CITY OF BELLAIRE
CITY COUNCIL

Minutes of Meeting
Monday, April 6, 2009

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, April 6, 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.

B. INSPIRATIONAL READING AND/OR INVOCATION – Councilman John Jeffery.

Councilman John Jeffery read a motivational quotation for his inspirational reading as follows:

Consult not your fears but your hopes and your dreams. Think not about your frustrations, but about your unfulfilled potential. Concern yourself not with what you tried and failed in, but what it is still possible for you to do.

--Pope John XXIII
261st Pope of the Roman Catholic Church

C. PLEDGES TO THE FLAGS – Councilman John Jeffery.

1. U.S. PLEDGE OF ALLEGIANCE.
2. PLEDGE TO THE TEXAS FLAG.

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

D. PERSONAL/AUDIENCE COMMENTS.

Deepak Bedi, 5209 Laurel Street, Bellaire, Texas:

Mr. Bedi addressed City Council and thanked them for their attention to the issues raised with respect to restricted parking on Laurel Street in the vicinity of the Bellaire Family Aquatic Center during a previous City Council meeting. In the interim, the residents had emailed members of City Council on the subject. This was done for several reasons. The residents felt that their situation was unusual enough that it could not be compared with just any congested street in Bellaire. The residents needed relief and had asked for a limited request for restricted parking on weekends only.

Additionally, the residents emailed City Council because they felt that they had not represented their case well the first time as the discussion veered off into safety and the passage of fire trucks, etc. The petition did address the quality of life of the residents on Laurel Street and the inconvenience.

Mr. Bedi continued and noted that what the residents went through on a daily basis in the summer as a result of the Family Aquatic Center one had to see to believe. On the weekends, the 5200 block of Laurel Street turned into a parking lot. The problem was not just one of through traffic, but people actually parking cars on the curb and encroaching on driveways. The residents had difficulty backing out of their driveways, and visibility was another issue as cars parked all the way to the corners near the stop sign. Once at the stop sign at the intersection of Fifth Street and Laurel Street, one could not see what was approaching, whether it was small children, pedestrians, or other vehicles. Residents were also unable to use their yards during that time.

It was noted further that once the Bellaire Family Aquatic Center was constructed, 60 or more parking spaces were lost. Mr. Bedi agreed that this might have been anticipated, but since the City had not gotten around to addressing the issue, the residents of the 5200 block of Laurel Street were living through the problems he mentioned earlier. Mr. Bedi advised that the emails to City Council were also sent because the residents hoped to take care of these issues or problems before the next summer season started.

During the last summer season, the residents of the 5200 block of Laurel Street got together as a group and discussed many measures, including the possibility of asking for one-sided parking only. That did not work out because the burden was unfair to both sides of the street—those without parking on their side and those with parking on their side.
Councilman Hickman and Mr. Bedi had conversed via email, and Mr. Bedi advised that Councilman Hickman had some very good, analytical suggestions.

The residents of the 5200 block of Laurel Street also discussed various other options, such as alternate parking on odd- and even-numbered days, an option used in Europe. Such an option would be difficult to enforce in Bellaire, as people would forget whether they were to park on an odd-numbered day versus an even-numbered day.

The effect of implementing restricted parking for the 5200 block of Laurel Street would be that people would start parking in areas provided by the City that were still available, but a little further away.

Mr. Bedi mentioned that concerns were raised by City Council at a previous meeting regarding permit parking and whether or not the Town Square Area would revert to what happened around Bellaire High School. Mr. Bedi stated that there was no market for the permits on Laurel Street. The same people did not park on Laurel Street every weekend. The residents could not sell their permits even if they wanted to.

Mr. Bedi next read from his notes to Councilman Hickman regarding his idea of implementing one-sided parking and permit parking on the other side. Mr. Bedi responded as follows: Your idea, while excellent for addressing the through traffic congestion, . . .

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

Luisa Franzini, 5219 Laurel Street, Bellaire, Texas:

Ms. Franzini addressed City Council and advised that she wished to support what Deepak Bedi had stated regarding the problems that existed on the 5200 block of Laurel Street during the summer on the weekends.

She stated that the congestion problem did not exist before the Bellaire Family Aquatic Center was built. It was not that the residents did not appreciate having the Bellaire Family Aquatic Center, as it was very nice and was used and enjoyed by the residents of Laurel Street. However, there were other City parking lots that could be used by those visiting the Bellaire Family Aquatic Center, such as the Condit Elementary School parking lot, the parking lot next to the Bellaire City Library, and along South Rice Avenue.

As Mr. Bedi stated, quality of life was very important to the residents on Laurel Street. One of the reasons many chose to live on Laurel was because it was a nice, quiet residential street.
Win Frazier, 4721 Jessamine Street, Bellaire, Texas:

Mr. Frazier addressed City Council and advised that he and his wife built their home on Jessamine Street and had lived there for 18 years. He indicated that he was sorry that he could not be present for the last City Council meeting and that some of the things he would say this evening might be redundant. He noted how important it was to have a forum for residents to speak, even if residents disagreed.

Mr. Frazier stated that he agreed with the first speaker in that residents valued their quality of life in Bellaire. He wanted to feel that his wife and family would be treated with dignity and respect as they traveled to and fro.

First, Mr. Frazier noted that the statements he would make this evening were not an indictment of the Bellaire Police Department. His wife came from a family of police officers. He, in fact, did volunteer work for one of the Constable’s offices and encouraged young men to consider law enforcement as a career.

He urged City Council to use other methods to inform the public with respect to racial profiling. There did not have to be pattern of racial profiling for it to exist. From the court of the public’s opinion, it only took one incident or a single act.

Mr. Frazier stated that things could not just “be right.” Things also needed to look right. It might be legally correct, but it also needed to look correct. This was not just a minority thing. He asked what man would not want to speak up if his daughter, wife, or mother was being treated unfairly.

With respect to the racial profiling survey, Mr. Frazier took exception to one item in the survey. A person who had been intimidated would not want to drive in their car directly to the police department and file a complaint against them. When the City's consultant stated that Bellaire had not had any complaints that was probably a true statement. Mr. Frazier asked City Council to be cognizant of that. It was important to look beyond the facts.

He urged City Council to continue doing what they could to make the public feel good about what was occurring. He apologized for having to speak this evening in light of what had occurred earlier today. He stated that it was not an indictment of City Council to say that they were sorry for what had happened to Mr. Tolan. This would not, however, have prevented Mr. Tolan’s fine lawyers from going ahead with the case. He referred to a police situation that had occurred in Dallas, Texas, wherein the Chief of Police had immediately apologized. Mr. Frazier stated that a simple apology would have diffused much of what had occurred.
Jana Bedi, 5209 Jessamine Street, Bellaire, Texas:

Ms. Bedi addressed City Council and advised that she was present this evening to speak about the permit parking ordinance on City Council’s agenda. She apologized for being very emotional about the concerns expressed at the last City Council meeting, noting that it was slightly out of order. The residents had been instructed to behave themselves today and they would.

She noted that the parking problem started last year, otherwise City Council would have heard and seen the residents much earlier. Ms. Bedi stated that it was very possible for City Council to make the lives of the residents of Laurel Street better. The residents were only asking for what she hoped the members of City Council had—a good quality of life. She referred to the aggravation that residents went through just trying to get down the street and into their homes.

The relief that the residents had asked for was minimal in mathematical terms. The residents were asking for permit parking from 11:00 a.m. until 6:00 p.m., Friday through Sunday, from May through September. This was not a significant portion of the year, and the residents were asking for this option very reluctantly.

Ms. Bedi referred to those people who might be shopping around Bellaire for homes, noting that the congestion around the Bellaire Family Aquatic Center did not provide a good image or representation for Bellaire.

Further, Ms. Bedi indicated that since her children attended Bellaire High School she was well versed with the situation in that area. The student population in that area parked all day for nine months out of a year from about 7:00 a.m. until 4:00 p.m. Those parking on Laurel Street were family members parking for one to three hours per day. The probability of Laurel Street residents trying to sell permits was extremely low.

In closing, Ms. Bedi advised that she hoped that Councilman John Jeffery’s inspirational reading this evening would lead to good things for the residents of Laurel Street.

Lynn McBee, 5314 Evergreen Street, Bellaire, Texas:

Ms. McBee addressed City Council and referred to the Newcastle Drive improvements, noting she was very cognizant of the project because all of the construction vehicles traveled down Evergreen Street on their way to
Newcastle Drive. She suggested that when the City had a construction site underway, City Staff should be instructed to assign the permissible routes to the contractor.

