CITY OF BELLAIRE
CITY COUNCIL

Minutes of Meeting
Monday, September 8, 2008

REGULAR SESSION – 7:00 P.M.

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 7:02 p.m. on Monday, September 8, 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. 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 John Jeffery.

Councilman John Jeffery referred to Hurricane Ike, which was on its way to the Texas coast, and read an excerpt from an article related to another storm that hit Galveston 108 years ago on September 8, 1900, as follows:

On September 8, 1900, the greatest natural disaster to ever strike the United States occurred in Galveston, Texas. In the early evening hours of September 8, a hurricane came ashore at Galveston bringing with it a great storm surge that inundated most of Galveston Island. As a result, much of the city was destroyed and at least 6,000 (and by some indications up to 12,000) people died in that storm.

Eyewitness History of Storm:

When they awoke on the morning of September 8, 1900, the 38,000 residents of Galveston, Texas, were unaware that this day would be their city’s last. They had no idea that before the day was done, 8,000 of their fellow citizens would perish with the city. The culprit was a hurricane. The storm swept in off the Gulf of Mexico packing winds up to 135 miles per hour.
– a category 4 storm. The storm propelled a fifteen-foot surge of water before it; easily swamping the 8.7-foot high island that Galveston called home. Together, the wind and water destroyed everything in their path and created the worst natural disaster in America’s history.

Councilman Jeffery continued by relating some facts as follows:

- In 1902, the seawall in Galveston was constructed. The seawall was approximately ten miles long and seventeen feet high. This would be high enough to stop the surge, but not the lapping waves over the top.

- Hurricane Katrina brought in a twenty-five-foot surge over Mississippi on the “dirty side” of the storm. Such a surge would definitely clear the Galveston seawall bringing water further into Houston.

- Hurricane Camille brought in a 24.6-foot surge.

- Downtown Houston was noted to be fifty feet above sea level, while Bellaire was fifty-seven feet above sea level.

In closing, Councilman Jeffery urged everyone to be wary. During the morning of Galveston’s disaster of September 8, 1900, people saw blue skies, high tides, and large waves. Those people felt they had seen such a storm before and could ride it out. Councilman Jeffery urged everyone to get to a safe place for Hurricane Ike, noting he had many friends in Baton Rouge, Louisiana, that had been hit hard by a small storm (Gustav) and had just gotten their power restored.

C. PLEDGES TO THE FLAGS – Councilman John Jeffery.

1. U.S. PLEDGE OF ALLEGIANCE.

2. PLEDGE TO THE TEXAS FLAG.

Councilman John Jeffery 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:

1. APPROVAL of minutes of the Special Session (Budget Public Hearing) and Regular Session of the City Council of the City of Bellaire, Texas, held on Monday, August 18, 2008 – Item submitted by City Clerk Tracy L. Dutton.

MOTION TO APPROVE MINUTES:

A motion was made by Councilman John Jeffery and seconded by Councilman Will Hickman to approve the minutes of the Special
Session (Budget Public Hearing) and Regular Session of the City Council of the City of Bellaire, Texas, held on Monday, August 18, 2008.

AMENDMENT TO MINUTES:

Councilman James P. Avioli, Sr., suggested the following amendment to the minutes dated August 18, 2008: strike the word “advantages” and add the words “some cost saving opportunities” to page 9, line 385.

After noting no further amendments to the minutes, Mayor Cindy Siegel called for a vote on the motion to approve the minutes, as amended by Councilman Avioli.

VOTE ON MOTION TO APPROVE 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

OPPOSED: None

ABSENT: None

2. APPROVAL of minutes of the Special Session (Public Hearing) and Special Session (Budget) of the City Council of the City of Bellaire, Texas, held on Tuesday, August 26, 2008 – Item submitted by City Clerk Tracy L. Dutton.

MOTION TO APPROVE MINUTES:

A motion was made by Councilman Phil Nauert and seconded by Councilman John Jeffery to approve the minutes of the Special Session (Public Hearing) and Special Session (Budget) of the City Council of the City of Bellaire, Texas, held on Tuesday, August 26, 2008.

AMENDMENT TO MINUTES:

Mayor Cindy Siegel suggested the following amendments to the minutes dated August 26, 2008: change the word “permitting” to
“permit” on page 11, line 487, and change the references to “Mariner” to “Marion.”

After noting no further amendments to the minutes, Mayor Cindy Siegel called for a vote on the motion to approve the minutes, as amended by Mayor Siegel.

**VOTE ON MOTION TO APPROVE 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  

OPPOSED:  None  

ABSENT:  None  

E. **PERSONAL/AUDIENCE COMMENTS.**

Lynn McBee, 5314 Evergreen Street, Bellaire, Texas:

Ms. McBee addressed City Council and advised that she appreciated the research that went into Councilman John Jeffery’s inspirational reading.

She continued and thanked City Council for their civic duty and particularly observed that the attendance by members at City Council meetings had vastly improved. Ms. McBee asked that City Council retain their objectivity, which was sometimes hard to do. She also asked City Council to continue to be fair to all, to maintain their independence as opposed to any partisanship, and to practice professionalism. By that, Ms. McBee hoped that City Council would hold their comments to either questions, requests for clarification, a single stated opinion at the appropriate time, or debate. She felt that each member of City Council should speak for a reasonable length of time, just as she was expected to do as a member of the citizenry.

In closing, Ms. McBee commended the City Clerk for preparing the minutes of City Council in a timely manner, noting that a record of a recent public hearing containing a large amount of testimony related to the Episcopal High School specific use amendment and code amendment requests had been prepared for City Council’s use and deliberation this evening and which were included in City Council’s packet.
F. REPORT:

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

City Manager Bernard M. Satterwhite, Jr., presented the City Manager’s Report to the Bellaire City Council.

STORM UPDATE

City Manager Bernard M. Satterwhite, Jr., advised that City Staff had been watching the weather closely and statewide conference calls (two per day) related to the storm had already started. The projected track and “center of probability cone” for the storm appeared to come very close to Bellaire. The City was preparing, accordingly, for what could be a fairly large hurricane.

There would be members of City Staff that would be on City property throughout the storm and other members of City Staff would be asked not to be on the property. The City did not want more staff in harm’s way than were absolutely needed.

The latest update received from the State of Texas Emergency Operations Center today was that the State was preparing for a very large, possibly dangerous hurricane. Governor Rick Perry had issued a proclamation to 88 counties, one of which was Harris County, declaring a state of disaster based on the probability that a fairly sizable storm event could occur. If the storm stayed on the track and timeline projected, the City would be dealing with special needs residents by Wednesday, September 10, 2008. The City’s Emergency Operations Center would also be opening on Wednesday or Thursday.

LIBRARY UPDATE

With respect to the Bellaire City Library, it was noted that this summer had been especially busy. The Library conducted two summer reading programs this year—one of which was for teens. The number of participants registered for both programs totaled 943, with 845 registered in the “Texas Reading Club Jubilee” and 98 registered in the new teen program.

To commemorate Bellaire’s Centennial, a special level of 100 books was promoted for the reading programs. Sixty-three participants read 100 books this summer. From May to August, participants read 25,290 books for reading program credit. The door count indicated that 38,772 people entered the Bellaire City Library during the summer months of June, July, and August for programs, to use computers, to study, and/or to borrow Library materials.
**SCHOOL UPDATE**

The beginning of school for the Houston Independent School District started uneventfully. Unfortunately, the City had run out of Bellaire High School parking permits. There were some residents who were somewhat angry that they did not have their permits, so the City had been somewhat lenient with respect to enforcement by giving warnings rather than citations. The parking permits arrived as of today and anyone that rated parking permit(s) around the Bellaire High School area could come to City Hall and get their permit(s).

