CITY OF BELLAIRE
CITY COUNCIL

Minutes of Meeting
Monday, March 2, 2009

I. SPECIAL SESSION (EXECUTIVE SESSION) – 6:00 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 6:00 p.m. on Monday, March 2, 2009. The Bellaire City Council met at that time and on that date in Special Session (Executive Session) in the Council Chamber (open portions) and Council Conference Room (closed portions), both of which were located on the First Floor of City Hall, 7008 South Rice Avenue, Bellaire, Texas 77401. The Special Session (Executive Session) was held under the Texas Government Code, Chapter 551, Open Meetings, Section 551.071, Consultation with Attorney, for the purpose of consulting with an attorney regarding potential litigation and matters within the attorney-client privilege on a police incident involving a shooting that occurred in the City of Bellaire, Texas, on December 31, 2008.

   Mayor Siegel announced that a quorum was present consisting of herself and the following members of City Council:

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

   Other officials present were City Manager Bernard M. Satterwhite, Jr., City Attorney Alan P. Petrov, and City Clerk Tracy L. Dutton. City Clerk Dutton did not participate in the closed portion of the Special Session (Executive Session).

   B. CONVENE in Executive Session (Closed Session) in the Council Conference Room, First Floor of City Hall, 7008 South Rice Avenue, Bellaire, Texas 77401, under the Texas Government Code, Chapter 551, Open Meetings, Section 551.071, Consultation with Attorney, for the purpose of consulting with an attorney regarding potential litigation and matters within the attorney-client privilege on a police incident involving a shooting that occurred in the City of Bellaire, Texas, on December 31, 2008.
MOTION TO CONVENE IN EXECUTIVE SESSION:

A motion was made by Mayor Pro Tem Peggy Faulk and seconded by Councilman Phil Nauert to convene in Executive Session (Closed Session) under the Texas Government Code, Chapter 551, Open Meetings, Section 551.071, Consultation with Attorney, for the purpose of consulting with an attorney regarding potential litigation and matters within the attorney-client privilege on a police incident involving a shooting that occurred in the City of Bellaire, Texas, on December 31, 2008.

VOTE ON MOTION TO CONVENE IN EXECUTIVE SESSION:

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

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

OPPOSED:  None

ABSENT:  None

The Bellaire City Council held the closed portion of the Executive Session in the Council Conference Room located directly behind the Council Chamber, First Floor of City Hall, 7008 South Rice Avenue, Bellaire, Texas 77401.

C. RECONVENE (Open Session) in the Council Chamber, First Floor of City Hall, 7008 South Rice Avenue, Bellaire, Texas 77401, and take action, if any, on item(s) discussed in Executive Session.

The Bellaire City Council reconvened in Open Session in the Council Chamber, First Floor of City Hall, 7008 South Rice Avenue, Bellaire, Texas 77401, at 7:38 p.m. on Monday, March 2, 2009. Mayor Cindy Siegel advised that the Bellaire City Council had not concluded their discussions with the attorney and would recess at this time and reconvene in Closed Session at the conclusion of the Regular Session, which was scheduled to begin at 7:00 p.m. this evening.
II. 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 7:40 p.m. on Monday, March 2, 2009. The Bellaire City Council met at that time and on that date in Regular Session in the Council Chamber, First Floor of City Hall, 7008 South Rice Avenue, Bellaire, Texas 77401. Mayor Siegel announced that a quorum was present consisting of herself and the following members of City Council:

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

Other officials present were City Manager Bernard M. Satterwhite, Jr., City Attorney Alan P. Petrov, and City Clerk Tracy L. Dutton.

Mayor Cindy Siegel suggested that City Council consider moving agenda item E. 2. (Reports – Bellaire Police Department 2008 Annual Profiling Report after items B. (Inspirational Reading) and C. (Pledges to the Flags). There were no objections from City Council.

B. INSPIRATIONAL READING AND/OR INVOCATION – Councilman Phil Nauert.

Councilman Phil Nauert presented the inspirational reading for the evening. He noted that 173 years ago, the State of Texas was originally formed as an independent Republic by the Convention in Washington on the Brazos, then called the Town of Washington, which established the intent of Texans to create a true and free Republic. He read an excerpt from an article on the subject written by Dr. Steven L. Hardin, Professor of History at Victoria College, as follows:

The Republic of Texas was an ephemeral empire. Like the spring bluebonnets, it bloomed, blossomed, and blanched with the sands of time. But also like the state flower, its scent lingers in the hearts and imaginations of every Texan . . . . Many outside the state would, no doubt, find that remarkably pretentious, but those who live here understand the truth of it. Texas existed as a nation for ten years;
Texans got used to the idea; and nationalism is a difficult habit to break. The novelist John Steinbeck perhaps said it best:

"Texas is a state of mind. Texas is an obsession. Above all, Texas is a nation in every sense of the word."

C. PLEDGES TO THE FLAGS – Councilman Phil Nauert.

1. U.S. PLEDGE OF ALLEGIANCE.

2. PLEDGE TO THE TEXAS FLAG.

Councilman Phil Nauert led the audience and City Council in the U.S. Pledge of Allegiance and the Pledge to the Texas Flag.

E. REPORTS:

2. BELLAIRE POLICE DEPARTMENT 2008 ANNUAL RACIAL PROFILING REPORT – presentation of the Bellaire Police Department 2008 Annual Racial Profiling Report – Item submitted by Chief of Police Randall C. Mack; Presentation to be made by Alex Del Carmen, Ph.D., Del Carmen Consulting LLC.

INTRODUCTION:

City Manager Bernard M. Satterwhite, Jr., introduced Consultant Alex Del Carmen, Ph.D., and advised that he had compiled the annual racial profiling report on behalf of the Bellaire Police Department. It was City Manager Satterwhite’s understanding that Dr. Del Carmen was one of the state’s foremost authorities on racial profiling. All levels of government called him upon, including the Texas State Legislature, to deal with racial profiling questions and the statute itself, as well as issues at all levels. Dr. Del Carmen had also written books on the subject. The floor was turned over to Dr. Del Carmen at this time.

Alex Del Carmen, Ph.D., Del Carmen Consulting LLC, addressed City Council and stated that he had been a Ph.D. for 11 years. He currently worked at the University of Texas at Arlington and was the Chair of the Criminology Department. He noted that he was present this evening in the capacity of a consultant and that the City of Bellaire, Texas, asked him to review the City’s traffic contact data for 2008.

Dr. Del Carmen advised that he wished to make some things clear before he got started. Contrary to a report he read this
morning in the newspaper, he was not a Bellaire resident. For the record, he wished he could be, but was not. He was originally from Nicaragua and was a first generation immigrant. He migrated to the United States at the age of 12. The reason he made that point was to make it clear to everyone that he took this issue very seriously, not only professionally, but also personally.

Dr. Del Carmen advised that he had decided not to speak with the media and would not offer any interviews. He asked his good friends in the media to cease and desist from calling his cell phone number and asking for interviews.