Along the new concrete path on Newcastle Drive, which she was pleased to acknowledge was constructed of concrete rather than asphalt, education and enforcement was needed to let users know who was permitted and what types of uses were allowed on the pathway. If the pathway were not restricted, then strollers, pedestrians, joggers, and bikers would be mixed together on the path, possibly hindering their safety. She suggested that the City’s public safety people look at signage along the pathway.

Another problem area cited by Ms. McBee was on Chimney Rock Road, which was a bike route. The City allowed parking on that route, which was contradictory. There was no law against allowing parking there, but the City could prohibit parking on the bike route if they desired to do so.

With respect to the South Rice Avenue crossing at Laurel Street, the City had neglected to construct a sidewalk east of South Rice Avenue on the north side of the Condit Elementary School. The City was encouraging people to cross there with no sidewalk. She urged City Council to consider that this year, as it had been overlooked for several years.

Additionally, there was no striping across South Rice Avenue and certainly no traffic signal at South Rice Avenue and Laurel Street. Yet, the City was talking about creating a path through Loftin Park for the purpose of reaching the Family Aquatic Center. There had to be a beginning point and an ending point in order for the path to be logical. She urged City Council to consider a continuous pedestrian-way from the South Loop on the west side all of the way east into the Family Aquatic Center, including the piece that was missing along the Condit Elementary School property.

Thirdly, Ms. McBee advised that Laurel and Fifth Streets also needed sidewalks on the remaining portions. The City had spent close to $500,000 on sidewalks, with very little of that spent on new sidewalks. The City kept patching up the old sidewalks, but the gaps were not being filled.

Finally, Ms. McBee stated that she certainly hoped City Council would budget to expand City Staff and include a professional communications person whom the City could dub a “public information person” to be able to relay what the City did in an understandable way to the public. The City did not have anyone skilled in communications. Every time the City put something out, there was something wrong with it. A communications person could translate and inform the residents (who paid the bills) what the City was doing and why. Ms. McBee was not talking about an informative newsletter, but rather a professional communicator—which was the biggest hole on Staff.
Marie Bergeron, 5208 Laurel Street, Bellaire, Texas:

Ms. Bergeron noted that her husband, Ron Kikuchi, had emailed City Council about the various items that Mr. Bedi and others had addressed. She wished to talk about living in Bellaire, noting that she had been a resident for 21 years. Ms. Bergeron lived in two houses on Spruce Street; however, Tropical Storm Allison destabilized her last house on Spruce Street, and she tearfully had to leave it.

When Ms. Bergeron looked for a new home in Bellaire, she decided she would upgrade in two ways. One, she would find a street that had curbs. Second, she would find a street that did not have cars parked all over the place on it. She found Laurel Street and was most pleased with her choice.

This evening, there were only two cars parked on the street. By 10:00 p.m. this evening there would be no cars parked on the street, as the residents used their own driveways or garages to park. Ms. Bergeron indicated that the only saving grace for her was that she and her husband had a circular driveway. People still chose to park over one end of her driveway, and she constantly had to move cars to be able to get out.

Ms. Bergeron stated that she worked very, very long hours and could come home at night to peace and calm. On the other hand, it was not calm on weekends during the summer. She referred to a comment by Ms. McBee regarding the lack of a sidewalk on Fifth Street. Ms. Bergeron indicated that it might help with the children darting in and out on the street. Laurel Street itself did not have continuous sidewalks, so the children did have to duck in and out of cars along the street.

In closing, Ms. Bergeron pled with City Council to allow the residents on Laurel Street to have a quality of life that they paid for. She loved the Bellaire Family Aquatic Center, but it made life a little untenable for the residents. She indicated further that she had worked both at the University of St. Thomas (for 28 years) and Rice University (for three years). Rice University prohibited parking along the streets and the University of St. Thomas allowed parking on the streets until they were able to construct a new parking garage. The difference in terms of tranquility and visual appeal was unbelievable between the two campuses.

Mandy Nathan, 5211 Laurel Street, Bellaire, Texas:

Ms. Nathan noted that City Council had heard a great deal already about congestion and safety, but that she wished to address two of the more
general issues that seemed to underlie some of City Council’s concerns at the last meeting.

City Council seemed to be concerned as to why the 5200 block of Laurel Street warranted attention and assistance from the City in addressing parking issues when other blocks in the City had parking issues stemming from proximity to churches, businesses, schools, and/or extensive parking by residents and/or their guests. The other concern was why the City Council should allow Laurel Street to have permit parking instead of some alternative solution.

Regarding the first issue, one reason that the 5200 block of Laurel Street warranted assistance from the City was throughout the entire course of the City’s planning of the park, the City had said it wanted to wait and see what parking problems Bellaire Town Square would have and then work to address them. Now, having waited out the summer to see what would happen with the parking around the Family Aquatic Center, this was clearly the time to decide what should be done.

With the playground scheduled next in Bellaire Town Square, also on the Fifth Street end of Loftin Park, the problem was only going to become more acute if the City waited to address the parking issue.

Aside from that, the other problems on members of City Council’s blocks—nearby synagogues, churches, schools, and extensive residential parking—existed on Laurel Street as well. Like those who chose to buy homes near synagogues, churches, schools, and businesses, the residents of Laurel Street chose to buy near the Recreation Center and accepted the parking inconveniences that went with the location. Those inconveniences included not just the very occasional Holiday in the Park and Fourth of July celebrations, but things like the Trolley Run, Tents in Town, and the Little League Opening Ceremonies, to name a few from just the last two months, as well as swim meets and swim team parties, Basketball League parking (eight teams of ten players each every half hour), and regular Aquatic Facility parking, both on the weekend days and weekdays.

The Family Aquatic Center was new and a substantial improvement. The size and attendance was increased, but at the same time, available parking decreased. This created a parking problem significantly more sizable than the one residents bargained for. Ms. Nathan wondered how members of City Council, as residents of streets adjacent to churches and schools, would respond if the church or school on their block announced that they intended to ask the City for permission to double the size of its facility and the number of people it could accommodate, while decreasing the size of its adjacent parking by one-half. She asked if City Council would approve the request at all. More importantly, if City Council did, would they also not consider nearby residents justified in seeking assistance from the City in dealing with parking repercussions. Should the City not at least be equally willing to assist the
residents with parking situations created by new facilities developed by the City as when third parties created such situations?

Regarding the point some members of City Council made with respect to the numbers of cars parked on their streets and other streets due simply to residential parking, Ms. Nathan advised that Laurel Street residents had that to the same degree that members of City Council did. However, the Laurel Street residents were not talking about run of the mill everyday parking. The residents were talking about the City itself generating significant additional parking needs by virtue of a City facility that happened to be at the end of their residential street. This was the equivalent of the City deciding to build a new Municipal Court building at the end of the block of one of the members of City Council’s street and providing only 15 parking spaces.

The residents were not asking for special treatment to ensure less street parking from the other streets in Bellaire. The residents were asking, in light of the fact that the City itself had created the new facility and dramatically increased the public’s use of Laurel Street as an overflow parking area, that the City afford them the same parking accessibility that other people in Bellaire had—enough parking for themselves and guests when they needed it and the same confidence that other residents had that their street would not look like a parking lot every weekend day during the entire summer.

Regarding the second issue related to permit parking, Ms. Nathan assured members of City Council that the residents on Laurel Street held many meetings by themselves, as well as with the Mayor and City Manager, and that they considered many options for dealing with the problem. Permit parking was reached by a consensus of the residents as the option of choice. The residents did not want to come to City Council and throw their hands up in the air . . .

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

Kevin Schroder, 5201 Laurel Street, Bellaire, Texas:

Mr. Schroder addressed City Council and noted that although he had spoken at the last meeting, the residents felt that as a group they had not really addressed all of the issues at that time.

Obviously, the residents understood that there were times when their proximity to the Recreation Center and ball fields would lead to parking on their street. He understood that and made a decision to locate on the street anyway. Since the Family Aquatic Center had opened, however, things had dramatically changed. The residents had been very patient and now that they had one year under their belt, they understood what the Family Aquatic
Center meant and the popularity of it. It was a great facility, but the downside to the residents was the fact that their street turned into a parking lot on the weekends.

The residents felt that their concern was legitimate. The first time the residents met with the City Manager, they learned that the City intended to address parking issues as they arose. The residents felt that now was the time for the issues to be addressed, as they had been patient enough.

He noted, too, that after much discussion and compromise among the residents themselves, Mr. Schroder felt that the solution presented to City Council by the residents to mitigate the problem was the best solution. He agreed with Mayor Siegel that parking did exist, the City just needed to guide people to the parking.

