CITY OF BELLAIRE
CITY COUNCIL

Minutes of Meeting
Monday, October 20, 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, October 20, 2008. The Bellaire City Council met at that time and on that date in Regular Session in the Council Chamber, First Floor of City Hall, 7008 South Rice Avenue, Bellaire, Texas 77401. Mayor Siegel announced that a quorum was present consisting of herself and the following members of City Council:

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

Councilman Phil Nauert, Position No. 4, was absent. Other officials present were Assistant City Manager Diane K. White, City Attorney Alan P. Petrov, and City Clerk Tracy L. Dutton.

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

Mayor Pro Tem Peggy Faulk noted that early voting started today and would end on October 31, 2008. She next read the following for her inspirational reading:

A Little Boy At A Big Piano

Wishing to encourage her young son’s progress on the piano, a mother took her son to a Paderewski concert. After they were seated, the mother spotted a friend in the audience and walked down to the aisle to greet her.

Seizing the opportunity to explore the wonders in the concert hall, the little boy rose and eventually explored his way through a door marked “NO ADMITTANCE.” When the house lights dimmed and the concert was about to begin, the mother returned to her seat and discovered that the child was missing.
Suddenly, the curtains parted and spotlights focused on the impressive Steinway on the stage. In horror, the mother saw her little boy sitting at the keyboard innocently picking out "Twinkle, Twinkle Little Star."

At that moment the great piano master made his entrance, quickly moved to the piano, and whispered into the boy’s ear, "Don’t quit. Keep playing."

Then leaning over, Paderewski reached down with his left hand and began filling in a bass part. Soon his right arm reached around to the other side of the child and he added a running obbligato. Together, the old master and the young novice transformed a frightening situation into a wonderfully creative experience. The audience was mesmerized.

That’s the way it is in life. What we can accomplish on our own is hardly noteworthy. We try our best, but the results aren’t exactly graceful flowing music. But when we trust in the hands of a Greater Power, our life’s work truly can be beautiful.

Next time you set out to accomplish great feats, listen carefully. You can hear the voice within yourself whispering in your ear, “Don’t quit. Keep playing.”

--Author Unknown

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

1. U.S. PLEDGE OF ALLEGIANCE.

2. PLEDGE TO THE TEXAS FLAG.

Mayor Pro Tem Peggy Faulk led the audience and City Council in the U.S. Pledge of Allegiance and the Pledge to the Texas Flag.

D. APPROVAL OR CORRECTION OF MINUTES:

1. APPROVAL of minutes of the Regular Session of the City Council of the City of Bellaire, Texas, held Monday, September 29, 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 Monday, September 29, 2008.
VOTE ON MOTION TO APPROVE MINUTES:

Motion carried on a 5-0-1 vote as follows:

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

OPPOSED:  None

ABSENT:  Nauert, Phil

ABSTAIN:  Jeffery, John*

*Councilman John Jeffery abstained from voting on the approval of the City Council Regular Session minutes dated September 29, 2008, due to his absence from that meeting.

2. APPROVAL of minutes of the Regular Session of the City Council of the City of Bellaire, Texas, held Monday, October 6, 2008 – Item submitted by City Clerk Tracy L. Dutton.

MOTION TO APPROVE MINUTES:

A motion was made by Mayor Pro Tem Peggy Faulk and seconded by Councilman James P. Avioli, Sr., to approve the minutes of the Regular Session of the City Council of the City of Bellaire, Texas, held Monday, October 6, 2008.

VOTE ON MOTION TO APPROVE MINUTES:

Motion carried on a 5-0-1 vote as follows:

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

OPPOSED:  None

ABSENT:  Nauert, Phil

ABSTAIN:  Hickman, Will*
*Councilman Will Hickman abstained from voting on the approval of the City Council Regular Session minutes dated October 6, 2008, due to his absence from that meeting.

E. PERSONAL/AUDIENCE COMMENTS.

Lynn McBee, 5314 Evergreen Street, Bellaire, Texas:

Ms. McBee addressed City Council regarding the upcoming election. She advised that in order to vote, one must be registered. Once registered, the voter would receive a voter registration certificate. For those who had not yet registered, the deadline had already passed for the November 2008 election. She urged those who had not registered to go ahead and do so for the next election.

Ms. McBee continued and advised that the voter registration certificate was salmon-colored. She indicated that the voter would speed the process up if he or she could locate their voter registration certificate and bring it to their voting precinct. If it could not be located, she suggested that the voter go online to the voter registrar's site at www.hcvoter.com. Using the tab labeled “voter search,” a voter could find himself or herself and print out validation that he or she was registered, along with his or her voter registration number.

Early voting in Texas could be accomplished in two different ways. There was an early voting by mail option, which had certain criteria, and there was an early voting by personal appearance option. The “by mail” option was open for those who were absent from the county on Election Day and during the period for early voting in person or if the voter was 65 years of age or older on Election Day or sick or possessed a disability that prevented a voter from visiting on Election Day or at an early voting location. Even if a voter was confined in jail but had not been finally convicted of a felony, that voter could vote in Texas.

The voter could request that a ballot be mailed to him or her at his or her official residence address no later than October 28, 2008. This could be done online through the Harris County Clerk’s Office at www.harrisvotes.com or by calling (713) 755-0695. The ballot would be mailed to the voter at his or her residence address as indicated on the voter registration certificate. The Harris County Clerk must receive a voter’s ballot no later than Tuesday, November 4, 2008.

The other type of early voting option was by personal appearance. There were 36 different locations throughout Harris County and a voter could go to any of those 36 locations and vote. The early voting locations and hours were available online at the Harris County Clerk's website (i.e., www.harrisvotes.com). Early voting started today, October 20, 2008, and would continue through October 31, 2008 (including weekends).
The final choice or option of voting was on Election Day in person. On that day, the voter could only go to his or her voting precinct. The voter's precinct was listed at the top of his or her voter registration certificate. Ms. McBee advised that Bellaire had five voting precincts as follows: 128 (Bellaire City Hall), 182 (Paul W. Horn Elementary School), 214 (Southwest Presbyterian Church on South Rice Avenue), 215 (Faith American Lutheran Church on Bellaire Boulevard) and 268 (Christ Church Presbyterian Friendship Hall on Third Street). Ms. McBee suggested that voters go to the www.harrisyvotes.com website and print out a sample ballot by plugging in his or her precinct or name. That sample ballot could be taken to the voter's precinct.

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

F. REPORTS:


City Attorney Alan P. Petrov presented the City Attorney’s Report to City Council. He advised that he wanted to briefly touch on an opinion that was issued by the Attorney General of Texas approximately two weeks ago. As a result of that opinion, City Council’s agenda had changed a little bit.

