Street. A battle was successfully fought by the City with the State to Texas to have that ramp deleted from the plan. The basis of that fight was due to the fact that Evergreen Street inside the Loop was just a neighborhood street and the character of the neighborhood would be changed by the ramp.

On a more personal note, Mr. Brown indicated that his daughter and her family lived at 4627 Jim West Street, which was less than two blocks from his home. The design of the sidewalk in question had portions that abutted the curb. At the last City Council meeting, one of the members of City Council mentioned that unless there was space between the sidewalk and the curb, it was considered to be unsafe. The residents on Evergreen Street agreed. He was sure that when his daughter and/or her husband walked their daughters to his home, they would choose to use the south side of Evergreen because it was safe.

Mr. Brown advised that it was a poor decision to install a sidewalk on the north side of Evergreen Street, and it would be an even worse decision to install it later. What the residents were hearing from this was that financially the City’s mistake would only waste one-half as much tax money as it would if it were forced on the residents later. Cheaper was not always better, and waste was always waste.

{The speaker’s allotted time ended at this point}

Bruce Volkert, 4549 Magnolia Street, Bellaire, Texas:

Mr. Volkert addressed City Council and stated that he was present to support the Planning and Zoning Commission’s recommendation to engage Kendig Keast Collaborative to assist the City in its development of a Comprehensive Plan. He believed that such a plan was needed to provide long-range guidance to City Council, City Staff, and City Boards, Commissions, and Committees in their ongoing efforts to make Bellaire a continually better place to live and improve the quality of residential life.
Mayor Cindy Siegel read the following written comments into the record:

Ms. Carol Phillips, 540 South Second Street, Bellaire, Texas:

Council may soon be asked to authorize more money for final design of Bellaire Town Square. I hope you will make time over the next few weeks to visit the park and evaluate some problems with the design for yourself, so that if conflicting information is presented at future meetings you can make informed decisions.

At the February Parks Board meeting the design consultant said it is not a problem placing the performance pavilion on the west end of the great lawn even though the audience will face the afternoon and evening sun. Their recent computer model showed “only a sliver of sun on part of the great lawn” for “only about an hour.” We were also assured that “that big oak” and other trees would protect much of the audience.

Please visit the Great Lawn on a sunny evening and see for yourself.

For most of the audience, even with sunglasses and a good hat, the sun will be in their eyes for about an hour and a half in the evening between the time when the sun is too low for a visor to block it until it passes behind the rec center.* That hour-and-a-half will be from about 6:00 until 7:30 p.m. in mid-May and mid-August. Those times shift about 15 minutes per month, so about 5:30 until 7:30 p.m. daylight savings time in mid-March, and 6:15 until 7:45 p.m. in June.

That “big live oak” that they hope will block the sun is the tree that half of its crown was removed when the water slide was built up into it. Many of the trees farther back won’t help either; the palms north of the recreation center are to be removed for parking, and the asphalt comes right to the trunk of the huge oak behind them, making survival unlikely. There is not room for enough trees to block a bright sun.

Using Mapquest’s aerial photos, most outdoor theaters I found have audiences facing north, east or south. At both the Miller Outdoor Theatre and Cynthia Woods Mitchell Pavilion the audience faces southeast. The only one I saw with the audience facing west was Denver’s Coors Amphitheatre. Events there must be scheduled to avoid the problem, for example, a concert scheduled July 20 starts at 8:20 because sunset is at 8:23.

Bellaire families who envisioned kid-friendly performances early enough for picnic dinners, like the Trolley Tunes that were Sundays from about 5:00-8:00 p.m., will be disappointed if events can’t start until 7:30.
It is unfortunate that citizens’ concerns about the sun and vehicle access were ignored for four years, because now with the pools in place there is no good solution. You might consider placing a small pavilion on the south side of the great lawn where the crepe myrtles are. Please be mindful that the single most repeated comment four years ago at the public hearing was “Please don’t mess with the gazebo.”

It is important to have a pavilion design that also works well as a party and picnic shelter as described in the master plan. The consultant said that the proposed design with a wall on the back and angled sides would not block the cooling breeze because the wall is ¾ height. My experience is that a 6’ brick wall does block the breeze and encourages leaves, debris, and mosquitoes to collect.

I am also concerned about the location of the fountain/plaza. Current drawings place it about 60 feet north of the gazebo after moving what the consultant described as a 9-inch diameter oak. That oak is actually 13”**, so moving it will be quite expensive. The fountain would be closely surrounded by the remaining live oaks to the east, south and west. Tree litter will be a constant problem for the filter and pump, and rather than sparkling in the sun, the fountain will be in the shade almost all day year round. The shade and tree debris will increase as the surrounding trees grow to fill the small opening. Again, there is no good solution at this point but I would consider moving the fountain to the great lawn.

The planned parking lot north of City Hall shows only 18 spaces. The 19 spaces in the temporary lot there now are inadequate. Also the pavement will come to the trunk of the large pecan tree. Reasonable parking, including space for possible future expansion, needs to be shown before the nearby fountain location, and therefore everything else in the park, can be finalized. Only 32 spaces are shown north of the recreation center. The palms are gone and pavement will come to the trunk of the huge oak.***

I hope you will invest some time in the park before spending more money so we can end up with the best park possible.

Thank you.