Mr. Schroder acknowledged City Council’s concerns that with permit parking, the residents themselves would be parking on the street. He did not feel that this was a concern. Even if the residents wanted to sell parking permits, there was no viable person to sell permits to as the users were constantly changing.

Councilman Hickman brought up a great point as to restricted parking on one side. The residents had also considered this, but felt that it would not work for them. The residents did not typically park on the street—they used their driveways and garages.

Regarding safety concerns, Mr. Schroder indicated that he had two young children. Common sense told him that if the street was congested and there was limited visibility, this was a safety concern. City Council had an opportunity to address that concern.

He concluded by noting that he moved to Bellaire from the City of West University Place. He urged City Council to think about the impression that users of the Family Aquatic Center would have when they saw that parking was a “circus.”

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E. REPORTS:

1. CITY MANAGER’S REPORT – Areas of discussion include: Newcastle construction, update on the Friends of the Bellaire Library Used Book Sale, availability of the Bellaire historical DVD, quarterly crime and building permit indicators, Board, Commission, and Committee applications, status of Fournace Place right-of-way issues, Evergreen Park concerns, and upcoming meetings and events – Presented by City Manager Bernard M. Satterwhite, Jr.
City Manager Bernard M. Satterwhite indicated that before he got started on the City Manager’s Report this evening that the City Attorney wished to make a comment.

City Attorney Alan P. Petrov advised that he had a short informational statement to make in light of today’s news. Since today’s news was not an item on City Council’s agenda, the City could not have a discussion regarding it.

He continued and advised that this morning the Harris County Grand Jury returned an indictment against Sergeant Jeff Cotton regarding his use of force in the matter involving Robbie Tolan. No indictment was returned with respect to Officer Edwards.

As with any criminal charge, Sergeant Cotton was presumed innocent until proven otherwise and he would have the opportunity to a trial with the right to be defended by his personal attorney.

Until then, Sergeant Cotton would remain on administrative leave consistent with the City’s policies, as he had been.

City Attorney Petrov reiterated that this item was not on today’s agenda as the agenda had to be posted last week, and the City had no idea that this announcement would be made today. He felt it was important to make sure everyone knew about it and to let them know that a statement containing more information had been posted to the City’s website.

City Manager Satterwhite next presented the City Manager’s Report to City Council.

Newcastle Construction

It was noted that the construction on Newcastle Drive was progressing, with the next phase involving a move further south across Evergreen Park down to Verone Street. This would cause Evergreen Street to be closed at Newcastle Drive.

Ms. McBee brought up a good point earlier. Construction was underway at the other end of Evergreen Street at Renwick Drive, and there were traffic issues in that area.

The Evergreen Park area was also a concern. The City certainly wanted to maintain a sizable buffer between the playground and any street construction.
Friends of the Bellaire Library Book Sale

The Friends of the Bellaire Library Book Sale occurred last weekend. Approximately $3,450.00 was raised during the sale. The money would go directly to the Bellaire City Library for the purchase of new books and other resources.

Bellaire Historical DVD

City Manager Satterwhite reminded City Council and the audience that the Bellaire historical DVD was available. The first copy was free. Residents needed to come up to City Hall to claim their copy. Additional copies were available at a cost.

Boards, Commissions, Committees

With respect to City boards, commissions, and committees, it was noted that applications were being accepted through May 22nd. Applications were available online or at City Hall. The terms for the board, commission, and committee openings would begin on July 1, 2009. Openings were available on all of the City’s boards, commissions, and committees, and City Manager Satterwhite encouraged interested residents to submit an application.

Fournace Place Right-of-Way Issues

The residents that backed up to Fournace Place inside the West Loop had submitted a survey to the City to start the process for right-of-way abandonment on the north side of Fournace Place. The next step involved an appraisal of the property, and an appraiser had been engaged to perform that appraisal. Although the City engaged its own appraiser, the residents were responsible for paying for the appraisal. City Manager Satterwhite expected the process to continue to move forward.

Safety Concerns at Evergreen Park

City Manager Satterwhite referred to safety concerns that had been raised at Evergreen Park by residents, specifically with the fence gates. Right now, the fence gates were working, and the City hoped to keep them working. It was noted that the gates were not abuse-proof or industrial grade.

City Manager Satterwhite indicated that the City believed they had a fix to keep the gates in better working order than the past. He noted that this had been an ongoing problem, and the Parks & Recreation Department had been working on it for some time.
Another safety concern present at Evergreen Park was the power pole on the north side of the park near the swimming pool parking lot. The power pole was leaning toward the street at an angle and was made worse by Hurricane Ike. The City went through a process to get the replacement of the pole funded by the Federal Emergency Management Agency (FEMA). Earlier on the City’s engineers, CenterPoint Energy’s engineers, and others reviewed that pole to make sure that it could not inadvertently fall, and everyone felt fairly confident that the pole was safe. A larger problem was with the pole adjacent to the one that was leaning. The smaller pole belonged to the City, and the pole adjacent to it (which was also leaning) belonged to CenterPoint Energy. The City could not straighten its pole without CenterPoint Energy straightening their pole. Last week, both poles were straightened.

Upcoming Meetings/Events

The following upcoming meetings/events were noted:

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Type of Meeting</th>
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<tbody>
<tr>
<td>04/13/2009</td>
<td>7:00 p.m.</td>
<td>Workshop Session – Mid-Year Budget Review/CIP Review/Fire Station Schematic Design</td>
</tr>
<tr>
<td>04/20/2009</td>
<td>7:00 p.m.</td>
<td>Regular Session</td>
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</tbody>
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QUESTIONS/COMMENTS FROM CITY COUNCIL:

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

C: **Mayor Cindy Siegel** stated that this had been a difficult time for everyone. She knew it had been extremely difficult for the Tolan family, and it was not going to go away for a while. This had also been extremely difficult for the City. When all else failed, Mayor Siegel stated that she had to believe in the legal system. She commended the District Attorney, noting that she had always been very methodical and was doing a wonderful job as the District Attorney. The citizens of Bellaire would get through this and, hopefully in the end, justice would be served. The City would work through these issues with the Tolans.

Mayor Siegel advised that the Tolans continued to be in her thoughts and prayers every day. She, too, was blessed because many people had told her that she and the City were in their thoughts and prayers. Mayor Siegel asked everyone to keep in mind that these times were difficult and that we needed all the prayers and thoughts we could get as we moved forward.
Mayor Siegel’s hope was that once the City came through this, that the City would be in a better place and would have learned from this experience and become a better City and a better community because of it.

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

A motion was made by Councilman James P. Avioli, Sr., and seconded jointly by Councilman Phil Nauert and Councilman Pat McLaughlan 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

2. **2008 ANNUAL AUDIT AND COMPREHENSIVE ANNUAL FINANCIAL REPORT (CAFR) for the City of Bellaire, Texas, for the fiscal year ended September 30, 2008, by Belt Harris & Associates, LLP, Certified Public Accountants – Presented by Belt Harris & Associates, LLP; Item submitted by Chief Financial Officer Donna Todd on behalf of the Bellaire Audit/Finance Committee.**

Stephanie Harris, Partner and CPA, Belt Harris & Associates, LLP, presented the 2008 Annual Audit and Comprehensive Annual Financial Report (CAFR) for the City of Bellaire, Texas, for the fiscal year ended September 30, 2008, to City Council.

As a part of the process in changing their firm’s name (from Sandersen Knox & Belt to Belt Harris & Associates), the firm changed the partner on the audit engagement to provide a new perspective.

Ms. Harris indicated that she would present several different reports this evening. As a result of Hurricane Ike, the City of Bellaire spent over $500,000 in federal funds, which required a “single audit.” As a
result, Belt Harris & Associates, LLLP, issued two different reports in a smaller bound document. She was pleased to state that the firm did not have any findings as a result of the additional procedures that were performed. A clean, unqualified opinion was also issued on the City’s compliance with internal controls over their major federal work programs.

With respect to the City’s Comprehensive Annual Financial Report (CAFR), Ms. Harris directed City Council to page 15, which was the official Independent Auditors’ Report. She was pleased to be able to say that her firm had issued a clean, unqualified opinion on the City’s financial statements. This meant that all disclosures required by generally accepted accounting principles (GAAP) had been included and that the financial statements themselves were materially correct.