**FACILITIES REQUESTS FOR QUALIFICATIONS**

City Manager Satterwhite advised that a total of thirteen Requests for Qualifications (RFQs) were recently received by the City for architectural services related to City facilities. It appeared that there was a great deal of interest in building the City a new Fire Station. City Staff expected to bring a recommendation to City Council as soon as possible.

**UPCOMING CITY COUNCIL MEETINGS**

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Type of Meeting</th>
</tr>
</thead>
<tbody>
<tr>
<td>09/15/2008</td>
<td>6:00 p.m.</td>
<td>Special Session (Public Hearing) on Proposed Revisions to City’s Variance Standards</td>
</tr>
<tr>
<td>09/15/2008</td>
<td>7:00 p.m.</td>
<td>Regular Session</td>
</tr>
<tr>
<td>09/22/2008</td>
<td>7:00 p.m.</td>
<td>Workshop Session on Recruitment, Retention, and Compensation Study</td>
</tr>
<tr>
<td>10/06/2008</td>
<td>7:00 p.m.</td>
<td>Regular Session (tax rate expected to be set during this meeting)</td>
</tr>
</tbody>
</table>

**QUESTIONS/COMMENTS FROM CITY COUNCIL:**

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

Q: Councilman Will Hickman referred to the Family Aquatic Center and inquired as to the future hours of operation for the Bellaire Pool.

A: City Manager Satterwhite advised that the Bellaire Pool was currently closed during the day because the lifeguards were in school. The Bellaire Pool was open in the evenings and on weekends through the end of September. The fall hours would start shortly thereafter. The lap pool would be open during the fall.

Q: Mayor Cindy Siegel asked for confirmation that information related to Hurricane Ike would be posted on the City’s website and Channel 16. She also asked for confirmation that telephone numbers would be posted as well for those citizens seeking information.
City of Bellaire  Minutes of Meeting  
City Council  
Monday, September 8, 2008 

A: City Manager Satterwhite advised that Mayor Siegel was correct.

MOTION TO ACCEPT REPORT INTO THE RECORD:

A motion was made by Mayor Pro Tem Peggy Faulk and seconded by Councilman James P. Avioli, Sr., 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(s)/Rejection(s)

    a. CONSIDERATION of and possible action on a recommendation from the Bellaire Public Works Department to reject the bids received under Bid No. 08-011, Purchase of City of Bellaire Recycling Materials, as well as authorization for the Bellaire Public Works Department to re-bid this item – Item submitted by Director of Public Works Joe Keene.

    b. CONSIDERATION of and possible action on a recommendation from the Bellaire Public Works Department to award Bid No. 08-013, Grass Mowing Services, to the lowest responsive bidder, Seril, Inc., d/b/a Houston Grotech Services, in an amount not to exceed $48,850.00, and adoption of an ordinance of the City Council of the City of Bellaire, Texas, authorizing the Mayor and City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, a Standard Form of Agreement with Seril, Inc., d/b/a Houston Grotech
Services, for labor, material, equipment, and any and all other services necessary to provide grass mowing services for the City of Bellaire, Texas, for a period of one year commencing on September 8, 2008, and ending on August 31, 2009, with an option to renew said Agreement for a period of four years, one year at a time, subject to the approval and agreement of the bidder and the City Manager of the City of Bellaire, Texas, acting on behalf of the City of Bellaire, Texas – Item submitted by Director of Public Works Joe Keene.

MOTION TO APPROVE CONSENT AGENDA:

A motion was made by Mayor Pro Tem Peggy Faulk and seconded by Councilman Phil Nauert to approve the Consent Agenda dated September 8, 2008, consisting of the following:

- Recommendation from the Bellaire Public Works Department to reject the bids received under Bid No. 08-011, Purchase of City of Bellaire Recycling Materials, as well as authorization for the Bellaire Public Works Department to re-bid this item; and

- Recommendation from the Bellaire Public Works Department to award Bid No. 08-013, Grass Mowing Services, to the lowest, responsive bidder, Seril, Inc., d/b/a Houston Grotech Services, in an amount not to exceed $48,850.00, and adoption of an ordinance of the City Council of the City of Bellaire, Texas, authorizing the Mayor and City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, a Standard Form of Agreement with Seril, Inc., d/b/a Houston Grotech Services, for labor, material, equipment, and any and all other services necessary to provide grass mowing services for the City of Bellaire, Texas, for a period of one year commencing on September 8, 2008, and ending on August 31, 2009, with an option to renew said Agreement for a period of four years, one year at a time, subject to the approval and agreement of the bidder and the City Manager of the City of Bellaire, Texas, acting on behalf of the City of Bellaire, Texas.
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 was subsequently numbered: 08-052}

2. ADOPTION OF ORDINANCES:

Agreements and Contracts

a. CONSIDERATION of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, authorizing the City of Bellaire, Texas, to make the first and final payment to R. Hassell Builders, Inc., related to a contract for the Renovation of a Three-Story Fire Training Tower in an amount not to exceed $98,071.25 – Item submitted by Assistant Fire Chief Alton Moses.

MOTION TO ADOPT ORDINANCE:

A motion was made by Councilman John Jeffery and seconded by Councilman Pat McLaughlan to adopt an ordinance of the City Council of the City of Bellaire, Texas, authorizing the City of Bellaire, Texas, to make the first and final payment to R. Hassell Builders, Inc., related to a contract for the Renovation of a Three-Story Fire Training Tower in an amount not to exceed $98,071.25.

VOTE ON MOTION TO ADOPT ORDINANCE:

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

FOR: Siegel, Cindy
     Hickman, Will
     Avioli, James P., Sr.
b. CONSIDERATION of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, repealing Ordinance No. 06-034, dated May 15, 2006, which authorized the Mayor and City Clerk to execute and attest, respectively, an Interagency Agreement between Harris County, the City of Bellaire, and the Metropolitan Transit Authority of Harris County (METRO) for improvements to Newcastle Drive from Bellaire Boulevard to Beechnut Street in the amount of $4,179,443.00, as well as repealing Ordinance No. 06-090, dated November 20, 2006, which authorized Amendment No. 1 to Project Agreement (Newcastle Drive from Bellaire Boulevard to Beechnut Street) (“Amendment No. 1”) increasing the funding by $1,000,000.00 for the purpose of replacing said Interagency Agreement and Amendment No. 1 with a Transportation Improvement Agreement by and between the City of Bellaire, Texas, and METRO for improvements to Newcastle Drive from Bellaire Boulevard to Beechnut Street in the amount of $5,179,443.00, said Transportation Improvement Agreement of which would enable METRO to administer the project improvements and make payments for those improvements directly to the City of Bellaire, Texas, as well as authorization for the Mayor and City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, said Transportation Improvement Agreement on behalf of the City of Bellaire, Texas – Item submitted by Chief Financial Officer Donna Todd on behalf of METRO.