Dr. Del Carmen advised further that the PowerPoint presentation that he would be presenting this evening was his intellectual property. If parts of the PowerPoint would be used by anyone in the governing body or the media, a written request must be submitted to him and he would require that the entire presentation be used and not a part of it. Tonight’s presentation was Dr. Del Carmen’s own analysis. He would not talk about a particular civil case or the likelihood of a civil case or a shooting that might have taken place in Bellaire. He had not been briefed or been told much else than what he had read in the local newspapers. He had no opinion on that matter and hoped that the questions he received this evening would not relate to a particular case.

The analysis to be presented this evening was Dr. Del Carmen’s own independent analysis. He made it clear that the analysis was done without consultation with any attorneys, members of the governing body, or Bellaire police officers. Dr. Del Carmen advised that he did not work for the City of Bellaire or the Bellaire Police Department and was not a voice on behalf of either entity. He was present as an independent individual to provide comments to City Council.

Dr. Del Carmen’s involvement on the topic of racial profiling had been extensive. He had been researching the topic for over ten years of his academic life. He had also trained every Chief of Police in the State of Texas about racial profiling on behalf of the State of Texas. He had spent this morning and most of the afternoon at the Law Enforcement Management Institute of Texas at Sam Houston State University training the new Chiefs of Police on this very topic. In addition to that, he had written a book on racial profiling, which was publicized in 2008 by Prentice Hall, and had written numerous articles on the subject of racial profiling.
The recommendations that Dr. Del Carmen would address this evening were based on the general practices or lack thereof that were relevant to the data in the report. The recommendations were not specific to the Bellaire Police Department. He knew that much of the media and much of the public had been expecting this report to reveal some sort of a secret about racial profiling in Bellaire. When Senate Bill 1074 (S.B. 1074) was passed in the State of Texas, police departments were required to report data. The unfortunate part was that the data was limited in nature. The data was limited to specifically address traffic related contacts where a citation or an arrest had been made. Therefore, contacts that police departments had with the public that fell outside of that realm were not a part of the report.

When one determined racial profiling or the prevalence of racial profiling in any city or in any police department, it was important to note that no responsible researcher or statistician could say one way or the other whether or not racial profiling was taking place based on institutional numbers. It would be illogical to state that a police officer was engaging in racial profiling and therefore the police department showed a particular trend in stopping minorities versus the majority. The individual responsibility of that officer interacting with the public did not constitute institutional data. A much more comprehensive analysis and various other points would have to be taken into consideration if one tried to determine the existence of racial profiling.

Dr. Del Carmen was not present tonight to reveal the “big secret” as to whether or not Bellaire was engaging in racial profiling. He was not hired to do that. He was hired to analyze the traffic related data as it pertained to motorists to determine if the City of Bellaire had complied with the Texas racial profiling statute. To that extent, Dr. Del Carmen would speak with City Council this evening.

The requirements of the Texas racial profiling statute were numerous. The law required one to clearly define an act or actions that constituted racial profiling. It also required for police departments to provide a statement indicating the prohibition of any peace officer employed by the Bellaire Police Department, in this case, from engaging in racial profiling. It also provided a requirement to implement a process by which an individual might file a complaint regarding racial profiling allegations or violations. It required that police departments provide public education related to the complaint process, as well as the implementation of disciplinary guidelines for officers
found in violation of the Texas racial profiling statute and to collect Tier 1 data, which included information on the race and ethnicity of individuals detained, whether a search was conducted, and if there was a search, whether it was a consensual search or a probable cause search, and whether a custody arrest took place.

The police departments in Texas, as in the case of Bellaire, were required to produce an annual report of Tier 1 contacts and present that report to the local governing body by March 1 of every year. The departments were also required to adopt a policy on standards for reviewing a particular video and audio if video and audio equipment was installed.

In 2008, the Bellaire Police Department reported that it did not receive any complaints on racial profiling. As defined by law, a complaint must be a “written complaint” filed before the police department. In accordance with S.B. 1074, the Bellaire Police Department reported to have informed the public on issues relevant to the complaint process. The Bellaire Police Department made available in the lobby area of the Police and Municipal Court Building information on how to file a racial profiling violation. The Bellaire Police Department included language in its current complaint process pertaining to the manner in which citizens could file a complaint as a consequence of an incident.

The Texas racial profiling statute required that all police departments in the state collect traffic related data and report the information to the local governing authority. The purpose of collecting the data and presenting it to the governing authority was to determine if a police officer was engaging the practice of racial profiling or profiling minority motorists.

It was very difficult to determine from aggregate numbers whether or not individual officers were engaging in racial profiling. It was difficult, and almost impossible, for any researcher with a reputable background to assert whether or not a particular police officer was engaging in this practice.

There were three areas of analysis conducted. The first area involved the careful evaluation of the 2008 traffic stop data. This particular analysis measured the number and percentages of Caucasians, African Americans, Hispanics, Asians, Native Americans, and individuals belonging to an “other” category that came into contact with the police and were issued a traffic related citation or arrest in 2008.
The second type of analysis was based on a comparison of the 2008 traffic contact data with a particular baseline. There were several baselines available, such as U.S. Census data and Department of Public Safety data (which Dr. Del Carmen did not recommend because it omitted Hispanics). Dr. Del Carmen recommended using the Fair Road Standard, which was a measure that was recommended by the Civil Rights groups in the State of Texas. It measured the number of households in a particular jurisdiction that had access to vehicles. Dr. Del Carmen advised that he felt that all of the baselines had issues with respect to validity and reliability.

The third type of analysis conducted involved the use of the 2002-2008 traffic contact data. Nothing previous to 2002 was used because the racial profiling statute was not passed until 2001 with an effective date of January 1, 2002. Traffic contacts made in 2008 were compared to similar figures reported between 2002 and 2007.

The Tier 1 data collected in 2008 showed that the most significant percentage of traffic related contacts were made with Caucasian drivers (36%). Hispanics followed this at 33% and African Americans at 23%. With respect to searches, most were also performed on Caucasian drivers (37%), followed by African Americans at 28% and Hispanics at 25%. Arrest data revealed that Hispanics drivers were arrested the most in traffic related contacts, followed by African Americans at 25% and Caucasians at 20%.

If one were to look at aggregate data and it appeared that a particular group was prevalently contacted, it did not necessarily suggest racial profiling. It also did not exclude it. More specifically, when one considered the figures, one should keep in mind that police officers came into contact with people that typically lived outside the City. In fact, in some cities in the Metroplex, the percentages of contacts of people outside the cities were as high as 51% or 60%. This meant that U.S. Census data could not be used because it only captured people that lived in that particular city and not those that lived outside of the city. Clearly officers were coming in contact with people from all different walks of life that were transient through the highways which might lead to a number that appeared to be skewed one way or the other to fill political agendas or, perhaps, legal motives.

Dr. Del Carmen advised that the data was nothing more and nothing less than one indicator that required one to do further analysis and to look at other factors that could, perhaps, lead
one to conclude whether individual-based racism was taking place in a police department.

The Fair Road Standard analysis that Bellaire’s data was compared to showed the percentage of individuals of Caucasian and Native American descent that came into contact with the police in 2008 was lower than the number of Caucasian and Native American households in the Houston-Galveston Consolidated Metropolitan Statistical Area (CMSA) that claimed to have access to vehicles.

With respect to African Americans, Hispanics, and Asians, the data suggested that the percentage of individuals of African American, Hispanic, and Asian descent that came into contact with the police in 2008, was higher than the percentage of Houston-Galveston African American, Hispanic, and Asian households with access to vehicles.

