CITY OF BELLAIRE  
CITY COUNCIL  

Minutes of Meeting  
Monday, September 29, 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 7:01 p.m. on Monday, September 29, 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; and  
- Councilman Pat McLaughlan, Position No. 5.  

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

B. INSPIRATIONAL READING AND/OR INVOCATION – Councilman Will Hickman.  

Councilman Will Hickman referred to Hurricane Ike, which had struck Bellaire and surrounding areas. He advised that he had looked at the latest CenterPoint Energy statistics today (as well as an update from City Manager Bernard M. Satterwhite, Jr.), and 39 homes in Bellaire currently had no power. He advised that he found a few quotations about electricity that he would like to share.  

Electricity is actually made up of extremely tiny particles called electrons that you cannot see with the naked eye unless you have been drinking.  

--Dave Barry  

Electricity is really just organized lightning.  

--George Carlin
If it weren’t for electricity we’d all be watching television by candlelight.

--George Gobal

And God said ‘Let there be light,’ and there was light. But the Electricity Board said He would have wait until Thursday to be connected.

--Spike Milligan

I shall make electricity so cheap that only the rich can afford to burn candles.

--Thomas Edison

C. PLEDGES TO THE FLAGS – Councilman Will Hickman.

1. U.S. PLEDGE OF ALLEGIANCE.

2. PLEDGE TO THE TEXAS FLAG.

Councilman Will Hickman 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:

CONSIDERATION of and possible action on the adoption of the minutes of the Regular Session of the City Council of the City of Bellaire, Texas, held on Monday, September 8, 2008 – Item submitted by City Clerk Tracy L. Dutton.

MOTION TO APPROVE MINUTES:

A motion was made by Councilman James P. Avioli, Sr., and seconded by Councilman Will Hickman to approve the minutes of the Regular Session of the City Council of the City of Bellaire, Texas, held on Monday, September 8, 2008.

VOTE ON MOTION TO APPROVE MINUTES:

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

FOR: Siegel, Cindy
      Hickman, Will
      Avioli, James P., Sr.
      Faulk, Peggy
      Nauert, Phil
      McLaughlan, Pat
Mayor Cindy Siegel asked City Council to consider a Storm Update Report prior to Personal/Audience Comments. After noting no objections, a Storm Update Report was provided by Mayor Siegel and City Manager Bernard M. Satterwhite, Jr.

F. REPORTS:

1. STORM UPDATE – preparations by the City of Bellaire Emergency Operations Center personnel before, during, and after Hurricane Ike – Presented by Mayor Cindy Siegel, City Manager Bernard M. Satterwhite, Jr., and District Director Tammi Wallace of State Representative Ellen Cohen’s Office (District 134).

Mayor Cindy Siegel advised that she never thought that Bellaire would be experiencing one of its most historic events of the last 100 years during its Centennial Year. Bellaire had faced and survived one of the strongest and most damaging storms in the United States’ history with Hurricane Ike. It had been an extremely difficult time for many who had to survive for two or more weeks without their modern conveniences and comforts.

The past two weeks had tested Bellaire’s staff, residents, and businesses in ways that we could never have imagined three weeks ago. Who would have thought that we would, in a limited way, be experiencing life like it was 100 years ago—without electricity, air conditioning, television, Internet, and cable in every home. In wandering around her home with a flashlight, Mayor Siegel gained a new appreciation for the conditions that our forefathers lived under every day. She noted than many in the world still lived under those conditions.

City Hall and the Emergency Operations Center in the Police Station sometimes felt like a World War I and World War II bunker. It had been tense and stressful most of the time. Sometimes a burst of humor would escape, as people just could not take the stress any longer. However, there had always been a concern for the well being of the City and the community.

Friday night, September 12, 2008, Mayor Siegel had prayed for two things—that Bellaire would not lose the lives of any residents or staff and that there would not be serious flooding that could cause major damages to our homes and businesses. Her prayers were answered, but others to the south were not so blessed. The only thing she forgot
to pray for was electricity. She understood that there were still residents that were angry over the lack of power or whatever else they saw as a failure in the aftermath of Hurricane Ike. However, this evening’s meeting was not the time for “should haves” and “could haves.” Although most of Bellaire now had power, the City was still in a recovery phase.

Mayor Siegel advised that she and City Manager Bernard M. Satterwhite, Jr., would be reporting on the City’s ongoing recovery efforts. Mayor Siegel had also asked State Representative Ellen Cohen’s Office to attend the meeting this evening to report on their efforts on behalf of Bellaire.

In the next week or two, the Emergency Operations Center would be meeting to evaluate what the City did well and what the City could do better the next time it experienced a similar disaster like Hurricane Ike. After the evaluation and taking into consideration some good suggestions received from many of Bellaire’s residents, there would be a complete report to take into account such things as communications with the residents and the City’s expectations from utilities, such as CenterPoint Energy (“CenterPoint”), regarding the delivery of service and communications with residents after a disaster.

Mayor Siegel expected that the referenced report would be presented no later than October 20, 2008, and thanked each member of the City Staff, with a special thanks to City Manager Bernard M. Satterwhite, Jr. She noted that she had the misfortune of serving as Mayor through two hurricanes—Rita and Ike, but the blessing of serving as Mayor with a wonderful staff supporting her through both of the events.

With Hurricane Rita came a great loss of some of Bellaire’s most fragile senior citizens in a bus fire. City Staff supported Mayor Siegel and Bellaire’s citizens through every step of that heartbreaking experience. This time through Hurricane Ike, City Staff had been there doing their job with professionalism and sometimes even with a smile.

Many of the City’s Staff did not have power at their own homes; some had not been able to get back to their homes; and some did not have a home to go back to. Through this all, City Staff had dealt calmly and politely with the anger and stress the citizens were experiencing and sometimes venting over the last two weeks. At the helm during each of these events, as well as Tropical Storm Allison, was City Manager Bernard M. Satterwhite, Jr., a man of integrity and a great leader even under the most difficult circumstances. Bellaire truly had the best and most dedicated staff around. Just as the City learned from Tropical
Storm Allison and Hurricane Rita, the City would learn from Hurricane Ike.

On a personal level, Mayor Siegel had heard from friends, neighbors, and residents how this experience had made their families and neighborhoods stronger. In a way Hurricane Ike had reminded many of us about what had made Bellaire the great City that it had been over 100 years—a community of homes, friendly and kind neighbors helping each other, and a wonderful place to raise a family and grow old.

Mayor Siegel next read an excerpt from a letter that she had prepared as a press release discussing power restoration:

*Friday, at our demand, the City Manager and I had a meeting at City Hall in the afternoon with CenterPoint’s Senior Vice President for Electrical Services, the Vice President for Corporate Communications, the Division Vice President for Distribution/Operations, and the Managers from the Bellaire Service Center. These were the individuals that are directing not only the Bellaire power restoration, but also the entire CenterPoint power restoration effort. Additionally, at our request, State Representative Ellen Cohen sent two legislative aides to this meeting. She was attending a conference as a speaker and could not attend this meeting.*

CenterPoint made the following commitments:

- To provide daily status and progress reports on the remaining power outages in Bellaire;
- To finish the entire initial sweep to get the network in Bellaire energized by September 28, 2008;
- To communicate with the City of Bellaire by the morning of September 29, 2008, as to which Bellaire addresses still had secondary, individual problems—such as transformers, downed lines, etc.—that had not been or were not resolved with the initial sweep; and
- To restore Bellaire residents with these secondary problems within a matter of days.

As of Saturday, CenterPoint had over 400 skilled linemen working on the circuits that supplied Bellaire.

Mayor Siegel asked residents with a secondary problem and no power to contact CenterPoint at (713) 207-2222 as soon as possible. Secondly, Mayor Siegel asked the residents to call the City of Bellaire
Mayor Siegel noted further that the Bellaire City Library had been a true blessing throughout this event and were open on Tuesday after the hurricane.

City Manager Bernard M. Satterwhite, Jr., noted that he had only been working for the City for approximately six months when Tropical Storm Allison hit Bellaire. After seeing the devastation from that event, he thought surely he would never see anything more devastating in his tenure as City Manager of Bellaire. Of course, he was wrong. At that time, the question was asked whether the City had done everything they could do. His answer was “no, but the City would do better next time.” He felt that the City had improved over the years. In a future meeting he would detail everything the City had done to prepare for the hurricane, as he wanted City Council and the citizens to be aware of the City’s process and the how the City’s organization worked. It certainly had changed since 2001, noting that the City was not prepared for a major, devastating natural disaster like Tropical Storm Allison. The City was much more prepared now, but could still learn and improve on things as the City moved forward.

The two main issues that the City had in front of it now were power restoration and debris pickup. With regard to power restoration, City Manager Satterwhite understood that most of the tree trimming was completed. The initial sweep of the circuits from the substation out was completed on Sunday in Bellaire. CenterPoint was now undergoing a secondary sweep. The secondary sweep included all of the individual issues that were not solved with the initial sweep, such as transformers and individual service lines. CenterPoint purposely waited for the individual issues because those actions only brought up one person, or in the case of a transformer, maybe eight people or eight households. Conversely, a power line pole and/or line fuse could serve hundreds of people with one action.

City Manager Satterwhite reminded citizens that many of the power lines were in backyards and that those power lines were located in utility easements. CenterPoint did have the legal authority to enter a resident’s backyard to deal with the power lines. He had heard that some residents had resisted the desire for CenterPoint workers to come into their backyards.

Additionally, when trees were cut from power lines, those trees were still the property owners’ trees. CenterPoint was only getting the trees in the easement off of their power lines. This was all that they were required to do and all that they had ever been required to do. The City had received some telephone calls from residents who felt that
CenterPoint should not only take the trees off of the power lines, but also remove those trees from the premises. This would not occur. The reason that trees were being removed from the power lines was so that CenterPoint could restore power to residents.

City Manager Satterwhite advised that the City understood that some people really did not have the means to get these trees to their front yards. He had talked with Director of Parks & Recreation Jane L. Dembski about a possible volunteer effort to help residents with that issue through, perhaps, some Boy Scout Troops. He encouraged residents to help their neighbors, where possible, to move the trees to the front yards for pickup.

As of 4:00 p.m. today, there were 39 customers in Bellaire without power. The restoration was going fairly rapidly now. The greatest percentage of customers in Bellaire had their power restored over the previous weekend. He advised that there were three main circuits that served Bellaire—the Braes Circuit, the Sharpstown Circuit, and the Bellaire Circuit. The most problematic circuits due to extensive damage were noted to be the Braes and Sharpstown Circuits. He advised further that CenterPoint had indicated that the 39 remaining customers without power should be up by the close of business on Wednesday.

With respect to debris pickup, City Council adopted an Interlocal Agreement with Harris County approximately one year ago for debris removal. This Agreement allowed the City to call one of the suppliers under the Agreement to come in and take care of Bellaire. To start the process, it was necessary for the President of the United States to declare a disaster, which would then allow Bellaire to seek reimbursement from the federal government for the bulk of the costs of implementing the debris removal process.

The debris pickup was designed to ensure the safety and welfare of the residents—it was not a “spick and span,” pristine pickup. In other words, it was not designed clean up the neighborhood completely. The material left behind should be manageable and could be re-piled for the City crews to pick up during normal heavy brush pick up days. It was noted further that a Federal Emergency Management Agency (FEMA) certified and monitored the debris crews. In other words, every single load of debris was accounted for.

As part the debris removal process or plan, the City was divided into four quadrants, with the West Loop and Bellaire Boulevard serving as the “dividers.” Within each quadrant, a street-by-street removal plan was developed. The plan was started on Wednesday afternoon, September 17, 2008. The start was slow due to resource constraints (i.e., lack of equipment and trucks). Director of Public Works Joe
Keene got the plan re-energized on Tuesday, September 23, 2008. As of mid-day today, one pass had been completed for the northeast and southwest quadrants. As of 4:00 p.m. today, the City’s contractor had removed a total of 32,000 cubic yards of debris. The City had estimated that there would be approximately 60,000 cubic yards of debris in the City. There were eighteen trucks hauling debris and eight loading machines. Today alone, 127 loads were hauled out. Eleven more trucks and four more loading machines were being certified by FEMA and would move into the third quadrant to start picking up debris. In summary, the first pass for the southeast quadrant was 60% complete; the first pass for the northeast quadrant was 100% complete; the first pass for the northwest quadrant was 2% complete; and the first pass for the southwest quadrant was 100% complete.

The second pass would start the day after the first pass was completed and would consist of construction materials and fencing. Other things to be picked up in the second pass would be large diameter tree parts. It was anticipated that the second pass would be completed by the 5th of October. The third pass would consist of vegetative materials, tree parts, etc., that people could not get out for the first pass. After that time, the City crews would pick up what was left over. The target date for complete debris cleanup was October 10th.

Additionally, the estimated cost for debris pickup from the City of Bellaire was $1,000,000, and the majority of the cost would be reimbursed by FEMA.

With respect to trash pickup and recycling services, the City was caught up and back on schedule starting this week. A number of street and traffic signs were lost during the hurricane, and the City was working on getting those signs back up. Traffic signals were restored fairly quickly at many of the City’s major intersections. The last signal to be down was at Evergreen Street and South Rice Avenue and that signal was restored today.