MOTION TO ADOPT ORDINANCE:

A motion was made by Mayor Pro Tem Peggy Faulk and seconded by Councilman Will Hickman to adopt an ordinance of the City Council of the City of Bellaire, Texas, repealing Ordinance No. 06-034, dated May 15, 2006, which authorized the Mayor and City Clerk to execute
and attest, respectively, an Interagency Agreement between Harris County, the City of Bellaire, and the Metropolitan Transit Authority of Harris County (METRO) for improvements to Newcastle Drive from Bellaire Boulevard to Beechnut Street in the amount of $4,179,443.00, as well as repealing Ordinance No. 06-090, dated November 20, 2006, which authorized Amendment No. 1 to Project Agreement (Newcastle Drive from Bellaire Boulevard to Beechnut Street) ("Amendment No. 1") increasing the funding by $1,000,000.00 for the purpose of replacing said Interagency Agreement and Amendment No. 1 with a Transportation Improvement Agreement by and between the City of Bellaire, Texas, and METRO for improvements to Newcastle Drive from Bellaire Boulevard to Beechnut Street in the amount of $5,179,443.00, said Transportation Improvement Agreement of which would enable METRO to administer the project improvements and make payments for those improvements directly to the City of Bellaire, Texas, as well as authorization for the Mayor and City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, said Transportation Improvement Agreement on behalf of the City of Bellaire, Texas.

DISCUSSION:

Councilman Will Hickman inquired as to whether the request to change the funding conduit from Harris County to METRO through the above-referenced agreement was at the request of Harris County.

Mayor Cindy Siegel advised that the Multi-City Mayors had requested that the funding conduit be changed. There were delays in other cities’ projects because there was an additional party (i.e., Harris County) involved in the process. The funding was coming from METRO and going through the Harris County Commissioners Court before the cities ultimately received the funding for their projects. By taking Harris County out of the process, the process could become more streamlined.

VOTE ON MOTION TO ADOPT ORDINANCE:

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

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

OPPOSED: None

ABSENT: None

{Ordinance was subsequently numbered: 08-054}

c. CONSIDERATION of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, repealing Ordinance No. 06-081, dated October 2, 2006, which authorized the Mayor and the City Clerk to execute and attest, respectively, an Interagency Agreement between Harris County, the City of Bellaire, and the Metropolitan Transit Authority of Harris County (METRO) for improvements to Baldwin Avenue from Ione Street to Cypress Ditch in the amount of $3,200,000.00, for the purpose of replacing said Interagency Agreement with a Transportation Improvement Agreement by and between the City of Bellaire, Texas, and METRO for improvements to Baldwin Avenue from Ione Street to Cypress Ditch in the amount of $3,200,000.00, said Transportation Improvement Agreement of which would enable METRO to administer the project improvements and make payments for those improvements directly to the City of Bellaire, Texas, as well as authorization for the Mayor and City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, said Transportation Improvement Agreement on behalf of the City of Bellaire, Texas – Item submitted by Chief Financial Officer Donna Todd on behalf of METRO.

MOTION TO ADOPT ORDINANCE:

A motion was made by Councilman Pat McLaughlan and seconded by Councilman Phil Nauert to adopt an ordinance of the City Council of the City of Bellaire, Texas, repealing Ordinance No. 06-081, dated October 2, 2006, which authorized the Mayor and the City Clerk to execute and attest, respectively, an Interagency Agreement between Harris County, the City of Bellaire, and the Metropolitan Transit Authority of Harris County (METRO) for improvements to Baldwin Avenue from Ione Street to Cypress Ditch in the amount of $3,200,000.00, for the purpose of replacing said Interagency Agreement with a Transportation Improvement Agreement by and between
the City of Bellaire, Texas, and METRO for improvements to Baldwin Avenue from Ione Street to Cypress Ditch in the amount of $3,200,000.00, said **Transportation Improvement Agreement** of which would enable METRO to administer the project improvements and make payments for those improvements directly to the City of Bellaire, Texas, as well as authorization for the Mayor and City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, said **Transportation Improvement Agreement** on behalf of the City of Bellaire, Texas.

Councilman Pat McLaughlan referred to the fact that there was some citizen input with respect to the Newcastle Drive improvements. He inquired as to whether the City had done any engineering work on Baldwin Avenue.

City Manager Bernard M. Satterwhite, Jr., indicated that some preliminary engineering work had been done on Baldwin Avenue and was presented to City Council last year.

Councilman McLaughlan stated that, based on the input received on Newcastle Drive, he suspected that City Council could expect similar input on Baldwin Avenue. He inquired as to whether there would be an opportunity for citizen comment prior to the award of the engineering work.

City Manager Satterwhite indicated that citizen input was typically solicited after the engineering work was done. Without the engineering work, it was difficult to describe the project.

Councilman McLaughlan stated that he understood that, but had already heard that some residents in the area desired for Baldwin Avenue to remain a “country lane.” He inquired as to the timeframe in which citizens could expect an opportunity to provide comments on the project.

City Manager Satterwhite indicated that it would probably be another year or more. The City could not really move forward on Baldwin Avenue until the Newcastle Drive improvements were well underway.

**VOTE ON MOTION TO ADOPT ORDINANCE:**

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

OPPOSED:  None

ABSENT:  None

{Ordinance was subsequently numbered: 08-055}

Budget for Fiscal Year 2009

Councilman Will Hickman asked if the Bellaire City Council could consider the adoption of the Capital Improvement Plan for fiscal year 2009 prior to consideration of the budget for fiscal year 2009. He noted that if changes were made to the Capital Improvement Plan, those changes could affect the amount of funding needed in the budget. After noting no objections, Mayor Cindy Siegel asked that the Capital Improvement Plan be considered at this time.

e. CONSIDERATION of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, approving the City of Bellaire, Texas, Capital Improvement Plan for fiscal year 2009 – Item submitted by City Manager Bernard M. Satterwhite, Jr.

MOTION TO ADOPT ORDINANCE:

A motion was made by Councilman Pat McLaughlan and seconded by Councilman John Jeffery to adopt an ordinance of the City Council of the City of Bellaire, Texas, approving the City of Bellaire, Texas, Capital Improvement Plan for fiscal year 2009.

DISCUSSION:

AMENDMENT (NO. 1) TO MOTION TO ADOPT ORDINANCE:

An amendment (no. 1) to the motion to adopt an ordinance approving the City of Bellaire, Texas, Capital Improvement Plan for fiscal year 2009 (“Plan”), by amending page 9 of said Plan to remove the art benches in the amount of $15,000.00 was made by Councilman Will Hickman. Mayor Pro Tem Peggy Faulk seconded the amendment.
CONTINUED DISCUSSION ON AMENDMENT (NO. 1) TO MOTION:

Councilman Will Hickman advised that he was reminded of the need to remove the art bench program from the Plan as he visited the Bellaire City Library and drove past the MEDSU bench at Paseo Park. He commented that a number of his neighbors had expressed concern with the amount of money the City had expended on art benches. He did not feel that this program represented a good use of the taxpayers’ money.

Councilman Phil Nauert stated that he had previously asked for this particular program (i.e., the art benches) to be flagged during budget discussions. He felt that before the City funded any more benches, the City Council should ensure that the benches were functional.

Mayor Cindy Siegel advised that the City’s policy in the past had been that any one City Council member could tag or flag any item in the budget. This meant that before any funds were spent on a “tagged” item, the item must come back to City Council for discussion.

Councilman Pat McLaughlan stated that he felt that the art benches had some potential, however, the City had purchased some benches that were problematic with respect to functionality, corrosion, longevity, etc. He stated that he would concur with Councilman Nauert in that the item needed to be “flagged.”