*Even hats with good visors don’t help in the evening once the sun is less than about 25 degrees above the horizon. For most viewers the sun will pass behind the recreation center, or to its north, when the sun is about 7 degrees or less above the horizon. You can calculate sun elevations for different dates, times, and locations on the NOAA Website’s “solar position calendar.” You can also confirm my estimates in the park—daylight savings time starts March 9.

**The oak that the consultant indicated would be reasonable to move because it is only about 9” in diameter was shown as 12 inches on the 2003
survey, and is now 13” measured at the standard 4’ height, and is larger close to the ground. Its circumference is 41 inches.

***Bellaire’s parking code requires 24-foot wide aisles and . . . .

{The speaker’s allotted time ended at this point in the meeting}

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**Nina Brown, 4534 Evergreen Street, Bellaire, Texas:**

Please use some common sense. It doesn’t make sense to spend money on an unnecessary sidewalk when there are so many ways that Bellaire could put that money to better use.

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**Gregg Brown, 107 Allendale Street, Bellaire, Texas:**

I am opposed to having sidewalks on both sides of Evergreen Street. Although I do not live on Evergreen, it seems very wasteful to spend tax dollars on a project that is opposed by the great majority of the residents on that street. This is especially true since there is already an existing sidewalk on one side of the street and a new sidewalk would result in the destruction of many established trees.

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**Peter Manning, 5614 Evergreen Street, Bellaire, Texas:**

Alder to Evergreen to Renwick is already a well-used shortcut to avoid the light at Renwick and Bissonnet.

I also am opposed to this development as described. Homeowner Association enforcement of parking would only work in an ideal world. Kind of reminds me of U.N. sanctions on Iraq. Now I see they’re threatening the same with Iran. Guess who gets to enforce those.

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**Ro Yale, 5614 Whitehaven Street, Bellaire, Texas:**

I disapprove of this request. Needs more street width or parking area. This is not the type dwelling I moved to Bellaire for.

Thank you.
F. CITY MANAGER’S REPORT – City Manager Bernard M. Satterwhite, Jr.

City Manager Bernard M. Satterwhite, Jr., presented the City Manager’s Report to City Council. The report consisted of the following Mission Areas: Communications/Technology, Employees, and Internal Operations/Productivity, as well as Current Issues/Information and Upcoming City Council Meetings/Events.

MISSION AREAS:

Communications/Technology

City Manager Satterwhite reminded everyone that registration for programs through the Parks & Recreation Department could be done online. In addition, credit cards could be accepted as a form of payment. He next showed that particular area of the City’s website to City Council and the audience, and noted that the lines were very short this year for Summer Camp Registration due to the fact that the majority of registrations were done online and more people paid for Summer Camp in full due to the convenience of being able to use credit cards as a form of payment. He noted further that the use of credit cards as a form of payment would be expanded to other City Departments as well.

City Manager Satterwhite also showed a segment of the City’s website dedicated to library information that could be viewed online and noted that audio books could be downloaded from the library as well. Also shown were various City Departments and the types of information that could be obtained from those departments.

Employees

With respect to employees, it was noted that City Staff offered their best wishes and farewell to Walter Gore, who retired from the City after over 46 years of service. Director of Public Works Joe Keene and the Public Works Department Staff threw a good party for Walter Gore, who certainly deserved the City’s thanks and commendations.

Internal Operations/Productivity

City Manager Satterwhite advised that recently Assistant City Manager Diane White and Director of Public Works Joe Keene had attended a luncheon sponsored by TIBH Industries, which was a nonprofit agency that linked between community rehabilitation centers, customers, state agencies, municipalities, school districts, counties, and other political subdivisions, and the Texas Council on Purchasing from People with Disabilities.
He advised further that most of the right-of-way maintenance along Loop 610 was done by people with disabilities in conjunction with a state program and a state contract. Bellaire was pleased to be able to accept an award from the Texas Council on Purchasing from People with Disabilities for the City’s participation in that program. The program had been a real win-win.

City Council was reminded that on Thursday and Friday, Directors would participate in an annual staff planning retreat. The goals and objectives of City Council would be reviewed and discussed to see how the Directors could align their activities with those goals and objectives. The retreat would be held at the CenterPoint Energy Community Center from 9:30 a.m. until 3:30 p.m. on both days.

**CURRENT ISSUES/INFORMATION:**

City Manager Satterwhite noted that the City was gearing up for quite a crowd at City Hall on Tuesday, March 4, 2008, for voting. City Hall would host three precincts in the Civic Center. Huge turnouts were expected for the Democrat Primary. There could be issues with traffic and parking, but the City would handle those issues. Parking places were reserved for people coming by to vote. Also, from a staff perspective, attempts would be made to keep the front clear for parking. After the polls closed, there would still be precinct meetings held at City Hall.

With respect to the Family Aquatic Center, the tile wall was completed. It was noted that the tile wall was located in the entranceway or breezeway to the pool facilities. City Manager Satterwhite showed several pictures of that wall to City Council and the audience. He indicated that the tiles were purchased by donors to the Patrons for Bellaire Parks, Inc., and painted at The Mad Potter. Bellaire residents Jamie Allen and Wendy Bantle, both of which were members of the Bellaire Arts Commission, put the wall together, and a company installed the tiles for the City. It was noted that Ms. Allen and Ms. Bantle also helped with the tile installation.