With respect to the City’s parks, most were essentially open. It was noted that some parts of some parks were closed for safety purposes. The Therapy Pool would re-open on Tuesday, September 30, 2008. The Family Aquatic Center Pool was closed until further notice. The power to that pool was restored this last weekend, but it would take a number of days to get the pool cleaned and balanced.

The Recreation Center had some problems due to a portion of the roof that peeled back during the Hurricane. As a result, some of the recreation programs were not up and running. Basketball was down until further notice as the gymnasium floor was suffering due to water damage. The City’s insurance adjusters were already helping the City...
with the damages. It was possible that the Recreation Center might need a new roof.

City Manager Satterwhite advised that he would report further on these issues and provide a status report in an upcoming meeting.

**District Director Tammi Wallace, State Representative Ellen Cohen’s Office, District 134,** advised that she was very glad to be at the Bellaire City Council Meeting and wished that Representative Cohen could have been present, but noted that this evening was the start of Rosh Hashanah. Immediately after Hurricane Ike hit the area, Representative Cohen and her office were on the telephone with the State of Texas to discuss the recovery needs that the City of Bellaire and surrounding cities in District 134 would need.

Unfortunately when Representative Cohen and her staff had the opportunity to drive around District 134, it was very evident that the District had suffered severe damage. Many of the neighborhoods in District 134 were older and had very mature trees. As a result, the District took extensive damage.

The District began to have daily conference calls with CenterPoint regarding key areas in the District. The District also began isolating the areas from which the majority of calls were coming from, Bellaire being one of those areas. Representative Cohen’s Office was pleased, at the invitation of Mayor Siegel, to meet with CenterPoint on Friday to talk to them about the concerns of Bellaire, as well as the remainder of District 134. Their goal was to try to isolate and understand exactly why some of the zip codes in the District and the City of Bellaire were running higher than some of the other parts of the District. The conversation with CenterPoint on Friday was very successful as significant reductions were seen over the weekend with respect to those residents and businesses that were without power.

Representative Cohen’s Office had received many calls and questions as to whether CenterPoint was adequately prepared. For example, should CenterPoint have done things differently, such as trimming trees before a storm could hit. Right now, the Office was focused on getting the residents and businesses in the District back up. There would be an opportunity and a time for review. Representative Cohen would lead that effort, along with many other Houston State Legislators.

Other things that could be reviewed were the preparations made by CenterPoint prior to the storm, power restoration efforts, and short-term and long-term solutions. Ms. Wallace encouraged residents to give Representative Cohen’s Office a call. She noted that the Office was documenting the experiences of residents in the District. The
Office was also tracking the complaints residents had made to the Public Utility Commission as well.

**QUESTIONS/COMMENTS FROM CITY COUNCIL:**

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

**Q:** Councilman Will Hickman referred to the circuits mentioned earlier that fed the City. He inquired as to the City’s water and sewer facilities, inquiring as to what occurred when only one of the facilities was operational.

**A:** City Manager Satterwhite indicated that there was only one City well site up for a period of time, and there were no lift stations up for a period of time. The priorities for CenterPoint’s Emergency Response Plan were lift stations and water plants. The City had discussed backup power in the past and might look into that again. The Central Water Plant was up right away, but went back down on Saturday evening. The Renwick Water Plant ended up serving the City for a period of time. The City was never at a point where we were in imminent danger of losing our water or wastewater services.

**Q:** Councilman Hickman inquired as to whether the Central Water Plant could serve the entire City.

**A:** City Manager Satterwhite advised that the Central Water Plant could serve the entire City, but only for a period of time.

**Q:** Councilman James P. Avioli, Sr., inquired as to whether City Manager Satterwhite had much interaction with FEMA during the emergency and if he could indicate what that experience was like.

**A:** City Manager Satterwhite stated that the interaction with FEMA generally came after the fact. FEMA had been around and had inquired into damages to the City facilities and private residences. There was also a “blue roof” program that FEMA sponsored, and the City had information about that program posted on the City Hall doors. FEMA was proactive from what City Manager Satterwhite had seen.

**Q:** Councilman Avioli asked if the City would have to pay for the debris removal upfront and then seek reimbursement from FEMA.

**A:** City Manager Satterwhite stated that the City would have to put all of the money out upfront and then seek reimbursement.
Fortunately, the City was in a good cash flow position and could afford to do so while waiting for reimbursement.

MOTION TO ACCEPT REPORT INTO THE RECORD:

A motion was made by Councilman Pat McLaughlan and seconded by Councilman Phil Nauert to accept the Storm Update Report as presented by Mayor Cindy Siegel, City Manager Bernard M. Satterwhite, Jr., and District Director Tammi Wallace, State Representative Ellen Cohen's Office, District 134, into the record.

VOTE ON MOTION TO ACCEPT REPORT INTO THE RECORD:

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

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

OPPOSED: None

ABSENT: Jeffery, John

E. PERSONAL/AUDIENCE COMMENTS.

Sharon Veldman, 4654 Cedar Street and Karen Matlock, 1111 Howard Lane, Bellaire, Texas:

Ms. Veldman and Ms. Matlock addressed City Council on behalf of the Patrons for Bellaire Parks, Inc. ("Patrons"). Ms. Veldman advised that the Patrons had been working diligently over the past year and were very happy to present City Council with a check of $250,000 for the continued progress in Bellaire Town Square.

Robert Riquelmy, 506 Winslow Lane, Bellaire, Texas:

Mr. Riquelmy addressed City Council and advised that he was present to supplement the journals that residents received covering the affairs of the City of Bellaire. The item he wished to supplement was the Episcopal High School series of public hearings.
Episcopal High School went through a series of three public hearings until they decided on what it was that they finally wanted. Those public hearings were held and written comments solicited, as they should have been. At the subsequent City Council meeting in which the Episcopal High School application was ultimately discussed, there were a number of letters that had been written to City Council to supplement the record of Episcopal High School. The one letter that got attention was not from a resident who was badly affected and whose property values were decreased and whose peace and tranquility and enjoyment of their property was diminished, but rather the letter from a nonresident, Episcopal High School. Not only did their letter get read for the record, but also they were called to the podium to explain and negotiate with City Council about things that should have been common courtesy and decency among neighbors. This was not well handled and he hoped he never saw anything so poorly handled in Bellaire again.

Lynn McBee, 5314 Evergreen Street, Bellaire, Texas:

Ms. McBee addressed City Council and sadly reported on two area deaths of residents that all members of City Council probably knew. One was Robert Bob Kendrick, a former member of City Council in the 1980s, a lawyer, a long-time public servant, and a man of great integrity. He left behind his wife, Margo. Also recognized was Mike McCorkle’s father, John Andrew McCorkle, who also passed away.

With respect to an item on City Council’s agenda, adoption of a Preliminary Design Plan provided by Clark Condon Associates, Inc., for Bellaire Town Square, Ms. McBee strongly suggested that this Preliminary Design Plan be aired to the public by allowing a Workshop Session or Public Hearing so that residents could be apprised of what had been proposed before City Council signed off on the Plan.

Ms. McBee concluded with a thank you to Bellaire’s Mayor, City Manager, City Departments, and all City Staff for seeing the residents through and restoring them from Hurricane Ike during the period September 12-28, 2008, and ongoing. She thanked City Manager Bernard M. Satterwhite, Jr., for overseeing City operations and all employees and for doing the best city management services that he could do regardless of hours and regardless of those who complained and through negotiations to improve emergency services. He handled these things in a very professional manner and she appreciated that.

The Assistant City Manager, Diane White, was thanked for having left her family to be of service during the long hours before the storm arrived and afterwards during restoration and addressing the need for outward communications.
Bellaire Police Chief Randy Mack and Assistant Police Chief Byron Holloway and their full contingent of officers were thanked for seeing the residents through the hurricane and to be there as needed following the hurricane, checking even on those elders and reassuring all.

Bellaire Fire Department Chief Darryl Anderson and his staff were thanked for attending to electrical dangers and fires and emergency medical services, and addressing citizens’ health and medical needs.

Information Technology Director Larry Parks was thanked for ensuring that the City’s information base and website were protected.

Public Works Director Joe Keene was thanked for keeping a fleet available for the aftermath of the hurricane, clearing the streets and roadways from fallen trees, and picking up the mountain of solid waste that accumulated immediately after the hurricane.

Bellaire City Library Director Mary A. Alford was thanked for keeping the Bellaire City Library up and running even while trying to plan her upcoming wedding. Director Alford operated the Bellaire City Library as a power center for Bellaire citizens to access their electronic mail and to recharge their cellular telephones and other electronic devices.

Parks & Recreation Department Director Jane Dembski and her staff were thanked for attending to the repair and maintenance of damaged parks and the Recreation Center.

Community Development Deputy Director Chris Magisano and Building Official Lee Cabello were thanked for their continued efforts for the citizens’ safety by providing notice to contractors to secure their equipment, supplies, and construction sites before the storm, and in connection with permits for qualified repair firms to ensure the fewest scams from the unscrupulous in the protection of the citizenry.

Director of Human Resources, Roberta Murray, was thanked for keeping a check on those citizens with special needs.

Mayor Cindy Siegel was given special thanks. Ms. McBee noted that Mayor Siegel was a relative volunteer who worked around the clock, along with the City Staff, sending her family out of town for safety, responding to all citizens, offering reassurance and a roof as needed, putting up with verbal abuse from unsatisfied citizens complaining because they, the centers of their universes, could not understand the need for patience and support of their community. Hopefully, those were relative few in number. Mayor Siegel earned the munificent sum under our Charter of $75 per month. This was hardly a beginning for compensation for what the Mayor had done for the citizens. Ms. McBee suggested that Mayor Siegel be honored as “Citizen of the Year.”
Ms. McBee closed by thanking all of the City Staff and those citizens that she had not mentioned for the many helping hands offered to those in need or those who were distressed. In particular, those who answered the telephones from many irate people who had no clue what was being done on their behalf. Those calls were handled with great patience and great understanding. She advised that she was so proud to be a resident of a town who cares.

F. REPORTS:

1. STORM UPDATE – preparations by the City of Bellaire Emergency Operations Center personnel before, during, and after Hurricane Ike – Presented by Mayor Cindy Siegel, City Manager Bernard M. Satterwhite, Jr., and District Director Tammi Wallace of State Representative Ellen Cohen’s Office (District 134).

NOTE: This report was presented earlier in the City Council Regular Session. See pages 3-11 of these minutes for discussions and action related to this report.

2. 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 City Council, and began by noting that City Staff was currently working on switching from “emergency” mode to “normal” mode. His report this evening would focus on normal operations.

With respect to the Police Department Activity Report, it was noted that there was some crime activity the night before the storm, but there had been very little crime activity since the storm. The City had been in a curfew situation since the storm; however, that curfew was about to be lifted due to the fact that the power was now back on for most. He noted that the curfew situation had helped the police to identify those people who were out and about that really should not have been out and about. He thanked the citizens for their cooperation with the curfew.

Street construction was continuing. Prior to the storm, the City poured the concrete on the south side of the 4500 block of Beech Street. This made things somewhat difficult for the residents residing on that block the night before the storm as mounds of fill blocked their driveways. However, it was very important to get that street poured before the
storm, and it would cut down on the inconvenience of the residents after the storm. He thanked the residents of Beech Street for their cooperation and patience through this project.

Fifth Street construction was essentially complete to Beech Street prior to the storm. The barricades and debris were removed prior to the storm, which helped those residents. The remainder of Fifth Street south of Beech Street to Spruce Street was currently under construction, and the residents of Fifth Street had been very cooperative as well.

The Bellaire City Library had been operating initially in a normal mode since the Monday after the storm. The Library had no air conditioning because a phase of the electricity was not up. Director Alford had been great throughout this event and gave the citizens a place to go communicate. He did not have the door numbers right now, but knew that the numbers of people in and out of the Library were unbelievable. Getting the Library back up was integral to the City’s recovery operations.

City Manager Satterwhite reminded City Council that the Employee Compensation Study Workshop Session scheduled for September 22, 2008, needed to be rescheduled. He recommended that the Workshop Session be rescheduled for October 27, 2008.

City Manager Satterwhite stated that he received a letter today from Standard & Poor’s regarding a review of the City’s underlying bond rating. After such review Standard & Poor’s had changed the City’s rating to AAA from AA+. He noted that the City had challenged them approximately two months ago that Bellaire was ready for a AAA rating. He did not know how that now stood in the midst of some of the other financial situations in the county, but he would cross that bridge when he came to it.

Staff interviews with architectural firms for the Fire Station were delayed due to the storm. The process for those interviews would start back up on September 30, 2008.

The following upcoming meetings were noted for the month of October 2008:

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Type of Meeting</th>
</tr>
</thead>
<tbody>
<tr>
<td>10/06/2008</td>
<td>7:00 p.m.</td>
<td>Regular Session</td>
</tr>
<tr>
<td>10/20/2008</td>
<td>7:00 p.m.</td>
<td>Regular Session</td>
</tr>
<tr>
<td>10/27/2008</td>
<td>6:30 p.m.</td>
<td>Workshop Session – Employee Compensation Study</td>
</tr>
</tbody>
</table>
QUESTIONS/COMMENTS FROM CITY COUNCIL:

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

Q:  Mayor Pro Tem Peggy Faulk referred to the failure of the bailout today by the federal government and inquired as to whether the City anticipated any impact.

A:  City Manager Satterwhite advised that he just found out about the failure of the bailout and had not had an opportunity to perform an analysis. With the tightening of mortgage money, he would think that there might be an impact to the City.