Mayor Pro Tem Peggy Faulk asked for confirmation that if the item were not “flagged,” that the item would not come back to City Council for consideration.

City Manager Bernard M. Satterwhite, Jr., advised that every item included in the Plan would come back to City Council for consideration.

Mayor Pro Tem Faulk noted that it was not necessary to “flag” items. She agreed with Councilman Hickman that this program should be removed from fiscal year 2009. There were many cities in Texas with very attractive benches that were not “art” benches. The City gave the program a try, but she would prefer to see the City purchase some nice, attractive benches that were not necessarily a “work of art.”

Councilman John Jeffery added that he was under the impression that every item listed in the Plan would come back
to City Council even if the cost of the item were less than the City Manager's purchase authority (i.e., less than $50,000.00).

City Manager Satterwhite advised that Councilman Jeffery’s impression was correct—all items would be brought back to City Council prior to purchase.

Mayor Siegel stated that she would vote against the amendment. She advised that City Council also had a responsibility and needed to accept some blame for the benches that had been purchased thus far. Perhaps City Council had not asked the right questions or reviewed the dimensions. Hopefully, the Bellaire Arts Commission, City Staff, and City Council had learned a lesson as a result of the process and would ask the right questions in the future with respect to functionality, longevity, etc.

Councilman Hickman agreed that City Council should learn from their mistakes and not repeat those mistakes. He felt that City Council could see that the bench program was not as successful as some might have thought.

He continued and noted that there was $110,000.00 in the Plan for the Public Art Program. If he remembered correctly, there was $96,000.00 remaining in the City’s Public Art Program Fund. If the benches were subtracted in the amount of $15,000.00, the Public Art Program Fund would have a balance remaining of $95,000.00. Over the five-year Plan, the total to be expended on the Public Art Program was $553,000.00. This was, in his view, a quantum leap from the $96,000.00 originally set aside by City Council and remaining for the Public Art Program. Removal of the $15,000.00 art benches project would leave the funding that was originally committed by City Council for public art.

Mayor Siegel asked for clarification that the City had funded four art benches and received donations for four more benches. She noted that the other four still needed to be purchased. She inquired as to whether the amendment to the motion precluded those donations.

City Manager Satterwhite indicated that the Master Art Plan was approved, however, the funding for that Plan had not been fleshed out.

Mayor Siegel asked for confirmation that designs had been approved for eight benches.
City Manager Satterwhite advised that Mayor Siegel was correct.

VOTE ON AMENDMENT (NO. 1) TO MOTION TO ADOPT ORDINANCE:

Motion failed on a 3-4 vote as follows:

FOR: Hickman, Will
     Faulk, Peggy
     McLaughlan, Pat

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

ABSENT: None

CONTINUED DISCUSSION ON ORIGINAL MOTION:

Councilman Hickman noted that City Council had seen the five-year Capital Improvement Plan a number of times, but were limited this evening to the portion that related to fiscal year 2009. He inquired as to whether City Council would ever discuss the remaining years.

City Manager Satterwhite indicated that the discussion would occur as soon as possible.

Mayor Siegel advised that she would like to have the discussion in October of 2009.

City Manager Satterwhite stated that he would like to go through the remainder of the Capital Improvement Plan in a forum so that City Staff could understand City Council’s desire with respect to funding, etc.

VOTE ON MOTION TO ADOPT ORDINANCE:

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
FOR (CONT.): Jeffery, John

OPPOSED: None

ABSENT: None

{Ordinance was subsequently numbered: 08-056}

d. CONSIDERATION of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, adopting the budget for the City of Bellaire, Texas, for the fiscal year beginning October 1, 2008, and ending September 30, 2009 (i.e., fiscal year 2009), and appropriating the several sums set up therein to the objects and purposes therein named – Item submitted by City Manager Bernard M. Satterwhite, Jr.

MOTION TO ADOPT ORDINANCE:

A motion was made by Councilman Pat McLaughlan and seconded by Councilman James P. Avioli, Sr., to adopt an ordinance of the City Council of the City of Bellaire, Texas, adopting the budget for the City of Bellaire, Texas, for the fiscal year beginning October 1, 2008, and ending September 30, 2009 (i.e., fiscal year 2009), and appropriating the several sums set up therein to the objects and purposes therein named.

DISCUSSION:

Councilman Will Hickman inquired as to whether the City Manager had received any updates with respect to the City’s certified tax rolls.

City Manager Bernard M. Satterwhite, Jr., stated that the City had received the certified tax rolls. Based on those tax rolls and the preliminary truth-in-taxation calculations, City Staff would probably propose another tax rate decrease so that the City could stay within the effective tax rate. He did not believe that the City needed to adopt a rate beyond the effective tax rate in light of the City’s current tax base and fund balances.

The total taxable value of new property was approximately $100,000,000.00. This value was just under last year’s value of $110,000,000.00. Bellaire had $38,500,000.00 in property values still under protest in September of 2007. In September of 2008, Bellaire had $113,000,000.00 in property values still
under protest. Last year, Bellaire ended up generating more tax revenue than anticipated based on the tax rolls. He did not know if that would occur this year.

**Councilman Hickman** inquired as to whether the City knew what the value increase was for a homeowner with a home valued at $200,000.00.

**City Manager Satterwhite** indicated that the appraised value increased a little over 10% per unit. The total taxable value increased 7.1%.

**Councilman John Jeffery** inquired as to whether City Manager Satterwhite felt comfortable in speculating as to the tax rate decrease.

**City Manager Satterwhite** estimated that the decrease would be about 2-1/4 cents to 37.75 cents (from 40 cents).

**Mayor Cindy Siegel** referred to prior City Council discussions related to a reduction of the Debt Service Fund ending fund balance.

**City Manager Satterwhite** noted that it was difficult to mitigate future year increases in debt service, as the City did not know how much the tax base would increase each year. He noted the debt service obligations were currently $4.9 million per year and that by 2016 the debt service obligations would be $7.5 million.

The fund balance in the Debt Service Fund would decrease to $1.5 million based on the tax rate for the Debt Service Fund that City Staff would propose to City Council for tax year 2008.

**Mayor Siegel** asked if the tax rate could be set even lower if City Council desired to do so.

**City Manager Satterwhite** advised that Mayor Siegel was correct.

**Mayor Siegel** asked if a cash flow projection had been run for the City’s funds in order to ensure that City Council would not have to come back and raise taxes in future years.

**City Manager Satterwhite** advised that cash flows had been performed for all funds for the purposes described by Mayor Siegel. Those cash flows had been performed using a very conservative increase of 3% over the next ten years.
Mayor Siegel asked if the rate City Staff would propose would take into account funds needed for Debt Service the next year out and the next.

City Manager Satterwhite advised that Mayor Siegel was correct. If City Council lowered the tax rate even more, then the City might have to look at expenditure decreases.

Mayor Siegel asked if the decrease in the Debt Service Fund ending fund balance would negatively impact the City’s bond rating.

City Manager Satterwhite advised that the City’s bond rating would not be negatively impacted by a decrease in the ending fund balance.

Councilman Hickman advised that it appeared that the City was within one-half cent of having a person not have any tax increase.

City Manager Satterwhite stated that the average tax bill would increase by $74.00, noting that this was not an exact number as some bills would be lower and others would be higher.

Councilman Hickman asked if one-half cent could be absorbed in the fund balance without taking out any line items.

City Manager Satterwhite stated that he had reviewed a tax rate of 37.75 cents, but had not evaluated the effect on the City’s various funds if that tax rate were lowered even more.