The pool was scheduled to open this Saturday for lap swimming beginning at 10:00 a.m. The winter hours for the pool were published in the City’s Leisure Activities Guide as Monday and Wednesday from 7:30 a.m. until 1:00 p.m. and Tuesday, Thursday, and Friday from 5:30 a.m. until 1:00 p.m. Hours for Saturday were 10:00 a.m. until 1:00 p.m. and Sunday from 3:00 p.m. until 6:00 p.m. Evening sessions Monday through Friday would run from 6:00 p.m. until 8:00 p.m. It was noted that the lap pool was heated.

The grand opening for the pool facilities was scheduled on May 3, 2008. More information would be forthcoming regarding the grand opening.
UPCOMING CITY COUNCIL MEETINGS/EVENTS:

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Type of Meeting</th>
</tr>
</thead>
<tbody>
<tr>
<td>March 10, 2008</td>
<td>6:00 p.m.</td>
<td>Special Sessions – Interviews for Municipal Judge Candidates and Interviews for Board of Adjustment</td>
</tr>
<tr>
<td>March 24, 2008</td>
<td>7:00 p.m.</td>
<td>Regular Session</td>
</tr>
<tr>
<td>March 31, 2008</td>
<td>6:00 p.m.</td>
<td>Workshop Sessions on Facilities and Water and Wastewater System Needs</td>
</tr>
</tbody>
</table>

QUESTIONS/COMMENTS FROM CITY COUNCIL:

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

Q: Councilman Will Hickman inquired as to when credit card payments might be accepted for the City’s utility billing.

A: City Manager Satterwhite noted that the City had to change banks this year. The City had gone out for bids for a new Depository Bank contract. Eight bids were received last week and under evaluation. A recommendation would be made within the next few meetings for City Council’s consideration on a Depository Bank. Once that was in place, the City would work toward credit card payments for utility billing. He expected that it could be accomplished within the next three months or so.

Q: Councilman John Jeffery inquired as to whether there was a proposed left-hand turn lane at Newcastle Drive and Bellaire Boulevard (both ways).

A: City Manager Satterwhite stated that there already was a left-hand turn lane there and inquired as to whether Councilman Jeffery meant Avenue B. After noting that it was Avenue B, City Manager Satterwhite indicated that there would be a left-turn signal at Avenue B.

Q: Mayor Pro Tem Peggy Faulk inquired as to the entrance fee for the lap pool.

A: City Manager Satterwhite advised that he could not remember, but believed it was printed in the Leisure Activities Guide. He believed that the summer rate was $5.00 for residents and $10.00 for nonresidents. He noted that the winter rate was a different amount.

Q: Mayor Pro Tem Faulk inquired as to whether the hours of operation for the pool facilities would be on the City’s website.
A: City Manager Satterwhite advised that the hours of operation would be on the City’s website.

Q: Mayor Cindy Siegel asked City Manager Satterwhite if he could email the proposed budget calendar for fiscal year 2009 to members of City Council so that they could plan accordingly for those meetings.

A: City Manager Satterwhite advised that he believed Assistant City Manager White had already done so, but would check with her to make sure.

MOTION TO ACCEPT REPORT INTO THE RECORD:

A motion was made by Mayor Pro Tem Peggy Faulk and seconded by Councilman Phil Nauert 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 7-0 vote as follows:

FOR: Siegel, Cindy
     Hickman, Will
     Avioli, James P., Sr.
     Faulk, Peggy
     Nauert, Phil
     McLaughlan, Pat
     Jeffery, John

OPPOSED: None

ABSENT: None

G. NEW BUSINESS:

1. CONSENT AGENDA:

   Bid Award

   a. CONSIDERATION of and possible action on the approval of a recommendation from the Bellaire Public Works Department to award Bid No. 08-005, Public Works Uniforms, to the overall lowest and most responsible bidder, Lonestar Uniforms, Inc., in an amount not to exceed $4,490.00 from the General Fund FY 2008 Operating Budget and in an amount not to exceed $11,430.00 from the Enterprise Fund FY 2008 Operating Budget and adoption of an ordinance authorizing the
Mayor and the City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, a *Standard Form of Agreement* with Lonestar Uniforms, Inc., for the purpose of providing said products and services in the amounts listed above – *Action by Members of City Council to Approve Bid Recommendation and to Adopt Ordinance Authorizing Execution of Standard Form of Agreement (Item submitted by Director of Public Works Joe Keene).*

Note: The purchase period associated with Bid No. 08-005 shall commence on March 3, 2008, and end on March 2, 2009. Approval of this item authorizes the City Manager, on behalf of the City of Bellaire, Texas, to extend and renew this bid up to four years, one year at a time, subject to price increases and service, upon mutual agreement of all parties.