City Council was next directed to page 29 of the CAFR, Statement of Net Assets for the City as of September 30, 2008. Ms. Harris stated that on the full accrual basis required by GASB 34 (Government Auditing Standards Board Statement No. 34), the Statement of Net Assets was essentially a snapshot of the City at September 30, 2008. The City had total assets of $119 million rounded, total liabilities of $63 million rounded, leaving a total net assets of $55 million rounded.

Pages 32 and 33 of the CAFR were noted to be the City’s modified accrual Balance Sheet at September 30, 2008. This was, again, a snapshot of the City’s position at that date. The City had $22 million rounded in total assets, $2.8 million rounded in total liabilities, leaving a total fund balance of $19.8 million.

With respect to pages 34 and 35 of the CAFR, Statement of Revenues, Expenditures, and Changes in Fund Balances (or Income Statement) for the year ended September 30, 2008, the City had total revenues of $21 million rounded, total expenses of $28.6 million rounded, leaving the City with a change in net assets of $1.6 million.

Pages 38, 39, and 40 of the CAFR contained the City’s financial statements on a full accrual basis for the City’s Water and Sewer Fund. At September 30, 2008, the Water and Sewer Fund had total current assets of $6.2 million rounded, total noncurrent assets of $48.8 million rounded, total liabilities of $1 million, leaving a total net assets of $54 million rounded.

For the year, the City took in operating revenues of $6.9 million, total operating expenses at $7.7 million, leaving the City with a change in net assets of $343,000.

Pages 62 and 63 of the CAFR contained a budget to actual comparison for the General Fund. For the year ended September 30, 2008, the
City’s General Fund contained $15.8 million in revenues leaving the City with a positive budget variance of almost $1 million. Total expenditures were $14.5 million, leaving the City with a change in fund balance of $1.7 million rounded. The City had planned to decrease its fund balance by $2.7 million. As a result, the City had a positive budget variance of $1 million.

In closing, Ms. Harris indicated that the City looked great financially.

Councilman John Jeffery, Chair, Bellaire Audit/Finance Committee, advised that on April 1, 2009, the Bellaire Audit/Finance Committee convened with Belt Harris & Associates, LLLP, to discuss the CAFR for the period ended September 30, 2008. Members of the Bellaire Audit/Finance Committee (“Committee”) were noted to be Councilman James P. Avioli, Sr., Mayor Cindy Siegel, Chief Financial Officer Donna Todd, City Manager Bernard M. Satterwhite, Jr., and Councilman John Jeffery.

During the meeting, the Committee went through the Management Letter, Response to the Management Letter, the audit, CAFR, and Disclosure Letter. The Committee did not find anything out of the ordinary and recommended approval of the audit and CAFR by City Council this evening.

Councilman James P. Avioli, Sr., Member, Bellaire Audit/Finance Committee, noted that as Ms. Harris pointed out, the City received an unqualified report. There were some areas that the City needed to work on that the Chief Financial Officer was aware of. One of the things that the Committee pointed out was that in some areas there was a lack of segregation of duties. Additionally, the City was still working on identifying its capital assets and the projected life of the assets. This was an ongoing project.

Councilman Avioli indicated further that these areas were brought up last year and in the prior year. However, the City had made a great deal of progress in this area due to the Chief Financial Officer expanding her staff with a new Accounting Manager. The Committee expected to see more progress in this area. He wished to point out that there were no troublesome issues in this report. The report was a clean one and a good one.

Councilman Avioli referred to the cover of the CAFR this year, noting that there was a contest in the City to come up with the cover. He complimented those that participated and the Chief Financial Officer for pulling all of it together.
In closing, he noted that the Committee recommended that City Council accept and receive the report that Ms. Harris’ firm had put together as presented.

**QUESTIONS/COMMENTS FROM CITY COUNCIL:**

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

**Q:** Councilman Will Hickman thanked Ms. Harris for coming this evening and the Audit/Finance Committee for their work on the report and CAFR as well. He referred to numerous scandals that had been in the news recently, and he inquired as to how he could know that the reported numbers were real.

**A:** Ms. Harris advised that this was a great question and took it back to the audit process itself. The audit was conducted on a test basis. The amounts were reviewed and supported by actual, hard copy documentation, especially the numbers that appeared on the balance sheet as of September 30, 2009.

**Q:** Councilman Hickman asked for confirmation that Ms. Harris’ firm looked at the books and then verified the information in the City’s books.

**A:** Ms. Harris advised that Councilman Hickman was correct.

**C:** Mayor Cindy Siegel stated that she was a CPA, as was her husband, and what she understood about some of the scandals was that oftentimes either inexperienced CPAs had been used or had not actually done the work that was purported to have been done. She advised that the City had an excellent auditing firm. Even with that, there could still be a problem. This was the purpose for an audit and good internal controls, but nothing was completely foolproof.

**R:** Ms. Harris agreed with Mayor Siegel there was no absolute.

**Q:** Mayor Pro Tem Peggy Faulk inquired as to whether Ms. Harris’ firm had looked at how well the City’s new accounting software was performing.

**A:** Ms. Harris advised that her firm did not specifically look at the City’s software. Internal controls around the software would have been reviewed during fieldwork, but she did not have any specific comments to make with regard to the software.
MOTION TO ACCEPT AUDIT AND CAFR INTO THE RECORD:

A motion was made by Councilman Will Hickman and seconded by Councilman John Jeffery to accept the 2008 Annual Audit and Comprehensive Annual Financial Report (CAFR) of the City of Bellaire, Texas, for the fiscal year ended September 30, 2008, as presented by Stephanie Harris, Partner and CPA, Belt Harris & Associates, LLLP, into the record.

VOTE ON MOTION TO ACCEPT AUDIT AND CAFR 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

F. NEW BUSINESS:

Mayor Cindy Siegel and Councilman Will Hickman requested that an item on the agenda, F. 2. b., be considered at this point in the meeting due to the number of persons present in the audience to hear City Council’s discussion of the item. After noting no objections, F. 2. b. was considered at this point in time.

2. ADOPTION OF ORDINANCES:

Code Amendment

b. CONSIDERATION of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, amending Chapter 30, Traffic and Vehicles, Article II, Traffic-Control Regulations, Division 5, Parking, of the Code of Ordinances of the City of Bellaire, Texas, by adopting a new Section 30-115, Restricted Parking – Town Square Area, for the purpose of establishing a permit parking process for an area in the vicinity of Bellaire Town Square – Item submitted by City
Clerk Tracy L. Dutton on behalf of City Attorney Alan P. Petrov.

MOTION TO ADOPT ORDINANCE:

A motion was made by Councilman Phil Nauert and seconded by Councilman James P. Avioli, Sr., to adopt an ordinance of the City of Bellaire, Texas, amending Chapter 30, Traffic and Vehicles, Article II, Traffic-Control Regulations, Division 5, Parking, of the Code of Ordinances of the City of Bellaire, Texas, by adopting a new Section 30-115, Restricted Parking – Town Square Area, for the purpose of establishing a permit parking process for an area in the vicinity of Bellaire Town Square.

DISCUSSION ON MOTION TO ADOPT ORDINANCE:

Councilman Phil Nauert noted that this was the second time that City Council had heard about this issue. Most of what City Council did at the Council table had very little impact on the average citizen. For example, the company the City purchased its hydrants or traffic signs from or what the City paid for concrete did not matter or impact most citizens. Occasionally an issue came to City Council that was substantive, and it was City Council’s responsibility to address that issue.

He agreed that there was no perfect solution to the problems on Laurel Street, but he believed that problems existed and he believed that the City was substantially responsible for the creation of those problems. He did believe that the safety of excited children was real. This was not about convenience and the disruption of someone’s country club existence. This was a real issue. Councilman Nauert was particularly impressed that this was a problem that the people who were the most affected by had met and compromised on a solution.

Councilman Nauert appreciated the inconvenience that the residents on Laurel Street had put up with and he appreciated the efforts they had taken to bring forth a reasonable solution. For that reason, he was substantially supportive of what had been proposed. He noted that this was an example of a situation where City Council could do something right.

Councilman Will Hickman stated that he had a question for Deepak Bedi (primary petitioner for permit parking on Laurel Street). He noted that Deepak Bedi had started reading his response to an email that Councilman Hickman had sent him and was cut off because his allotted speaker time had ended.
Councilman Hickman asked him if he could finish reading that response as to whether or not restricted parking on one side of the street would be a good idea.