A seven-year comparison showed similarities with respect to the traffic related contacts. It should be noted that a higher percentage of Caucasians and African Americans came in contact with the police in 2008 as compared to 2007. The opposite was true of Hispanics.

The search figures for 2008 showed similar patterns. In other words, a greater percentage of Caucasians, Hispanics, and Asians were searched in 2008 as compared to 2007. However, the opposite was true of African American drivers that were searched by the police in 2008 as compared to 2007.

The arrest figures for 2008 and 2007 were similar. A higher percentage of Caucasians, African Americans, and Asians were arrested in 2008 as compared to 2007. The opposite was true for Hispanics when comparing 2008 to 2007 arrests.

Dr. Del Carmen advised that he typically performed 54 analyses per year. He also consulted with many other agencies throughout the state. He categorized the findings for Bellaire as being typical in a great deal of police departments surrounded by major highways and streets. He reiterated that he was not present to categorize one way or the other whether racial profiling took place in Bellaire on an individual level, but rather to make the point that the City of Bellaire Police Department had, in his professional opinion, abided by the legal requirements set forth by the Texas racial profiling statute.

Dr. Del Carmen’s recommendations were to collect and analyze data from searches and contraband seized; to provide
advanced training on racial profiling to all police officers; to enhance the recruiting efforts to reach out to minorities, particularly individuals such as Hispanics and African Americans; to foster partnerships with organizations representing minority interests in the City and outside of the City; and to commission data audits on a quarterly basis in order to determine that the data that was recorded was the same as the data being reported.

QUESTIONS/COMMENTS FROM CITY COUNCIL:

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

Q: Mayor Cindy Siegel asked if Dr. Del Carmen had worked with the State of Texas on the racial profiling legislation.

A: Dr. Del Carmen stated that he did not work specifically for the State of Texas on the legislation, but did work with the Law Enforcement Management Institute of Texas to interpret what the requirements were.

Q: Councilman Will Hickman asked Dr. Del Carmen if he could provide a definition for the term “racial profiling.”

A: Dr. Del Carmen advised that racial profiling had as many definitions as he could possibly provide this evening. A general definition would be the absolute bias on behalf of the police officers to rely exclusively on race or ethnicity to take a particular action.

Q: Councilman Hickman referred to the Texas statute on racial profiling and inquired as to the penalty for a violation.

A: Dr. Del Carmen stated that a penalty for a city to failing to comply with the law did not exist. This was the reason that Senator West and some of his colleagues were submitting Senate Bill 1120 to modify the statute to include penalties. The penalty for police officers was currently actually instituted by the police departments. Each department in Texas had a different policy on it, however, most of the policies he had reviewed throughout the state did penalize the officer in terms of termination if found guilty or responsible for racial profiling.
Q: Councilman Hickman inquired as to whether the Bellaire Police Department had penalized any of its officers for racial profiling.

A: Dr. Del Carmen indicated that this was beyond the scope of his data review. He had not looked into or reviewed internal affairs files to determine that one way or the other. He suggested that City Council ask the Police Department that question directly.

Q: Councilman Hickman asked for confirmation that there had not been any complaints on racial profiling.

A: Dr. Del Carmen stated that there had not been any written complaints on racial profiling during 2008 as was required by the law.

Q: Councilman Hickman asked for confirmation that Dr. Del Carmen took into account the through-traffic coming into and out of Bellaire and not just the population of the City of Bellaire.

A: Dr. Del Carmen stated that Councilman Hickman was correct in one part, but not in the other. The CMSA included demographics as per the U.S. Census Bureau on the Houston-Galveston area; however, that was based on total population and not the people that drove through the City each day. It was important to understand that the Fair Road Standard counted a household as one unit in spite of the fact that in that particular household there might be five drivers. The baseline would always be lower than the actual number of incidents that were there. He went beyond the City of Bellaire in looking at the U.S. Census data to extend regionally to see what the numbers looked like.

Q: Councilman Hickman asked for confirmation that one would not look just at Bellaire's city population, but rather to a broader area.

A: Dr. Del Carmen advised that considering where Bellaire was sitting in the Houston area, he would not look at the City of Bellaire as his only baseline. Clearly, Bellaire’s contacts reached further out than just the City of Bellaire.

Q: Councilman Hickman asked for confirmation of a statement made earlier that if there were a higher
number of minorities with police contacts than the number of minorities in the CSA or the City of Bellaire, that number might or might not constitute racial profiling.

A: Dr. Del Carmen stated that if the percentages were higher in terms of minorities, it was not conclusive one way or the other. This was simply a word of caution. People had a tendency, particularly in open forums, to state that because Hispanics had a higher percentage of contacts than those that lived in the City, then the police department must be engaging in some sort of inappropriate behavior in regards to Hispanics. Dr. Del Carmen’s point was that it was not that simple. There were hundreds of factors that came into play when looking at data.

For example, there were cities in the State of Texas wherein their daytime population in terms of demographics was much different than their nighttime population. A police officer assigned to patrol in the daytime in one of those cities might come into contact with individuals that might not necessarily live in that city or even in the area. If one were to look at that officer’s numbers, the numbers might look skewed and might suggest to those who took numbers at their face value that the officer was racist or an instigator of race relations. In reality, those numbers would not necessarily suggest that.

Q: Councilman Hickman referred to a statement made earlier by Dr. Del Carmen that Bellaire’s data looked similar to other cities that had through traffic and interstate highways. He asked for confirmation of that statement.

A: Dr. Del Carmen advised that Councilman Hickman was correct.

Q: Councilman Phil Nauert referred to Dr. Del Carmen’s recommendations. He noted that a recommendation appeared on the PowerPoint presentation that was not in the written report distributed to City Council. The particular recommendation was to foster partnerships with organizations representing minority interests. He inquired as to why that recommendation was omitted from the written report.
A: Dr. Del Carmen stated that this was an omission on his part and he apologized for that omission.

Q: Mayor Siegel inquired as to whether the recommendations were specific to Bellaire or if those recommendations were similar to the ones Dr. Del Carmen might make to other cities.

A: Dr. Del Carmen stated that the recommendations were similar to the ones he made to other cities. However, every city had a different component and different set of circumstances that surrounded it. The spirit of the recommendations was the same. The recommendations came from a best practices model of what police departments should be doing with their officers in order to be proactive about this very serious issue.

Q: Mayor Siegel asked for confirmation as to the number of analyses Dr. Del Carmen performed annually.

A: Dr. Del Carmen indicated that he had performed 53-54 analyses on 2008 data.

Q: Mayor Siegel asked if Bellaire was in line in terms of other cities.

A: Dr. De Carmen stated that it changed from agency to agency. Some agencies might report two or three racial profiling written complaints in a year, while other agencies might report zero. Obviously, an agency would prefer to have no complaints at all. Every case was different and every incident was different. The police departments reviewed those cases and incidents.