Councilman Hickman stated that the General Fund balance was $2.8 million, but was budgeted last year to be $2.2 million. He asked if the balance would still be $2.8 million with a tax rate of 37.75 cents.

City Manager Satterwhite advised that the fund balance would be approximately $109,000 less with a 37.75-cent tax rate.

Councilman Hickman asked for confirmation that one cent brought in $300,000+ in revenues.

City Manager Satterwhite indicated that Councilman Hickman was correct.
VOTE ON MOTION TO ADOPT 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: 08-057}

e. CONSIDERATION of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, approving the City of Bellaire, Texas, Capital Improvement Plan for fiscal year 2009 – Item submitted by City Manager Bernard M. Satterwhite, Jr.

NOTE: This agenda item was considered earlier in the meeting. See pages 14-18 of these minutes for discussion and action related to this agenda item.

Code Amendments

Mayor Cindy Siegel turned the meeting over to Mayor Pro Tem Peggy Faulk at this time. Mayor Siegel advised that she was recusing herself from discussion, consideration, and action related to the next three agenda items involving Episcopal High School, as her daughter was a freshman at Episcopal High School this year. She then left the City Council table.

f. CONSIDERATION of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, amending the Code of Ordinances of the City of Bellaire, Texas, Chapter 24, Planning and Zoning Regulations, Article V, Zoning Regulations, Division 2, Zoning District Regulations, Section 24-541, Loop 610 District, Subsection D, Standard Regulations, (2) Non-Residential Structures, b) Schools, 1) Size and Area, d. Maximum building height, for the purpose of allowing the maximum building height of a structure in said district to be six (6) stories subject to tiered setbacks measured
from abutting residential neighborhoods and to increase the maximum height limit for cooling towers, roof gables, theatrical fly spaces, chimneys, radio and television antennas, and vent stacks to eighty-four (84) feet above the average level of the base of the foundation of the building, excluding basements – Item submitted by City Clerk Tracy L. Dutton on behalf of City Attorney Alan P. Petrov and as recommended by the Planning and Zoning Commission of the City of Bellaire, Texas.

Mayor Pro Tem Peggy Faulk called for a motion on agenda item G. 2. f. at this time.

**MOTION TO ADOPT ORDINANCE:**

A motion was made by Councilman John Jeffery and seconded by Councilman Pat McLaughlan to adopt an ordinance of the City Council of the City of Bellaire, Texas, amending the Code of Ordinances of the City of Bellaire, Texas, Chapter 24, Planning and Zoning Regulations, Article V, Zoning Regulations, Division 2, Zoning District Regulations, Section 24-541, Loop 610 District, Subsection D, Standard Regulations, (2) Non-Residential Structures, b) Schools, 1) Size and Area, d. Maximum building height, for the purpose of allowing the maximum building height of a structure in said district to be six (6) stories subject to tiered setbacks measured from abutting residential neighborhoods and to increase the maximum height limit for cooling towers, roof gables, theatrical fly spaces, chimneys, radio and television antennas, and vent stacks to eighty-four (84) feet above the average level of the base of the foundation of the building, excluding basements.

**DISCUSSION:**

Councilman Phil Nauert referred to the proposed parking garage to be constructed by Episcopal High School in the Loop 610 District. He inquired of City Attorney Alan P. Petrov as to where else within the Loop 610 District a six-story structure could be constructed.

City Attorney Alan P. Petrov advised that on the Episcopal High School site itself there were various locations that a six-story structure could be constructed. He advised further that there was a band along Interstate Highway 610 in the Loop 610
Zoning District where a six-story structure could be constructed.

**Councilman Nauert** asked for confirmation that the only other area that was affected by tonight’s action was Pin Oak Middle School.

**City Attorney Petrov** advised that Councilman Nauert was correct.

**Councilman Nauert** inquired as to where on the Pin Middle School property a six-story structure could be constructed.

**City Attorney Petrov** advised that the structure would have to be close to Interstate Highway 610.

**Councilman Nauert** inquired as to whether the action this evening would be considered "spot zoning."

**City Attorney Petrov** advised that spot zoning was zoning designed to apply to a specific tract and only applicable to a specific tract. The zoning recommended this evening could apply to additional tracts and even more tracts than existed today if someone were to amass a large amount of property.

**Councilman Nauert** asked if six-story office buildings and parking garages could also be constructed in this zoning district.

**City Attorney Petrov** stated that this portion of the Code related to schools only. There was already a provision in the Code for the Loop 610 District that applied to planned developments for commercial properties. With a three-acre tract, six-story office buildings could be constructed under the current Code.

**Councilman Nauert** asked for confirmation that the action this evening only applied to school buildings.

**City Attorney Petrov** advised that Councilman Nauert was correct.

**Councilman James P. Avioli, Sr.,** advised that when he was looking at amending the Code, he could see why it needed to be done to initiate the changes at Episcopal High School. He inquired as to the benefit to the City through the amendment of the Code other than to enable Episcopal High School to go along with their development.
City Manager Satterwhite indicated that he had not weighed the benefits.

Councilman John Jeffery referred to the corner of Bissonnet Street and Loop 610, noting that the property was also in the Loop 610 District. He noted that the property had a commercial building on it that was probably six stories in height or taller. The other Loop 610 District was near the Research, Development and Distribution Zoning District and had an office building similar in height. He inquired as to whether those buildings were under a different restriction.

City Attorney Petrov advised that there were some buildings that were taller than six stories along Loop 610 and noted that those buildings predated the current zoning limitations. He believed that the current maximum height for office buildings was six stories.

Councilman Jeffery inquired as to what the requirement would be if an existing office building were demolished and reconstructed. In other words, would it have to be reconstructed with a maximum height of six stories?

City Attorney Petrov stated that it would not if it were developed as a commercial property.

Councilman Will Hickman inquired as to whether the City could accomplish the same thing if six-story buildings were allowed within so many hundred feet of Loop 610 rather than feathering.

City Attorney Petrov advised that the suggestion by Councilman Hickman would work.

Councilman Hickman inquired as to the benefit of the proposed feathering of the district.

City Attorney Petrov advised that some of the structures proposed by Episcopal High School exceeded the two and one-half-story limit that currently existed. As one traveled a little further from Loop 610, three-story structures were allowed along with protection for the residences.

Councilman Hickman asked for confirmation that the parking garage was the most central building and was closest to Loop 610 and that the proposed three-story structures were allowed as they were within the feathering.
City Attorney Petrov advised that Councilman Hickman was correct.

Councilman Nauert stated that it appeared that this zoning ordinance was crafted for the petitioner’s planned development and planned expansion. In other words, the ordinance facilitated the petitioner rather than zoning based on what people in the City wanted. Councilman Nauert expressed concern that the City was draging the governmental process to accommodate one petitioner.

He did not believe that zoning should be adapted for the applicant of the minute.

Councilman Hickman referred to similarly situated tracts zoned commercial along Loop 610. He asked if those tracts had a “feathering” as well.

City Attorney Petrov advised that those tracts did not have feathering.

Councilman Hickman asked for confirmation that schools were being given more than they had currently, but less than commercial parcels had already.

City Attorney Petrov advised that Councilman Hickman was correct.

Councilman Jeffery reiterated the comment that in the Loop 610 District the City already had larger buildings. He applauded Episcopal High School for their desires to alleviate the parking problems in their area. He hoped it was done in good taste and was representative of the City and the school itself.