**Final Payment on Contract**

b. **CONSIDERATION** of and possible action on the adoption of an ordinance authorizing the Mayor of the City of Bellaire, Texas, to execute a final payment request on a contract for the Bellaire Wastewater Treatment Plant Odor Control Improvements with R + B Group, Inc., in an amount not to exceed $7,900.00 – *Action by Members of City Council to Adopt Ordinance Authorizing Execution of Final Payment Request (Item submitted by Director of Public Works Joe Keene).*

**MOTION TO APPROVE CONSENT AGENDA:**

A motion was made by Councilman Pat McLaughlan and seconded by Councilman Will Hickman to approve the Consent Agenda dated March 3, 2008, consisting of the following items:

- Award of Bid No. 08-005, Public Works Uniforms, to the overall lowest and most responsible bidder, Lonestar Uniforms, Inc., in an amount not to exceed $4,490.00 from the General Fund FY 2008 Operating Budget and in an amount not to exceed $11,430.00 from the Enterprise Fund FY 2008 Operating Budget and to adopt an ordinance authorizing the Mayor and the City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, a *Standard Form of Agreement* with Lonestar Uniforms, Inc., for the purpose of providing said products and services in the amounts listed above; and
• **Adoption of ordinance authorizing the Mayor** of the City of Bellaire, Texas, to **execute a final payment request on a contract for the Bellaire Wastewater Treatment Plant Odor Control Improvements** with R+B Group, Inc., in an amount not to exceed $7,900.00.

The motion to approve the above-referenced bid award also authorized the City Manager, on behalf of the City of Bellaire, Texas, to extend and renew the bid up to four years, one year at a time, subject to price increases and service, upon mutual agreement of all parties.

**VOTE ON MOTION TO APPROVE CONSENT AGENDA:**

Motion **carried** unanimously on a **7-0** vote as follows:

**FOR:**
- Siegel, Cindy
- Hickman, Will
- Avioli, James P., Sr.
- Faulk, Peggy
- Nauert, Phil
- McLaughlan, Pat
- Jeffery, John

**OPPOSED:** None

**ABSENT:** None

{Ordinance for Standard Form of Agreement with Lonestar Uniforms, Inc., was subsequently numbered: 08-010; Ordinance for Final Payment to R+B Group, Inc., was subsequently numbered: 08-011}

2. **ADOPTION OF ORDINANCE:**

**Budget Amendment**

CONSIDERATION of and possible action on the adoption of an ordinance amending the budget for the City of Bellaire, Texas, for the fiscal year beginning October 1, 2006, and ending September 30, 2007, by transferring $10,061.00 from the General Fund, Organizational Services Department FY 2007 Budget, to the General Fund, Legal Department, Professional Services Account, to be used for the payment of unanticipated legal expenditures and by transferring $892.00 from the General Fund, Organizational Services Department FY 2007 Budget, to the General Fund, Community Development Department, Professional Services Account, for the payment of
engineering costs associated with drainage reviews – Action by Members of City Council to Adopt Ordinance Amending the Budget (Item submitted by Chief Financial Officer Donna Todd).

SUMMARY:

Mayor Cindy Siegel indicated that the unanticipated legal expenditures related to the Robert Levine lawsuit, the Via lawsuit, and obtaining and reviewing depositions in connection with the Hurricane Rita bus fire.

MOTION TO ADOPT ORDINANCE TO AMEND BUDGET:

A motion was made by Councilman Pat McLaughlan and seconded by Councilman James P. Avioli, Sr., to adopt an ordinance amending the budget for the City of Bellaire, Texas, for the fiscal year beginning October 1, 2006, and ending September 30, 2007, by transferring $10,061.00 from the General Fund, Organizational Services Department FY 2007 Budget, to the General Fund, Legal Department, Professional Services Account, to be used for the payment of unanticipated legal expenditures and by transferring $892.00 from the General Fund, Organizational Services Department FY 2007 Budget, to the General Fund, Community Development Department, Professional Services Account, for the payment of engineering costs associated with drainage reviews.

SUMMARY (CONT.):

City Manager Bernard M. Satterwhite, Jr., noted that the key to this budget amendment was the fact that there was no change to the bottom line of the budget. The amendment consisted of an inter-department transfer. In other words, excess funds would be taken from one department and applied to two departments that were slightly over budget. He noted that this amendment should probably have been presented to City Council closer to the end of the prior fiscal year and would be handled that way in the future.

QUESTIONS/COMMENTS FROM CITY COUNCIL:

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

Q: Councilman Will Hickman inquired as to whether the City of Bellaire was a named party in the Hurricane Rita bus fire.

A: City Manager Satterwhite advised that the City was not a named party.
Q: Councilman Hickman inquired as to a brief description of the Robert Levine lawsuit.

A: City Attorney Alan P. Petrov advised that the Robert Levine suit involved the issue of the permeable pavers and whether or not it constituted lot coverage.

**VOTE ON MOTION TO ADOPT ORDINANCE TO AMEND BUDGET:**

Motion carried unanimously on a 7-0 vote as follows:

FOR: Siegel, Cindy
     Hickman, Will
     Avioli, James P., Sr.
     Faulk, Peggy
     Nauert, Phil
     McLaughlan, Pat
     Jeffery, John

OPPOSED: None

ABSENT: None

{Ordinance was subsequently numbered: 08-012}

3. **ITEMS FOR INDIVIDUAL CONSIDERATION:**

**Comprehensive Plan Review**

a. CONSIDERATION of and possible action on a recommendation from the Planning and Zoning Commission of the City of Bellaire, Texas, to select Kendig Keast Collaborative to assist the City of Bellaire, Texas, in the revision of its Comprehensive Plan and to direct City Staff to take appropriate steps to finalize a formal engagement agreement with Kendig Keast Collaborative for future City Council approval – Action by Members of City Council to Approve Recommendation and Direct City Staff to Take Steps to Finalize Formal Engagement Agreement (Item submitted by the Planning and Zoning Commission of the City of Bellaire, Texas, and the Bellaire Community Development Department).