The Attorney General of Texas had ruled in response to a question from Senator Whitmire related to agenda topics involving whether or not the City of Corpus Christi’s “City Manager Reports,” “Mayor Reports,” and “Council Reports” were sufficient for purposes of giving notice under the Texas Open Meetings Act. The Attorney General’s Office had taken the position that those topics were not sufficient. This did not mean that a City could not have those reports on their agenda. The opinion basically stated that those people connected with the City knew what they were going to report on at least three days in advance of the meeting and that they should be giving notice to the public of the substance of their report so that someone interested in that particular topic could appear at the meeting and hear what had to be said.

In other words, when the City listed various reports on the agenda, the City needed to provide a brief description as to the subject matter
of the report. He referred to today’s agenda, noting that his report including a discussion of this particular Attorney General’s opinion. With respect to the Financial Report, the agenda item described the items that Chief Financial Officer Donna Todd would normally report on in terms of the City’s finances. He was sure that City Manager Bernie Satterwhite would continue his report, but he would have to place on the agenda some type of summary or bullet items of the topics that he planned to hit on during that particular report.

What the opinion did to change some of Bellaire’s procedures was obviously that the City no longer had Council Comments at the end of the agenda. He was sorry to say that the City would simply not be able to have Council Comments unless there was a member of Council that had a particular item that they wished to discuss and advised City Clerk Tracy Dutton in time to have that particular item placed on the agenda.

City Attorney Petrov advised that he was happy to respond to any questions that City Council might have with respect to this Attorney General’s opinion.

**QUESTIONS/COMMENTS FROM CITY COUNCIL:**

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

**Q:** Mayor Cindy Siegel referred to the two-paragraph summary included at the end of the Attorney General’s opinion and read the second paragraph as follows: Section 551.042 of the Act authorizes a limited response to inquiries of a member of the public or the governmental body about a subject not included in the posted notice. To the extent that a subject is addressed by a city manager or a member of the governing body in the manner and under the circumstances authorized under section 551.042, it does not have to be included in a posted meeting notice. She asked when this could be done, noting that it seemed to be a “free pass.”

**A:** City Attorney Petrov agreed that it did seem to defeat the purpose of the whole opinion. He advised that he had talked with some other City Attorneys as well. Basically, the Act provided an exception to the general requirement that all items being discussed be noted on the agenda. The exception was limited to responses of a factual or policy nature to a specific question. For instance, if a member were to ask “when are we having our joint public hearing with the Planning and Zoning Commission on “X”? Staff could respond that the hearing was set for “X” date, even though the item might not be on the agenda.
City Attorney Petrov indicated that the problem was how that differed from a Council comment or inquiry. The advice being given was that Council should try to avoid asking questions about topics that were not on the agenda. If Council knew what they wanted to talk about or ask questions about, then those items or questions needed to be included on the agenda. If a speaker from the audience brought up a topic and City Council wanted to ask the City Attorney or City Manager for clarification of a factual or policy nature, then the question could be asked.

He noted further that the public had a different standard. The agenda item “public comments” was considered fine because there was no presumption that the City knew what the public was going to talk about, so there was no way the City could place those topics on the agenda.

City Attorney Petrov indicated that he expected to see some follow up questions of the Attorney General in the months to come.

Q: Mayor Siegel inquired as to whether City Attorney Petrov would be passing this information on to other City boards and commissions.

A: City Attorney Petrov advised that he would be and that some of the board’s agendas had already been modified to make their reports more detailed.

He stated that the City Manager would probably have the toughest time with this opinion since he covered a broad range of topics. He would have to think ahead of time about what he wanted to talk about. Most of the other boards and commissions were pretty specific. Even the Chief Financial Officer’s Finance Report was fairly easy to describe.

Q: Councilman John Jeffery asked if he would have to let staff know ahead of time if he wanted to address “investments,” for example.

A: City Attorney Petrov advised that “investments” was an item that was clearly on the agenda and included as part of the Chief Financial Officer’s Finance Report. Councilman Jeffery could talk about anything having to do with the City’s finances.

Q: Councilman Jeffery asked for confirmation that his questions needed to be specific to the agenda item.
A: **City Attorney Petrov** advised that Councilman Jeffery was correct.

Q: **Mayor Siegel** asked if the City Council could talk about the audit.

A: **City Attorney Petrov** stated that since the Finance Report dealt with monthly financials as opposed to the audit, then the audit could not be discussed.

Q: **Mayor Siegel** asked if members of City Council could ask about the progress of the audit.

A: **City Attorney Petrov** stated that if City Council had a factual question about the audit, then he believed the question could be asked. He noted that it would be a little “gray,” this was the reason that the advice was to really stick to the agenda items and try not to deviate with a bunch of off-agenda questions.

Q: **Councilman Jeffery** asked how the City could monitor this.

A: **City Attorney Petrov** indicated that City Council had been doing this in the past when a “point of order” was called. In other words, City Council could do a little self-monitoring and he would try to do the same, as would Bernie, to help City Council keep from going off agenda items.

This opinion related more to how to put reports on the agenda with a better description. He noted that he was not crazy about the opinion. He felt that the opinion did a disservice to the public because it shut down the dissemination of information that we could have at a meeting.

Q: **Councilman Pat McLaughlan** advised that he felt this opinion was an additional blow to effective and open communications between the City Council, City Manager, and, most importantly, the citizens. Already if citizens appeared before City Council and raised an issue, City Council was not allowed to respond and there was no subsequent staff response. He was concerned that this opinion would build additional barriers between government, staff, and the citizens.

He inquired as to whether this Attorney General’s opinion was considered a law.

A: **City Attorney Petrov** indicated that this was not a law. The *Texas Open Meetings Act* was the law. The opinion presented
this evening was the Attorney General’s interpretation of an aspect of the Texas Open Meetings Act.

Q: Councilman McLaughlan asked if there was a law that stated that City Council had to follow the Attorney General’s interpretation.

A: City Attorney Petrov advised that the Attorney General’s Office could prosecute violations of the Texas Open Meetings Act and violations of their interpretations of the Texas Open Meetings Act. His advice was that the City of Bellaire following the Attorney General’s interpretation.

Q: Councilman McLaughlan asked if a different Attorney General might rule differently in the future.

A: City Attorney Petrov indicated that it was certainly possible. In addition, the Texas State Legislature could amend the statute to make some of the exceptions clearer.

C: Councilman Will Hickman stated that it was possible that the Attorney General’s opinion was more conservative than what a court would decide.

R: City Attorney Petrov agreed with Councilman Hickman.

Q: Councilman Hickman asked, in terms of policing a violation, if the complainant would have to be someone who did not come to the meeting because a topic was not noticed.