VOTE ON MOTION TO ADOPT ORDINANCE:

Motion carried on a majority vote of 5-1-1 as follows:

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

OPPOSED:  Nauert, Phil
ABSENT: None

ABSTAIN: Siegel, Cindy*

*Mayor Cindy Siegel recused herself from discussion, consideration, and action related to this agenda item, as her daughter was currently a freshman at Episcopal High School. Mayor Siegel left the City Council table during deliberation and action on this item.

{Ordinance was subsequently numbered: 08-058}

g. CONSIDERATION of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, amending 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, by adding a new definition (174.6), Theatrical fly space – Item submitted by City Clerk Tracy L. Dutton on behalf of City Attorney Alan P. Petrov and as recommended by the Planning and Zoning Commission of the City of Bellaire, Texas.

MOTION TO ADOPT ORDINANCE:

A motion was made by Councilman Phil Nauert and seconded by Councilman Pat McLaughlan to adopt an ordinance of the City Council of the City of Bellaire, Texas, amending 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, by adding a new definition (174.6), Theatrical fly space.

DISCUSSION:

City Attorney Alan P. Petrov advised that the definition proposed for theatrical fly space tied back to the prior Code amendment. This term was not currently defined in the Code.

Councilman Will Hickman inquired as to why specific types of structures were listed in the Code rather than just listing a height limit of eighty-four (84) feet.

City Attorney Petrov indicated that the current Code had a certain number of structures already listed, such as cooling towers, roof gables, chimneys, and radio towers, that might be in excess of a certain story height and were tied to a foot height. The theatrical fly space issue was an interesting one in
that arguably it was only one story, but it was a big story. When the issue came up with respect to Episcopal High School’s application, it did not seem right to take the tack that a 90-100 foot one-story building could be built. The theatrical fly space was integral to Episcopal High School’s proposal in that the School had a premier theatrical program. The proposed theater was an integral part of that program. The fly space did not really fit within the limitation of stories.

**Councilman Hickman** asked for confirmation that he could construct a home a certain number of stories in accordance with the Code, but might have a chimney or antenna that exceeded the story height. In other words, the list contained exceptions that were allowed to go a little higher than the rest of the building.

**City Attorney Petrov** advised that Councilman Hickman was correct. He noted further that those same types of exceptions existed in other parts of the Code with respect to residential structures.

**VOTE ON MOTION TO ADOPT ORDINANCE:**

Motion **carried** on a majority vote of **6-0-1** as follows:

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

**OPPOSED:** None

**ABSENT:** None

**ABSTAIN:** Siegel, Cindy*

*Mayor Cindy Siegel recused herself from discussion, consideration, and action related to this agenda item, as her daughter was currently a freshman at Episcopal High School. Mayor Siegel left the City Council table during deliberation and action on this item.

{Ordinance was subsequently numbered: 08-059}

**h. CONSIDERATION** of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire,
Texas, granting a Specific Use Amendment and Permit S-71 to Episcopal High School to construct a new parking complex, a new academic center, a new field house addition, a new student center addition, a chapel renovation and addition, a new fine arts center, a new maintenance building, and a renovation of the existing convent and fine arts building to be located at 4650 Bissonnet Street in the Loop 610 Zoning District in the City of Bellaire, Texas – Item submitted by City Clerk Tracy L. Dutton on behalf of City Attorney Alan P. Petrov and as recommended by the Planning and Zoning Commission of the City of Bellaire, Texas.

MOTION TO ADOPT ORDINANCE:

A motion was made by Councilman Pat McLaughlan and seconded by Councilman John Jeffery to adopt an ordinance of the City Council of the City of Bellaire, Texas, granting a Specific Use Amendment and Permit S-71 to Episcopal High School to construct a new parking complex, a new academic center, a new field house addition, a new student center addition, a chapel renovation and addition, a new fine arts center, a new maintenance building, and a renovation of the existing convent and fine arts building to be located at 4650 Bissonnet Street in the Loop 610 Zoning District in the City of Bellaire, Texas.

DISCUSSION:

Mayor Pro Tem Peggy Faulk advised that the City received a letter from Episcopal High School dated September 4, 2008, that she felt was worth reading into the record as follows:

We write today in response to the issues raised at Episcopal High School’s appearance before City Council on Tuesday, August 26. As Head of School and Executive Chair of the Board of Trustees, we are responsible for the school’s day-to-day operation; our team of design professionals, led by Life Trustee Joel Shannon, presented our master plan proposal. This letter addresses the concerns raised by City Council, most of which reside squarely in the realm of operations.

EHS remains committed to being a good neighbor, and the approval of our application to City Council will help us live up to that commitment. We understand the parking problems expressed by the neighbors. These were apparent last Friday, August 29, with buses parking along Avenue B even with the
drop-off and pick-up of passengers occurring on campus. In response to the concerns of the School's neighbors and of City Council that we heard in that last meeting, we commit EHS as follows:

1. With the addition of the parking garage and the campus improvements outlined in our proposal to City Council, we will maximize our parking capacity both for cars and for buses, alleviating the street parking problems identified in the last Council meeting. We further commit to providing adequate school-day parking for our maximum campus population and to work with outside professionals and the city to do so.

2. As many of the parking difficulties experienced at present revolve around athletic events, we will notify all opposing schools via their athletic departments to park in appropriate areas on campus and to avoid parking off campus. In addition, the School will support the city in further restricting parking in the neighborhood should City Council deem it desirable. And finally, the School will institute a new signage system on campus as part of our campus improvements to provide better direction for visitors.

3. We will ensure that the gates along Avenue B and Fournace, other than those with curb cuts, will remain locked at all times and in compliance with the City of Bellaire Fire Code and any directors of the members of the Bellaire Fire Department and the Bellaire Police Department.

4. The School will apply for a curb cut and driveway at the vehicle gate on Avenue B to avoid damage to city sidewalks. This gate will remain locked at all times other than those when it is in use by the School's maintenance staff or as instructed by the fire marshal.

In addition, the School will study the issue of lights, as the current lights are roughly ten years old, to determine how we might further reduce light pollution in the neighborhood. The School will study the issue of sound as it relates to the PA system in the stadium with the goal of minimizing noise pollution in the neighborhood. There is some noise associated with athletic competition, namely pep bands and fans, which we cannot control. And, finally, the school will offer a town-hall style meeting annually at which the School's neighbors will have the opportunity to be heard in connection with any
concern related to the School’s operations. We have tentatively identified the late fall as the time for the first of these meetings this year.

It is clear that these steps are steps that EHS must take as a good neighbor, and we will take them regardless of the outcome of the Council vote, excepting number one. We have discussed all of the improvements listed above with Mr. Satterwhite to ensure that the city has no further concerns.

We will be present in person at the City Council meeting on Monday, September 8, along with our team of professionals who have presented in all the Council meetings to date. We would welcome the chance to speak with Council about each of these matters and to answer any questions or concerns at that time.

Sincerely,

Ned Smith
Head of School

Thomas Wright
Executive Chair
Board of Trustees

City Manager Bernard M. Satterwhite, Jr., referred to the comment made in the letter that he had assured Episcopal High School that the City had no additional concerns. He advised that this was a bit of a miscommunication, as he, himself, was not the City. He did, however, discuss the matters identified in the letter with Episcopal High School.