City Attorney Alan P. Petrov noted that it was not going to affect the interest rates on the City’s outstanding bonds, and the City should have time to make some decisions prior to issuing more bonds.

Q:  Mayor Pro Tem Faulk inquired as to when the City planned on issuing more bonds.

A:  City Manager Satterwhite indicated that the City had hoped to issue more bonds early next year.

City Attorney Petrov advised that hopefully the market would have time to settle down before the City had to issue more bonds.

C:  Councilman Pat McLaughlan stated that it appeared that the Recreation Center sustained the greatest damage from Hurricane Ike and that the Recreation Center was one of the City’s newest buildings. As a point of interest, the City’s older structures were rated to be more problematic, such as the Library, the Police Station, and the Fire Station. As near as he could tell, those facilities weathered Hurricane Ike better than the City’s newer structure. The message here was to define the deficiency that caused the roof failure on the newer structure and ensure that it be given the proper scrutiny on future reconstruction.

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 6-0 vote as follows:

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

OPPOSED: None

ABSENT: Jeffery, John

3. FINANCIAL REPORT – Chief Financial Officer Donna Todd.

Chief Financial Officer Donna Todd presented the Financial Report for the period ended August 31, 2008, for the City of Bellaire, Texas, to City Council.

Chief Financial Officer Todd noted that the City’s revenues of $25 million compared to last year were up almost 5% or $1.2 million. The water/sewer revenues continued to be high, and the sales tax also continued to be high at $141,000 greater than last year or a 7.1% increase. In the August issue of the “City Sales Tax and Use Tax Comparisons” that the State of Texas compiled, sales taxes increased 10.4% statewide.

The City’s investment earnings were down approximately $273,000, which was a result of the declining interest rates that the City had been seeing throughout the fiscal year. The athletics and aquatics revenues were higher, with the Bellaire Pool bringing in almost $131,000 through August (i.e., the period of May through August).

Expenditures of $23.5 million were up almost 2% or $422,000 as compared to last August. The City had expended approximately $97,000 for Centennial events, which were offset by $23,000 of revenues.

The City paid higher principal and interest payments this year with the Series 2007 bonds. The outstanding principal balance at August 31, 2008, was $58,695,000, which followed the City’s most recent interest payment on August 15, 2008. The total debt service was $88.8 million (i.e., principal and interest due on the current outstanding debt).

In the housing market, excluding “by owner” sales, Bellaire had 202 residential properties for sale as of August 31, 2008, and 25 homes for
lease. The numbers of properties for sale were slightly lower than July and the numbers of properties for lease were slightly higher than July. The new residential construction average value was $575,000, which was 9% higher than last fiscal year.

With respect to the recent disaster event, Chief Financial Officer Todd indicated that the City would need to amend the budget for disaster expenses. The amendments would affect the budgets for fiscal year 2008 and fiscal year 2009.

With respect to other departmental expenditures, some might be over in single line items, but so far Chief Financial Officer Todd was only seeing a few departments that might need amendments. Other departments would probably offset those departments.

In closing, Chief Financial Officer Todd addressed a question that Councilman Pat McLaughlan had asked in August with respect to the City’s snow cone vendor. The snow cone vendor did provide the City with 5% of all gross sales on a monthly basis. The current contract term was from May 4, 2008, through August 31, 2008. The contract automatically renewed each year, and the vendor was noted to be New Orleans Style Snowballs. The terms and conditions of this contract were similar to the City’s other vending arrangements. The vendor did provide a daily sales summary and a monthly sales report with his payment to the City. The revenues for fiscal year 2008 were noted to be $1,211.76.

QUESTIONS/COMMENTS FROM CITY COUNCIL:

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

Q: Councilman Phil Nauert noted that he understood that disaster expenditures would be reimbursed through the City’s insurance company or FEMA. He inquired as to whether the City had any category of expenditure that was not covered by insurance or FEMA.

A: Chief Financial Officer Todd stated that it was her understanding that the disaster declarations in place covered the emergency work, which consisted of debris removal and emergency services provided by the Fire Department and Police Department before and during the event. As of this time, the debris removal was declared at 100% reimbursement. However, the City was probably looking at a number of weeks to complete all of the different sweeps through Bellaire alone. The City estimated that its cost for public assistance would be $1.5 million. Debris removal would be covered at 100% through Saturday and anything after that would be
reimbursable at 75%. There would be some financial impact to
the City for the 25% of debris removal not covered by FEMA.

Q: Councilman Nauert inquired as to which City funds would be
impacted for these disaster expenditures.

A: Chief Financial Officer Todd stated that the General Fund
and the Enterprise Fund would be impacted for these disaster
expenditures.

Q: Councilman Nauert inquired as to whether Chief Financial
Officer Todd saw any cash flow problems on the horizon as a
result of these expenditures.

A: Chief Financial Officer Todd advised that she did not see any
cash flow problems on the horizon. The City had a very strong,
healthy fund balance. The City would be able to cover its
expenditures until reimbursement. There was an opportunity
to get an advance of funds, but she felt that Bellaire would not
need to get an advance of funds.

City Manager Satterwhite referred to a budget amendment
that created a special line item for disaster expenditures after
Tropical Storm Allison. Everything storm related was charged
to that line item. The City would be doing a similar budget
amendment for this storm. The City did not see any material
bottom line impact to the budget as a result of this disaster.

MOTION TO ACCEPT REPORT INTO THE RECORD:

A motion was made by Councilman Will Hickman and seconded by
Councilman James P. Avioli, Sr., to accept the Financial Report as
presented by Chief Financial Officer Donna Todd into the record.

VOTE ON MOTION TO ACCEPT REPORT INTO THE RECORD:

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

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

OPPOSED: None

ABSENT: Jeffery, John
4. CENTENNIAL PLANNING COMMITTEE ACTIVITIES UPDATE –  
Presented by Mayor Cindy Siegel.

Mayor Cindy Siegel presented the Centennial Planning Committee Activities Update to the City Council.

**Centennial Events**

Mayor Siegel advised that the Centennial Planning Committee (“CPC”) met last Wednesday and had postponed, at the request of the Bellaire Arts Commission and City Staff, the BelleArtz Expo that was supposed to be held in late October 2008. The BelleArtz Expo would be rescheduled and held in conjunction with both the Holiday in the Park Celebration and the January Centennial event.

On November 15, 2008, there would be a community-wide Thanksgiving Service at 10:00 a.m. The CPC had discussed getting local Boy and Girl Scouts to help with the service. The CPC also planned to invite local ministers, rabbis, priests, etc., to participate in the service. The CPC also discussed purchasing phone cards that could be distributed between victims trying to recover from Hurricane Ike in the Galveston area, as well as soldiers serving overseas.

The Holiday in the Park event was planned for Thursday, December 4th and would be bigger and better than usual in light of the City’s Centennial.

The last event, which would kick off the next 100 years, was scheduled for Saturday, January 10, 2009. The details were still being worked on. Discussions had included a gala, a block party, and/or a movie premier. The CPC did vote to hold the final event at Bellaire Town Square.

**Historical DVD**

Mayor Siegel advised that Jeff Mills was still on track with the production of an historical DVD for Bellaire. He had held a number of interviews and had scanned over 800 pictures. He would like to travel to Dallas, Texas, to interview two individuals, one of which was Jeff Dunn and the other of which was an historian of Loop 610. The estimated cost of the travel expenditures was $2,185, $500 of which was for travel and the remaining $1,685 of which was for production (i.e., camera crew, lighting, and audio equipment).

The CPC voted to recommend to City Council that the DVD be distributed free of charge to all Bellaire residents. The DVD would not be available until after its premier in January of 2009. The CPC would like to distribute the DVD as part of the City’s Leisure Guide, which
was distributed to all Bellaire residents. There would be extra DVDs available for purchase by individuals wishing to buy them for gifts. The DVDs would also be included in the new resident packets provided to residents moving into Bellaire.

**Time Capsule Project**

Mayor Siegel noted that Lynn McBee was the Chair of a Subcommittee of the CPC regarding a proposed time capsule project. The Subcommittee presented items that could be included in a time capsule, and last Wednesday the CPC approved the ordering of a small time capsule (16” X 36”) at a cost of just under $2,000. The CPC planned to publicize for requests for ideas as to items that could be included in the time capsule. From there, the CPC would narrow the choices based on size limitations. Items suggested by the Subcommittee were current newspapers, the referenced historical DVD, and the Centennial proclamation. Another suggestion consisted of a Memory Book where residents could record their thoughts about life in Bellaire.

**Centennial Memorial**

A report had already been presented to the CPC for a meditation area/arbor. A second report would be presented to the CPC for a large fountain during the November meeting. The CPC would probably present a recommendation to City Council for direction and/or approval in November of 2008.

**History Walk**

Mayor Siegel advised that the History Walk was progressing. The CPC had recommended that the new time capsule be placed along the History Walk near to a time capsule that was buried in Paseo Park in 1976 in celebration of the Sesquicentennial.

**Conclusion**

Mayor Siegel concluded noting that the CPC was within budget thus far and could cover the cost of the DVD and the travel for Jeff Mills from monies not expended in other areas of the budget.

**MOTION TO ACCEPT REPORT INTO THE RECORD:**

A motion was made by Councilman Pat McLaughlan and seconded by Councilman Will Hickman to accept the Centennial Planning Committee Activities Update as presented by Mayor Cindy Siegel into the record.
VOTE ON MOTION TO ACCEPT REPORT INTO THE RECORD:

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

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

OPPOSED: None

ABSENT: Jeffery, John

G. NEW BUSINESS:

1. CONSENT AGENDA:

   Bid Award(s)/Rejection(s)

CONSIDERATION of and possible action on a recommendation from the Bellaire Parks & Recreation Department to award Bid No. 08-012, Landscape Maintenance Services, to the lowest responsive bidder, Seril, Inc., d/b/a Houston Grotech Services, in an amount not to exceed $93,680, and adoption of an ordinance of the City Council of the City of Bellaire, Texas, authorizing the City Manager of the City of Bellaire, Texas, to execute, for and on behalf of the City of Bellaire, Texas, a Landscape Maintenance Agreement with Seril, Inc., d/b/a Houston Grotech Services, for labor, material, equipment, and any and all other services necessary to provide landscape maintenance services for the City of Bellaire, Texas, for a period of one year commencing on October 1, 2008, and ending on September 30, 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 Parks Superintendent Brooks Smith.

Councilman Will Hickman asked that the item on the Consent Agenda be removed for discussion by members of City Council.
MOTION TO AWARD BID AND ADOPT ORDINANCE RELATED TO CONTRACT FOR BID:

A motion was made by Councilman Pat McLaughlan and seconded by Councilman Phil Nauert to approve a recommendation from the Bellaire Parks & Recreation Department to award Bid No. 08-012, Landscape Maintenance Services, to the lowest responsive bidder, Seril, Inc., d/b/a Houston Grotech Services, in an amount not to exceed $93,680, and to adopt an ordinance of the City Council of the City of Bellaire, Texas, authorizing the City Manager of the City of Bellaire, Texas, to execute, for and on behalf of the City of Bellaire, Texas, a Landscape Maintenance Agreement with Seril, Inc., d/b/a Houston Grotech Services, for labor, material, equipment, and any and all other services necessary to provide landscape maintenance services for the City of Bellaire, Texas, for a period of one year commencing on October 1, 2008, and ending on September 30, 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.

DISCUSSION ON MOTION TO AWARD BID AND ADOPT ORDINANCE RELATED TO CONTRACT FOR BID:

Councilman Will Hickman inquired as to the amount expended on landscape maintenance services during the previous year.

Director of Parks & Recreation Jane L. Dembski advised that the amount expended the previous year for these services was actually $9,000 more.

Councilman Phil Nauert noted that there appeared to be wide ranges for the bids the City received. He inquired as to whether the City had used this particular vendor before.

City Manager Satterwhite indicated that this vendor was the same vendor currently providing these services.

Councilman Nauert inquired as to whether this contract was similar in nature to the contract the vendor was currently under. He referred to the fact that decorative plantings were mentioned at Newcastle Drive at Cypress Ditch. He inquired as to whether the City currently had decorative plantings in that area.

Director of Parks & Recreation Dembski advised that there were native plants in that area.
Councilman Nauert asked if the City had paid for the decorative plantings at Newcastle Drive and Cypress Ditch.

City Manager Satterwhite stated that the City had paid the contractor for many things. He advised that the contractor was going to do more this year than last year, if we paid them.

Councilman Nauert indicated that he assumed the City would pay them, but was asking whether or not the contractor provided the services listed in the contract. He noted that he lived close to Newcastle Drive and Cypress Ditch and had never seen any decorative plantings in that area. He noted further that the City needed to be sure it got the services outlined in the contract. He advised that the contractor had not delivered what had been paid for in the previous contract.

City Manager Satterwhite advised that City Staff did not disagree with Councilman Nauert at all. The City would love to get what it paid for every single time and normally tried to do that. He was not sure that every colorful plant was put out every single time. This was definitely a management issue. The City had problems in the past with its cleaning contracts, temporary help contracts, and with landscaping contracts.

The City had a tough time with this particular contract. The recommended bidder was the lowest responsive bidder. Although the City had not been entirely satisfied with the service, the City did not have the grounds to reject this bidder and go to the next highest bidder. What City Staff had decided to do this time was to hold their feet to the fire. If the contract could not be satisfied, the City would let that bidder go and seek another bidder for the service. He concluded by advising that City Staff had a better oversight plan going forward with this particular contract.