A: City Attorney Petrov stated it did not necessarily have to be a complainant. The Attorney General’s Office or the District Attorney’s Office could charge the City with a complaint.

Q: Councilman Hickman asked for confirmation that even someone who was not “harmed” by the alleged violation could file a charge.

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

Q: Councilman Hickman inquired as to whether a member of City Council could make public comments. In other words, could a member of City Council sign up with the City Clerk and make comments at the podium?

A: City Attorney Petrov advised that a member of City Council could not make public comments.
Q: **Councilman James P. Avioli, Sr.** inquired as to whether the Attorney General’s opinion was subject to any appeals or change.

A: **City Attorney Petrov** advised that the Attorney General’s opinions were not subject to appeal. Someone could ask for a ruling or declaratory judgment from a court. If a violation were brought before a court, the court could issue an opinion that might or might not be the same as the Attorney General’s opinion. In that instance, the court’s opinion would have precedence over the Attorney General’s opinion.

Additionally, the Texas State Legislature had amended acts if the Attorney General’s Office issued an opinion as to how to interpret a particular statute and the legislators did not agree with that interpretation.

Q: **Mayor Siegel** referred to correspondence that members of City Council received and commented on and inquired as to whether members of City Council needed to place those items on the agenda or talk with the City Manager individually so that he could address the correspondence during his report.

A: **City Attorney Petrov** advised that this was correct.

Q: **Councilman Hickman** inquired as to whether members of other City boards and commissions could provide City Council with an update during “Personal/Audience Comments.” He indicated that the opinion seemed to look at that as an agenda topic.

A: **City Attorney Petrov** agreed with Councilman Hickman. If one of the boards or commissions wished to provide City Council with an update, that update should be placed on the agenda.

Q: **Councilman Hickman** asked for confirmation that a member of a board or commission could address City Council during “Personal/Audience Comments,” but not about the business of the board or commission.

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

Q: **Mayor Siegel** inquired as to whether the Staff Liaisons to the boards were familiar with the Attorney General’s opinion, noting that those liaisons worked with Board Chairs to set the agendas.
A: **City Attorney Petrov** advised that Mayor Siegel was correct.

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

A *motion* was made by Councilman Will **Hickman** and *seconded* by Councilman Pat **McLaughlan** to accept the City Attorney’s Report as presented by City Attorney Alan P. Petrov *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
- McLaughlan, Pat
- Jeffery, John

**OPPOSED:** None

**ABSENT:** Nauert, Phil

2. **FINANCIAL REPORT** for the City of Bellaire, Texas, covering the period ended September 30, 2008, and including discussion of revenues and expenditures in the General Fund, Enterprise Fund, Debt Service Fund, Vehicle, Equipment, and Technology Fund, Capital Improvement Program Fund, as well as a discussion on area housing statistics – *Presented by Chief Financial Officer Donna Todd.*

Chief Financial Officer Donna Todd presented the **Financial Report for the City of Bellaire, Texas,** covering the period ended *September 30, 2008,* to City Council. She indicated that the numbers she would present this evening were preliminary and would be changing as the City completed its year-end entries and went through the audit process.

**Revenues**

The City’s revenues at $26.3 million were fairly even with the prior year; however, all revenues had not yet been recorded. For example, the City’s utility billing revenues had not been accrued for September. The City’s sales and franchise taxes had not been accrued nor had the prior year accruals been reversed. Those entries would be coming at a later date and would change the final result.
Some of the highlights included higher property tax collections, which had contributed to the majority of the higher General Fund revenues for the fiscal year. Those were offset by lower property tax collections in the Debt Service Fund, which was primarily due to the allocation of the property tax rate between the two funds. The Debt Service Fund allocation was lower this year than last year by almost 9%. There were also reduced contributions in the Capital Improvement Program Fund between the fiscal years.

The City’s delinquent and current property tax collections exceeded the annual budget for the year by about $116,000. This also included penalty and interest on delinquent collections. The City’s current year collections at the end of September 30, 2008, were at 98.3% of the tax levy, which compared to last year’s 98.1%.

Sales taxes were approximately $113,000 higher than last year. The City would be seeing a declining trend on a going forward basis, in Chief Financial Officer Todd’s opinion. According to the State of Texas, the growth “remained positive, but overall construction, retail trade, and restaurants were showing signs of a slowdown.” Chief Financial Officer Todd felt that Bellaire would see similar impacts.

Franchise taxes were about $33,000 higher than last year, and Aquatics revenues were approximately $219,000 higher. Admissions for the Bellaire Pool were at $135,000. Season passes went up $68,000, and pool rentals were up $17,000.

With respect to water/sewer revenues, those revenues were also higher than last year for residential water and sprinkler usage. The City had seen an average rainfall reduction this year of 6”. Sewer taps were lower for new homes and businesses by $22,000 or 16% compared to last year.

Investment earnings were noted to be $367,000 less than last fiscal year. The City had seen declining interest rates through this fiscal year. Last year at September 30, 2008, the federal funds rate was at 4-3/4%. It was currently at 1-1/2% as of October 10, 2008. At September 30, 2008, the rate was at 2%. It was anticipated that another rate cut would be made by the federal government at the end of October.

The Capital Improvement Program Fund reflected a $250,000 contribution for Bellaire Town Square that was received from the Patrons for Bellaire Parks, Inc., at the end of September.
**Expenditures**

Expenditures were at $26.5 million, which was $154,000 less than last fiscal year. Chief Financial Officer Todd indicated that not all of the expenditures had been accrued for the year, so the number would be changing in the coming weeks. For example, the City’s labor and benefits for the last few days of September had not yet been accrued.

Disaster-related expenditures for Hurricane Ike had been recorded at $86,000, which included General Fund expenditures of $82,000 and Enterprise Fund expenditures of $4,000. Such expenditures included emergency preparations, tree removal, and restoration and repair of some of the park facilities that the City was able to complete during the fiscal year. The reported expenditures did not include any accrual for the debris removal or contract labor.

Compared to the budget, several departments currently appeared to be over budget. Most of the overages were related to the storm. Chief Financial Officer Todd referred to the budget amendment that was approved at the last City Council meeting of $100,000 for the General Fund and $900,000 for the Enterprise Fund. Those budget amendments had not been recorded at the time the financial report was printed.

It was noted further that another budget amendment would be brought forward to City Council at a later date to address fiscal year 2009 expenditures related to the storm. She anticipated bringing that amendment forward to City Council in December of 2008.

**Housing Report**

In terms of housing, excluding “by owner,” there were 192 residential properties for sale at the end of September and 27 homes for lease. In August, there were 202 residential properties for sale and 25 homes for lease. Last September, there were 150 residential properties for sale and 26 homes for lease.