Deepak Bedi, 5209 Laurel Street, Primary Petitioner for Permit Parking, indicated that he was very complimentary in his response to Councilman Hickman’s suggestion of having restricted parking on one side of the street and no parking on the other. Mr. Bedi’s response was as follows: Your idea, while excellent for addressing through traffic congestion such as that seen on Fifth Street, is unsuitable for us since it will put the burden on one side of the street. An overwhelming majority of the residents are not agreeable to having no parking on their side. While they rarely park their own cars on the street, they would not like to lose that ability for their visitors, lawn people, service people, etc., who park there from time to time. And since we are requesting permits only for Friday through Sunday, 11:00 a.m. until 6:00 p.m., May through September, all of the above people could park weekdays without permits and it will be the residents’ responsibility to get permits for any of these people for weekends. Additionally, I believe that the only residential streets with one-sided parking are adjacent to public facilities, such as schools—Third Street near Condit. Your solution would apply admirably to Fifth Street at the Recreation Center. Laurel was a residential street that was overcome with bumper-to-bumper parking as our main problem and therefore different than say Fifth Street, which needs one-sided parking. Pool visitors would then be motivated to find open spots on City parking along Fifth Street or South Rice Avenue.

At the end of Mr. Bedi’s response he pledged that if the residents’ solution would not work out for any reason that he would strongly urge his neighbors to move toward looking at one-sided parking as suggested by Councilman Hickman.

Councilman Pat McLaughlan agreed that there were certain problems and that the City of Bellaire had done a lot to create the problems. He also felt that the City of Bellaire had been deficient in dealing with the issues.

The residents made multiple comments about their driveways being blocked and cars parked too close to the curb cut. This was a failure in the City’s law enforcement. There was a law, as he understood it, that required cars to park a certain distance back from a curb cut. He lived near Bellaire High School and his curb had been painted to indicate how far back one needed to park from the curb cut. If a car was not parked
appropriately, then the City needed to ticket that car. If a driveway was blocked, surely the resident could call the Police Department and advise them.

The other problem was that the City had failed to provide appropriate access to alternate parking. Alternate parking was available at Condit Elementary School; however, there was no suitable crosswalk to get from the parking lot to the Family Aquatic Center. There was no sidewalk around the Family Aquatic Center to guide people from the Condit Elementary School parking lot to the entrance on the west side of the Family Aquatic Center. Councilman McLaughlan advised that he felt the City had been deficient in those regards. He was hopeful that the City could correct those deficiencies.

Councilman McLaughlan stated further that there were problems with the method proposed by the residents because under the current ordinance, the residents on Linden, Willow, and Jessamine Streets would surely request the same treatment. That approval would come from the City Manager and not the City Council. This was certainly beneficial for the people in the 5200 blocks of Linden, Willow, and Jessamine Streets. He hoped that the City could effectively address where the parking would end up, but he felt certain that there would continue to be a standing request for this same type of accommodation.

Additionally, Councilman McLaughlan stated that he could not help but feel that the penalty for a violation under the ordinance was harsh. He was concerned specifically with the towing provision. If a car were parked safely on the street, but not in conformance with the permit restriction, it seemed hard-hearted to him for a family to come up and be unaware of the permit system, enjoy a few hours at the Family Aquatic Center, and come out and find out that their car had been towed.

**Councilman John Jeffery** appreciated knowing that a fire truck would be able to get down Laurel Street even with cars parked on both sides of the street. With respect to signage, he inquired as to whether the City would post signs near the Family Aquatic Center directing people to other City lots and the Condit Elementary School lot.

**City Manager Bernard M. Satterwhite, Jr.**, advised that the City was working to mark the setback from the controlled intersection on Fifth Street, as well as signage at the entrance to the parking lot suggesting other alternative parking areas.
Councilman Jeffery suggested advertising the alternative parking when residents and nonresidents came up to purchase a pool pass for the summer season.

City Manager Satterwhite agreed and noted that the City could advertise that better than it had in the past.

Mayor Pro Tem Peggy Faulk stated that she felt the residents had presented a very compelling case and she was ready to vote "yes" on this agenda item.

Councilman Hickman thanked the residents for coming back and engaging in an email dialogue with him. He felt that this was a good problem to have as it meant that the Family Aquatic Center was very popular. His daughter was very excited about the Family Aquatic Center opening up soon. He noted, too, that it was not a good problem for the residents of Laurel Street.

To address the safety and quality of life, he emailed his suggestion that he offered as an amendment last time to each of the residents to have no parking on one side of the street and permit parking on the other side. He thought it would be a better solution to the safety problem. Everyone said “no thank you.” Councilman Hickman noted that he did not live, drive, or park on Laurel Street, so if the residents were not concerned about the safety problem, then he was not concerned for them.

As Deepak Bedi mentioned, if this solution did not work the way the residents thought it would, then they would come back to City Council for modifications at a later date.

Councilman Hickman agreed with Councilman McLaughlan in that he felt that towing was a little harsh. A fine up to $200 per offense for parking in the restricted area was enough. He next offered an amendment as set forth below.

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

An amendment (no. 1) was made by Councilman Will Hickman and seconded by Councilman Pat McLaughlan to revise subsection (d)(4) of the ordinance to limit the opt-in period each year, said subsection of which would read as follows:

(d) The city manager is authorized to add blocks of streets to or delete blocks of streets from the restricted parking area
designated in subsection (a) of this section in accordance with the following terms and conditions:

(4) Petitions to opt in or out of the restricted parking area designated in subsection (a) of this section submitted after the July 1, 2009, petition deadline may be considered by the city manager during the one-month period on or before May 1, 2010. Petitions may continue to be filed with the city manager during the one-month period on or before May 1 of each year thereafter in which this section shall remain in full force and effect (see enumerated item 1. above).

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

Mayor Cindy Siegel inquired as to whether the City Attorney had any problem with the amendment as suggested by Councilman Hickman.

City Attorney Alan P. Petrov advised that he had no problem with the amendment. He indicated that the language was essentially a duplicate of what the City did up at Bellaire High School. Councilman Hickman was correct in that under the current language a person could file a petition in June for the next year. He was narrowing the window for the City to receive that petition, which might actually make administration a little easier.

Mayor Siegel inquired of City Manager Satterwhite if he saw any problems with the amendment administration-wise.

City Manager Satterwhite indicated by a nod of the head that the amendment would not cause any problems.

Councilman Jeffery asked for confirmation that the street requesting to opt-in needed to receive an approval on their application from the City Manager before they were approved for permit parking. He referred to the length of time and hard work it took for the Laurel Street residents to obtain signatures and get their petition together. He was not certain that a one-month period was enough time.

Councilman Hickman advised that the opt-in was a limited period each year. The residents could work on their petitions all during the year, but would have a month in which to submit or file their petitions. In other words, this was a filing deadline.
Councilman Jeffery expressed concern that people might wait until the last minute and not have enough time to complete their petition within the one-month filing deadline. He inquired as to how long the residents had to file in the Bellaire High School area.

City Manager Satterwhite indicated that the filing period began at the end of the school year and ended either in July or August. In other words, the residents in the high school area had about a one-two month filing period.

City Attorney Petrov advised that Councilman Hickman was correct. The residents could be working on their petitions several months before the filing deadline. Even without the language, there was still a May 1st deadline.

City Manager Satterwhite stated that he felt that Councilman Hickman made a good point.

Councilman Nauert advised that he believed this amendment was a good test of how significant a particular street's problem was. If it were a significant problem, then the residents would make it happen.

Mayor Siegel felt that making the process an administrative one was good in that residents wishing to opt-in would not have to go through City Council to do so. This had worked well with the Bellaire High School area.

VOTE ON AMENDMENT (NO. 1) TO 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  

AMENDMENT (NO. 2) TO MOTION TO ADOPT ORDINANCE, AS AMENDED:

An amendment (no. 2) was made by Councilman Will Hickman and seconded by Councilman Pat McLaughlan to revise subsection (e) of the ordinance by removing the towing provision, said subsection of which would read as follows:

(e) Persons found in violation of this section shall be subject to a fine of up to $200.00 per offense for parking in the restricted parking area designated in subsection (a) of this section and from future areas to be designated as “restricted” by the city manager under provisions included in subsection (d) of this section.

DISCUSSION ON AMENDMENT (NO. 2) TO MOTION TO ADOPT ORDINANCE, AS AMENDED:

Mayor Siegel advised that it was her understanding historically at Bellaire High School that there had been a “warning period” each year in which cars were given warnings, but not towed. In other words, the Bellaire Police Department eased into the towing as the school year progressed. She stated that her concern was that if someone were blocking someone else’s driveway, the amendment might take away the City’s ability to tow him or her if the towing provision was deleted from this ordinance. By leaving the provision in the ordinance, the Bellaire Police Department could use their discretion with respect to towing.