Councilman Hickman inquired as to how often the mulch around the playground equipment was refilled.

City Manager Satterwhite advised that mulching around the playground equipment was not part of this contract.

VOTE ON MOTION TO AWARD BID AND ADOPT ORDINANCE RELATED TO CONTRACT FOR BID:

Motion carried on a vote of 5-0 as follows:

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

OPPOSED: None  

ABSENT: Faulk, Peggy*  
Jeffery, John  

*Mayor Pro Tem Peggy Faulk left the Council table temporarily and did not participate in the discussion or vote on this agenda item. 

{Ordinance was subsequently numbered: 08-061}

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 Mayor and the City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, an Agreement By and Between the City of Bellaire, Texas, and The Nature Discovery Center, Inc., for the purpose of setting forth an agreement between the City of Bellaire, Texas, and the Nature Discovery Center, Inc., regarding operation and maintenance of, as well as the distribution of funds for said operation and maintenance of, The Nature Discovery Center – Item submitted by Chief Financial Officer Donna Todd.  

SUMMARY:  

City Manager Bernard M. Satterwhite, Jr., summarized the agenda item before City Council. He referred to a recent allocation from Harris County of $100,000 for operation and maintenance of The Nature Discovery Center. In order to make that work, the City became a fiscal conduit because political entities could not donate to nonprofit organizations. Political entities could provide funding to nonprofit organizations that benefited the citizenry. The agreement before City Council set up that fiscal conduit between the City and The Nature Discovery Center.  

City Attorney Alan P. Petrov advised that this was the contract that needed to be in place so that the City could provide the funds and get something in return for the benefit of the citizens.
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, authorizing the Mayor and the City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, an Agreement By and Between the City of Bellaire, Texas, and The Nature Discovery Center, Inc., for the purpose of setting forth an agreement between the City of Bellaire, Texas, and the Nature Discovery Center, Inc., regarding operation and maintenance of, as well as the distribution of funds for said operation and maintenance of, The Nature Discovery Center.

VOTE ON MOTION TO ADOPT ORDINANCE:

Motion carried on a vote of 5-0 as follows:

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

OPPOSED: None

ABSENT: Faulk, Peggy*
         Jeffery, John

*Mayor Pro Tem Peggy Faulk left the Council table temporarily and did not participate in the discussion or vote on this agenda item.

{Ordinance was subsequently numbered: 08-062}

Rescheduling of Public Hearing

b. CONSIDERATION of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, amending Ordinance No. 08-051, which called a public hearing before the City Council of the City of Bellaire, Texas, on Monday, September 15, 2008, at 6:00 p.m. in the Council Chamber, First Floor of City Hall, 7008 South Rice Avenue, Bellaire, Texas 77401, for the purpose of hearing any and all persons desiring to be heard on or in connection with revisions proposed by the Planning and Zoning Commission of the City of Bellaire,
Texas, to the Code of Ordinances of the City of Bellaire, Texas, Chapter 24, Planning and Zoning Regulations, Article VII, Variances, Special Exceptions, Appeals, and Nonconformities, Division 1, Variances, Section 24-704, Standards, for the purpose of addressing policy considerations, unnecessary hardships resulting from a special condition, and the effects of a requested variance on other properties, as well as the subject property, by changing the date and time of said public hearing, which was cancelled as a result of Hurricane Ike, to Monday, November 3, 2008, at 6:00 p.m. – Item submitted by City Clerk Tracy L. Dutton at the direction of City Attorney Alan P. Petrov.

MOTION TO ADOPT ORDINANCE:

A motion was made by Councilman Will Hickman and seconded by Councilman Pat McLaughlan to adopt an ordinance of the City Council of the City of Bellaire, Texas, amending Ordinance No. 08-051, which called a public hearing before the City Council of the City of Bellaire, Texas, on Monday, September 15, 2008, at 6:00 p.m. in the Council Chamber, First Floor of City Hall, 7008 South Rice Avenue, Bellaire, Texas 77401, for the purpose of hearing any and all persons desiring to be heard on or in connection with revisions proposed by the Planning and Zoning Commission of the City of Bellaire, Texas, to the Code of Ordinances of the City of Bellaire, Texas, Chapter 24, Planning and Zoning Regulations, Article VII, Variances, Special Exceptions, Appeals, and Nonconformities, Division 1, Variances, Section 24-704, Standards, for the purpose of addressing policy considerations, unnecessary hardships resulting from a special condition, and the effects of a requested variance on other properties, as well as the subject property, by changing the date and time of said public hearing, which was cancelled as a result of Hurricane Ike, to Monday, November 3, 2008, at 6:00 p.m.

VOTE ON MOTION TO ADOPT ORDINANCE:

Motion carried on a vote of 5-0 as follows:

FOR: Siegel, Cindy
      Hickman, Will
      Avioli, James P., Sr.
      Nauert, Phil
      McLaughlan, Pat
3. ADOPTION OF RESOLUTIONS:

Municipal Setting Designations

a. CONSIDERATION of and possible action on the adoption of a resolution of the City Council of the City of Bellaire, Texas, in support of the application of Union Pacific Railroad Company (UPRR) to the Texas Commission on Environmental Quality (TCEQ) for a Municipal Setting Designation (MSD) for property located at 10200 Westpark Drive and adjacent public rights-of-way in Houston, Texas – Item submitted by City Attorney Alan P. Petrov.

SUMMARY:

City Attorney Alan P. Petrov summarized the agenda item before City Council. He advised that the Municipal Setting Designation came out of legislation passed a few years back to deal with brown field issues. Under some of the older environmental laws, if there was environmental contamination at a site with water, for instance, the site would have had to be cleaned up to drinking water standards before the site could be used. The cost of that was oftentimes prohibitive leaving blighted sites in the middle of other developments.

The passage of the legislation resulted in the ability to have certain sites identified with a Municipal Setting Designation that provided for clean up to a safe level rather than a drinking water level if certain conditions were met. These sites could then be redeveloped and put back into a useful purpose.

All three sites before City Council this evening were located in the City of Houston, Texas. The process required the City of Houston, Texas, to go through public hearings, review the geotechnical aspects of the sites, and grant said sites a
Municipal Setting Designation. The owners of those sites then had to come to any municipality that had water wells within five miles of the site to get the support of those municipalities as well. The owners of the site then had to go before the Texas Commission on Environmental Quality (TCEQ) for a review and determination as to whether redevelopment could occur on the site. Bellaire was basically the second step in the process for the applicants this evening.

Representatives for each of the sites were present this evening to answer any questions that City Council might have. All of the sites were fairly far from Bellaire. The affected groundwater on each of these sites was no more than 200 feet deep and would not impact any of Bellaire’s aquifers. He did not see any impact to Bellaire in the granting of support for these Municipal Setting Designations.

**MOTION TO ADOPT RESOLUTION:**

A motion was made by Councilman Phil Nauert and seconded by Councilman Pat McLaughlan to adopt a resolution of the City Council of the City of Bellaire, Texas, in support of the application of Union Pacific Railroad Company (UPRR) to the Texas Commission on Environmental Quality (TCEQ) for a Municipal Setting Designation (MSD) for property located at 10200 Westpark Drive and adjacent public rights-of-way in Houston, Texas.

**DISCUSSION ON MOTION TO ADOPT RESOLUTION:**

Councilman Pat McLaughlan noted that this appeared to be a highly technical issue as to whether or not there could be any issue with the migration of contaminants from the referenced sites that could in some way migrate to Bellaire’s groundwater supply. He inquired as to the type of expert analysis or testimony the City had from any independent source that would be familiar with this situation and be able to present an unbiased analysis and represent the people in this situation.

City Attorney Petrov advised that the City of Bellaire was simply relying on Houston’s determination. Houston had a fairly extensive process in place for these designations.

Councilman McLaughlan asked where the analysis, report, or testimony from a representative that would be speaking for the safety of the people and not the representatives of the landowners. In other words, where had the City and by what
authority made the decision that this Municipal Setting Designation was okay?

**City Attorney Petrov** asked if Councilman McLaughlan was referring to the City of Houston’s determination or whether Bellaire had made its own determination.

**Councilman McLaughlan** inquired as to where an individual representing the interest of the people had done some analysis on these Municipal Setting Designations to ensure that these sites would in no way adversely affect Bellaire’s groundwater supply.

**City Attorney Petrov** asked Debra Baker of Connelly, Baker, Wotring, Law Firm, if she could address the process required by the City of Houston. He advised City Council that Bellaire was just a step in the process, and that the TCEQ would be performing an analysis as well before it would ultimately grant a Municipal Setting Designation.

**Debra Baker, Connelly, Baker, Wotring Law Firm, Representative of Union Pacific Railroad,** advised that the Texas Legislature enacted the law allowing for Municipal Setting Designations in 2003. The law let the Texas Commission of Environmental Quality (TCEQ) grant a Municipal Setting Designation. The action before the Bellaire City Council was a request for support of the City of Houston’s ordinance prohibiting people from drinking groundwater that was impacted.

The process consisted of the City Council of the City of Houston, Texas, addressing the issue. The applicant and anyone else desiring to restrict the drinking of groundwater from affected sites had to submit a scientific, engineered application to the City of Houston. The property also already had to be under the jurisdiction of the environmental agency of the State of Texas or the Environmental Protection Agency (EPA). She reiterated that the property first already had to be under regulatory oversight. In other words, these properties were already thoroughly reviewed by either the TCEQ or the EPA. If that were the case, an applicant could go before the City of Houston and provide engineering data for the property. The Houston Department of Public Works and its professional, registered engineers then reviewed the groundwater data and determined if it were something that the Houston City Council would like to adopt.
If the Houston City Council would like to adopt the Municipal Setting Designation for a site, the issue would go to public hearing and anyone within five miles of the site that owned or operated a groundwater well was given notice and the public hearing was held in the vicinity of the property. On the Westpark property, for example, the issue related to a 200-foot part of the groundwater that was only 35 feet deep. Seventy residents of Houston attended the public hearing on the Westpark property. The City’s intent was to prevent people from drinking the groundwater under the 200-foot strip of property along Westpark. In this particular case, the site could not be cleaned up. The problem was in the making 50 years ago, and it would take 600 years to treat the water in order to make it drinkable. In this particular case, one could not even produce enough water to drink from this piece of property.

The City of Houston wanted to make the property available for use and to ensure that somewhere down the line no one would be allowed to put a water well on the site. This would give the City of Houston the legal authority to prohibit people from drinking the water on this site.

All seventy of the attendees at the public hearing were in support of this application. The City Council of Houston then held a second public hearing on the application. During that hearing, the Director of Public Works for Houston recommended the approval of the Municipal Setting Designation. The City of Houston then passed an ordinance stating that the groundwater from the property listed in the application could not be used for drinking purposes.

The ordinance would then be forwarded to the TCEQ who would make the ultimate decision as to whether or not to grant this protection to keep people from drinking the water.

The intermediary step involved ensuring that there were no groundwater well operators within five miles of the site that opposed this. In some areas of Texas, people wanted to drill groundwater wells for drinking, as well as other agricultural uses. If Bellaire wanted to drill a groundwater well in the vicinity of the Westpark property, it would have the right to oppose the restriction. This particular site did not reach any potable water sources and would probably have no impact on the citizens of Bellaire.

Ms. Baker indicated that the resolution before City Council only asked the City of Bellaire to support the City of Houston’s ordinance. Once that support was received, the ordinance
would be submitted to the TCEQ and they would make the ultimate decision.

**Councilman McLaughlan** inquired as to whether an authoritative statement from a groundwater specialist via a City of Houston engineer stating that this application would have no effect on the City of Bellaire’s groundwater existed within City Council’s packet this evening.

**City Attorney Petrov** advised that the Bellaire City Council did not have the statement in the form outlined by Councilman McLaughlan, but the City did have a copy of the ordinance that the City Council of the City of Houston passed that restricted the use of this parcel for groundwater. In summary, the Houston City Council had already passed an ordinance that said that this section of property could not be used to produce groundwater for drinking purposes.

**Councilman McLaughlan** noted that a document existed stating that this particular area was not suitable for drinking water. He inquired as to where the documentation was that stated it would have no effect on Bellaire.

**City Attorney Petrov** stated that Bellaire did not have such a statement.

**Councilman Will Hickman** inquired as to whether the City of Houston used surface water or if it had any wells within five miles of the site.

**Ms. Baker** advised that the City of Houston had many groundwater wells and used and sold surface water as well. Houston received this same notice for itself and its own wells. She noted that she had already obtained resolutions from the City of Sugar Land, City of Meadows Place, Mission Bend MUD #2, Grand Road #2, Bissonnet MUD, and Beechnut MUD for this same parcel of property, and all were in support of this designation.

**Councilman Hickman** asked if Ms. Baker agreed with a statement made as to the purpose of the legislation. He read the statement as follows:

>The MSD legislation provides a mechanism for allowing a developer to limit or avoid conducting a cleanup of contaminated groundwater if access to the groundwater has been restricted from use as potable water.
Ms. Baker advised that she would agree that this is an effect of the legislation. She noted that the Houston Public Works Department had a very long checklist that they went through prior to making a recommendation that a parcel be given a Municipal Setting Designation. It was critical that it could be shown that a material was not capable of migrating.