For 2008, new residential construction was at 130 units with a value of $75 million or a per unit average of $580,000, which was a 10% increase over 2007. However, the number of units was down 21% or 34 units. The construction value was also down approximately $11 million, or 13%.

Chief Financial Officer Todd continued and advised that the media had indicated that the national trend was showing declines in housing starts and building permits. She believed that Bellaire was starting to see those declines as well. The housing market continued to be a primary source of weakness in our economy. There were also
nationwide reductions in consumer spending, business investment, and industrial production. Rising unemployment rates were also being reported nationwide. As one analyst put it, “consumers were closing their pocketbooks in response to the shaky state of the U.S. economy.”

In closing, Chief Financial Officer Todd noted that banks were also tightening their lending policies and that would continue to impact the housing market.

**QUESTIONS/COMMENTS FROM CITY COUNCIL:**

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

**Q:** Councilman Will Hickman referred to new housing starts and inquired as to whether the data had been collected on a monthly basis. In other words, could a comparison be made between this September and last September?

**A:** Chief Financial Officer Todd advised that Councilman Hickman was correct, she had collected the data by month, as well as by quarter. In the first quarter of this year, there were 40 units, which compared to the first quarter of last year. The City started seeing declines in the second quarter, with a reduction of ten units. In the third quarter, there was a reduction of 14 units. In the fourth quarter, there was a reduction of ten units. Eight permits were issued this September as compared to 12 last September. No particular month really stood out, and Chief Financial Officer Todd had not talked with the Community Development Department to determine if there should be a particular ebb and flow. There was a 21% reduction in units this year versus last year; however, the values increased by about 10%.

**Q:** Councilman Hickman stated that it appeared that the Bellaire Family Aquatics Center admission was 200% of budget and season passes were 200% of budget. He inquired as to how that compared to estimates that the previous City Council had reviewed for those revenues.

**A:** Mayor Cindy Siegel indicated that she felt that City Council would have to request a more in-depth report.

Chief Financial Officer Todd indicated that City Council had asked for an analysis of the Family Aquatics Center revenues later in the year. She did not have the original projections for the Center with her this evening.
Mayor Siegel indicated that she recalled that the business plan suggested that the City cover the additional lifeguards and the usage of the pool. The City was projected to be about $90,000 short. She noted further that the cost to keep the pool heated and open year-round was about $90,000.

C: Councilman Hickman stated that it appeared that the Family Aquatics Center was a huge success, but he did not know if the City’s budget numbers were low.

C/Q: Mayor Siegel asked if the Chief Financial Officer or Director of Parks & Recreation could present that information at a future meeting—actual results as compared to the City’s projected results or business plan. Mayor Siegel continued and referred to the water pumpage on page 34 of the Finance Report. She noted that during Hurricane Ike the City switched over to Bellaire water in order to avoid issuing a “boil water” mandate. She inquired as to whether the City would still be able to buy the required amount of water from the City of Houston.

A: Chief Financial Officer Todd indicated that she was not familiar with that particular contract, but did not believe it was a “take or buy” contract.

Assistant City Manager Diane K. White stated that City Staff would address that during their report on Hurricane Ike to be presented to City Council on November 3, 2008.

Q: Councilman John Jeffery inquired as to whether there was any risk to the City’s bond rating or the City’s ability to obtain bonds in the future with respect to the country’s current economic outlook.

A: Chief Financial Officer Todd referred to a report made by City Manager Satterwhite regarding the City’s recent bond rating upgrade by Standard & Poor’s to AAA. This was fantastic news, particularly given the current state of the economy.

Although there had been some ebb and flow in the housing market, she did not see a particular problem. If the Houston economy was impacted by a hit to the oil and gas industry, a major employment sector for the area, then the City’s bond rating might require a second look. In Chief Financial Officer Todd’s opinion, Bellaire’s property tax values continued to be maintained, and Bellaire did not have the type of significant damage from the hurricane that would cause a reduction in property tax values in the next year. She indicated that these were real positives for the City.
Mayor Siegel advised that after Tropical Storm Allison, the City’s tax base the next year only grew 3-½%, but the City still met its bond obligations.

Q: Councilman Hickman referred to page 13, which was the Debt Service Fund principal and interest. He inquired as to whether Chief Financial Officer Todd recalled what the interest rates were during the City’s last bond issue.

A: Chief Financial Officer Todd indicated that she could not advise for certain, but believed that those interest rates were either 4% or 4-1/2%.

Q: Councilman Hickman asked if the City had any plans within the coming months to issue bonds.

A: Chief Financial Officer Todd indicated that the City planned to issue general obligation bonds in the early spring. The City was also looking at a potential issuance of revenue bonds for water and sewer infrastructure needs.

MOTION TO ACCEPT REPORT INTO THE RECORD:

A motion was made by Councilman James P. Avioli, Sr., and seconded by Councilman Pat McLaughlan to accept the Financial Report for the City of Bellaire, Texas, for the period ended September 30, 2008, 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
McLauglan, Pat
Jeffery, John

OPPOSED: None

ABSENT: Nauert, Phil
G. NEW BUSINESS:

1. SPECIAL RECOGNITION:

RECOGNITION by Mayor Cindy Siegel of the Bellaire Examiner for its participation in the City of Bellaire’s Centennial Year by extensive coverage of Centennial events, weekly articles related to Bellaire’s 100 years of history, and publication of a commemorative magazine recognizing historical events and people in Bellaire — Item submitted by City Clerk Tracy L. Dutton on behalf of Mayor Cindy Siegel and the Centennial Planning Committee.

Mayor Cindy Siegel advised that the Centennial Planning Committee had expressed a desire to recognize the Bellaire Examiner for their extensive coverage of Centennial events and wished to recognize that contribution by issuing a Certificate of Recognition in their honor. Mayor Siegel read the Certificate of Recognition in its entirety as follows:

Whereas, the City of Bellaire, Texas, was founded in December of 1908 and is celebrating its Centennial Year in 2008; and

Whereas, Mayor Cynthia Siegel heretofore previously issued a proclamation proclaiming Bellaire’s Centennial Year to be officially opened and encouraging all citizens, organizations, schools, religious institutions, and businesses in Bellaire to participate in the City’s Centennial activities; and

Whereas, the Bellaire Examiner has participated in the City’s Centennial activities by extensive coverage of Centennial events, publishing articles related to Bellaire’s 100 years of history in their weekly newspaper throughout the Centennial year and publishing a commemorative magazine recognizing various historical events and people throughout Bellaire’s long and illustrious history that was given to every home in Bellaire; and

Whereas, the Bellaire Centennial Planning Committee has recommended that the City of Bellaire, Texas, recognize the Bellaire Examiner for its participation in this most special and memorable Centennial Year;

Now, Therefore, I, Cynthia Siegel, Mayor of the City of Bellaire, Texas, on behalf of the City Council of the City of Bellaire, Texas, and the Bellaire Centennial Planning Committee, do hereby recognize, with great honor and pleasure the

Bellaire Examiner
for its outstanding contribution to the City of Bellaire’s Centennial Year.