**MOTION TO APPROVE RECOMMENDATION AND DIRECT CITY STAFF:**

A motion was made by Councilman Phil Nauert and seconded by Mayor Pro Tem Peggy Faulk to approve a
recommendation from the Planning and Zoning Commission of the City of Bellaire, Texas, to select Kendig Keast Collaborative to assist the City of Bellaire, Texas, in the revision of its Comprehensive Plan and to direct City Staff to take the appropriate steps to finalize a formal engagement agreement with Kendig Keast Collaborative for future City Council approval.

QUESTIONS/COMMENTS FROM CITY COUNCIL:

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

Q: Mayor Pro Tem Peggy Faulk asked for confirmation that the Planning and Zoning Commission of the City of Bellaire, Texas, was making a request to have City Staff negotiate and bring the agenda item back to City Council before the contract was approved.

A: City Manager Bernard M. Satterwhite, Jr., advised that Mayor Pro Tem Faulk was correct. The Planning and Zoning Commission of the City of Bellaire, Texas (“Planning and Zoning Commission”), had looked at several firms that responded to the Request for Proposals that City Council approved in November of 2007. The firms were narrowed down to two finalists, and the two finalists were interviewed. The vote from the Planning and Zoning Commission was to recommend Kendig Keast Collaborative as “the finalist.” However, the task of nailing down the specific scope of work and the cost still remained.

Q: Mayor Pro Tem Faulk inquired as to the estimated timing before the agenda item was brought back to City Council for a final decision.

A: City Manager Satterwhite indicated that he believed the item would be brought back to City Council for a final decision during the first meeting in April of 2008.

Q: Councilman Will Hickman referred to the two-part process that was followed in arriving at this point, the first process being a revision of the Comprehensive Plan. He inquired as to whether this was the start of the second part of the process.

A: Chair Bill Thorogood, Planning and Zoning Commission, advised that Councilman Hickman was correct. The first part was to try to determine the real
need for a Comprehensive Plan. Once that part was completed, it was determined that the City did have a need for a Comprehensive Plan update. This part was the follow-up phase consisting of selecting a firm to perform the Comprehensive Plan update and moving forward with that update.

The first part of the process provided a good bit of detail that would be used going forward on the update.

Q: Councilman Hickman inquired as to whether there was a ballpark figure as to when City Council might have a Comprehensive Plan update in their hands.

A: Chair Thorogood advised that the Request for Proposals indicated that the update should be performed within one year. Kendig Keast Collaborative had indicated that the update could be completed within one year from the day the project started.

Q: Councilman Pat McLaughlan thanked Chair Thorogood and the Planning and Zoning Commission for their efforts on this project. He asked if Chair Thorogood could describe what was left. In other words, would the Planning and Zoning Commission or City Staff put together a more detailed statement of work for the project?

A: Chair Thorogood advised that what the Planning and Zoning Commission wanted to do was to first present the recommended party or firm to City Council and make sure everyone was on board before proceeding to the next step. What the Planning and Zoning Commission did not want to do was to step in front of anyone, including City Staff, to negotiate a contract per se. Part of the negotiations would include fine-tuning the scope of work for that contract.

He would expect that City Staff would look at the scope that was included within the Request for Proposals that went out and was developed originally by Kendig Keast Collaborative in the first study done for the City. That study would be the frame of reference from which to negotiate a fine-tuned or complete scope of work for the Comprehensive Plan update.

Q: Councilman McLaughlan asked for confirmation that in April of 2009 the City Council could expect a
Comprehensive Plan to be completed and submitted to City Council.

**A:** Chair Thorogood indicated that this was a 12-month process. Questions were raised during the Planning and Zoning Commission’s review of firms to see if they could parallel some “hot button” items and conclude on those things. In other words, multiple tracks could be run, which he believed would alleviate any pressure on things that needed to get done and brought to City Council on an ongoing basis.

**C:** Councilman McLaughlan agreed that it would be preferable for some portions, components, or tasks of the Comprehensive Plan update to be brought to City Council on an ongoing basis. He was very much in favor of going forward with a Comprehensive Plan update, however, invariably it usually took a very long time to go through the process, deliver the product to the Planning and Zoning Commission, and then to City Council. He referred to the fact that at the end of 2009 some of the members of City Council would be leaving and there would be a new City Council that might have to go through the process again if not completed within one year.

He referred to the fact that the City paid for a Comprehensive Plan update in 1997 and he could not recall anything that came forward from that update that was adopted.

He felt that it was extremely important to accelerate this process as much as possible and to let City Council act on the Planning and Zoning Commission’s recommendations on an ongoing basis.

**Q:** Councilman Phil Nauert advised that he was keenly interested in seeing this project move forward. He stated that he wanted to get a feel for the process of negotiating the contract. He asked if the City set the agenda for the scope of work or if Kendig Keast Collaborative had an opportunity to expand the scope of the project.

**A:** Chair Thorogood indicated that what was delivered in an original presentation by Kendig Keast Collaborative was a level of detail that provided a great deal of information. At this point, the process was in the hands
of City Staff to negotiate the contract. Certainly, he had some conversations with the City Manager about this and the Planning and Zoning Commission was ready to assist in any way possible and at any time to go forward.