In those cases, an applicant might petition an agency or the EPA for specific recognition whereby the applicant would not have to clean to a groundwater standard. The application would still have to ensure that other protections were in place to ensure that no one was coming into contact with the groundwater.

Councilman Hickman asked why Ms. Baker’s client was applying for a Municipal Setting Designation.

Ms. Baker advised that her client, the Union Pacific Railroad Company, owned property that a predecessor used to own. A tenant of the property used to manufacture herbicides on the property 50 years ago. Because of the tenant’s operations, arsenic existed in the groundwater down to a level of 35 feet. The Union Pacific Railroad Company did not own the property that was impacted, but had to clean it up because the EPA required the current landowner to do so. It had been cleaned and monitored over the last 20 years and had not moved. A slurry was constructed around the contamination and a clay layer existed beneath the contamination.

The property would be sold and was currently out for bid. The Union Pacific Railroad Company had an opportunity with this legislation to restrict the groundwater use in the future, which provided another layer of legal protection for them. Because that property was currently in bankruptcy proceedings, the Union Pacific Railroad Company could not deed restrict the property. The Union Pacific Railroad Company might want to sell its property, which adjoined the tenant’s site as well.

Councilman Hickman asked if it were fair to say that the Union Pacific Railroad Company was asking for this designation so that the company would not have to do as much cleanup.

Ms. Baker advised that this was not the reason for asking for the designation. In her client’s case, it did not affect the cleanup.

Councilman Hickman asked if the designation would protect a future purchaser of the land.
Ms. Baker stated that she did not know what a future purchaser of the land would have to do. For property that the Union Pacific Railroad Company owned, the EPA had a consent order on file that said the company had to do certain things. This would not be affected by what the TCEQ did in her case. In other cases, property owners could approach the TCEQ and request that the property not have to be cleaned to drinking water standards because the owners could show the TCEQ that no one would ever drink the water as it would be prohibited for use as drinking water by the City of Houston’s ordinance.

The most she could hope for was to go to the EPA at some future point and make the case that no one was using the groundwater as drinking water and ask if she could reduce her cleanup efforts for drinking water standards.

Ms. Baker noted that the contamination she referred to was capped and there would be institutional controls that would keep the property from being used in certain ways. That was not necessarily the case in all of the applications that might come before the Bellaire City Council.

Councilman Hickman referred to Ms. Baker’s statement that this designation would “probably” have no impact on the City of Bellaire. He asked if Ms. Baker could guarantee that none of the arsenic would ever seep into Bellaire’s aquifer.

Ms. Baker stated that in 20 years the contamination had not moved. She advised that testing on the contamination was performed on a quarterly basis. She reiterated that the contamination had a slurry wall around it and a clay layer beneath it; therefore, it was barred from going down any further. Also, there were no water wells that her client was aware of that could ever reach it.

Councilman Hickman asked what the benefit would be for the City of Bellaire in approving or supporting this Municipal Setting Designation.

Ms. Baker advised that any city with a gas station or dry cleaner in their municipality might well find themselves applying for such a designation.

Councilman Hickman asked what the benefit would be to Bellaire for approving the Union Pacific Railroad Company’s Municipal Setting Designation.
Ms. Baker stated that public health was really the big issue. The statute was adopted for two reasons—1) for public health; and 2) to promote municipal re-growth and brown field redevelopment. For the City of Houston, Texas, these properties go back into the tax base and become useful. All of the cities would have this interest at some point in time. The legislature required the support of all cities. No one wanted to be on record stating that they would not let Houston restrict the property for drinking water use. It was the right thing to do and the municipalities themselves might or might not want to take advantage of the legislation.

Councilman James P. Avioli, Sr., inquired as to the legal exposure for the City of Bellaire if this resolution were approved. For example, if the arsenic somehow got into Bellaire’s water wells, could the City legally pursue a remedy even though the City approved the resolution?

City Attorney Petrov advised that the City could pursue a remedy.

Councilman Avioli asked for confirmation that the City was not giving up its right to pursue a remedy.

City Attorney Petrov advised that the City was talking about a very defined area five miles from Bellaire’s nearest well. The resolution stated that within the defined area, Bellaire agreed with Houston’s ordinance that stated that a water well could not be drilled in that area. If the arsenic were to somehow migrate five miles over and 1,000 feet down, that was a different situation entirely. We had not agreed to not use the water in the area where Bellaire’s wells currently resided.

Councilman Avioli asked for confirmation that the Union Pacific Railroad Company was not the original owner of the property.

Ms. Baker advised that Councilman Avioli was correct.

Councilman Avioli stated that his experience with environmental contamination was “cradle to the grave” responsibility. He asked for confirmation that the previous owner was bankrupt.

Ms. Baker advised that the original owner of the property was the Southern Pacific Railroad Company, a predecessor to the Union Pacific Railroad Company. Originally, there was a spur off of the railroad to service other industries. They leased a
piece of their property to a tenant that used the rail--Crystal Chemical Company. Crystal Chemical Company used the property to produce herbicides in the 1950s. That company went bankrupt and the property was now being held for back taxes by Harris County. In the 1970s, it was discovered that there was arsenic contamination on the site. The EPA came to the Southern Pacific Railroad Company and advised them that under the “cradle to grave” type statute, they had strict joint and several liability. The arsenic blew from the Crystal Chemical Company site to the site that belonged to Southern Pacific Railroad Company. In addition to having to clean up and scrape up the dirt on its own property to keep it from being exposed, they also had to clean up the property it did not operate on, but had owned at one time. The property was ultimately sold to Crystal Chemical Company prior to their bankruptcy. The site had been closed and de-listed, which meant that the EPA had found it to be cleaned and remediated, for over 15 years.

Councilman Avioli expressed a concern that the City might be brought into litigation if the property were sold to a developer and that developer did something that they should not do with the property. The litigation might come about as a result of the City’s approval of this resolution. He asked again for confirmation that the City would not lose any legal rights to defend itself or to pursue litigation if it had to.

City Attorney Petrov advised that Councilman Avioli was correct.

Mayor Pro Tem Peggy Faulk inquired as to the exact distance of this property from the City of Bellaire’s nearest water well.

Ms. Baker advised that it was as far away from the City of Bellaire’s nearest water well as it could be.

City Clerk Tracy L. Dutton advised that she believed the property was 4.9 miles from the City’s well.

Mayor Pro Tem Faulk inquired as to the depth of the contaminated aquifer.

Ms. Baker indicated that the contamination was confined at 35 feet. The City of Houston had proposed a prohibition against using drinking water to 200 feet as an overabundance of caution. In other words, they had set the limit below the referenced clay layer.
Mayor Pro Tem Faulk referred to the slurry wall surrounding the contamination and inquired as to the quantity of water in the aquifer that was contaminated.

Ms. Baker stated that the aquifer at 35 feet produced a few spoonfuls in a couple of weeks. One of the reasons that the area could not be treated was because one could not extract enough water.

Mayor Pro Tem Faulk asked if the reason that enough water could not be extracted was due to the fact that the aquifer was in a tight formation.

Ms. Baker stated that this aquifer was not one in which a person could expect to be a drinking water well even if a person wanted to.

Mayor Pro Tem Faulk asked how the water would be treated for the arsenic assuming it could be extracted.

Ms. Baker advised that there was a treatment system on the site, but it operated very slowly as there was so little that could be extracted. What was extracted was sent through a carbon absorption filtration system to remove the arsenic, with the remaining discharged.

Mayor Pro Tem Faulk asked for confirmation that there was no chance that the contamination could ever come in contact with Bellaire’s well. She also inquired as to the depth of the City’s Renwick Water Well.

Mike Marcon, Geologist, In Control Technologies, advised that the City’s Renwick Water Well pulled water from a depth of 1,100 feet.

Mayor Pro Tem Faulk asked for confirmation that we felt confident that the contamination should never hit the Renwick Water Well.

Confirmation was received in the form of a nod of heads.

Councilman Will Hickman asked if City Attorney Petrov would agree with the statement that the legislation allowed a developer to limit or avoid conducting a clean up. In other words, he did not understand the purpose for applicants to come before City Council.
City Attorney Petrov advised that he agreed that the point of the legislation was to allow a different clean up standard than drinking water standards. Instead of cleaning to drinking water standards, this legislation restricted the use of the water for drinking water.

Ms. Baker advised, also, that the City of Houston would like to restrict people from putting in wells. Although permitting was required for wells, there were some instances wherein people could install their own wells to water plants or animals that might not require a permit. This legislation gave the City of Houston the ability to police this.

Councilman McLaughlan advised that he would like to take this opportunity to explain why he would be voting against the approval of the resolution before City Council. There was no statement from a qualified expert to indicate that this designation had no impact upon the City of Bellaire.

Councilman Hickman advised that he agreed with Councilman McLaughlan. In terms of the benefit to the City, in the best case we were neutral. In the worst case, we would have arsenic poison in our drinking water. He was not a geologist and could not speak to the interconnectivity or seepage over time, but did not see any benefit to Bellaire for putting our name on the report in favor of this.

Mayor Pro Tem Faulk suggested an amendment to the motion that Bellaire get a statement from a qualified expert giving the City their professional opinion as to whether this could impact the City of Bellaire's drinking water.

Mayor Cindy Siegel noted that she understood that the City of Houston already had this information. She asked City Attorney Petrov whether the City Council should postpone action on this item in order to get that professional opinion.

City Attorney Petrov agreed that postponing the item would be preferable to denying the application altogether. As he understood the process, property owners had to get the approval of all of the area cities that had water wells within five miles from their site. The applicant could not go forward to the TCEQ with 90% of the approvals or even 99% of the approvals. To the extent that the reports were available from the City of Houston, he would like an opportunity to try to get those to the City Council.
Mayor Siegel advised that if this resolution were voted down, according to City Council’s Rules of Procedure, the only way it could be reconsidered was with a two-thirds vote to suspend the Rules of Procedure. Additionally, not only would the City kill this item, but the City could run into a situation where if Bellaire had someone within Bellaire or even for the City’s landfill, Bellaire might need a similar approval from Houston, West University Place, or Southside Place.

She concurred with Mayor Pro Tem Faulk that if Bellaire needed more information or the opinion of an independent third party, then this item and the next two needed to be postponed rather than voted down based on a lack of information.

**MOTION TO POSTPONE ADOPTION OF RESOLUTION:**

A motion was made by Mayor Pro Tem Peggy Faulk and seconded by Mayor Cindy Siegel to postpone action on the adoption of a resolution of the City Council of the City of Bellaire, Texas, in support of the application of Union Pacific Railroad Company (UPRR) to the Texas Commission on Environmental Quality (TCEQ) for a Municipal Setting Designation (MSD) for property located at 10200 Westpark Drive and adjacent public rights-of-way in Houston, Texas, pending receipt of information from the City of Houston, Texas, or a qualified third party regarding impacts to the City of Bellaire, Texas.

**DISCUSSION ON MOTION TO POSTPONE ADOPTION OF RESOLUTION:**

Councilman Hickman commented that he would not imagine that the City of Houston’s report dealt with the City of Bellaire’s wells. He would be interested in seeing the effect on Bellaire’s water supply and not the effect on Houston’s water supply.

Councilman Nauert stated that he did not wish to see Bellaire spend any money on professional assessments for an issue of little or no value to Bellaire. If the City were going to require a geotechnologist or a geologist to come and assert whether or not there was an effect to Bellaire, he would not support the City spending its money to do so.

Mayor Pro Tem Faulk advised that she would agree with Councilman Nauert and wished to amend her motion to include that said information would be provided at no expense to Bellaire.
AMENDMENT (NO. 1) TO MOTION TO POSTPONE ADOPTION OF RESOLUTION:

An amendment (no. 1) to the motion to postpone adoption of resolution was made by Mayor Pro Tem Peggy Faulk to state that the information to be provided from the City of Houston, Texas, or a qualified third party regarding impacts to the drinking water of the City of Bellaire, Texas, would be provided at no expense to the City of Bellaire, Texas. Mayor Cindy Siegel accepted the amendment.

DISCUSSION ON AMENDMENT (NO. 1) TO MOTION TO POSTPONE ADOPTION OF RESOLUTION:

Councilman McLaughlan advised that he believed City Council was taking an appropriate path, but was hazy on the mechanics. He inquired as to who would have the responsibility of providing such a report. He noted that there were three different applications before City Council this evening from three different applicants. He did not know if the individuals present this evening and representing the applicants had suggestions related to how City Council might handle the mechanics of this request.

City Attorney Petrov advised that if City Council did not want the City to spend any funds, then the City would need to have the applicant provide whatever report or additional information City Council would like to see. The applicants, he was sure, had their own experts on staff or consultants that they had hired. If City Council felt those were unacceptable because they were somehow tainted or biased having been hired by the applicant, then City Attorney Petrov felt that City Council needed to speak up now. He did not know otherwise how the City would manage that unless the City went out and spent its own money to hire its own expert.

Mayor Pro Tem Faulk advised that if the information was from a registered, professional engineer within the State of Texas, then she believed it should be sufficient for the City of Bellaire, Texas, as such engineers had an ethics component to their professional certification and license.

City Attorney Petrov advised that this was generally what people from the State and probably the City of Houston would require.
City Manager Bernard M. Satterwhite, Jr., advised that he, too, was not sure what the City was trying to do or what exactly the City was trying to find out. It was his understanding that the contaminants were in place on these properties regardless.