Councilman Pat McLaughlan referred to the letter of recommendation prepared by Chair Bill Thorogood of the Planning and Zoning Commission of the City of Bellaire, Texas (“Planning and Zoning Commission”). The letter was based upon commitments that Mr. Shannon made as he addressed the Planning and Zoning Commission. The first page of the letter indicated that there would be a future limitation of no more than 800 students at Episcopal High School. He asked if there were a method by which City Council could clarify that statement. In other words, could it be made a condition of the specific use amendment?
City Attorney Alan P. Petrov advised that City Council could include conditions within the specific use permit as a condition of granting the permit.

Councilman McLaughlan asked if an Episcopal High School representative present this evening would be allowed to confirm that statement—that the student body may increase no more than 800 students as reflected in Chair Thorogood’s letter. He was interested in knowing if this were a commitment of the Episcopal High School.

City Attorney Petrov advised that Councilman McLaughlan would have to ask Episcopal High School.

Mayor Pro Tem Faulk asked if it could be made a condition of the specific use amendment regardless of whether or not it was offered.

City Attorney Petrov advised that Mayor Pro Tem Faulk was correct.

Councilman McLaughlan stated that he assumed this would be a friendly amendment and condition if this was Episcopal High School's original position.

**AMENDMENT (NO. 1) TO MOTION TO ADOPT ORDINANCE:**

An amendment (no. 1) was made by Councilman Pat McLaughlan to the motion to adopt ordinance to add a condition to the specific use amendment and permit that student enrollment at Episcopal High School would be capped at 800 students. Councilman Phil Nauert seconded the amendment.

**CONTINUED DISCUSSION ON AMENDMENT (NO. 1) TO MOTION:**

Councilman Will Hickman stated that he wished to ask the Episcopal High School representatives if they saw this as a friendly amendment or if it were an aspiration. In other words, did they wish to be bound by an 800-student cap?

Ned Smith, Head of School, Episcopal High School, advised that the school had a Master Plan to accommodate a student body up to 700. The school was currently at a student population of 659 (657 locals, two exchange students). A cap of 800 for the near future was absolutely fine for the school.
with a caveat. It was very difficult for a Board of Trustees for an institution that was going to be around forever to make a commitment binding the school forever. The school was committing to a maximum population of 700, and this was how the school had sized their parking needs. The school would not grow beyond that capacity without coming back to the City. Therefore, he was not sure if the condition were necessary.

Councilman McLaughlan asked for confirmation that it would not be a problem if the condition were modified to include an 800-student commitment.

Mr. Smith advised that he could speak for himself. He was drawn to the school because of the balance between the broad programming and the small size of the student body. Personally, this was not a problem for him. He would need to get the concurrence of the Board of Trustees before he could make a commitment to the City. The Board of Trustees would have to make that decision.

Councilman John Jeffery stated that, in his opinion, it was not the City Council’s business or place to tell a school how many students that they could have or a business how to run their business as long as the schools and businesses met the guidelines of the City.

Councilman James P. Avioli, Sr., noted that the items brought up during the public hearing before City Council were light, noise, and traffic. He believed that the statement Episcopal High School made in their letter to City Council was definitely a step in the right direction. He did not, however, hear anything that indicated sensitivity to the neighbors’ concerns. The letter was, again, a step in the right direction.

As far as the traffic was concerned, he believed he had heard that those concerns would be alleviated when the garage was built. However, there was an immediate situation right now and he asked if any consideration had been given to parking buses offsite, as there were places other than Avenue B where buses could be told to park.

Councilman Jeffery brought up a point of order, noting that a vote had not occurred on the amendment before City Council.

Councilman Hickman stated that he agreed with Councilman Jeffery and agreed that City Council needed to address the points Councilman Avioli had mentioned. Councilman Hickman had not heard any concerns from the neighbors with respect to
the number of students. He did not believe the number of students was a problem, but parking and special events were a problem.

**VOTE ON AMENDMENT (NO. 1) TO MOTION TO ADOPT ORDINANCE:**

Motion **failed** on a 1-5-1 vote as follows:

**FOR:** McLaughlan, Pat

**OPPOSED:** Hickman, Will
Avioli, James P., Sr.
Faulk, Peggy
Nauert, Phil
Jeffery, John

**ABSENT:** None

**ABSTAIN:** Siegel, Cindy*

*Mayor Cindy Siegel recused herself from discussion, consideration, and action related to this agenda item, as her daughter was currently a freshman at Episcopal High School. Mayor Siegel left the City Council table during deliberation and action on this item.

**CONTINUED DISCUSSION ON ORIGINAL MOTION:**

Councilman McLaughlan advised that in terms of general mobility, pedestrian safety, and handling of students, etc., Mr. Shannon indicated that Episcopal High School’s site plan included a sidewalk on the north side of the Interstate Highway 610 Service Road to the west campus entrance/exit on Bissonnet Street. Mr. Shannon verbally confirmed that the north side Bissonnet Street sidewalk was a part of the School’s proposal. He asked for confirmation that Episcopal High School was proposing a sidewalk the entire length of Episcopal High School along the north side of Bissonnet Street.

Mr. Smith advised that he did not have the document from which Councilman McLaughlan was reading. He indicated that Mr. Shannon was present and could comment on his discussions during prior meetings. Mr. Smith advised that he could comment on the sidewalk that ran the entire length of the school property along Bissonnet Street. It was safe to state that the School would commit to building out the sidewalk from the Interstate Highway 610 Service Road corner on the north
side of Bissonnet Street to the driveway to the School closest to Interstate Highway 610. This was immediately adjacent to the bus stop. Running the sidewalk all of the way up Bissonnet Street presented other problems and the School would be happy to work with the City in solving those problems.

**Councilman McLaughlan** asked for confirmation that Episcopal High School would commit to install a sidewalk from the Interstate Highway 610 Service Road to the driveway entrance of the school. The reason he wanted to clarify that was due to the fact that there was another gate between the driveway entrance and the Service Road. He asked for confirmation that Episcopal High School planned to install a sidewalk from the Service Road to the vehicle entrance gate.

**Mr. Smith** advised that Councilman McLaughlan was correct.

**Councilman McLaughlan** inquired as to the meaning of Mr. Smith’s comment that the School had a continuing interest in working with the City to achieve pedestrian mobility via a sidewalk along the entire length of Bissonnet Street.

**Mr. Smith** advised that he meant two things. He had not approached Mr. Satterwhite regarding the possibility of partnering with the City on the segment of sidewalk Councilman McLaughlan was suggesting. The issue with furthering the sidewalk from the vehicle entrance on up Bissonnet Street and continuing to the corner of Bissonnet Street and Avenue B presented difficulties due to drainage issues. The School’s contractors had come up with a few possibilities for the area, all of which were fairly “big ticket” items. One possibility consisted of adding a culvert that the School could come back and provide a sidewalk on top of. Another possibility was the construction of a boardwalk, which would be better for the trees on the School’s property. He imagined that the City Council wanted a specific commitment and if the cost were in a six-figure range, Mr. Smith did not have authority to approve that amount. He could, however, make a smaller dollar commitment this evening.

**Councilman McLaughlan** stated that he believed that the School had made a very positive commitment and he appreciated the School. He added that City Council’s job was to balance the interests of the School with the community. He next inquired of City Manager Satterwhite if this were a workable solution.
City Manager Satterwhite advised that it was a possibility and the City would be glad to meet with the School on this issue.

Councilman Avioli asked if the School could provide a timetable with respect to the implementation of the identified measures. In other words, how soon could the measures be implemented in order to show the surrounding community their intentions of being a good neighbor?