City Attorney Petrov indicated that the Bellaire Police Department always had the discretion as to whether or not they towed a vehicle.

Councilman Hickman asked the City Attorney if he could request that a car be towed if it were blocking his driveway this evening, noting that there was no parking ordinance on his street.

City Attorney Petrov advised that he believed Councilman Hickman was correct.

Councilman Hickman inquired as to whether the same existed if someone were parked too close to a stop sign.

City Attorney Petrov advised that Councilman Hickman was correct.
Mayor Siegel asked for confirmation that removing the towing provision from the City’s restricted parking ordinance would not prevent the Bellaire Police Department from towing for the various situations mentioned by Councilman Hickman.

City Manager Satterwhite stated the if a car were blocking someone’s driveway, then a request could be made for the Bellaire Police Department to have that vehicle towed.

Mayor Siegel asked if the vehicle could be towed if it were two feet out from a driveway.

City Manager Satterwhite advised that he doubted if it would be towed in that instance. He noted that he could not really say for sure. He referred to a case a few years ago where the City did tow a car in a non-tow area that was parked within so many feet of something (he could not remember exactly what it was) and because it was not properly signed or stated in the ordinance, it was overturned in Municipal Court and the City had to pay the towing fee back.

Mayor Siegel asked Chief of Police Randall C. Mack if he could address this issue from the enforcement standpoint. Specifically, whether or not the City should remove the towing provision. In other words, would that limit the Bellaire Police Department's ability to enforce the ordinance?

Chief of Police Randall C. Mack advised that it would not limit the Police Department’s ability to have a car towed if it were blocking someone’s driveway. He indicated that Councilman McLaughlan had referred to a specific City ordinance generally in the area of the Bellaire High School that prohibited parking within so many feet of a driveway. This ordinance did not apply citywide. It only applied to certain designated streets. In a situation where that ordinance did not apply, the vehicle would need to be blocking access to the driveway to be towed.

Mayor Siegel referred to the fact that the violation was a $200 fee per offense and/or towing. She inquired as to Chief Mack’s opinion regarding the removal of that portion of the violation.

Chief of Police Mack indicated that blocking a driveway was a separate offense as opposed to a violation that might occur as a result of violating the provisions of the posted permit parking area. He noted that the Bellaire Police Department did periodically tow vehicles in the Bellaire High School area. That area was posted as a “tow-away” zone.
Councilman Nauert advised that he agreed with Councilman McLaughlan in that towing a car was harsh, but it was what made an ordinance effective. The ordinance did not require that a car be towed, but rather stated that a car might be towed. He doubted that the City would have to tow very many cars to make a very effective ordinance. He stated that he was comfortable with leaving the provision in the ordinance.

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

Motion failed on a 2-5 vote as follows:

FOR: Hickman, Will
     McLaughlan, Pat

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

ABSENT: None

DISCUSSION ON ORIGINAL MOTION TO ADOPT ORDINANCE, AS AMENDED:

Mayor Siegel commended the residents in the 5200 block of Laurel Street, noting how hard they had worked on this issue. She indicated that she did drive over to the area on a weekday and found only two cars parked on the street and two homes with circular driveways. She indicated that she felt this ordinance would go a long way to mitigate the problem for the residents.

VOTE ON ORIGINAL MOTION TO ADOPT ORDINANCE, AS AMENDED:

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

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

ABSENT: None

{Ordinance was subsequently numbered: 09-022}

The Bellaire City Council considered the remainder of the agenda in the order in which it was written.

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, March 23, 2009 – Item submitted by City Clerk Tracy L. Dutton.

Bid Awards/Ordinances

b. CONSIDERATION of and possible action on a recommendation from the Bellaire Public Works Department and Consulting Engineers HDR|Claunch & Miller to award Bid No. 09-013, Rebuild Bellaire Program, Phase Two, Storm Sewer Rehabilitation, to the lowest qualified bidder, Reynolds Inliner, LLC, in the amount of $199,539.00 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, on behalf of the City of Bellaire, Texas, a Standard Form of Agreement with Reynolds Inliner, LLC, for said project in the amount of $199,539.00 – Item submitted by Director of Public Works Joe Keene.

c. CONSIDERATION of and possible action on a recommendation from the Bellaire Public Works Department and Consulting Engineers HDR|Claunch & Miller to award Bid No. 09-014, FY 2008 Sidewalk Repair/Maintenance Project, to the lowest qualified bidder, Metro City Construction L.P., in the amount of $422,588.00 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
Final Change Order and Payment/Ordinance

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 Final Change Order (No. 1) with R + B Group, Inc., to a contract for the “Aeration Basin Rehabilitation Project” at the Bellaire Wastewater Treatment Plant consisting of a net decrease in said contract of $64,528.00 and approval for the City of Bellaire, Texas, to make the final payment to R + B Group, Inc., on said contract in the amount of $27,003.10 – Item submitted by Director of Public Works Joe Keene.

Note: Several members of City Council requested that one or more items set forth on the Consent Agenda be considered separately as follows: Mayor Pro Tem Faulk requested separate consideration of F. 1. b. and c.; Councilman Hickman requested separate consideration of F. 1. c.; and Councilman McLaughlan requested separate consideration of F. 1. b.

MOTION TO APPROVE A PORTION OF THE CONSENT AGENDA DATED APRIL 6, 2009:

A joint motion was made by Councilman Phil Nauert and Mayor Pro Tem Peggy Faulk and seconded by Councilman Will Hickman to approve a portion of the Consent Agenda dated April 6, 2009, consisting of the following items:

- Approval of minutes of the Regular Session of the City Council of the City of Bellaire, Texas, held Monday, March 23, 2009; and

- Adoption of an ordinance of the City Council authorizing the Mayor to execute a Final Change Order (No. 1) with R + B Group, Inc., to a contract for the “Aeration Basin Rehabilitation Project” at the Bellaire Wastewater Treatment Plant consisting of a net decrease in said contract of $64,528.00 and approval for the City to make the final payment to R + B Group, Inc., on said contract in the amount of $27,003.10.
VOTE ON MOTION TO APPROVE A PORTION OF THE CONSENT AGENDA DATED APRIL 6, 2009:

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 related to the Final Change Order (No. 1) with R + B Group, Inc., was subsequently numbered: 09-020}

INDIVIDUAL CONSIDERATION OF CONSENT AGENDA ITEM B:

b. CONSIDERATION of and possible action on a recommendation from the Bellaire Public Works Department and Consulting Engineers HDR|Claunch & Miller to award Bid No. 09-013, Rebuild Bellaire Program, Phase Two, Storm Sewer Rehabilitation, to the lowest qualified bidder, Reynolds Inliner, LLC, in the amount of $199,539.00 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, on behalf of the City of Bellaire, Texas, a Standard Form of Agreement with Reynolds Inliner, LLC, for said project in the amount of $199,539.00 - Item submitted by Director of Public Works Joe Keene.

MOTION TO AWARD BID AND ADOPT ORDINANCE:

A motion was made by Councilman Will Hickman and seconded by Mayor Pro Tem Peggy Faulk to award Bid No. 09-013, Rebuild Bellaire Program, Phase Two, Storm Sewer Rehabilitation, to the lowest qualified bidder, Reynolds Inliner, LLC, in the amount of $199,539.00 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, on behalf of the City of Bellaire, Texas, a Standard Form of Agreement with Reynolds Inliner, LLC, for said project in the amount of $199,539.00.

DISCUSSION ON MOTION TO AWARD BID AND ADOPT ORDINANCE:

Mayor Pro Tem Peggy Faulk inquired as to whether the City had used Reynolds Inliner, LLC, before and for some background as to why the City needed to replace this particular storm sewer, noting she assumed the storm sewer was going between the homes.

James Andrews, P.E., HDR|Claunch & Miller, indicated that this was not a storm sewer replacement, but rather a method to rehabilitate the storm sewer so that the City did not have to go in this very restrictive area to dig up and replace the storm sewer. This was an inliner that virtually restored the flow characteristics that were originally for that particular drainage area. It would also give the storm sewer strength and prohibit any intrusion of soil from surrounding areas from entering the storm sewer system.

Mayor Pro Tem Faulk inquired as to whether the City had used Reynolds Inliner, LLC, before.

Mr. Andrews indicated that the City of Bellaire had not used this particular contractor to his knowledge, but HDR|Claunch & Miller had good, successful relations with them on other municipal clients’ projects.

Councilman James P. Avioli, Sr., referred to the technical process on this project and inquired as to whether this was a liner that was pulled through an existing pipe or formed in an existing pipe.