Q: Mayor Siegel noted that the City had engaged a consultant to help with the City’s Comprehensive Plan, and that consultant had performed traffic counts. If she understood Dr. Del Carmen correctly, one had to take into account whether there were different daytime and nighttime populations. For example, there were approximately 30,000 cars traveling through Bellaire on Bellaire Boulevard on a daily basis. That amount was twice the population of Bellaire. Bissonnet Street had almost 30,000 cars traveling on it daily, and the West Loop (Interstate Highway 610) had close to 200,000 cars traveling through Bellaire. She inquired as to whether the drive-through traffic was factored into the report.
A: Dr. Del Carmen indicated that in the language of his findings he alerted the reader to take it for what it was worth. In other words, one should consider the fact that highways surrounded Bellaire. By virtue of that, Bellaire would have a traffic flow of individuals that did not reside in the city.

Q: City Manager Bernard M. Satterwhite, Jr., referred to the “population” question. It seemed that Dr. Del Carmen was letting the reader know that the data might or might not tell one what they wanted to hear. He asked if Dr. Del Carmen had encountered any cities similar to Bellaire that had a resident population, a drive-through population, and a business population that was vastly different from the resident population in that most of the businesses were not owned by residents of Bellaire and most of the employees in Bellaire were not residents of Bellaire. He inquired as to whether any such cities had tried to create a population baseline that was different from the CMSA.

A: Dr. Del Carmen indicated that some cities did compare the data to their own figures as those cities might not be close to a highway and most of their contacts were with residents of the city. The individuals that tried to find in a report, such as this one, whether or not a police department was engaging in racial profiling practices, in his view, were people that were looking for very easy solutions to a very difficult question.

He stated that he was not present this evening to state whether racism was occurring. Although racism was prevalent in the United States today, the type of data required for the racial profiling statute was not the best way of determining whether a police department was engaging in that practice. There were multiple ways that one could begin to analyze data, along with other factors, that would allow that practice to be determined. He felt that the spirit of the law was noble in trying to get police departments to be more transparent to the community and provide contact data. Unfortunately, the requirements were far from getting the state where it needed to be as far as determining one way or the other if racial profiling took place at the individual level.

**MOTION TO ACCEPT REPORT INTO THE RECORD:**
A motion was made by Councilman Pat McLaughlan and seconded by Councilman Will Hickman to accept the Bellaire Police Department Annual Traffic Contact Report for 2008 as presented by Alex Del Carmen, Ph.D., Del Carmen Consulting LLC, into the record.

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

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

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

**OPPOSED:**  None

**ABSENT:**  None

At this point, the Bellaire City Council considered the remainder of the agenda in the order in which it was written.

**D. PERSONAL/AUDIENCE COMMENTS.**

**Hana Ginzbarg, 4520 Oleander Street, Bellaire, Texas:**

Ms. Ginzbarg addressed City Council and thanked them for electing to preserve the green space along Russ Pitman Park and The Nature Discovery Center while reconstructing Newcastle Drive. She advised that she wished to bring up a problem that had occurred with the project. City Council had agreed to continue allow parking on the green space, as had been done for the last 20 years, by making the curb on Newcastle Drive a mountable curb.

A few days ago, Ms. Ginzbarg drove down Newcastle Drive and noticed that approximately 100 feet of curb had been constructed and the curb was not mountable. She checked with the City’s consulting engineers, HDR|Claunch & Miller, and the City’s Public Works Department to find out what had happened. Mr. James Andrews of HDR|Claunch & Miller advised that the engineers required a 100-foot curb before each intersection. The engineers measured from the drive of the Henshaw House located in The Nature Discovery Center. This “drive” did not actually serve as a “drive” for vehicles, but rather as a “drive” for
pedestrians, which the engineers did not know. Due to this, five parallel parking spaces had been eliminated.

On the southern end, Ms. Ginzbarg was told that 100 feet of curb was required from the Evergreen Street intersection. She inquired as to why it was required and by whom. She referred to South Rice Avenue and noted that people were allowed to parallel park to the corner. The same situation existed at the Recreation Center.

Ms. Ginzbarg noted further that drains from the street were placed into the curb. Mr. Andrews advised that grills could be placed in the street for drainage rather than in a curb.

Another issue with this project related to the surfacing of the green space. When the parking lot was under development next to the Henshaw House in The Nature Discovery Center, various porous materials were tested.

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

Reggie Thomas, 502 South Third Street, Bellaire, Texas:

Mr. Thomas addressed City Council and noted that he had resided in Bellaire since 1997 with his wife and his now 17-year old son. His reason for speaking this evening was related to all of the action going on in and around Bellaire with the Police Department. He advised that he wished to give his personal views about what was happening.

Mr. Thomas stated that he was born in 1951 and lived approximately eight miles from Vidor, Texas, for 17 years. His son, who would frequent the Bellaire Recreation Center when he was in the 8th grade, was “run on” one day by two Bellaire Police Officers. This stopped him from frequenting the Bellaire Recreation Center. When Mr. Thomas’ son was in the 9th grade at Bellaire High School, two Bellaire Police Officers again apprehended him during a lunch break based on a mistaken identity. One of the Bellaire Police Officers had the laser portion of his TASER weapon pointed at Mr. Thomas’ son’s body.

Mr. Thomas talked with the Principal of Bellaire High School, as well as with Bellaire Chief Randall Mack, about the incident, but he got nowhere. After three weeks of no response, he took his complaint to Ada Edwards, City Council Member for the City of Houston, Texas, because she was running a task force regarding misuse of TASER weapons. The Chief of Police for the City of Houston, Texas, suggested that Mr. Thomas wait for an investigation that Chief Randall
Mack had stated he was performing. To date Mr. Thomas has received no feedback related to the investigation.

Mr. Thomas advised that he moved to Bellaire because of its reputation as a “City of Homes,” its attractiveness, and his business and personal contacts in the City. He felt that Bellaire had gone up in the air to find the solution for a problem that was on the ground. He had lived on the corner of Jessamine Street and South Third Street for 11 years and had seen discrimination in action by the Bellaire Police Department at Condit Park. Residents of Bellaire ran stop signs on a daily basis and never received a ticket. His driveway was blocked daily and the Bellaire Police Department advised that he had to let them know as soon as he saw a violation. Yet, every day at Bellaire High School, cars were towed for parking violations. He received no help from the Bellaire Police Department.

Mr. Thomas stated that the City needed to work on the problem. The problem could be solved very easily and had to do with leadership. If the City needed help, Mr. Thomas would help. He advised that he was seriously thinking of running for Mayor, as he felt that leadership was the problem.

**Ron Lewis, 4819 Locust Street, Bellaire, Texas:**

**Mr. Lewis** addressed City Council and advised that he had lived in Bellaire since 1990. He noted that he had hoped that he would not need to make comments this evening. More to the point, he had hoped to be able to have a conversation with the leadership in the City. He did not wish to come across as if he were lecturing or was someone that knew more than anyone else with common sense.

Mr. Lewis stated that he felt it appropriate if he asked City Council to use some basic common sense in interacting and communicating to the citizens. City Council hired a consultant to tell them what statistics meant. He did not know if the statistics that Bryant Gumbel (HBO Real News) quoted to the Mayor were accurate. If those statistics were accurate, they required no interpretation nor an expert consultant or criminologist to tell City Council that if the Bellaire Police Department stopped minorities at a 12:1 rate in Bellaire compared to a 4:1 rate in the City of Houston, Texas, that there was a problem.