Mr. Smith indicated that the late fall community meeting/town hall meeting would be scheduled soon. He stated that he wanted to reach out to Councilman Nauert and Planning and Zoning Commissioner Donna Rickenbacker to assist him in determining what would work best for the neighbors.

With respect to the remaining commitments, the School could start as soon as possible in working with the City on its application to apply for a curb cut along Avenue B and to discuss the sidewalk along Bissonnet Street.

For the next home game, which was noted to be September 19, 2008, Mr. Smith would have the locks changed at the perimeter of campus to ensure that the gates remained locked.

Councilman Avioli indicated that this was certainly a step in the right direction. He indicated that other lots, such as the Houston Community College, might allow the School to stow buses during an athletic event.

He inquired as to whether the School could do with a little less sound and if some of the lights could be shielded.

Mr. Smith stated that he had inquired of some of the local schools that had recently installed lights and understood that there was a new generation available. One of their competitors had worked with the City in getting their lights installed and tested, and Episcopal High School would be glad to do the same thing. As this was a significant capital outlay, he could not promise that it would happen this season.

Councilman Avioli thanked Mr. Smith and noted that the School was certainly moving in the right direction.

Councilman Phil Nauert advised that this discussion started ten years ago when the School had requested its first specific use amendment and permit. He did not care how many students attended the School and hoped that the School was
successful. He was concerned with the effect of the student body on the School’s neighbors.

He continued and advised that the issues were light, sound, traffic, and visual clutter. He had concerns with the clutter that might be produced with the construction of a parking garage along the West Loop. He asked the School to minimize the effect, as the garage would impact the entire City as it was located at a corridor to the City and represented the City.

Councilman Nauert stated that the Head of School had contacted him after the last public hearing and he had advised Mr. Smith that it was not appropriate to have discussions until after the meeting this evening. Councilman Nauert had asked Mr. Smith to put his comments in writing, and he believed that Mr. Smith had done a good job in setting out the School’s commitments by letter.

He noted that he applauded the School for taking action even in the absence of City Council having taken action.

Mayor Pro Tem Faulk inquired as to whether or not City Council needed to make an amendment to include the commitments outlined by the School in their letter.

City Attorney Petrov advised that the letter was not part of their specific use amendment and permit.

Mayor Pro Tem Faulk asked for confirmation that City Council would need to make a motion to adopt some or all of the proposals.

City Attorney Petrov advised that Mayor Pro Tem Faulk was correct if City Council wanted the proposals to become items that were enforceable by the City.

AMENDMENT (NO. 2) TO THE MOTION TO ADOPT ORDINANCE:

An amendment (no. 2) was made by Councilman Pat McLaughlan to the motion to adopt ordinance to include the letter to the City of Bellaire dated September 4, 2008, from Episcopal High School and signed by Ned Smith, Head of School, and Thomas Wright, Executive Chair of the Board of Trustees, as an exhibit to the specific use amendment and permit ordinance. Councilman Phil Nauert seconded the amendment.
CONTINUED DISCUSSION ON AMENDMENT (NO. 2) TO MOTION:

Councilman John Jeffery noted that there were many different circumstances that had to occur before many of the commitments could be met. He was not sure how firm the letter was with respect to enforceability by the City. He was also not certain as to the appropriateness of including the letter as an exhibit to the ordinance.

City Manager Satterwhite stated that conditions to specific use amendments were normally placed on City Staff’s shoulders to ensure that such conditions were met. This was problematic over time as things and people changed.

He believed that the commitments in the letter were well meaning. The City would probably be able to work through the commitments that were made. There were some things, however, that were not really measurable in the short term. There would be people that would question those commitments and the measurement of them.

He believed that there were some specific use amendment conditions that had been placed on businesses that were not enforced today.

Councilman Nauert advised that sensitivity to City Staff’s concerns notwithstanding, the conditions proposed by the School were not unlike the things that an accrediting body would require. The commitments might not be well defined, but were easily enough measured. For example a new signage system could be summarized and kept in a notebook. He did not expect City Staff to perform monthly inspections to determine whether or not the commitments were met. He concluded and advised that he was comfortable with the inclusion of the letter as an exhibit to the ordinance.

Mayor Pro Tem Faulk agreed with Councilman Nauert.

Councilman McLaughlan noted that items 2, 3, and 4 were the ones that had any “meat” to them. If City Staff would be more comfortable with a modification to the amendment, he would be happy to make one. He felt that since the letter was a proposal by the School, the School should be supportive of incorporating their proposal in the specific use amendment.

City Manager Satterwhite advised that his comments were not intended to be a “pro” or a “con” toward any of the specific
amendments. He was merely talking about the process and the fact that there were some pitfalls in the process.

Councilman McLaughlan stated that he certainly understood the concerns of City Staff, and would be happy to amend his motion to identify specific items that should be included.

City Attorney Petrov stated that he believed it would be easier for City Staff to include the letter as a whole as an exhibit to the ordinance.

VOTE ON AMENDMENT (NO. 2) TO MOTION TO ADOPT ORDINANCE:

Motion carried on a majority vote of 5-1-1 as follows:

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

OPPOSED: Jeffery, John

ABSENT: None

ABSTAIN: Siegel, Cindy*

*Mayor Cindy Siegel recused herself from discussion, consideration, and action related to this agenda item, as her daughter was currently a freshman at Episcopal High School. Mayor Siegel left the City Council table during deliberation and action on this item.

CONTINUED DISCUSSION ON ORIGINAL MOTION, AS AMENDED:

Councilman Hickman inquired of Mr. Smith as to the location of the School’s current speaker system. In other words, were speakers located on the west side of the football field?

Mr. Smith stated that the loudest speakers were installed on the actual stadium structure facing the competition field and Avenue B.

Councilman Hickman inquired as to how the speakers were broadcast during a game. In other words, was the broadcast from the west to the east?
Mr. Smith indicated that the broadcast was in both directions.

Councilman Hickman asked if lights and poles were located on the east side near Avenue B.

Mr. Smith advised that Councilman Hickman was correct.

Councilman Hickman asked if there were speakers on the east side.

Mr. Smith stated that there were not.

**VOTE ON ORIGINAL MOTION TO ADOPT ORDINANCE, AS AMENDED TO INCLUDE THE SEPTEMBER 4TH LETTER FROM EPISCOPAL HIGH SCHOOL:**

Motion **carried** unanimously on a **6-0-1** vote as follows:

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

**OPPOSED:** None

**ABSENT:** None

**ABSTAIN:** Siegel, Cindy*

*Mayor Cindy Siegel recused herself from discussion, consideration, and action related to this agenda item, as her daughter was currently a freshman at Episcopal High School. Mayor Siegel left the City Council table during deliberation and action on this item.

*Ordinance was subsequently numbered: 08-060*

Mayor Cindy Siegel rejoined City Council at the Council table, and Mayor Pro Tem Peggy Faulk turned the meeting back over to Mayor Siegel.

**H. COUNCIL CORRESPONDENCE AND COMMENTS.**

Discussion only.
I. ADJOURNMENT.

MOTION TO ADJOURN:

A motion was made by Councilman John Jeffery and seconded by Councilman Pat McLaughlan to adjourn the Regular Session of the City Council of the City of Bellaire, Texas, at 8:59 p.m. on Monday, September 8, 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,

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

Approved:

____________________________
Cynthia Siegel, Mayor
City of Bellaire, Texas