In Witness Whereof, I have hereunto set my hand and caused the seal of the City of Bellaire, Texas, to be affixed this, the 20th day of October, 2008.

Cynthia Siegel, Mayor
City of Bellaire, Texas

Mayor Siegel presented the “Certificate of Recognition” to Charlotte Aguilar, Editor of the Bellaire Examiner.

2. CONSENT AGENDA:

Surplus City Property

CONSIDERATION of and possible action on a recommendation from the Bellaire Public Works Department to dispose of well pipe removed from the Feld Park Water Plant that is no longer usable and to dispose of unusable sign material currently stored at the Public Works Service Center – Item submitted by Director of Public Works Joe Keene.

MOTION TO APPROVE CONSENT AGENDA:

A motion was made by Councilman John Jeffery and seconded by Mayor Pro Tem Peggy Faulk to approve the Consent Agenda dated October 20, 2008, consisting of the following item:

• Recommendation from the Bellaire Public Works Department to dispose of well pipe removed from the Feld Park Water Plant that is no longer usable and to dispose of unusable sign material currently stored at the Public Works Service Center.

VOTE ON MOTION TO APPROVE CONSENT AGENDA:

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

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

OPPOSED: None
ABSENT: Nauert, Phil

3. ADOPTION OF ORDINANCE:

Code Amendment – Targeted Residential Picketing

CONSIDERATION of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, prohibiting targeted residential picketing within 300 feet of a dwelling and amending Chapter 22, Offenses—Miscellaneous, by adding a new Section 22-29, entitled Targeted Residential Picketing, to the Code of Ordinances of the City of Bellaire, Texas – Item submitted by City Manager Bernard M. Satterwhite, Jr.

MOTION TO ADOPT ORDINANCE AMENDING CODE:

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, prohibiting targeted residential picketing within 300 feet of a dwelling and amending Chapter 22, Offenses—Miscellaneous, by adding a new Section 22-29, entitled Targeted Residential Picketing, to the Code of Ordinances of the City of Bellaire, Texas.

SUMMARY:

City Attorney Alan P. Petrov advised that approximately two months ago the Bellaire Police Department met with him and expressed a concern that the City had a gap in its ordinances. The City did not have an ordinance that addressed targeted residential picketing, which most other cities had.

Although Bellaire had never needed such an ordinance in the past, the Bellaire Police Department was trying to be proactive in the event that Bellaire experienced picketers outside residential homes. Such picketing impacted the person or home that was targeted, as well as surrounding neighbors. There were currently a number of politically active residents in Bellaire, including district judges, as well as state and county officials. It was entirely possible that a resident could be targeted in Bellaire sometime in the future.

The ordinance before City Council was similar to what other cities had adopted. City Attorney Petrov had reviewed the ordinance from a constitutional standpoint. While picketing was permitted under the constitution and freedom of speech issues had to be balanced, a governing body could restrict targeted residential picketing.
QUESTIONS/COMMENTS FROM CITY COUNCIL:

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

Q:  **Councilman Pat McLaughlan** inquired as to whether this ordinance would have any effect on the news media. For example, if a television crew came into Bellaire to confront a resident at their front door.

A:  **City Attorney Petrov** indicated that the ordinance would probably not have an effect on the situation described by Councilman McLaughlan. Targeted picketing was well defined as the act of picketing in front of a particular home. It did not address someone simply coming up to a home. People were allowed to go door to door for campaigning or religious purposes, as those and were protected free speech issues. He advised that the ordinance did not address those issues.

More specifically, the ordinance addressed people chanting, marching, and holding signs out in front of a particular home for an extended period of time.

Q:  **Councilman McLaughlan** asked for confirmation that City Attorney Petrov’s position was that the ordinance would not have an impact on the news media.

A:  **City Attorney Petrov** advised that Councilman McLaughlan was correct.

Q:  **Councilman McLaughlan** referred to the Ashby high-rise residential structure controversy that was going on in Houston. He noted that there had been some neighborhood picketing of that site. He inquired as to whether this ordinance would preclude that type of activity.

A:  **City Attorney Petrov** advised that Councilman McLaughlan was correct if the picketing were to occur in front of a residential dwelling.

Q:  **Councilman Will Hickman** asked for confirmation that the ordinance would not impact picketing in front of a grocery store or commercial building.

A:  **City Attorney Petrov** advised that Councilman Hickman was correct—the commercial districts were not addressed in the ordinance before City Council.
Q: Councilman Hickman referred to paragraph five of the ordinance and inquired as to the difference between “picketing” and “general marching.”

A: City Attorney Petrov advised that the ordinance addressed “targeted picketing” where picketers were marching up and back and forth in front of a particular residence. The City could not prohibit the passing through. If a group wanted to march down South Rice Avenue from the METRO Substation to Meyerland, the group could do so even though the group would be marching in front of residential dwellings.

Q: Councilman Hickman inquired as to whether a permit was required to “pass through” in City Attorney Petrov’s example.

A: City Attorney Petrov indicated that a permit would be required.

Q: Councilman Hickman inquired as to the length of a block. Councilman Hickman noted that Director of Public Works Joe Keene had advised (from the audience) that the length of a block was 1,200 feet on average. He inquired as to whether the City would get into any constitutional trouble if the ordinance were amended to prohibit targeted residential picketing within six hundred feet of a residential dwelling as opposed to within three hundred feet.

A: City Attorney Petrov advised that three hundred feet was a common number and seemed to be the accepted standard.

Q: Councilman Hickman inquired as to whether City Attorney Petrov had seen any cases that, for example, allowed three hundred feet but disallowed five hundred feet.

A: City Attorney Petrov advised that he had not seen any such cases.

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

An amendment (no. 1) to the motion to adopt an ordinance amending Chapter 22, Offenses—Miscellaneous, of the Code of Ordinances of the City of Bellaire, Texas, by adding a new Section 22-29, Targeted Residential Picketing, was made by Councilman Will Hickman to change subsection (a) (1) under Section 22-29, to read as follows:
It is unlawful for any person to engage in picketing activity that is targeted at or is within three hundred (300) six hundred (600) feet of a residential dwelling.

Mayor Cindy Siegel seconded the amendment.

**DISCUSSION ON AMENDMENT (NO. 1) TO MOTION TO ADOPT ORDINANCE AMENDING CODE:**

Councilman Hickman advised that the reason he wanted to offer the above-referenced amendment was to keep any picketing off of a standard block so that picketing would be restricted to the corner of a street and not along the street itself.