Mr. Lewis advised that he understood legal issues and he understood the City’s concern about a potential theory being developed in one case that might have consequences for the City budget. What was more lasting was the City’s capacity to deal with each other honestly.
about a situation that was undeniably unacceptable. Mr. Lewis hoped that City Council would justify the conclusion that Bellaire did not engage in racial profiling from Dr. Del Carmen’s report.

The only answer for each of the citizens of Bellaire was to confront the reality of day-to-day life in Bellaire head on with honesty and candidly with each other. Mr. Lewis stated that the Bellaire Police Department had interacted with his family over the years in ways that had been good and in ways that had been bad. He recognized that police officers took their lives into their own hands, but on December 31, 2008, the only person whose life was in danger was Robbie Tolan.

If the City were honest with themselves and its citizens, then the City would be able to find a way to deal with the problem in a mutually constructive way. But, if the City insisted on searching for excuses for the behavior in data that did not justify, such as rationales that the City was surrounded by highways, when the City was also surrounded by Meyerland, West University Place, and Southside Place, and affluent areas in Houston to the north, then the only real diversity was to the west and Gulfton. With such rationales, the City insulted the citizens in Mr. Lewis’ judgment.

He stated that he apologized if it seemed that he was lecturing. He would have preferred to have met with City Council directly and had a conversation about the problems rather than in a public forum.

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Lewis Rodriguez, 6707 Avenue B, Bellaire, Texas:

Mr. Rodriguez addressed City Council and advised that he had lived in Bellaire since 1988. He stated that he was not present to speak about the shooting that occurred on December 31, 2008, and did not believe that anyone present this evening was there to know who was in danger or who was not in danger.

Before moving to Bellaire, Mr. Rodriguez was stopped twice by the Bellaire Police Department. He received a ticket one time and was let go the second time. After moving to Bellaire, he was stopped and issued a citation.

Mr. Rodriguez indicated that he traveled quite a bit and had been stopped numerous times by several police agencies, some of which were courteous and others of which were not so courteous. The Bellaire Police Department had always been courteous to Mr. Rodriguez when he was stopped. He had never felt that he was stopped due to racial profiling.
He next referred to an incident that occurred to him when he was living in San Antonio. He drove for two months in San Antonio with an expired license tag and was never stopped. Yet, when he traveled to Alvin, Texas, he was stopped in Manvel, Texas, for the expired license tag. Smaller towns had more time to be vigilant and watch for violations. This did not mean that smaller towns were practicing racial profiling.

In closing, Mr. Rodriguez stated that he believed that the Bellaire Police Department and the City of Bellaire, Texas, was doing their job and he was present to support them in those efforts.

Bill Thorogood, 4507 Merrie Lane, Bellaire, Texas:

Mr. Thorogood addressed City Council and stated that more than 150,000 cars traveled northbound on Interstate Highway 610 through Bellaire daily. Approximately 30,000 cars traveled east and west on Bellaire Boulevard daily. Immediately north of Bellaire was one of the largest shopping centers in the United States. Immediately east of Bellaire was one of the largest medical centers in the world turning over 50,000 people every eight and ten hours.

He asked if this meant that the ethnicity traffic stop count in Bellaire should be representative of Bellaire only, of those who drove through Bellaire daily, of those who lived within a three-mile radius of Bellaire, or of those that lived in the City of Houston or any other standard metropolitan area. If someone stated, as had been reported in the media recently, that Bellaire had a 90% white population and a traffic stop count of only 44% white, should Bellaire be considered as a traffic stop racial profiling community?

The real numbers that helped one to understand the truth and the facts were noted as follows: 1) Bellaire had 17,000 citizens; 2) Bellaire was entirely surrounded by the City of Houston; 3) a 2006 market study provided data that within a three-mile radius of Bellaire the white population was 44%; and 4) the same 2006 market study provided data that the City of Houston white population was approximately 27% of the total population of 2.1 million or a 73% non-white population in the City of Houston.

Mr. Thorogood indicated that his point was that the media had to get this right. He advised that he was very sorry about what had happened to the Tolans, but the media could not take the word of the lawyers or someone else. The media had to do their own investigative
reporting, had to look at data that was critical, and had to look at the facts.

Lynn McBee, 5314 Evergreen Street, Bellaire, Texas:

Ms. McBee addressed City Council and stated that she had intended to speak to City Council about another item on the agenda, which had to do with a Memorandum of Understanding with Harris County and the terms of that memorandum. Part of the funding was supposed to go for low-income housing and residents in Bellaire. She volunteered that she was one of those rare beings—lower, fixed income and older home.

Ms. McBee indicated that she had lived in Bellaire since the 1960s. She had read the consultant’s racial profiling report and listened to his disclaimers. The report simply followed the legislation that mandated that the report be done. The report contained numbers, but no conclusions basically. There had been no effort whatsoever since the 1960s, if not earlier, to begin to address in Bellaire some measure or tool to identify attitudes.

She stated that racial profiling or other kinds of bias could not be measured statistically in her view. Her observation had been that City Council was passive and that there was no outreach. City Council also had oversight over the management team in the City. If City Council really wanted to know if there was profiling, they would find social scientists to find out about Bellaire. Additionally, the U.S. Census was ten years old.

Attitudes did not change and had been buried peripherally among the citizens since Bellaire’s founding. Attitudes must change and as representative leaders of Bellaire, the City Council should be extremely sensitive to that. The City Council should reach out to citizens through community events and community service to find out who the citizens were and what they thought. This was City Council’s obligation and not the bottom dollar of the budget.

Ms. McBee challenged City Council to take the shooting incident as an opportunity and not a defensive position. She urged them to walk in the front door and not the side door and to meet and greet the people they represented. She asked if the City’s management would also be getting sensitivity training, but she doubted it. It was not the answer to provide the training to just the Bellaire Police Department.
Ms. McBee apologized and noted that she was not trying to berate City Council. She advised that because her son had long hair in the 1970s, he was continually harassed. Harassment was going to take place and bullying would continue, but City Council could offset that with their own attitude.

Steve Erickson, 4618 Braeburn Drive, Bellaire, Texas:

Mr. Erickson addressed City Council and advised that he wished to lend some weight to the requests and comments made earlier by Hana Ginzbarg. He appreciated the work that the City was doing on Newcastle Drive, but had a concern about the current design of the curbs, which would result in The Nature Discovery Center losing about two-thirds of their overfill parking at a time when the programs and attendance at The Nature Discovery Center were growing.

Mr. Erickson stated that there were opportunities to have a different design of the curb that would allow the City to accommodate more parking by restricting the standard curb of 100 feet at each end to some smaller or nonexistent number.

He concluded and respectfully requested that an agenda item be placed on the next City Council meeting to address and consider alternative designs to the curbs on Newcastle Drive in front of The Nature Discovery Center.

Mayor Cindy Siegel advised that one written comment had been received this evening, which she read into the record as follows:

Jamie Allen, 4715 Willow Street, Bellaire, Texas:

Topic: Curbs at The Nature Discovery Center

Curbs currently are approximately 1/3 mountable design, thus there is not enough parking for Center events. Please re-install as agreed prior to road construction.