Mayor Pro Tem Faulk advised that she believed City Council was looking to have the applicant provide the City with something from a registered, professional engineer stating explicitly that this contamination would have no impact on the drinking water of Bellaire.

City Manager Satterwhite noted that if the applicant chose not to provide that statement and the City of Bellaire denied this approval, the contaminant was still there.

Mayor Pro Tem Faulk advised that although the contaminant was still there, the property could not be sold and redeveloped.

Councilman Phil Nauert stated that the City Council, through this action, would be imposing a higher standard than the TCEQ. He was uncomfortable doing that. The question was whether City Council supported a petition to forbid a drinking water well on this site. This was the only question the City Council had been asked. The City Council had not been asked to overlay a higher standard of mitigation than the state agency.

He believed that City Council had spent a great deal of time this evening arguing the wrong question. If asked if he would support that no one should drink water from this affected land, his answer would be “yes.” The City Council had not been asked to set its own standards of mitigation or its own process. He asked City Council to get back to the original question, which was whether or not the City Council supported the statement that it was a bad idea to put a drinking well on that site.

Councilman Hickman disagreed with Councilman Nauert. He stated that all agreed that no one should put a drinking well into the arsenic drinking water. Luckily, enough water could not be produced out of this particular aquifer. The other point was that two of the applicants and the City Attorney agreed that the City putting its rubber stamp on this request actually allowed a lower level of mediation. He was not in support of lowering the level of mitigation without knowing whether or not that would have an effect on the City of Bellaire’s water supply.
City Attorney Petrov advised that he wished to make his statement a little clearer. This did not automatically allow a lower level of mitigation. It could, but the applicant would still have to go through the state. The site under discussion currently had been under state jurisdiction for 20 years now. He did not believe the level of mitigation would change in this case. For this particular applicant, it appeared that an added layer of liability protection would occur to put people on notice that they could not drink water from the site if the site were sold.

He agreed that there were probably cases where a lower level of mitigation might occur, but he did not think it was necessarily the case for this particular applicant.

Councilman Nauert indicated that it allowed for a different level of mitigation—one that was defined by the TCEQ. These were three separate issues and the second and third issues did have reports submitted by and accompanied with an engineer’s seal. On the seal of the engineer’s opinion expressed in the second and third applications, he was comfortable with what the City Council was being asked to decide. The TCEQ was the governing body in this instance and he would defer to their regulations. There was a benefit to Bellaire. We were talking about returning brown field property to some useful, productive purpose. If Bellaire was a party to keeping a piece of property from productive use, that deteriorated the neighborhood close to Bellaire and, thus, reflected on Bellaire. He would rather see these areas redeveloped to the highest and best standards. This was the mechanism that the landowners were obligated to go through to redevelop their properties.

Mayor Siegel stated that she concurred with Councilman Nauert, but in order to not kill this item, she would support the postponement.

Councilman Hickman referred to page two of three, noting that there were blanks that had not been filled in. For example, the direction of flow and the number of miles that the site was from Bellaire’s well.

City Clerk Dutton advised that she had the information now, but did not have it at the time the packet was sent out to City Council.

Councilman Hickman asked that the information be filled in when the item was brought back before City Council. He referred also to a sample resolution that was provided in the
packet, and referred to some typos in that document, noting he was not sure if it was the City’s document or the applicant’s document.

City Clerk Dutton advised that the sample document was the applicant’s document and not the City’s document.

Councilman McLaughlan advised that there might be certified professionals that were not professional engineers in terms of certifying this information, such as geoscientists.

Mayor Siegel advised that the City wanted some type of professional seal on the documentation.

Councilman McLaughlan agreed and noted that the City desired some type of professional certification.

VOTE ON MOTION TO POSTPONE ADOPTION OF RESOLUTION:

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

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

OPPOSED: None

ABSENT: Jeffery, John

b. CONSIDERATION of and possible action on the adoption of a resolution of the City Council of the City of Bellaire, Texas, in support of the application of Gary K. Ferguson & Bohica Holdings, Ltd., to the Texas Commission on Environmental Quality (TCEQ) for a Municipal Setting Designation (MSD) for the Bellfort Cleaners property located at 8761 West Bellfort and adjacent public rights-of-way in Houston, Texas – Item submitted by City Attorney Alan P. Petrov.

SUMMARY:

Mike Marcon, In Control Technologies, advised that he was present as the representative for this agenda item and the next one. Before an applicant even got to Bellaire’s door, the
applicant had to prove to the State of Texas that there were no drinking water wells that could be impacted. If there were any impacted, the applicant would not even be able to come before City Council. Once the applicant had proved that to the State of Texas, the applicant could go forward to the City of Houston. The reason the applicant had to notify as far out as the City of Bellaire was due to the legislation. He advised that during the development of the legislation a question was asked as to how big the biggest known plume of contamination in Texas was. That known plume was one mile. In order for everyone to be protected and have an opportunity to become aware of what was in the community, the legislators made the radius five miles (rather than one mile).

The benefit to the City of Bellaire from this legislation was that now Bellaire was going to know about many sites of contamination that Bellaire previously knew nothing about. If the legislation were not in place, Bellaire would never have known about the previous applicant or his two applicants. The legislation and the Municipal Setting Designation allowed the public to be more informed about what was going on in the environment.

With respect to the question as to whether this process allowed an applicant to avoid remediation, one of his clients had spent well over $1 million cleaning up his sites. The sites were two shopping centers in economically depressed areas of Houston. The client could not secure financing and bring in anchor tenants because of the environmental “halo” sitting over the sites. The current timeframe for remediation was five-six years. The Municipal Setting Designation allowed the applicant to shorten that timeframe so that tenants could be brought back in. These centers used to be Randall’s Shopping Centers. Randall’s had downsized and moved out of them.

He stated that approval of the Municipal Setting Designations did not have a direct, immediate impact on the City of Bellaire. It had a long-term impact in that as soon as that area started to go down in quality, then the neighborhood would start to go down in quality, and that would become very progressive. In today’s economic situation with funding and refinancing, the more hurdles that were created would prevent these properties from getting out of the “tainted” property and into something that could be redeveloped.

Mr. Marcon advised that he could absolutely assure City Council that Bellaire’s wells would not be impacted from his applicant’s sites. He stated that he would sign a statement saying so and
he would put his professional seal on it. His clients were also willing to sign an indemnification. The reason his clients were willing to do that was because in the unlikely event that they contaminated Bellaire’s wells, they would be liable to come clean them up. They were not off of the hook just because Bellaire signed something saying, “I support the restriction of the use of this groundwater.” A Municipal Setting Designation did not eliminate the responsibility or liability of an applicant.

The City of Houston had built additional layers of obligation onto the Municipal Setting Designation that none of the other cities had. With respect to the City of Dallas, all Mr. Marcon had to do was prove that what was on his clients’ property was less than the non-drinking water standard. In Texas, there were two standards—drinking water standard and non-drinking water standard. He did not have to even find out how big the problem was for Dallas. In Houston, he did. Houston had also added additional layers of notification. From that standpoint, he and his client were willing to do what was necessary to protect the City of Bellaire. The State of Texas was providing oversight, which was their responsibility under the Texas Water Code, Chapter 26. If there were a chance that this would or could impact the water that was being used by the City of Bellaire, Mr. Marcon and his client would have never made it to the Bellaire City Council table.

Mr. Marcon advised that he, himself, had sealed the documentation in City Council’s packet and was willing to seal and sign a more specific document indicating that his applicants’ sites would not impact water being used by the City of Bellaire.

**MOTION TO ADOPT RESOLUTION:**

A motion was made by Councilman Phil Nauert and seconded by Councilman James P. Avioli, Sr., to adopt a resolution of the City Council of the City of Bellaire, Texas, in support of the application of Gary K. Ferguson & Bohica Holdings, Ltd., to the Texas Commission on Environmental Quality (TCEQ) for a Municipal Setting Designation (MSD) for the Bellfort Cleaners property located at 8761 West Bellfort and adjacent public rights-of-way in Houston, Texas.

**DISCUSSION ON MOTION TO ADOPT RESOLUTION:**

Councilman Phil Nauert noted that in City Council discussions on the previous agenda item, the statement was made that if there was a sealed document by a licensed engineer or a
licensed professional, that City Council should be comfortable in supporting the applicant’s request. It appeared to him that this agenda item and the next item were supported by sealed documentation.

**Councilman Pat McLaughlan** advised that he noticed that the documentation was nicely sealed, but he could not find a statement within the documentation that there would be no impact from the applicant to Bellaire’s water supply.

**Mayor Cindy Siegel** indicated that Mr. Marcon advised that he would provide the City with a separate, sealed statement to that effect. Mayor Siegel noted further that the statement from Mr. Marcon was part of the public record.

**Mr. Marcon** advised that as a professional geologist, he could lose his license if he did not stand behind the statement he was willing to make to the City of Bellaire. This was an ethics standard on both the professional engineer’s and the professional geologist’s licensing requirements.

**Councilman Will Hickman** referred to Mr. Marcon’s statement that his client would provide indemnification.

**Mr. Marcon** advised that his client would provide indemnification. He noted that he had dealt with Dallas on a number of these applications. Most of the cities required an application fee for this process and for indemnification clauses.

**Mayor Siegel** asked if City Council were asking for a motion to amend the resolution to require that a sealed statement or certification that Bellaire’s groundwater would not be impacted by the applicant, as well as a statement of indemnification from the applicant.

**Councilman Hickman** inquired as to the best way to accomplish what City Council was asking for. In other words, should an amendment be made, should City Council wait for the statement, or should City Council make its approval contingent upon receipt of the referenced statement from Mr. Marcon?

**City Attorney Petrov** advised that approval could be made contingent upon receipt of the statement, however, he would be more comfortable if City Council had the document in hand before approving the resolution.
MOTION TO POSTPONE ADOPTION OF RESOLUTION:

A motion was made by Councilman Will Hickman and seconded by Mayor Pro Tem Peggy Faulk to postpone action on the adoption of a resolution of the City Council of the City of Bellaire, Texas, in support of the application of Gary K. Ferguson & Bohica Holdings, Ltd., to the Texas Commission on Environmental Quality (TCEQ) for a Municipal Setting Designation (MSD) for the Bellfort Cleaners property located at 8761 West Bellfort and adjacent public rights-of-way in Houston, Texas, pending receipt of a certification that the groundwater on the applicant’s site would not impact the groundwater of the City of Bellaire, Texas, along with an indemnification from the applicant.

VOTE ON MOTION TO POSTPONE ADOPTION OF RESOLUTION:

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

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

OPPOSED: None

ABSENT: Jeffery, John

c. CONSIDERATION of and possible action on the adoption of a resolution of the City Council of the City of Bellaire, Texas, in support of the application of Fondren Road Plaza, Ltd., to the Texas Commission on Environmental Quality (TCEQ) for a Municipal Setting Designation (MSD) for the Dry Clean, Etc., property located at 7042 Bissonnet Street and adjacent public rights of way in Houston, Texas.

MOTION TO POSTPONE ADOPTION OF RESOLUTION:

A motion was made by Mayor Pro Tem Peggy Faulk and seconded by Councilman Phil Nauert to postpone action on the adoption of a resolution of the City Council of the City of Bellaire, Texas, in support of the application of Fondren Plaza, Ltd., to the Texas Commission on Environmental
Quality (TCEQ) for a Municipal Setting Designation (MSD) for the Dry Clean, Etc., property located at 7042 Bissonnet Street and adjacent public rights-of-way in Houston, Texas, pending receipt of a certification that the groundwater on the applicant’s site would not impact the groundwater of the City of Bellaire, Texas, along with an indemnification from the applicant.

VOTE ON MOTION TO POSTPONE ADOPTION OF RESOLUTION:

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

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

OPPOSED: None

ABSENT: Jeffery, John

4. ITEMS FOR INDIVIDUAL CONSIDERATION:

Plan/Study Approvals

a. DISCUSSION of and possible action on the approval of the Preliminary Design Plans prepared by Clark Condon Associates, Inc., Landscape Architects, for elements to be included in Bellaire Town Square and originally presented to the City Council of the City of Bellaire, Texas, during a Workshop Session held on June 24, 2008, as well as discussion of and possible approval of a recommendation from the Parks & Recreation Advisory Board of the City of Bellaire, Texas ("Parks & Recreation Advisory Board"), also originally presented to the City Council of the City of Bellaire, Texas, during a Workshop Session held on June 24, 2008, as such recommendation relates to the prioritization of the elements scheduled for Bellaire Town Square.

MOTION TO APPROVE PRELIMINARY DESIGN LANS AND PARKS & RECREATION ADVISORY BOARD RECOMMENDATION:
A motion was made by Mayor Pro Tem Peggy Faulk and seconded by Councilman Will Hickman to approve the Preliminary Design Plans prepared by Clark Condon Associates, Inc., Landscape Architects, for elements to be included in Bellaire Town Square and originally presented to the City Council of the City of Bellaire, Texas, during a Workshop Session held on June 24, 2008, and approval of a recommendation from the Parks & Recreation Advisory Board, also originally presented to the City Council of the City of Bellaire, Texas, during a Workshop Session held on June 24, 2008, as such recommendation relates to the prioritization of the elements scheduled for Bellaire Town Square.