Q: Councilman Nauert stated that he believed the City should try to stay close to the scope of work requested in the Request for Proposals. He noted that Kendig Keast Collaborative had offices in various areas of the United States, such as Wisconsin, Texas (Sugar Land), and Illinois (Chicago). He inquired as to whether Bellaire would be interfacing with the Texas office.

A: Chair Thorogood advised that Councilman Nauert was correct. Like any other highly specialized firm, one of the contacts with a certain expertise was located in the Colorado area; however, the primary two contacts were located in Sugar Land, Texas.

City Manager Satterwhite indicated that the City had experience working with Kendig Keast Collaborative on not only the Comprehensive Plan review, but also on a study of the City Center District, Phase One, which included a market study. City Manager Satterwhite advised that Kendig Keast Collaborative was very available when needed, and the knowledge base needed for this project was local.

Q: Mayor Cindy Siegel asked for confirmation that the plan was for the Planning and Zoning Commission to bring pieces of the update forward to City Council, as those pieces were available.

A: Chair Thorogood advised that Mayor Siegel was correct.

C/Q: Mayor Siegel stated that through the City Council’s goal-setting workshop, the business district floated to the top, as well as the Research, Distribution, and Development District. She agreed with Councilman McLaughlan in that the last update took a very long time and there was a change in City Council. The City also was involved in a lawsuit due to the fact that there was a disparity in the Comprehensive Plan update and the City’s Zoning Code, which was not updated to support the Comprehensive Plan update.
Mayor Siegel asked the City Attorney if both the Planning and Zoning Commission and the City Council would hold public hearings on portions of the Comprehensive Plan update.

A: City Attorney Alan P. Petrov indicated that there would be two public hearings. Once the Comprehensive Plan update was completed, the City would have to review the Zoning Code to make sure it did what the City wanted to achieve the plan.

C: Mayor Siegel stated that the message to the Planning and Zoning Commission would echo Councilman McLaughlan’s statement that we needed to move on this project as quickly as possible.

A: Chair Thorogood advised that the Planning and Zoning Commission would do whatever it took to get this done. One of the deliverables requested was an implementation phase for the Comprehensive Plan update. Everyone that provided a proposal stated their understanding that there would be an implementation phase, including a review of the zoning ordinances and recommendations as to how to update those ordinances.

Q: Councilman Hickman asked for confirmation that, to the extent that there were differences between the Zoning Code and the Comprehensive Plan update, the Zoning Code was still the rule of law until the City changed it.

A: City Attorney Petrov advised that Councilman Hickman was correct.

**VOTE ON MOTION TO APPROVE RECOMMENDATION AND DIRECT CITY STAFF:**

Motion carried unanimously on a 7-0 vote as follows:

**FOR:** Siegel, Cindy  
Hickman, Will  
Avioli, James P., Sr.  
Faulk, Peggy  
Nauert, Phil  
McLaughlan, Pat  
Jeffery, John
OPPOSED: None

ABSENT: None

Rebuild Bellaire Program, Phase One Project

b. CONSIDERATION of and possible direction to City Staff to take the appropriate steps to amend the specifications of the Rebuild Bellaire Program, Phase One Project, Reconstruction of 4500 Evergreen Street, 4500 Elm Street, 4500 Beech Street, 5100 Chestnut Street, 6300-6500 Fifth Street, and 5600-5700 Evergreen Street, awarded to AAA Asphalt Paving, Inc., by the Bellaire City Council on June 18, 2007, to limit the construction of sidewalks to only the south side of 4500 Evergreen Street instead of both sides of the street as specified in the aforementioned bid and contract award or to make such other modifications to the specifications as deemed appropriate – Action by Members of City Council to Direct City Staff to Amend Project Specifications (Item submitted by City Manager Bernard M. Satterwhite, Jr., on behalf of Councilman James P. Avioli, Sr.).

SUMMARY:

Mayor Cindy Siegel advised that she wished to take an opportunity to set forth procedurally how City Council dealt with things. She noted that she had met with Mr. Brown several months ago and knew that Councilman Will Hickman had met with various residents regarding procedures.

Any member of City Council or the City Manager could place an item on the City Council agenda. Citizens could not place items on the agenda, but could get a member of City Council or the City Manager to place an item on the agenda. The City was required by Texas state law to post the agenda 72 hours prior to a meeting. The agenda had to be very specific and if an item were not on the agenda, then City Council could not talk about it.

The Mayor, Mayor Pro Tem, and City Manager met before meetings in an attempt to try to manage the workload. For example, if there was a heavy meeting, a member of City Council might be called to request possible postponement of an item that member requested. Members of City Council were not allowed to discuss items that applied to a Council Meeting with a quorum of City Council, as that would violate the Texas Open Meetings Act.
During discussions of sidewalks on Evergreen Street, there was a reference to the Maple Street speed hump petition that was submitted. There was an ordinance in place to consider speed humps and street closures. That ordinance set forth a process wherein residents could bring forward a petition for traffic control devices. City Council had to place that item on the agenda as it was set out in the ordinance.