Mr. Andrews stated that it was actually formed in an existing pipe. It was an impregnated felt liner pulled in and heated with either steam or hot water to cure in place.

Councilman Avioli asked for confirmation that the liner was formed to the pipe.

Mr. Andrews advised that Councilman Avioli was correct, the liner was formed to the inside diameter of the existing pipe.

Councilman Avioli asked for confirmation that the liner adhered to the pipe and would not experience any shrinkage.
Mr. Andrews indicated that the liner adhered to the pipe and once cured, was solid pipe.

Councilman Avioli asked for confirmation that the liner did not have any seams.

Mr. Andrews advised that Councilman Avioli was correct—there were no seams.

Councilman Will Hickman asked Mr. Andrews if he could address drainage from the north to the south with the West Loop, Avenue B, Newcastle Drive, and Baldwin Avenue. In other words, what the City had done since Tropical Storm Allison for that area of town.

Mr. Andrews stated that the City had made a tremendous amount of improvements for that particular area of town. During the Bellaire Millennium Renewal Program (BMRP), one of the great improvements that were effected by the City of Bellaire and the Texas Department of Transportation (TXDOT) was actually doubling the size of the drainage system on Loop 610. Also during the BMRP, a new storm sewer was placed on Avenue B in that same area that virtually took flow off of the Newcastle Drive box, thus increasing the capacity in that area.

Mr. Andrews continued and noted that the project before City Council this evening was one small sewer line that was in need of rehabilitation. The line was old, leaked, and crushed to some degree. The City did not wish to get back there and dig up pipes between homes. This method of rehabilitation was a trench less technology that would solve the drainage problem in that area.

Councilman Hickman referred to the Baldwin Avenue improvements and inquired as to whether that was an ongoing project.

Mr. Andrews stated that Baldwin Avenue would be the next project that the City would undertake that was in conjunction with the Rebuild Bellaire Program. The City received funds from the Metropolitan Transit Authority of Harris County, Texas (METRO), to participate in that project. It should come forward to City Council as the next project under the Rebuild Bellaire Program.
Councilman Phil Nauert inquired as to whether the City had televised this sewer system or performed flow calculations on it.

Mr. Andrews advised that both had been done. Some point repairs would likely be necessary.

Councilman Nauert inquired as to how the City could recapture the original diameter in those areas where the pipe was crushed.

Mr. Andrews indicated that those particular areas would have to be dug up and the outer pipe rebuilt.

Councilman Nauert inquired as to how that would work in the bid proposal before City Council.

Mr. Andrews indicated that the contract was a unit cost contract and that there was a line item in the contract for point repairs. A certain number were estimated based on his and his colleagues’ inspection of the television logs.

Councilman Nauert asked for confirmation that there was a potential for point repairs.

Mr. Andrews advised that there was potential for a few areas of point repairs. Again, the contractor had to go out and televisie the line again. HDR|Claunch & Miller would monitor that process and review those tapes and make recommendations as to whether point repairs were necessary.

Councilman Pat McLaughlan noted that with the improvements that had been put in place regarding Avenue B, tremendous expansion capability along the West Loop, future work on Baldwin Avenue, cleaning up Newcastle Drive, etc., this project seemed to be a relatively small storm water line and inquired as to whether the rehabilitation was necessary.

Mr. Andrews stated that if all of the streets that this line served from Holly Street south to Cypress Ditch were reconstructed, the line could be abandoned. The City could regrade the gutter lines to fall back to Avenue B and Loop 610. Right now, the City could not. This line was really in need of repair. The grades were such that there were sag points in those blocks from Holly Street south.

Councilman McLaughlan asked for confirmation that there was a curb intake on each of those streets that served the line.
Mr. Andrews advised that Councilman McLaughlan was correct.

Councilman McLaughlan stated that it then seemed that this line was very much undersized. A 24” storm water line was old technology.

Mr. Andrews indicated that 24” lines were still utilized. This particular line was 24” at the upper end and outfalls to Cypress Ditch with a 36” pipe.

Councilman McLaughlan asked for confirmation that this was from Mimosa Street to Cypress Ditch, a very short distance.

Mr. Andrews indicated that the line went from 24” to 30” to 36”. In other words, it increased in size as it outfalls to Cypress Ditch.

Councilman McLaughlan advised the he understood the need to minimize inconvenience in the side yard easements, but inquired as to whether there was any rationale for increasing the size of this line.

Mr. Andrews advised that he believed the City had it covered. The storm sewer had already been replaced on Birch Street (at the upper end of this system), and the City had systematically taken streets on the upper end of the drainage area off of this system.

Councilman McLaughlan asked for confirmation that the line used to run as far north as Birch Street.

Mr. Andrews advised that Councilman McLaughlan was correct.

Councilman McLaughlan noted that the technique proposed was an interesting one, however, in the information provided in the agenda packet, this technique only had a 50-year design life. Concrete pipe, assuming no collapses occurred, lasted longer. He indicated that it was near-term life limited and asked if the engineers were okay with that.

Mr. Andrews indicated that a 50-year design life on any civil engineering project was a formidable life cycle.

Councilman McLaughlan stated that he would probably disagree and inquired as to whether Mr. Andrews was referring to the life cycle of a PVC pipe.
Mr. Andrews stated that this was a matter of serviceability. There would be 50-year service issues with this type of pipe. He did not believe that the entire pipe would disintegrate in 50 years. There would be maintenance issues and he believed this was what the 50-year life span referred to.

Councilman John Jeffery inquired as to whether all of the bidders were bidding on the same type of technology with respect to this project.

Mr. Andrews advised that all bidders were bidding on the same type of technology. He agreed that some of the bids were outrageous and believed that some bidders may have thrown some numbers together just to see what others were bidding.

Councilman Jeffery noted that Mayor Pro Tem Faulk had already inquired as to whether the City had ever used Reynolds Inliner, LLC, before. He asked if the City had ever used inliner technology before.

Mr. Andrews advised that the City had used inliner technology before on several major lines in the City.

City Manager Bernard M. Satterwhite, Jr., noted that the City had received many bids on other projects as well with a wide difference in the top bid and low bid.

**VOTE ON MOTION TO AWARD BID AND 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  
McLaughlin, Pat  
Jeffery, John

**OPPOSED:** None

**ABSENT:** None

{Ordinance was subsequently numbered: 09-018}
INDIVIDUAL CONSIDERATION OF CONSENT AGENDA ITEM C:

c. CONSIDERATION of and possible action on a recommendation from the Bellaire Public Works Department and Consulting Engineers HDR|Claunch & Miller to award Bid No. 09-014, FY 2008 Sidewalk Repair/Maintenance Project, to the lowest qualified bidder, Metro City Construction L.P., in the amount of $422,588.00 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 Metro City Construction L.P. for said project in the amount of $422,588.00 – Item submitted by Director of Public Works Joe Keene.

MOTION TO AWARD BID AND ADOPT ORDINANCE:

A motion was made by Councilman Will Hickman and seconded by Councilman Pat McLaughlan to award Bid No. 09-014, FY 2008 Sidewalk Repair/Maintenance Project, to the lowest qualified bidder, Metro City Construction L.P., in the amount of $422,588.00 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 Metro City Construction L.P. for said project in the amount of $422,588.00.

DISCUSSION ON MOTION TO AWARD BID AND ADOPT ORDINANCE:

Mayor Pro Tem Peggy Faulk advised that she did not understand what the “add alternate” bid was for and asked for clarification regarding it.

James Andrews, P.E., HDR|Claunch & Miller, advised that the City was working within a budget and had a quantity of sidewalk (linear feet) that it wished to repair. Since the City felt that the amount it wished to repair might be more than that budgeted, a base bid was created for an amount that would definitely meet the budget and an alternate bid with additional quantity of sidewalk. Since the base bid and add alternate bid was favorable and within budget, the City wished to include both bids in this project.
City Manager Bernard M. Satterwhite, Jr., noted that this same situation occurred with the next bid that City Council would consider this evening.

Mayor Pro Tem Faulk inquired as to how the decision was made to select the sidewalks on this project and what exactly would be done. In other words, was some of the sidewalk under this project new?

Mr. Andrews advised that the project consisted of the removal and replacement of deteriorated sidewalk that had been identified by the Public Works Department over the years. There were a number of repair projects to attack before the City got into new stand-alone sidewalks.

Mayor Pro Tem Faulk asked for confirmation that this project did not include the addition of any new sidewalk.

Mr. Andrews advised that Mayor Pro Tem Faulk was correct.

Mayor Cindy Siegel inquired as to whether missing portions or gaps would be filled under this project.