SUMMARY:

City Manager Bernard Satterwhite, Jr., referred to a Workshop Session held before City Council on June 24, 2008, in which Clark Condon Associates, Inc., presented their conceptual design development plan for Bellaire Town Square elements, along with costs. Recommendations were also obtained from the Parks & Recreation Advisory Board, and those recommendations were also presented to City Council at the same Workshop Session.

City Staff hoped to get an approval in principle from City Council that the Preliminary Design Plans were acceptable so that Clark Condon Associates, Inc., could move forward on the design of each given element in detail for future approval by City Council. If City Council wished to debate and make changes to the Plan, that would be helpful as well this evening.

Mayor Cindy Siegel noted that this was the first part of the contract that the City engaged Clark Condon Associates, Inc., to do and that the next phase involved working out the details with the Parks & Recreation Department and the Parks & Recreation Advisory Board.

City Manager Satterwhite indicated that this was the first contract and there would be additional contracts.

Mayor Siegel advised that she recalled the engagement letter she had.

Sheila Condon, Clark Condon Associates, Inc., advised that the contract entered into by the City and Clark Condon Associates, Inc. ("Clark Condon"), consisted of design development. That contract consisted of two phases—
preliminary design and design development. Currently, Clark Condon was in between those two phases. They were still under contract to take the design a little further. What Clark Condon was not under contract to do was to take any of the designs through construction documentation and bidding.

**Mayor Siegel** asked for confirmation that before Clark Condon could move ahead under the current contract, that they needed City Council to bless the Preliminary Design Plans so that they could move forward.

**Ms. Condon** advised that Mayor Siegel was correct.

**Councilman Phil Nauert** inquired as to whether City Council could get a short synopsis of what they were being asked to bless.

**Ms. Condon** stated that the Preliminary Design Plans were generally as illustrated on a board that she provided to City Council. The main points were the area of the Great Lawn, anchored by a pavilion, the entry plaza with a fountain, tightening up and reorganizing the parking lots, park identity signage, playground, skate park, some amount of furnishings, such as benches and lighting, all of which would be linked together with sidewalks or trails to connect all of the pieces.

**Councilman Will Hickman** advised that he was very excited about everything, except for the skate park. He indicated that he was not quite sure about it. He did not know the best way to handle this procedurally, but wondered if it could be left as grass for now, with discussions to be held with City Council later. He did not know if City Council should “dig in” to that this evening.

**City Manager Satterwhite** suggested that the City let Clark Condon go ahead through the design development phase and then come back and vote on individual elements. Conversely, City Council could go ahead and vote this evening on whether or not to include the skate park as an element in Bellaire Town Square. At some point in time if there were questions about whether the City wanted an element or wanted an element in a specific location, then City Council did need to vote on that.

**Councilman Hickman** agreed and noted that he did not want to spend money on the design of an element that would not eventually be included in Bellaire Town Square.
Ms. Condon advised that there was a tremendous amount of support for a skate park from the community and from the Parks & Recreation Advisory Board. The majority of the skate park was surface. There was only one small depression, so there would not be a great deal of design work associated with this particular element. The choice to be made was a matter of selecting which movable elements would be included from a catalog.

Mayor Siegel noted, for background purposes, that the Parks & Recreation Advisory Board, went through a public hearing process, held several Workshop Sessions, as well as conducted a survey, to come up with a conceptual plan for Bellaire Town Square. She added that the equipment donated several years ago by a skate park company that burned was installed at Evergreen Park for a period of six months and received tremendous use by Bellaire’s young children. It really seemed to serve a niche of children that were too old for the playground and too young to drive.

The Patrons for Bellaire Parks, Inc., also identified supporters that wanted to go out and raise money for the skate park.

Councilman Hickman inquired as to the cost to do the design work on the skate park.

Ms. Condon stated that she could not break it out off of the top of her head.

Councilman Pat McLaughlan indicated that acceptance of the Preliminary Design Plan would define the major features of Bellaire Town Square.

Ms. Condon advised that Councilman McLaughlan was correct.

Councilman McLaughlan stated that the pavilion continued to worry him in a few ways. He noted that the Parks & Recreation Advisory Board, had voted several times on the pavilion and those votes had swung one way and another. At one time he had hope that this pavilion would be a more significant architectural statement and not something ordered out of a catalog. He had hoped the pavilion would in some way be representative of a symbol of the City and carry the trolley history of the City through this pavilion design and, perhaps, replicate the major features of the City’s prior Trolley Pavilion. Apparently, that was not the case now.
Ms. Condon advised that this was not what her company had been tasked with.

City Manager Satterwhite stated that if someone would share Councilman McLaughlan’s views and get it on the table, then City Staff would be more than happy to develop that. What had been developed was a product of Clark Condon’s work and their work with the Parks & Recreation Advisory Board. We needed to find a way to get Councilman McLaughlan’s desires out in front and on the table so that there could be discussion and debate.

Mayor Siegel suggested that Councilman McLaughlan offer an amendment for City Council consideration.

Councilman McLaughlan indicated that the other issue he had with the pavilion was the location. He knew that the location had been discussed several times at the Parks & Recreation Advisory Board level. When he drove to the City Council meeting this evening, he noted that the sun was directly behind the location of the pavilion. He felt that it was wrong to locate the pavilion such that the audience looked directly into the setting sun. Two times a year the sun would set directly behind the location of this pavilion. He thought reorienting the pavilion to the southwest end of Bellaire Town Square could cure this issue. It was beyond him why the City continued to want to locate the pavilion where the audience would look directly into the setting sun.

**AMENDMENT (NO. 1) TO MOTION TO APPROVE PRELIMINARY DESIGN PLANS AND PARKS & RECREATION ADVISORY BOARD RECOMMENDATION FOR BELLAIRE TOWN SQUARE:**

An amendment (no. 1) to the motion to approve Preliminary Design Plans and Parks & Recreation Advisory Board recommendation for Bellaire Town Square was made by Councilman Pat McLaughlan that the pavilion be of a custom, architectural design that would capture the role of the trolley in the history of Bellaire. Mayor Pro Tem Peggy Faulk seconded the amendment.

**DISCUSSION ON AMENDMENT (NO. 1) TO MOTION TO APPROVE**

**PRELIMINARY DESIGN PLANS AND PARKS & RECREATION ADVISORY BOARD RECOMMENDATION FOR BELLAIRE TOWN SQUARE:**
RECREATION ADVISORY BOARD RECOMMENDATION FOR BELLAIRE TOWN SQUARE:

Councilman Hickman inquired as to what the pavilion would look like if Councilman McLaughlan’s amendment did not pass.

Ms. Condon referred to the City Council packet. She noted that this was not a completely “out of the catalog” item, it was a catalog item modified.

Councilman Hickman asked if a decision had already been made as to the pavilion.

Ms. Condon advised that the decision was made by the Parks & Recreation Advisory Board, and presented to the public in Workshop Sessions.

Councilman Hickman asked for confirmation that it had already been decided that the pavilion would look like the picture provided by Clark Condon if City Council did not opt to do something else.

Ms. Condon advised that Councilman Hickman was correct.

Councilman Nauert inquired as to the cost that might be expected if the City involved an architect to provide a custom structure.

Ms. Condon indicated that it would probably not cost twice as much with respect to construction, but less than that.

Councilman Nauert inquired as to the cost for design of the structure.

Ms. Condon indicated that she initially had an architect as part of her team to design a custom pavilion all the way through construction documents. That was deleted once the other pavilion was approved. The architect’s fees were probably somewhere in the order of $25,000 to design the pavilion and take it through to construction documents.

Mayor Siegel asked if it were possible to take the Trolley Pavilion design as it was and shrink it down to fit in Bellaire Town Square.

Ms. Condon stated a better way to look at it would be to take the essence of some of those architectural elements and apply
them, rather than to try to take something and say, "I’m going to make it look like this."

**Councilman Hickman** inquired as to the size of the proposed pavilion as compared to the original Trolley Pavilion.

**Ms. Condon** advised that the stage area of the proposed pavilion was actually a little bigger than the stage area of the original Trolley Pavilion. The proposed pavilion stage was 20’ X 40’.

**City Manager Satterwhite** stated that the proposed pavilion was a lot smaller. He also did not believe that the space available in Bellaire Town Square for the pavilion lends itself to be comparable. One of the reasons that this design was selected was due to an effort to get the overall costs down to something some people thought might be more reasonable. Ultimately, the decision was based on keeping the costs contained within each given element.

**Mayor Siegel** stated that she thought the Board’s decisions were made based on what they thought was direction from City Council.

**Councilman McLaughlan** indicated that he was unsure as to the process. He did believe that there was significant concern with respect to cost. On the other hand, this pavilion could very well be one of the City’s centerpieces for the next 50 years and he really thought it needed to be something of architectural significance. He agreed with Ms. Condon that it did not have to be an exact replica of the original Trolley Pavilion, but might carry out certain themes that would represent the transportation and link that the trolley provided Bellaire to downtown Houston. If it cost 50% more, then he still thought it would be a good investment for the overall character of the City.

**Mayor Siegel** noted that the City did save some money by not repairing the existing Trolley Pavilion.

**VOTE ON AMENDMENT (NO. 1) TO MOTION TO APPROVE PRELIMINARY DESIGN PLANS AND PARKS & RECREATION ADVISORY BOARD RECOMMENDATION FOR BELLAIRE TOWN SQUARE:**

Amendment (no. 1) **carried** on a vote of **5-1** as follows:

**FOR:** Siegel, Cindy
FOR (CONT.): Avioli, James P., Sr.
Faulk, Peggy
Nauert, Phil
McLaughlan, Pat

OPPOSED: Hickman, Will

ABSENT: Jeffery, John

CONTINUED DISCUSSION ON MOTION TO APPROVE PRELIMINARY DESIGN PLANS AND PARKS & RECREATION ADVISORY BOARD RECOMMENDATION FOR BELLAIRE TOWN SQUARE, AS AMENDED:

Councilman James P. Avioli, Sr., advised that Mayor Siegel had pointed out that a great deal of work had gone into the preliminary design phase for Bellaire Town Square. He inquired as to whether anyone had considered placing a fountain at the entry rather than the spray jets currently proposed.

Ms. Condon advised that the idea of a crossover between what started out as a “splash pad” and something more interactive seemed to come out higher in the priority list than a more traditional fountain.

Councilman Avioli inquired as whether that feature was a “done deal.”

Ms. Condon advised that nothing was really a “done deal” until it was built.

Councilman Avioli inquired as to whether there was any other support for a fountain rather than jets coming out of the ground for the youngsters.

Ms. Condon advised that it was not just for youngsters, but also visually pleasing, less tempting to meddle with, and easier to maintain.

Mayor Siegel asked for confirmation that the City was planning on placing benches around the jets.

Ms. Condon advised that Mayor Siegel was correct.

AMENDMENT (NO. 2) TO MOTION TO APPROVE PRELIMINARY DESIGN PLANS AND PARKS &
RECREATION ADVISORY BOARD RECOMMENDATION FOR BELLAIRE TOWN SQUARE:

An amendment (no. 2) was made by Councilman James P. Avioli, Sr., to substitute the jet fountain with a more permanent fountain structure. Councilman Pat McLaughlan seconded the amendment.

DISCUSSION ON AMENDMENT (NO. 2) TO MOTION TO APPROVE PRELIMINARY DESIGN PLANS AND PARKS & RECREATION ADVISORY BOARD RECOMMENDATION FOR BELLAIRE TOWN SQUARE:

Mayor Pro Tem Faulk inquired as to the cost of a more traditional fountain structure as compared to the jet fountain.

Ms. Condon stated that the cost would be greater for a traditional fountain. Without an idea as to the design of the fountain, it would be difficult for her to provide a cost. She noted that the jets were a cost-effective way to go as a structure would not have to be constructed. There was a small storage tank underground for the jet fountain, but that tank was minimal.

Councilman Nauert stated that he was the liaison on the Parks & Recreation Advisory Board years ago when this was under discussion. He referred to a multiple water jet fountain in Seabrook that was clearly a space for kids. He next referred to a submerged water jet fountain similar to the one proposed for Bellaire in the City of Aspen that was very much a gathering place for artists rather than children. He advised that he liked the concept as proposed for many reasons, such as cost. He noted also that there was not much room in that particular area of the park.

Councilman McLaughlan inquired as to whether the intent of the fountain was to supplement the Aquatics Center as a water feature for the children to play in or if it were to be a visually pleasing facility without necessarily being a recreational area.

Ms. Condon advised that there was originally talk of putting in a splash pad for recreational use; however, this jet fountain was not a splash pad as the area was not big enough. It evolved more into the idea of becoming a water feature—if someone wanted to run through it, they could. Others could sit on the perimeter on the benches and watch the water.
Councilman McLaughlan asked for confirmation that the jet fountain was essentially a ground level fountain.

Ms. Condon advised that Councilman McLaughlan was correct.

Councilman McLaughlan advised that he wished to put a thought on the table for Ms. Condon’s opinion and as a suggestion for Councilman Avioli. He noted that hopefully at some point in the future the City could rehabilitate the area where the original Trolley Pavilion was previously located. He suggested that the City consider installing a significant water feature, such as a traditional fountain suggested by Councilman Avioli, in that area. If the City could concentrate on a fountain at Paseo Park, then it would diminish the need for a similar-type fountain in Bellaire Town Square.

Ms. Condon stated that the area Councilman McLaughlan referred to at the end of Paseo Park would be a much more visible and nice location for a larger fountain.