E. REPORTS:

1. CITY MANAGER’S REPORT – Areas of discussion include: police activity report, street and drainage projects
update, February 18th staff planning retreat report, Texas City Management Association Clinic report (attended by the City Manager on February 19th and 20th), recognition by the Federal Emergency Management Agency (FEMA) of Bellaire’s participation and efforts to improve its standing in the Community Rating System (CRS) and National Flood Insurance Program (NFIP), and list of upcoming meetings and/or events – Presented by City Manager Bernard M. Satterwhite, Jr.

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

Police Activity Report

City Manager Satterwhite advised that there were 40 Part I criminal offenses during the month of January 2009. This compared to the previous year. There were 56 traffic accidents in January compared to 54 in the previous year. The average response time was typical at 3-½ minutes.

In January, there were three robberies in Bellaire. One occurred at the Cash Store, 5212 Bellaire Boulevard, on January 10th. A suspect leaving the scene was arrested and charges were filed. Three suspects robbed the Guaranty Bank at 5319 Bellaire Boulevard. The suspects were arrested as they fled the scene and were charged with robbery. A second robbery occurred at the Cash Store, 5212 Bellaire Boulevard. The suspect fled and the incident was currently under investigation.

There was also a robbery in February in a residential area of Bellaire. A resident was robbed at gunpoint outside their home. The residents in that area were very concerned, as was the City. The incident was under investigation and there had been some leads in that case.

City Manager Satterwhite stated that there seemed to be a perception that robberies did not occur in Bellaire. Unfortunately, robberies and burglaries did occur in Bellaire. Although the City’s crime rate was relatively low, City Manager Satterwhite urged residents to always be vigilant in any area of Bellaire.

Street and Drainage Project Update

The reconstruction of Evergreen Street near Renwick Drive was progressing fairly well. Storm sewer construction was
underway on the east side of the street, so traffic was one-way westbound.

With respect to the Newcastle Drive reconstruction, the City was going to work to provide as much parking as was feasible. The City had planned to install 400 feet of drivable curb. If that drivable curb could be extended a greater distance, City Manager Satterwhite told Ms. Ginzburg that he would personally look into that. Director of Public Works Joe Keene was also looking into it.

City Manager Satterwhite indicated that he had a concern with perception there because before the City had proposed head-in parking on the grass and now the City was going to install parallel parking on the grass. Obviously, parallel parking vice head-in parking would provide for fewer cars.

The Rebuild Bellaire Program, Phase Two Project, was just starting (4500 block of Sunburst Street, 4500 block of Park Court, and the 100 block of Whipple Street).

In addition to streets and drainage, the aeration basin rehabilitation project was almost completed.

**Staff Retreat**

City Manager Satterwhite noted that City Staff held a retreat on February 18, 2009. The primary subject of the retreat was the City’s Capital Improvement Program (CIP) projects and priorities within the CIP projects in light of possible future economic slowdowns. There were great discussions held during the retreat, but he did not yet have a final result. City Staff would compile a matrix to show where the City was with respect to CIP projects that had been approved by City Council or approved in concept. He hoped to schedule an initial Workshop Session with City Council regarding the CIP projects on March 23, 2009.

**Texas City Management Association Clinic**

City Manager Satterwhite indicated that he had attended a Texas City Management Association Clinic in Salado, Texas, on February 19-20, 2009. Subjects included budget contingency plans, technology (i.e., communications with citizens), personal leadership, ethics, media relations, organization development, mentoring, coaching, and succession planning, and a legislative update. With respect to media relations and communication with citizens, it was noted that there were some cities that were
starting up blogs to better publicize what they were doing on a continuous basis.

**Federal Emergency Management Agency (FEMA) Award**

City Manager Satterwhite advised that approximately five years ago, City Council started a Citizens Advisory Committee on Drainage Issues. This was in the wake of Tropical Storm Allison and some other events, including concerns registered by citizens, regarding flooding in Bellaire. The Committee met twice a month for approximately one and one-half years. One of the results was the development of a Flood Hazard Mitigation Plan (Plan) for Bellaire. This Plan was submitted through Harris County to FEMA and was required in order for the City to be in good standing with the Community Rating System (CRS). It was also submitted to provide action steps for the City to move forward in finding a way to reduce the flood hazard in Bellaire, such as ordinances, infrastructure projects, etc.

The Plan helped the City go from a Class 9 to a Class 8 in the CRS, which yielded an additional 5% savings for residents on their flood insurance premiums.

A few days ago, Mayor Siegel and City Manager Satterwhite were pleased to accept, on behalf of the City of Bellaire, a plaque that was presented to the City by FEMA in recognition of Bellaire’s participation and efforts to improve its standing in the CRS and the National Flood Insurance Program. The annual savings to residents right now with respect to flood insurance premiums was approximately $155,000 per year.

City Manager Satterwhite indicated that he hoped some of the members of that Committee were watching the City Council meeting as many hours of hard work went into the process by those members. He noted that their efforts had resulted in something tangible.

**Upcoming Meetings/Events**

The following meetings were noted to be upcoming:

- March 16, 2009 - Regular Session
- March 23, 2009 - Workshop Session (CIP Projects)
- April 6, 2009 - Regular Session (Mid-Year Review)
QUESTIONS/COMMENTS FROM CITY COUNCIL:

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

Q: Councilman Will Hickman stated that he and some of his neighbors were just now getting started on replacing their fences after Hurricane Ike. He inquired as to whether they had missed all of the debris removal pickups.

A: City Manager Satterwhite indicated that all of the storm debris pickups had occurred and the City was beyond anything that FEMA would reimburse for.

Q: Councilman John Jeffery referred to an email that had floated around about robberies and attempted robberies in Bellaire. He inquired as to whether there was any truth to the one regarding a holdup of high school students walking to their vehicles.

A: City Manager Satterwhite stated that he believed that there had been a holdup of high school students walking to their vehicles. He did not have any details regarding that event, as it would be reported in a subsequent police activity report.

Q: Councilman Jeffery inquired as to whether the City was doing anything proactively to let the high school know to be cautious.

A: City Manager Satterwhite stated that he would have to get back with Councilman Jeffery on those details. He noted that the City did work closely with the Houston Independent School District (HISD) Police Department.

Q: Councilman Pat McLaughlan referred to City Manager Satterwhite’s response that the City would work on the parking issues at The Nature Discovery Center. He stated that City Council had also asked for parking along Evergreen Park on Newcastle Drive. He inquired as to whether that was correct.

A: City Manager Satterwhite stated that he believed so, but would have to look at it again.

Q: Councilman McLaughlan inquired as to whether he should place an item on the next agenda in order to
substantiate the suggested changes, which might be substantial.

A: **City Manager Satterwhite** asked if he could get back to Councilman McLaughlan. It might be able to be accomplished administratively. If not, he would get back with Councilman McLaughlan so that an item could be placed on the agenda.

C: **Mayor Cindy Siegel** advised that Mayor Pro Tem Peggy Faulk pointed out that the next regularly scheduled meeting of City Council, March 16, 2009, would occur during Spring Break. She inquired as to whether there would be a quorum of City Council present for that meeting. After getting an idea from the members of City Council, Mayor Siegel advised that the meeting might have to be changed to either March 23rd or 30th of 2009.