City Attorney Petrov indicated that he believed the City was covered by the language in paragraph one through the prohibition of a picketing activity that "is targeted at or is within" three hundred feet of a residential dwelling. If someone were down the block, but in front of a house, that person would still be prohibited from picketing.

Mayor Cindy Siegel noted that this ordinance would protect the neighborhoods.

Based on City Attorney Petrov’s clarification of the ordinance language, Councilman Will Hickman withdrew his amendment to the motion to adopt an ordinance amending the code. Mayor Siegel also withdrew her second.

**VOTE ON MOTION TO ADOPT ORDINANCE AMENDING CODE:**

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

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

**OPPOSED:** None

**ABSENT:** Nauert, Phil

{Ordinance was subsequently numbered: 08-067}
4. **ADOPTION OF RESOLUTION:**

**Identity Theft Prevention Program**

CONSIDERATION of and possible action on the adoption of a resolution of the City Council of the City of Bellaire, Texas, adopting a written identity theft program in compliance with the *Fair and Accurate Credit Transactions Act of 2003* and authorizing the City Manager of the City of Bellaire, Texas, to approve any updates in said program to assure it continues to address changing risks – *Item submitted by Chief Financial Officer Donna Todd.*

**SUMMARY:**

Chief Financial Officer Donna Todd summarized the agenda item before City Council. She noted that the *Fair and Accurate Credit Transactions Act of 2003* included a requirement for the Federal Trade Commission (FTC) to promulgate a rule to curb identity theft in the United States. Last year, the FTC adopted rules on identity theft, which were known as “red flag rules.” The FTC required certain entities to adopt and implement an identity theft prevention program by November 1, 2008. The City was required to adopt such a program because it was considered a creditor by virtue of the fact that the City extended credit when utility services were supplied in advance of being paid for those services.

Chief Financial Officer Todd indicated further that a “red flag” was defined as a pattern, practice, or specific activity that indicates the possible existence of identity theft. “Identity theft” was defined as any fraud committed or attempted using the identifying information of another person without their authority to do so. Identity theft involved obtaining the benefit of utility service using someone else's identifying information.

One of the goals of the program was to cut down on identity theft at utilities so as to reduce identity theft elsewhere because fraudulent proof of a utility account could be used to support false identification for other government services, voter registration, etc. The program was designed to detect, prevent, and mitigate identity theft by instituting reasonable policies and procedures to do the following: identify relevant red flags, detect red flags, respond to detected red flags, and update the program for any changes in risk as that became known.

The program also required an annual report, which would be made to City Council, about the effectiveness of the program and any
recommended changes. The resolution did assign the Chief Financial Officer to be the program administrator.

**MOTION TO ADOPT RESOLUTION ADDRESSING IDENTITY THEFT PREVENTION:**

A motion was made by Mayor Pro Tem Peggy Faulk and seconded by Councilman Pat McLaughlan to adopt a resolution of the City Council of the City of Bellaire, Texas, adopting a written identity theft program in compliance with the *Fair and Accurate Credit Transactions Act of 2003* and authorizing the City Manager of the City of Bellaire, Texas, to approve any updates in said program to assure it continues to address changing risks.

**QUESTIONS/COMMENTS FROM CITY COUNCIL:**

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

Q: Councilman Will Hickman inquired as to what the program was.

A: Chief Financial Officer Todd indicated that the City was going to broaden its procedures. Some of the steps included in the program were already being performed. For example, the City required photo identification when someone applied for service. The contract for utility services allowed a customer to identify persons allowed to request information about the account. She did not anticipate a big impact to her department as a result of this program, but it was certainly something the department wanted to comply with. The resolution would also allow the department to formalize some of the procedures already in place.

Q: Councilman Hickman stated that he assumed the City had some type of database with customer information in it. He inquired as to the types of information included in the database.

A: Chief Financial Officer Todd stated that the database included a customer’s name, address, telephone numbers (primary and secondary numbers), additional contact information (if applicable), and drivers’ license number.

Q: Councilman Hickman inquired as to whether the City kept social security numbers of customers.

A: Chief Financial Officer Todd indicated that the City did not request social security numbers. She believed that the
information had been requested previously, but was discontinued in the last several years. The drivers’ license information for customers was kept in a secure location.

Q: **Councilman James P. Avioli, Sr.**, stated that it appeared that the program could be implemented through a modification of procedures. He inquired as to whether there would be any additional costs for the City’s information services system.

A: **Chief Financial Officer Todd** indicated that she did not see any additional costs. This resolution allowed for formalization of procedures that were currently in place.

Q: **Councilman Avioli** asked for confirmation that the City’s system was adequate.

A: **Chief Financial Officer Todd** advised that Councilman Avioli was correct. This program would not affect the City’s financial system. The program addressed the procedures involved in obtaining utility billing information.

**VOTE ON MOTION TO ADOPT RESOLUTION ADDRESSING IDENTITY THEFT PREVENTION:**

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

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

**OPPOSED:** None

**ABSENT:** Nauert, Phil

{Resolution was subsequently numbered: 08-07}

5. **ITEMS FOR INDIVIDUAL CONSIDERATION:**

**Grant Application**

a. **CONSIDERATION of and possible action on a request from the Bellaire City Library to apply for a Loan Star Libraries grant from the Texas State Library and Archives Commission in the amount of $8,689.00, said grant of which would be used to maintain, improve, expand,**
and/or enhance the resources and/or services of the Bellaire City Library – **Item submitted by Library Director Mary A. Alford.**

**MOTION TO APPROVE REQUEST TO APPLY FOR GRANT**

A motion was made by Councilman Pat McLaughlan and seconded by Councilman James P. Avioli, Sr., to approve a request from the Bellaire City Library to apply for a Loan Star Libraries grant from the Texas State Library and Archives Commission in the amount of $8,689.00, said grant of which would be used to maintain, improve, expand, and/or enhance the resources and/or services of the Bellaire City Library.

**VOTE ON MOTION TO APPROVE REQUEST TO APPLY FOR GRANT:**

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

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

**OPPOSED:** None

**ABSENT:** Nauert, Phil

**Municipal Court Facility**

b. CONSIDERATION of and possible action on a request for City Staff to enter into a professional services contract with a qualified architectural consultant for the purpose of determining the feasibility of locating a future Municipal Court facility on City property located immediately to the east and adjacent to the existing Police and Municipal Court Building – **Item submitted by Councilman Pat McLaughlan.**

**SUMMARY:**

Mayor Cindy Siegel advised that the City had requested proposals for an architectural firm to address the City’s new fire station. She believed this would be brought forward to City Council, with a recommendation, during the November 3, 2008,
meeting. The next step involved figuring out what the City would do with the Municipal Court.