With respect to the City Council Rules of Procedure, anyone could turn in a request to address City Council and speak for five minutes. Just as the Mayor expected City Council to be respectful of people speaking at the podium, she expected the people in the audience to give City Council the same respect in listening to what members of City Council had to say without public comment from the audience. People were watching from home, as well as other members in the audience, that wanted to hear the discussions. She knew people in the audience felt very strongly about this subject, but asked them to refrain from making oral statements out loud as it interfered with those watching at home, those in the audience, and members of City Council.

Councilman Avioli had worked closely with the City Manager to make sure that the agenda item would give City Council the flexibility to address what Mayor Siegel saw as two concerns presented by the residents of the 4500 block of Evergreen Street. The first concern related to the placement of the sidewalk, and the second concern related to the size of the sidewalk.

**Councilman James P. Avioli, Sr.,** stated that he placed this item on the agenda to address citizen input that City Council had received. He made a motion to that effect as follows:

**MOTION TO DIRECT STAFF TO AMEND SPECIFICATIONS:**

A motion was made by Councilman James P. Avioli, Sr., to direct City Staff to take the appropriate steps to amend the specifications of the Rebuild Bellaire Program, Phase One Project, Reconstruction of 4500 Evergreen Street, awarded to AAA Asphalt Paving, Inc., by the Bellaire City Council on June 18, 2007, to limit sidewalk construction to the south side of 4500 Evergreen Street only or to make modifications as appropriate to address the citizens’ concerns. Councilman John Jeffery seconded the motion.
QUESTIONS/COMMENTS FROM CITY COUNCIL:

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

Q:  Councilman Will Hickman inquired as to the type(s) of communication that were given to citizens regarding the City’s plans for the 4500 block of Evergreen Street, etc.

A:  City Manager Bernard M. Satterwhite, Jr., noted that City Council was told about this project well in advance because there had been a certain amount of public discussion related to those projects that included sidewalks on both sides of a street, such as Jessamine Street (a local street with sidewalks on both sides) and Ferris Street (a local street with sidewalks on one side). One of the problems with both of those projects was that the City had for years typically held a neighborhood meeting showing plans for every lot on a street after City Council had approved the bid award.

City Staff made a decision prior to this project (i.e., Rebuild Bellaire, Phase One) to hold a neighborhood meeting before City Council approved the bid award. In this particular project, the meeting was held before City Council approved the bid award.

Director of Public Works Joe Keene stated that the concerns brought forward by the residents of Evergreen regarding sidewalks on both sides of the street were also expressed during the neighborhood meeting. Letters for the neighborhood meeting were delivered door to door.

Q:  Councilman Phil Nauert noted that the agenda item referred to modification of the contract that was already awarded. He asked if this could be done, what options the contractor had, and what types of potential action the City Council would be opening the City to.

A:  City Attorney Alan P. Petrov stated that as a general rule these types of projects were set up on a unit price basis. The City had the flexibility to remove or add linear feet to a particular phase and should simply result in a change order, which would reduce the ultimate price of the contract. If the change order were greater than a 10% reduction, then the contractor could object to changes.
City Manager Satterwhite advised that this particular modification represented approximately 1% of the total contract.

Q: Councilman Nauert asked for confirmation that the City was legally well within its rights to make such a modification.

A: City Manager Satterwhite advised that Councilman Nauert was correct.

C: Mayor Siegel advised that no one on City Council liked to be on the opposing side and make residents unhappy. This issue, more than other issues the City Council had dealt with, was very difficult. She had very dear friends on the north side of the street and had come to know and respect new friends she had met on the south side of the street. She had spent the last few weeks looking over the situation. She noted further that she lived in the neighborhood, and had tried to see if there was a compromise that did not sacrifice safety.

The City Council was elected to represent all residents and to do what they could to ensure the health, safety, and welfare of the residents. Mayor Siegel had reexamined all of the arguments and still came to the conclusion that the City had an opportunity to make the neighborhood safer by joining the Avenue B sidewalk on the east side to the Newcastle Trail. At times the City Council had modified two sidewalks to one, but had also stuck with two sidewalks (such as Jessamine Street). She knew that she was just one vote, but in her mind this situation was similar to the situation on Jessamine Street.

Evergreen Street was a collector street even though it might have less traffic than it used to. It still got more traffic than the local streets. There was a playground and park on the north side of the street, and it was cheaper to install sidewalks when reconstructing a street. The City had a policy in place to protect the trees. Finally, having sidewalks on both sides of a street made the entire neighborhood a safer area.

C: Councilman Hickman stated that he and his family used sidewalks frequently. He had walked on the 4500-4600 blocks of Evergreen. He could not walk on the north side of the street because there were no
sidewalks. In the bid proposal for the Comprehensive Plan update, there were planned crossings for Loop 610 at Evergreen Street, Bellaire Boulevard, Bissonnet Street, and Fournace Place. It made sense to create a network to have two sidewalks on the City’s ten largest streets (in terms of traffic). It was decided that the smaller or local streets did not need two sidewalks, as it was easier to cross over those to the other side.

**VOTE ON MOTION TO DIRECT STAFF TO AMEND SPECIFICATIONS:**

Motion failed on a 1-6 vote as follows:

**FOR:** Jeffery, John

**OPPOSED:** Siegel, Cindy
Hickman, Will
Avioli, James P., Sr.
Faulk, Peggy
Nauert, Phil
McLaughlan, Pat

**ABSENT:** None

**MOTION TO LIMIT SIZE OF SIDEWALKS:**

A motion was made by Mayor Cindy Siegel to limit the size of both sidewalks in the 4500 block of Evergreen Street to four feet in width. Councilman Phil Nauert seconded the motion.