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

A motion was made by Councilman Pat McLaughlan and seconded by Councilman Phil Nauert to accept the City Manager's Report as presented by City Manager Bernard M. Satterwhite, Jr., into the record.

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

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

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

**OPPOSED:** None

**ABSENT:** None

Presentation to be made by Alex Del Carmen, Ph.D., Del Carmen Consulting LLC.

Note: This item was presented and considered earlier in the meeting. See pages 4-15 of these minutes for the presentation and discussion related to this item.

F. NEW BUSINESS:

1. CONSENT AGENDA:

   Approval/Correction of Minutes

   a. APPROVAL of minutes of the Regular Session of the City Council of the City of Bellaire, Texas, held Monday, February 16, 2009 – Item submitted by City Clerk Tracy L. Dutton.

   Bid Award/Ordinance

   b. CONSIDERATION of and possible action on a recommendation from the Bellaire Public Works Department to award Bid No. 09-006, Water Distribution Piping and Fittings, to the following bidders for the purchase and delivery of water distribution piping and fittings parts used in the repair of the City of Bellaire’s Water Distribution System based on the lowest price for each item: Badger Meter, Inc., in an amount not to exceed $17,200.00, HD Supply in an amount not to exceed $21,882.69, ACT Pipe & Supply in an amount not to exceed $3,656.16, and Ferguson Waterworks in an amount not to exceed $31,673.06 and 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, for and on behalf of the City of Bellaire, Texas, a Standard Form of Agreement with Badger Meter, Inc., HD Supply, ACT Pipe & Supply, and Ferguson Waterworks for said parts and delivery in the amounts previously listed – Item submitted by Director of Public Works Joe Keene.

   MOTION TO APPROVE CONSENT AGENDA:

   A motion was made by Mayor Pro Tem Peggy Faulk and seconded jointly by Councilman James P. Avioli,
Sr., and Councilman Pat McLaughlan to approve the Consent Agenda dated March 2, 2009, consisting of the following items:

- Minutes of the Regular Session of the City Council of the City of Bellaire, Texas, held February 16, 2009; and

- Award of Bid No. 09-006, Water Distribution Piping and Fittings, to the lowest bidders as follows: Badger Meter, Inc. - $17,200.00; HD Supply - $21,882.69; ACT Pipe & Supply – $3,656.16; and Ferguson Waterworks - $31,673.06, and adoption of an ordinance authorizing the Mayor and the City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, a Standard Form of Agreement with said bidders.

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

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

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

**OPPOSED:** None

**ABSENT:** None

{Ordinance associated with the award of Bid No. 09-006 was subsequently numbered: 09-011}

2. **ADOPTION OF ORDINANCES:**

Appointments

a. **CONSIDERATION of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, appointing Lisa A. Wesely as Presiding Judge of the Municipal Court of the City of Bellaire, Texas, for a two-year term commencing on the 5th day of March, 2009, and**
expiring on the 4th day of March, 2011 – Item submitted by City Clerk Tracy L. Dutton on behalf of the Bellaire City Council.

**MOTION TO ADOPT ORDINANCE:**

A motion was made by Councilman James P. Avioli, Sr., and seconded by Councilman Pat McLaughlan to adopt an ordinance of the City Council of the City of Bellaire, Texas, appointing Lisa A. Wesely as Presiding Judge of the Municipal Court of the City of Bellaire, Texas, for a two-year term commencing on the 5th day of March, 2009, and expiring on the 4th day of March, 2011.

**QUESTIONS/COMMENTS FROM CITY COUNCIL:**

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

Q: Councilman Will Hickman inquired as to when the term of the other Judge expired.

A: City Manager Bernard M. Satterwhite, Jr., indicated that the term for the other Judge would not expire until next year.

**VOTE ON MOTION TO ADOPT ORDINANCE:**

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

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

OPPOSED:  None

ABSENT:  None

{Ordinance was subsequently numbered: 09-012}

b. CONSIDERATION of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, appointing Robert C.
Richter, Jr., as Assistant City Attorney for the City of Bellaire, Texas, for a two-year term commencing on the 6th day of March, 2009, and expiring on the 5th day of March, 2011, for the purpose of serving as Prosecutor in the Municipal Court of the City of Bellaire, Texas – Item submitted by City Clerk Tracy L. Dutton on behalf of the Bellaire City Council.

MOTION TO ADOPT ORDINANCE:

A motion was made by Councilman Phil Nauert and seconded jointly by Councilman Pat McLaughlan and Councilman John Jeffery to adopt an ordinance of the City Council of the City of Bellaire, Texas, appointing Robert C. Richter, Jr., as Assistant City Attorney for the City of Bellaire, Texas, for a two-year term commencing on the 6th day of March, 2009, and expiring on the 5th day of March, 2011, for the purpose of serving as Prosecutor in the Municipal Court of the City of Bellaire, Texas.

QUESTIONS/COMMENTS FROM CITY COUNCIL:

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

Q: Councilman Will Hickman inquired as to whether the payment per month and payment per docket for the Judge and Prosecutor were the same amounts paid during the previous year.

A: City Manager Bernard M. Satterwhite, Jr., advised that Councilman Hickman was correct.

VOTE ON MOTION TO ADOPT ORDINANCE:

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

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

OPPOSED: None
ABSENT: None

{Ordinance was subsequently numbered: 09-013}

c. CONSIDERATION of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, appointing Kelly N. Saucier as Deputy Assistant City Attorney for the City of Bellaire, Texas, for a two-year term commencing on the 6th day of March, 2009, and expiring on the 5th day of March, 2011, for the purpose of serving as Deputy Prosecutor in the Municipal Court for the City of Bellaire, Texas – Item submitted by City Clerk Tracy L. Dutton on behalf of the Bellaire City Council.

MOTION TO ADOPT ORDINANCE:

A motion was made by Councilman John Jeffery and seconded by Councilman Pat McLaughlan to adopt an ordinance of the City Council of the City of Bellaire, Texas, appointing Kelly N. Saucier as Deputy Assistant City Attorney for the City of Bellaire, Texas, for a two-year term commencing on the 6th day of March, 2009, and expiring on the 5th day of March, 2011, for the purpose of serving as Deputy Prosecutor in the Municipal Court for the City of Bellaire, Texas.

QUESTIONS/COMMENTS FROM CITY COUNCIL:

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

Q: Councilman Pat McLaughlan inquired as to whether Ms. Saucier had ever had to serve as Deputy Prosecutor, noting that he had never seen her.

A: Assistant City Attorney and Prosecutor Robert C. Richter, Jr., advised that he did try to be there as often as he could, but stated that Ms. Saucier did fill in if he had to be out. She served a few dockets in the previous month.
VOTE ON MOTION TO ADOPT ORDINANCE:

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

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

OPPOSED: None

ABSENT: None

{Ordinance was subsequently numbered: 09-014}

Grant

d. CONSIDERATION of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, authorizing the Mayor of the City of Bellaire, Texas, to execute a Memorandum of Understanding to Harris County, Texas, evidencing the City of Bellaire’s intent to participate in the Harris County Consolidated Region (HCCR) Application for the Hurricane Ike Disaster Community Development Block Grant funding – Item submitted by Chief Financial Officer Donna Todd.