**Councilman Pat McLaughlan** summarized the agenda item before City Council. He noted that he had included some aerial photographs in the packet and had sketched in some potential locations where the current Police and Municipal Court Building could be expanded for the Municipal Court.

Specifically, this agenda item was asking City Council to direct City Staff to engage in a professional services contract with an architectural firm to evaluate the feasibility of expanding the existing Police and Municipal Court Building. He was certain that there were many ways to accomplish this, but the sketches he put together showed an expansion in the northeast direction from the existing east wall of the Police and Municipal Court Building. The new building could potentially bridge across the driveway that went down to the lower level sally port of the Police Station.

Councilman McLaughlan noted that at this proposed location there was a storage lot and a dumpster. It appeared to be an area that was somewhat underutilized. If the building would be suitable in that location and angled to the northeast, the City would not lose any parking spaces. If was also possible to construct additional parking under the new building.

**MOTION TO APPROVE REQUEST TO DIRECT STAFF:**

A **motion** was made by Councilman Pat **McLaughlan** and **seconded** by Councilman James P. **Avioli**, Sr., to **approve a request to direct City Staff to enter into a professional services contract with a qualified architectural consultant for the purpose of determining the feasibility of locating a future Municipal Court facility on City property located immediately to the east and adjacent to the existing Police and Municipal Court Building.**

**DISCUSSION ON MOTION TO APPROVE REQUEST TO DIRECT STAFF:**

**Mayor Pro Tem Peggy Faulk** inquired as to the cost involved in getting the proposed evaluation done.

**Mayor Siegel** indicated that City Staff would present the cost when the contract was brought back to City Council for approval.
Mayor Pro Tem Faulk indicated that she thought this was a good idea.

Councilman James P. Avioli, Sr., noted that City Council had heard from Judge Lisa Wesely on this matter. The Judge indicated that she felt that the Municipal Court should be close in proximity to the Bellaire Police Department. He was not certain City Council had ever heard from the Police Chief and inquired as to whether it would be appropriate to get his input at this time.

City Attorney Petrov stated that he believed such a request would fall within the scope of this agenda item.

Councilman Avioli advised Chief of Police Randall C. Mack that Judge Wesely had been very opinionated in her statement that the Municipal Court should be very close to the Police Station and jail. He wondered if Chief Mack had any thoughts in that regard.

Mayor Siegel indicated that everyone on City Council had received a letter from the Judge regarding the Municipal Court facility.

Chief of Police Randall C. Mack indicated that he had not seen the letter or heard from the Judge. He noted that it depended on what functions of the Municipal Court moved from the existing Police and Municipal Court Building. There were multiple functions involved, such as the Municipal Court itself, the detention facility, and staff and security for the court. He did not believe that it was an absolute requirement that the Municipal Court facility be located in close proximity to the Police Station. In fact, most Municipal Court facilities were not located next to Police Stations.

Councilman Avioli asked if Chief Mack was averse to having the Municipal Court facility near the Police Station.

Chief of Police Mack reiterated that he had not seen Judge Wesely’s letter or heard her concerns. He had also not performed an analysis of the situation. He did not see an obstacle of either direction, but indicated that he would be happy to look into it.

Councilman Avioli advised that Judge Wesely indicated that she would like to keep the Municipal Court in a location close to the Police Station, with larger space for both the Municipal Court and Police Station.
Chief of Police Mack advised that he could not comment, as he did not know her reasons for wanting to remain close to the Police Station. He felt that it could work next to the Police Station or in a remote location.

Councilman Will Hickman inquired as to the total amount of time during the week that the Municipal Court was in session.

Chief of Police Mack indicated that the Court Clerks had window and business hours from 8:00 a.m. until 5:00 p.m., Monday through Friday. There were court dockets on Tuesdays, which could be arraignment dockets or trial dockets. On Tuesday night, there were two arraignment dockets—one at 5:30 p.m. and one at 7:30 p.m. Court was also held on Wednesday. The dockets could run as late as 9:00 p.m. or 10:00 p.m. on Tuesday evenings. The judges also came into the office daily and on weekends to arraign prisoners in custody.

Councilman Hickman asked if there were people parading through the facility to appear in front of a judge every day.

Chief of Police Mack stated that the judges actually sat on the bench on Tuesdays and Wednesdays.

Councilman Hickman advised that the limiting space factor was the court itself, as well as juries. He inquired as to whether the juries were present two days per week.

Chief of Police Mack indicated that the jury was only present one day each week. He noted that there was no jury assembly room, so the jury had to sit in the Police Department kitchen. There needed to be sufficient space to conduct the actual court sessions when the court was in session outside of the normal business hours. The dockets could be rather large. Currently, the courtroom was limited to 90 persons. Almost without exception, every docket exceeded 90 persons, particularly the arraignment dockets.

Councilman Hickman stated that he would vote against this item. There were two things he would do ahead of building a new Municipal Court building. It seemed as if the main functions of the Municipal Court occurred on two days of each week and existing City facilities or existing commercial buildings with space available could be used for those functions. Something could also be built within the Fire Station.
Councilman Hickman realized that nothing had been decided, but he would be in favor of putting the Municipal Court facility downtown in the long-term. In the short-term, he was not in favor of constructing a building next to the Police Station for Municipal Court.

**Councilman John Jeffery** advised that he was on the Facilities Committee that was assigned to this task several years ago. The City’s consultants, PGAL, had all of the research on this project, including work space studies, work flow, hours of court operations, security, safety, best locations, etc. He suggested that PGAL come and reintroduce to the new City Council what was presented to the previous Facilities Committee and previous City Council.

Councilman Jeffery continued, noting that a great deal of research had already been done and money had already been spent on this topic. Focus groups, the Facilities Committee, and PGAL had made some good recommendations.

**Mayor Siegel** agreed with Councilman Jeffery that PGAL could be brought back before City Council, but she felt that this particular agenda item was a little different. The suggestion before City Council was similar to what had been done with the Fire Station in that the new building would be constructed onsite and the programming and space requirements would be developed from that perspective.

The question was whether City Council should pick a lane and determine if the existing site could work. PGAL told City Council that the Fire Station could be expanded to the west for a Municipal Court. However, this would take up some of the parking spaces next to the Bellaire City Library. City Council could move the Municipal Court facility downtown or consider renting space for it.

The bond referendum was adopted in 2005—three years ago. The City was just getting started on the Fire Station. The question this evening was what the City was going to do about the Municipal Court.