Mayor Siegel asked for confirmation that the jets could be set at different speeds.

Ms. Condon advised that Mayor Siegel was correct.

VOTE ON AMENDMENT (NO. 2) TO MOTION TO APPROVE PRELIMINARY DESIGN PLANS AND PARKS & RECREATION ADVISORY BOARD RECOMMENDATION FOR BELLAIRE TOWN SQUARE:

Motion failed on a 1-5 vote as follows:

FOR: Avioli, James P., Sr.

OPPOSED: Siegel, Cindy
           Hickman, Will
           Faulk, Peggy
           Nauert, Phil
           McLaughlan, Pat

ABSENT: Jeffery, John

CONTINUED DISCUSSION ON MOTION TO APPROVE PRELIMINARY DESIGN PLANS AND PARKS &
RECREATION ADVISORY BOARD RECOMMENDATION FOR BELLAIRE TOWN SQUARE, AS AMENDED:

AMENDMENT (NO. 3) TO MOTION TO APPROVE PRELIMINARY DESIGN PLANS AND PARKS & RECREATION ADVISORY BOARD RECOMMENDATION FOR BELLAIRE TOWN SQUARE:

An amendment (no. 3) was made by Councilman Will Hickman to keep everything exactly where it was located in the Preliminary Design Plan, with the exception of the skate park, which should be removed.

Amendment failed due to lack of a second.

CONTINUED DISCUSSION ON MOTION TO APPROVE PRELIMINARY DESIGN PLANS AND PARKS & RECREATION ADVISORY BOARD RECOMMENDATION FOR BELLAIRE TOWN SQUARE, AS AMENDED:

AMENDMENT (NO. 4) TO MOTION TO APPROVE PRELIMINARY DESIGN PLANS AND PARKS & RECREATION ADVISORY BOARD RECOMMENDATION FOR BELLAIRE TOWN SQUARE:

An amendment (no. 4) was made by Councilman Pat McLaughlan to relocate the pavilion such that the pavilion was not in line with the setting of the west sun, such as a movement to the southwest or south end of the Great Lawn.

Amendment No. 4 failed due to lack of a second.

VOTE ON MOTION TO APPROVE PRELIMINARY DESIGN PLANS AND PARKS & RECREATION ADVISORY BOARD RECOMMENDATION FOR BELLAIRE TOWN SQUARE, AS AMENDED:

Motion, as amended, carried unanimously on a 6-0 vote as follows:

FOR: Siegel, Cindy
Hickman, Will
Avioli, James P., Sr.
Faulk, Peggy
Nauert, Phil
McLaughlan, Pat
b. DISCUSSION of and possible action on the approval of an evaluation of future needs for the City of Bellaire’s Water and Wastewater Facilities, including the replacement, rehabilitation, and/or elimination of portions of said facilities prepared by Klotz Associates, Inc., and originally presented to the City Council of the City of Bellaire, Texas, in a Workshop Session held on April 14, 2008, as well as discussion of and possible action on the approval of a possible future issuance of revenue bonds as a financing source for said facilities improvements, rehabilitation, and/or eliminations.

SUMMARY:

City Manager Bernard M. Satterwhite, Jr., advised that a plan was presented to City Council in a Workshop Session on April 14, 2008, for the purpose of moving forward with the City’s water and wastewater infrastructure improvements. City Staff believed that the items studied and proposed by Klotz Associates, Inc., Consulting Engineers, were what was needed for the City. In order to get the improvements accomplished in a doable time period, the improvements should be financed with revenue bonds. City Manager Satterwhite noted that he had been trying for a long time to get the costs of running the utility back into the utility. Financing the improvements with revenue bonds would allow the City to do that. He advised that the City could afford it, but he could not tell City Council right now what this would do to the rates over time, as it depended on how costs were allocated and how City Council decided to treat the $950,000 transfer from the Enterprise Fund to the Debt Service Fund. Certainly, utility revenues would have to go up or debt service revenues would have to go up depending on the treatment of the referenced transfer.

The analysis done for the City assumed a constant net revenue over 20 years, which led to a required monthly cost per connection of $11 and some change. This did not mean that the rates would go up by $11, but that was the amount of cost that was allocable to the Debt Service Fund.

City Manager Satterwhite advised that projects under this study would have to be developed and those projects would be brought back to City Council on both the engineering side and
the construction side for approval. Any bond-issuing plan would also be brought back to City Council for final approval.

City Staff was looking for approval in principle of the plan that was presented and approval in principle of financing that plan with bonds.

**MOTION TO APPROVE AN EVALUATION OF FUTURE NEEDS FOR BELLAIRE’S WATER AND WASTEWATER FACILITIES, AND POSSIBLE FUTURE ISSUANCE OF REVENUE BONDS AS A FUNDING SOURCE:**

A **motion** was made by Councilman Pat McLaughlan and **seconded** by Councilman James P. Avioli, Sr., **to approve** **of an evaluation of future needs for the City of Bellaire’s Water and Wastewater Facilities**, including the replacement, rehabilitation, and/or elimination of portions of said facilities **prepared by Klotz Associates, Inc.,** and originally presented to the City Council of the City of Bellaire, Texas, in a Workshop Session held on April 14, 2008, **and approval of a possible future issuance of revenue bonds as a financing source for said facilities improvements, rehabilitation, and/or eliminations.**

**Mayor Cindy Siegel** asked for confirmation that City Council was basically picking a lane of rehabilitating the City’s current facilities based upon the recommendation of Klotz Associates, Inc., which could include the elimination of certain ground water storage tanks.

**City Manager Satterwhite** stated that the plan did include eliminating the entire Evergreen Water Plant, and might include in the future as ground storage tanks came up for rehabilitation, the possible elimination of those ground storage tanks that were no longer needed.

He referred to the basic phasing plan and estimated cost plan that Klotz Associates, Inc., provided and that City Staff would try to follow. Each phase and each project would still be brought back to City Council for final approval.

**DISCUSSION ON MOTION TO APPROVE AN EVALUATION OF FUTURE NEEDS FOR BELLAIRE’S WATER AND**
WASTEWATER FACILITIES AND POSSIBLE FUTURE ISSUANCE OF REVENUE BONDS AS A FUNDING SOURCE:

Councilman Will Hickman referred to the plant schematic for the Central and Feld Water Plants and inquired as to whether the pumps were above or below ground.

Ralph Cox, P.E., Klotz Associates, Inc., advised that the pumps at the Central and Feld Water Plants were both vertical turbine pumps and were above ground.

Councilman Hickman inquired as to whether the proposed pumps were electrical.

Mr. Cox indicated that Councilman Hickman was correct.

Councilman Hickman asked if one could still get pressure out of the ground storage tank if only the ground storage tank could be filled.

Mr. Cox advised that you could fill the ground storage tank.

Councilman Hickman asked if the pump could be turned on and provide enough water pressure if the City only had its ground storage tank.

Mr. Cox stated that it would not. If there was no electricity to run the booster pumps, the elevated tanks would provide pressure to the system, such as what had occurred during Hurricane Ike. There was enough water to last until CenterPoint got the power turned back on to some of the City’s water plants.

City Manager Satterwhite advised that the City did have power at the Renwick Water Plant.

Mr. Cox agreed and stated that there was power to the booster pumps at the Renwick Water Plant which allowed the City to pressurize the system from the west side of the City as well as the elevated tanks at the Feld and Central Water Plants.

Councilman Hickman inquired as to whether there was any mechanism to use a diesel engine to run the pump.

Mr. Cox stated that there were infinite ideas, such as a diesel engine, or a diesel-powered standby electric generator, etc.
Councilman Hickman inquired as to whether such a backup was part of the plan before City Council.

City Manager Satterwhite indicated that this was not specifically part of the plan, but as the City got into the engineering, it might want to make those decisions based on the experience the City just had. The basic plan before City Council now was related to the rehabilitation of well sites and/or eliminating well sites and/or rehabilitating the Wastewater Treatment Plant.

Councilman Hickman referred to the elevated inventory and noted that it appeared that the City had 500,000 gallons at the Central Water Plant and 500,000 gallons at the Feld Water Plant. He inquired as to how much water the City would have if all pumps failed—one-third of a day?

Mr. Cox stated that Councilman Hickman was correct on an average day. In a natural disaster, such as a hurricane, the demands went way down due to the fact that much of the population evacuated and those that remained used much less water by and large.

City Manager Satterwhite advised that Bellaire had time to spare in the recent hurricane event with respect to water.

Councilman Hickman inquired as to the downside to taking the Evergreen Water Plant offline.

Mr. Cox indicated that his firm, along with Claunch & Miller, Inc., had done some modeling of the system and showed that the City could provide water to the whole city without the Evergreen Water Plant. The cost to rehabilitate the Evergreen Water Plant was approximately $600,000. Their recommendation was that there was no reason to spend that money.

City Manager Satterwhite advised that the City had tested this theory as the plant had gone down. Further, the well at Feld Water Plant was not operational. The City was not using Feld Water Plant at all during the storm because there was a question as to the City of Houston’s surface water quality for a period of time. The City chose not to take City of Houston water anywhere, which meant the Central and Feld Water Plants. For a time, the only well the City had up was at the Feld Water Plant and the City had no problem with water pressure the entire time.
Councilman Hickman noted that if the Evergreen Water Plant were dismantled, the City would gain park space or green space.

City Manager Satterwhite advised that Councilman Hickman was correct. He added that the City did fight a fire on Sunday evening on Braeburn Drive after the Central Water Plant came back up, and the City had no problems with water pressure.

Councilman Hickman asked if the City did shut down one of the plants and desired to reopen it if the City would have to start over with respect to permitting, etc.

Mr. Cox advised that he believed Councilman Hickman was correct--the City would probably have to start over with respect to permitting if it wished to reopen a plant that had been dismantled and closed.

Councilman Phil Nauert referred to the study by Klotz Associates, Inc., and noted that mention was made of taking the reasonably new pump out of the Evergreen Water Plant and using it over at the Feld Water Plant. He inquired as to whether this was still the case.

Mr. Cox indicated that using the pump at Feld Water Plant was an idea under consideration. After exploring the idea further, it did not appear that it would work. The City planned to go back to the Feld Water Plant with a pump that was similar to the one that failed; however, it was a different-style pump.

Councilman Nauert inquired as to whether the City would be able to sell the relatively new pump installed at the Evergreen Water Plant.

Mr. Cox advised that it was possible for the City to sell that pump.

City Manager Satterwhite indicated that the pump manufacturer had already bought the pump back from the City.

Councilman Nauert referred to the lift stations and inquired as to whether the Wendell Lift Station needed total replacement.

Mr. Cox indicated that the Wendell Lift Station was a rehabilitation or conversion to a submersible lift station. By the time that station came up in the priority list, it was possible
that the City would opt to make a few enhancements to what was already there (i.e., leaving it pretty much as it was).

**Councilman Nauert** referred to the Bellaire Lift Station and indicated that he thought it had been newly rehabilitated.

**Mr. Cox** agreed that it was a relatively new station, but it was placed in the plan as a “placeholder.” By the time the City got to that station on the priority list, those pumps would be seven-ten years old and might need rehabilitation.

**City Manager Satterwhite** noted that the cost of the plan right now was a little over $11 million. City Staff planned to issue two sets of bonds at $5 million each. Some of the other work could be financed differently.

**Councilman Pat McLaughlan** referred to the electrical upgrades at Central Water Plant at a cost of $1.1 million. He inquired as to what those upgrades might encompass.

**Mr. Cox** advised that “replacement” would have been a better term with respect to that project than “upgrades.” He stated that power came into the site and was presently distributed to City Hall, Bellaire Town Square, and the Police Station. The electrical switchgear was 50 years old. This project would replace the switchgear, the motor control centers, lighting panels, and power panels. The project would also consist of constructing a new building to house the electrical switchgear and distribution gear. The equipment in the existing building would be demolished. The existing building would then be used for another project that would provide for disinfection facilities for the water at that site. The price of copper was driving electrical costs “sky high.”

**Mayor Siegel** stated that the City had, in fact, tried many times to seek a more favorable arrangement with the City of Houston related to switching Bellaire’s wastewater services over to them. Bellaire had not met with success in this regard.

Secondly, in light of the experience that Bellaire had with Hurricane Ike, it was driven home to her that there was a benefit for maintaining control of the City’s water and wastewater facilities.

**VOTE ON MOTION TO APPROVE AN EVALUATION OF FUTURE NEEDS FOR BELLAIRE’S WATER AND**
WASTEWATER FACILITIES AND POSSIBLE FUTURE ISSUANCE OF REVENUE BONDS AS A FUNDING SOURCE:

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

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

OPPOSED: None

ABSENT: Jeffery, John

H. COUNCIL CORRESPONDENCE AND COMMENTS.

Discussion only.

I. ADJOURNMENT.

MOTION TO ADJOURN:

A motion was made by Mayor Pro Tem Peggy Faulk and seconded by Councilman Will Hickman to adjourn the Regular Session of the City Council of the City of Bellaire, Texas, at 10:41 p.m. on Monday, September 29, 2008.

VOTE ON MOTION TO ADJOURN:

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

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

OPPOSED: None
City of Bellaire
City Council

Minutes of Meeting
Monday, September 29, 2008

ABSENT: Jeffery, John

Respectfully submitted,

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

Approved:

____________________________
Cynthia Siegel, Mayor
City of Bellaire, Texas