**POINT OF ORDER:**

Councilman Hickman inquired as to whether an additional motion was allowed under this particular agenda item.

**Mayor Siegel** advised that she had spoken with the City Attorney regarding the possibility of such a motion before the meeting.

**City Attorney Petrov** stated that the agenda item was written broad enough to cover either scenario.
QUESTIONS/COMMENTS FROM CITY COUNCIL:

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

C: **Mayor Pro Tem Peggy Faulk** stated that she would oppose that motion as oftentimes the reason sidewalks were not adequately used was due to the fact that people were discouraged from using a narrow sidewalk when walking side-by-side. If the City was concerned with the safety, then the City should go with the width that accommodated more than one person using a sidewalk.

C: **Councilman Nauert** noted that he had proposed an amendment at the last City Council meeting that would have created sidewalks that were four feet in width. Since that meeting, he had walked Evergreen Street, Holly Street, and parts of Holt Street, and all of those streets had sidewalks that were four feet in width. Mayor Pro Tem Faulk was right, people had to acknowledge each other and step off of the sidewalks, but it was very doable.

C: **Councilman Pat McLaughlan** spoke to the value of a sidewalk that was five feet in width. Many people walked side-by-side and in order to do so, a five-foot sidewalk was required.

C/Q: **Councilman Hickman** advised that he, too, was in favor of the five-foot sidewalk for the same reasons cited by Councilman McLaughlan and Mayor Pro Tem Faulk. Also, he had not heard a good reason to make an exception to the policy readopted last week of a five-foot sidewalk on the collector streets and four-foot sidewalk on local streets.

He next inquired as to whether there would be a cost change for four-foot wide sidewalks versus five-foot wide sidewalks.

A: **City Manager Satterwhite** stated that the same amount of forms would basically be required; however, there might be a small reduction in the amount of concrete needed. The labor and machinery costs should be the same. He believed that the cost difference would be very small.
Engineering Consultant James Andrews, P.E., Claunch & Miller, Inc., advised that this was a unit cost contract and bid per square foot of concrete installed. The City would save approximately 1/5 of the cost.

VOTE ON MOTION TO LIMIT SIZE OF SIDEWALKS:

Motion carried on a 4-3 vote as follows:

FOR:  Siegel, Cindy
Avioli, James P., Sr.
Nauert, Phil
Jeffery, John

OPPOSED:  Hickman, Will
Faulk, Peggy
McLaughian, Pat

ABSENT:  None

H. COUNCIL CORRESPONDENCE AND COMMENTS.

Mayor Cindy Siegel reminded those watching at home that if they had anything for the Bellaire Centennial documentary to turn it in by mid-March. Councilman Will Hickman indicated that the Centennial Planning Committee could be contacted through their website, www.bellaire100.com.

Mayor Siegel continued and reported that she and the City Manager had met with the Metropolitan Transit Authority of Harris County, Texas (METRO), as authorized by City Council in December. The discussions included METRO’s plans for the University Line and Uptown Line that would front on the north side of Bellaire’s Research, Development and Distribution District (RDD Zoning District) near Westpark Drive. At this point, the Uptown Line went through the Galleria area and intersected with the University Line, which went through Hillcroft to the University of Houston, etc. No decision had been made as to the location of a transit station, whether that be in Bellaire or to the east.

METRO also referred to a “transit-oriented development” which would consist of an upscale residential/retail development around the transit station. Bellaire planned to meet with METRO again to see what such a development would look like. This might be a possibility for Bellaire’s RDD Zoning District.

Subsequent to that meeting, the City found out that the property in Houston on South Rice Avenue across from Sam’s Club that was originally supposed to be a Wal-Mart would no longer be a Wal-Mart. It was possible that Bellaire could work with the property owners of that property on something that
would be positive for their property, Bellaire, and Bellaire’s residential community located nearby.

Mayor Siegel advised that the City went on record with METRO that whatever was done, the City wanted to make sure that Bellaire’s residential neighborhood lying in the northern area of town between the RDD Zoning District and Chevron’s facility to the south was protected. The City wanted to ensure that the neighborhood was not harmed in any way.

After the Mayor and City Manager got a little more information, the item would be brought to City Council for discussion, questions, and feedback.

The remainder of Council Correspondence and Comments was discussion only.

I. ADJOURNMENT.

MOTION TO ADJOURN:

A motion was made by Councilman Pat McLaughlan and seconded by Councilman James P. Avioli, Sr., to adjourn the Regular Session of the City Council of the City of Bellaire, Texas, at 8:48 p.m. on Monday, March 3, 2008.

VOTE ON MOTION TO ADJOURN:

Motion carried unanimously on a 7-0 vote as follows:

FOR: Siegel, Cindy
Hickman, Will
Avioli, James P., Sr.
Faulk, Peggy
Nauert, Phil
McLaughlan, Pat
Jeffery, John

OPPOSED: None

ABSENT: None

Respectfully submitted,

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

__________________________________
Cynthia Siegel, Mayor
City of Bellaire, Texas