**Councilman Jeffery** advised that he understood that, but was frustrated over the hours that he spent on the Facilities Committee, along with other citizens and City boards. There were very complex debates and studies conducted on these matters at that time. It seemed now that the efforts of the Facilities Committee were in vain.
Mayor Siegel advised that three proposals had come from the efforts of the Facilities Committee. One was to move some facilities downtown. One proposal was to build in place. The other proposal was to rebuild City Hall sometime in the future and build it “up” to allow for more space requirements. She would be happy to ask PGAL to come back and present their ideas. In the end, however, City Council would still need to make a decision.

Councilman Jeffery advised that Councilman Hickman would vote against what Councilman McLaughlan had brought to the floor, but Councilman Hickman was lacking information that PGAL had studied. In fact, PGAL had mentioned that the Municipal Court facility could be a multi-use facility. For example, a Council Chamber could be used as a Municipal Court when not being used as a Council Chamber.

Mayor Pro Tem Faulk asked if PGAL had specifically looked at this option—the option of expanding the existing Police and Municipal Court Building.

Councilman Jeffery advised that PGAL had discussed building out toward the back and/or side of the existing Police and Municipal Court Building. Thirty-six different options were presented to the Facilities Committee.

Assistant City Manager Diane K. White noted that a needs assessment and programming assessment were performed with respect to the Municipal Court facility. However, the location of the facility was never determined. The item this evening was an effort to get the City moving in a forward motion to determine where the Municipal Court facility might go.

Councilman Avioli stated that he could certainly appreciate Councilman Jeffery’s frustration. The information that he had seen thus far had really come from Judge Wesely. He was not sure that Judge Wesely had the opportunity to provide much input on this process. She ought to have some input on this process. He felt she should have a good hearing before City Council to make her case.

Councilman McLaughlan advised that he, too, was on the Facilities Committee and had seen all of the options presented by PGAL. Each one of those options utilized some land being used for some other function today. His objective in bringing the item forward was that if the City was going to expand the Police Department, which was certainly needed, and if the City

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was going to provide some additional Municipal Court expansion, which was also needed, then existing land that was currently not serving any valid purpose could be used. He referred to the fact that part of the Central Water Plant was in the location he referred to and Klotz Associates, Inc., had already proposed modifications to that plant that could conceivably be integrated into this effort. There was also a storage lot in the area that occasionally housed a few wrecked vehicles. He felt this site was worth looking it.

Councilman McLaughlan noted further that PGAL did not look at the specific site proposed by Councilman McLaughlan. He felt that it would be appropriate for the City to at least take a look at the feasibility of placing the Municipal Court facility in this location.

**Councilman Hickman** remembered talking about many different options, but did not remember making any decisions. He agreed with Judge Wesely and Councilman McLaughlan that City Council needed to do something. He had not decided for himself that the proposed location was the place to put the Municipal Court. Councilman Jeffery’s suggestion would be useful to Councilman Hickman. He would like to see, again, the output from the Facilities Committee and then move forward from there. He was not ready to pick a lane this evening.

**Mayor Siegel** indicated that she was not originally in favor of considering this location for the Municipal Court, but Councilman McLaughlan asked to meet with the Mayor and City Manager on his suggestion. After that meeting, she felt that there were some valid reasons for doing this. This suggestion took into account Judge Wesely’s concern regarding the proximity of the Municipal Court to the Police Station.

Mayor Siegel did not like the suggestion to add the Municipal Court to the Fire Station because it would reduce parking near the Bellaire City Library, Jessamine Field, and the existing Municipal Court facility. If there were a way to work this where Municipal Court could be accessed from South Rice Avenue, it would alleviate some of the parking issues. One of the benefits would be that Municipal Court could remain in place while the new building was under construction.

She noted further that three years had gone by and she had not seen any land for sale downtown. There was a possibility that the City could rent space along the West Loop. In closing, she advised that City Council had not really addressed whether Councilman McLaughlan’s suggested arrangement was feasible.
In fairness to the Municipal Court, the police, and the voters who overwhelmingly supported this expansion three years ago, she hoped City Council would not keep delaying in making a decision on this facility.

**Councilman Jeffery** stated that he would like to see City Council amend this motion to at least include the other options presented to the Facilities Committee and former City Council by PGAL, as well as to consider the option suggested by Councilman McLaughlan.

**Mayor Siegel** asked if PGAL could be asked to look at Councilman McLaughlan’s suggestion and report back to City Council on his suggestion, as well as to report on the previous options.

**Councilman Jeffery** advised that this was what he would like to do.

**Councilman McLaughlan** stated that his suggestion was not a final recommendation that the Municipal Court be located next to the Police Station. The suggested site was a little unusual in that it was located close to the Central Water Plant and would require some structural tie-in to the Police Station and would bridge across the driveway to the Police Station basement.

The suggested site was never looked at by PGAL. It was a site that Councilman McLaughlan just happened to notice from the parking lot that was an underutilized City property. He felt that the site needed to be placed in the mix of potential sites that PGAL referenced. In order to put the suggested site in the mix, the City needed a small architectural or engineering assessment as to whether it was feasible to tie in to the existing Police and Municipal Court Building and the Central Water Plant. In other words, there might not be enough room for the Municipal Court facility.

**Mayor Siegel** noted that the PGAL contract was specific and the City Manager did not feel that this new feasibility request would fit into the previous contract. In order to include the new suggestion or option, City Council would need to take the action before them this evening.

**AMENDMENT (NO. 1) TO MOTION TO APPROVE REQUEST TO DIRECT STAFF:**

An amendment (no. 1) to the motion to approve a request to direct staff was made by Councilman John **Jeffery to direct**
City Staff to enter into a professional services contract with Pierce Goodwin Alexander & Linville (PGAL) for the purpose of determining the feasibility of locating the Municipal Court facility immediately to the east and adjacent to the existing Police and Municipal Court Building, as well as to provide City Council with a report as to other options for the location of the Municipal Court facility. Mayor Pro Tem Peggy Faulk seconded the amendment.

VOTE ON AMENDMENT (NO. 1) TO MOTION TO APPROVE REQUEST TO DIRECT STAFF:

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

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

OPPOSED: None

ABSENT: Nauert, Phil

VOTE ON ORIGINAL MOTION, AS AMENDED:

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

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

OPPOSED: None

ABSENT: Nauert, Phil

H. ADJOURNMENT.

MOTION TO ADJOURN:

A motion was made by Councilman Will Hickman and seconded by Councilman James P. Avioli, Sr., to adjourn the Regular Session of the
City Council of the City of Bellaire, Texas, at 8:47 p.m. on Monday, October 20, 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
     McLaughlan, Pat
     Jeffery, John

OPPOSED: None

ABSENT: Nauert, Phil

Respectfully submitted,

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

Approved:

____________________________
Cynthia Siegel, Mayor
City of Bellaire, Texas