INTRODUCTION:

City Manager Bernard M. Satterwhite, Jr., advised that if the City wanted to participate in the grant funding process, a Memorandum of Understanding needed to be executed. He noted, however, that the likelihood of the City obtaining funds through this process were probably small. Funds were available for public infrastructure projects related to Hurricane Ike and, as Ms. McBee mentioned earlier, low-income housing applicants.

Chief Financial Officer Donna Todd attended a seminar on this process and could answer specific questions. She told City Manager Satterwhite that due to the nature of the City’s property values, the chances of getting funding were probably not high. Since City Staff
did not know definitively and if the program would provide relief to the City and residents, then it was felt that the City should participate in the program.

**MOTION TO ADOPT ORDINANCE:**

A motion was made by Councilman Pat McLaughlan and seconded by Councilman John Jeffery to adopt an ordinance of the City Council of the City of Bellaire, Texas, authorizing the Mayor of the City of Bellaire, Texas, to execute a Memorandum of Understanding to Harris County, Texas, evidencing the City of Bellaire’s intent to participate in the Harris County Consolidated Region (HCCR) Application for the Hurricane Ike Disaster Community Development Block Grant funding.

**QUESTIONS/COMMENTS FROM CITY COUNCIL:**

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

Q: Councilman John Jeffery asked for confirmation that the City submitted a Letter of Intent and Harris County sent back a Memorandum of Understanding.

A: Chief Financial Officer Donna Todd advised that the City was apprised in December by Harris County that they were trying to put together a consortium of cities in Harris County (other than the Cities of Houston and Galveston, as those cities would be considered separately due to their size and/or the extent of their damages). CFO Todd attended an initial meeting and a follow-up meeting. During the follow-up meeting, estimates of damages were presented to Harris County so that a damage assessment for all of Harris County could be prepared.

In order to participate with the consortium of Harris County in the grant funding, the City was required to submit a Letter of Intent in February. The next step in the process was to provide a Memorandum of Understanding approved by the governing body within 30 days of the date of the Letter of Intent. The 30-day deadline for Bellaire would be March 7, 2009.
CFO Todd stated that she tried to get a form or template from Harris County for the Memorandum of Understanding, but she never received a response. City Staff prepared the Memorandum of Understanding presented to City Council this evening. City Attorney Petrov reviewed the document. It was the City’s hope that Harris County would accept the Memorandum of Understanding in the form we had provided.

Q: Councilman Jeffery inquired as to whether the City would be obligated to participate under the terms set out in the Memorandum of Understanding by submitting it to Harris County.

A: City Attorney Alan P. Petrov indicated that the City would be obligated under the terms in the Memorandum of Understanding only if the City accepted funding from the Program. The City was not obligated to accept the funding. At this point the City was merely indicating that it accepted the terms and, if the City went forward, that the City would comply with those terms.

CFO Todd indicated that the City did not set any of the terms. The terms were set by Harris County.

Q: Councilman James P. Avioli, Sr., inquired as to whether the City had any idea as to how much funding was available and whether there were any parameters involved with respect to the funding.

A: CFO Todd stated that Bellaire was encouraged to participate because Harris County wanted the opportunity to maximize the amount of funding that could be received for the region based on the Hurricane Ike damages. The idea was that the participants would receive a pro-rata share, however, because of the parameters that related to the low- to middle-income housing, Bellaire might and likely would get a smaller share. Additionally, Bellaire suffered insignificant damage as compared to some of the other applicants. She did not mean to minimize what
had happened in Bellaire, but other cities had homes that were swept off of their foundations or uninhabitable.

This was, however, an opportunity to possibly get more funding and City Staff did not want to lose that opportunity. She noted further that there was a requirement that 40% of the funding would be used for housing and 60% of the funding would be used for infrastructure. There were also a number of strings attached to this type of funding.

Q: Councilman Will Hickman inquired as to how much more time and money the City would have to spend on this Program. In other words, had most of the paperwork been done already?

A: CFO Todd indicated that the City had only provided preliminary damage estimates thus far. Once it were known how big the group was, those agreeing to participate would be contacted by Harris County’s consultants who would work with the City on completing more forms. The information the City would be sharing would be the same information reported to FEMA, but more likely in a different format.

Q: Councilman Hickman inquired as to whether this process was worth it from a cost-benefit standpoint.

A: CFO Todd stated that Councilman Hickman’s question was very good, but at this point she honestly could not say whether it would be worth it.

Q: Councilman Hickman inquired as to whether the City would have an opportunity to back out once all of the applicants and paperwork were known.

A: CFO Todd advised that she believed the City could.
VOTE ON MOTION TO ADOPT ORDINANCE:

Motion carried on a 6-1 vote as follows:

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

OPPOSED: Nauert, Phil

ABSENT: None

{Ordinance was subsequently numbered: 09-015}

G. ADJOURNMENT.

MOTION TO ADJOURN:

A motion was made by Councilman John Jeffery and seconded by Councilman Will Hickman to adjourn the Regular Session of the City Council of the City of Bellaire, Texas, at 9:21 p.m. on Monday, March 2, 2009.

VOTE ON MOTION TO ADJOURN:

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

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

OPPOSED: None

ABSENT: None
SPECIAL SESSION (EXECUTIVE SESSION)

MOTION TO END RECESS AND RECONVENE IN EXECUTIVE SESSION:

A motion was made by Councilman Phil Nauert and seconded by Councilman John Jeffery to end the Bellaire City Council’s recess from the Executive Session begun at 6:00 p.m. on March 2, 2009, and recessed at 7:38 p.m. on March 2, 2009, and to reconvene in Executive Session (Closed Session) in the Council Conference Room located directly behind the Council Chamber, First Floor of City Hall, 7008 South Rice Avenue, Bellaire, Texas 77401, under the Texas Government Code, Chapter 551, Open Meetings, Section 551.071, Consultation with Attorney, for the purpose of consulting with an attorney regarding potential litigation and matters within the attorney-client privilege on a police incident involving a shooting that occurred in the City of Bellaire, Texas, on December 31, 2008.

The Bellaire City Council reconvened in Executive Session at 9:21 p.m. on Monday, March 2, 2009.

RECONVENE (Open Session) in the Council Chamber, First Floor of City Hall, 7008 South Rice Avenue, Bellaire, Texas, and take action, if any, on item(s) discussed in Executive Session.

The Bellaire City Council reconvened in Open Session in the Council Chamber, First Floor of City Hall, 7008 South Rice Avenue, Bellaire, Texas 77401, at 11:02 p.m. on Monday, March 2, 2009. Mayor Cindy Siegel advised that no action would be taken this evening.

ADJOURNMENT.

MOTION TO ADJOURN:

A motion was made by Councilman John Jeffery and seconded by Mayor Pro Tem Peggy Faulk to adjourn the Special Session (Executive Session) of the City Council of the City of Bellaire, Texas, at 11:02 p.m. on Monday, March 2, 2009.

VOTE ON MOTION TO ADJOURN:

Motion carried on a 6-0 vote as follows:

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

OPPOSED: None

ABSENT: Nauert, Phil*

*Councilman Phil Nauert left shortly before the City Council reconvened and adjourned and did not participate in the motion and vote to adjourn.

Respectfully submitted,

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

Approved:

______________________________________
Cynthia Siegel, Mayor
City of Bellaire, Texas