Mr. Andrews stated that they did not intend to go through yards that did not have a sidewalk. The purpose of this project was to repair existing sidewalk.

City Manager Satterwhite advised that this project contained contiguous sidewalks for the most part.

Mayor Pro Tem Faulk referred to an earlier comment this evening regarding the need for sidewalks on Fifth Street. She thought that sidewalks did not exist on either side of Fifth Street and asked for confirmation of that.

Mr. Andrews indicated that there was a sidewalk on the Recreation Center side of Fifth Street.

Mayor Pro Tem Faulk inquired as to whether there was a sidewalk on Fifth Street from Laurel Street to Linden Street.

Mr. Andrews indicated that he did not believe so. The map depicted that sidewalk repairs would be undertaken on that particular block of Fifth Street. New sidewalk would not be constructed in those areas where sidewalk did not already exist.
**Mayor Pro Tem Faulk** asked for confirmation that the block she was looking at on the map was not really getting any sidewalk.

**Mr. Andrews** stated that there would be repairs in the block against the Recreation Center near the ball field.

**Mayor Pro Tem Faulk** referred to the block of Fifth Street from Laurel Street to Bellaire Boulevard and asked for confirmation that no sidewalk repair work was being done. In other words, it was not shown right on the map.

**Mr. Andrews** indicated that Mayor Pro Tem Faulk was correct.

**Mayor Pro Tem Faulk** asked if an amendment would be required if City Council wanted to include sidewalk on Fifth Street in the areas that did not have existing sidewalk. She also inquired as to whether the City had the money to include sidewalk in those areas.

**City Manager Satterwhite** indicated that the City would have to go back and re-engineer for that. In other words, new sidewalks had not been engineered for the portion of Fifth Street that Mayor Pro Tem Faulk referred to.

**Mayor Pro Tem Faulk** inquired as to whether the bidder included unit prices in his proposal.

**Mr. Andrews** indicated that the proposal contained unit prices for removal and replacement of sidewalk—not simply for new sidewalks. He would have to go back and inquire and could certainly negotiate that and come back with a change order if City Council desired.

He noted further that it would have to be designed and then taken to the bidder so that he could propose a price.

**Mayor Pro Tem Faulk** indicated that if the City did not undertake this now, it would probably be quite a while before a sidewalk project came up again.

**City Manager Satterwhite** indicated that another project would not come up until next year.

**Mayor Pro Tem Faulk** advised that she had seen what a mess Fifth Street was and hoped that the City would consider restricting parking to one side of Fifth Street soon because it
really was dangerous. She also thought the City needed a sidewalk along that block in particular.

Mayor Pro Tem Faulk stated that she would like to make a motion that City Council consider including that section of sidewalk in a change order.

**City Attorney Alan P. Petrov** advised that with the agenda item and contract proposal before City Council this evening, the City could not really make amendments at this time. It would have to come back on a later agenda as a change order.

**Mayor Siegel** asked for confirmation that City Council could go ahead and vote on this proposal this evening and that City Staff and the engineers could come back with a change order for this project.

**City Attorney Petrov** advised that Mayor Siegel was correct.

**Mr. Andrews** advised that there was a line item in the bid proposal for new sidewalk and that portion of sidewalk could be applied to the project if the City was not over 25% of the total project cost.

**City Manager Satterwhite** noted that every year the City tried to follow a pattern with respect to sidewalk repair and maintenance. This had been a high priority ever since the sidewalk study had been performed several years ago.

What the City needed to do was to figure out where it wanted to go with respect to sidewalks and bring that forward at the time the engineering proposal was presented to City Council.

What he heard this evening was that City Council wanted to see a sidewalk on Fifth Street from Laurel Street to Linden Street. Somehow City Staff needed a City Council vote on that. He could not go out and propose something based on one person’s desire. He suggested that something needed to be placed on an agenda and that City Council move forward with what was presented to them this evening.

**Mayor Siegel** noted that the City had two sidewalk projects ongoing at the same time—the repair and maintenance project under discussion now and the Bellaire Town Square Loftin Park Improvements, which included sidewalk or pathways. She asked if the same situation applied to that project. In other words, could new sidewalk be added to that project? The Fifth
Street situation seemed to relate more to Bellaire Town Square and the safety of people getting to Bellaire Town Square.

**City Manager Satterwhite** advised that he felt the new sidewalk should be added to the project under discussion right now as it related to street right-of-way.

**Councilman Pat McLaughlan** stated that he believed Mayor Pro Tem Faulk had made some good suggestions and good observations. He noted that earlier in the evening a citizen comment was made related to the lack of any sidewalk on the north end of the Condit Elementary School property along Linden Street between Third Street and South Rice Avenue. If the City were encouraging mobility from that part of town to the Family Aquatic Center in Bellaire Town Square, Councilman McLaughlan thought it was certainly appropriate that the City at least have a sidewalk along that block of Linden Street.

**Mayor Siegel** suggested that Mayor Pro Tem Faulk and Councilman McLaughlan put their suggestions to the City Manager for a future agenda item.

**Councilman Will Hickman** inquired as to the life of a new sidewalk.

**Mr. Andrews** indicated that a new sidewalk had a 30-year plus life cycle. There would be serviceability areas near root systems where the life cycle would be less than 30 years.

**Councilman Hickman** inquired as to what percentage of the sidewalk would be repaired with this project.

**Mr. Andrews** stated that he did not have that number with him this evening. He noted that the City had 65 miles of streets (not all of which had sidewalks) and this project would include about one mile of sidewalk.

**Councilman Hickman** inquired as to whether the City was catching up with sidewalk maintenance or falling behind.

**Mr. Andrews** indicated that the City was catching up.

**Councilman Hickman** asked if sidewalks did exist on the top three levels of streets, such as Bellaire Boulevard, Bissonnet Street, South Rice Avenue, and Newcastle Drive.

**Mr. Andrews** advised that the City did have sidewalks on all of its major thoroughfares.
Councilman Hickman noted that when the City was looking into crafting an agenda item for Councilman McLaughlan and Mayor Pro Tem Faulk that the City should include making certain that all of its major thoroughfares had sidewalks.

Councilman Hickman also asked about the possibility of having a pedestrian railroad crossing at Bissonnet Street or Bellaire Boulevard.

Mr. Andrews stated that the City would have to petition the railroad to build such a crossing, as they would want to build that crossing themselves.

Councilman Phil Nauert referred to the 4400 block of Braeburn Drive. The map showed a solid blue line in that block. He inquired as to whether this meant that every bit of sidewalk in that block would be removed and replaced or if there would just be point repairs.

Mr. Andrews indicated that there would just be point repairs in that block.

Councilman Nauert stated that as he looked at some of the blocks in the project, he believed that there were one or two holdout lawns. He expressed concern that the City was not trying to connect those holdout lawns.

Mr. Andrews stated that he would have to go back and re-review the plans to see how many holdout lawns were involved. He indicated that he would get back to City Council on that.

Councilman Nauert indicated that he had been on this side of the table for a long, long time and before that on the Planning and Zoning Commission. He could recall the City having a lot of discussion involving a commitment to spending money to fill in the gaps. He would like to amend the policy to say that if 80% of the lineal feet on a block already had sidewalks and it was a block slated for sidewalk repair and maintenance, that the City go ahead and connect those gaps.

Councilman Nauert asked if it were appropriate for him to do that within the scope of this project without having to require an amendment. In other words, was it a change order?

City Attorney Petrov advised that it was a change order because the City was adding additional work to what was proposed.
Mr. Andrews noted that additional quantity was being added, but it was a unit cost contract.

City Attorney Petrov indicated that it would be a legitimate change order, but it was not what was originally bid and proposed. This was really a change order as to what the contractor was supposed to do.

Councilman Nauert inquired as to whether there was a unit price cost in the bid for new sidewalk.

Mr. Andrews advised that there was.

Councilman Nauert felt that it could be done.

City Attorney Petrov advised that it was an addition of work.

Mr. Andrews stated effectively he needed to identify those areas, prepare a change order, get the contractor to sign off, and come back before City Council for approval.

City Attorney Petrov agreed.

Councilman Nauert stated that this was fine. This was the only way the City could move forward and progress. He did not wish for City Council to overlook this.

Mayor Siegel inquired of City Manager Satterwhite if he had a list going of what members of City Council had requested to come back as an agenda item.

City Manager Satterwhite stated that City Staff obviously needed to present these projects more clearly when the design proposal came forward. All of this was included in the engineering proposal. So, when the City went out for bids, such changes undermined the City’s ability to get the proper bid and proper prices.

City Staff would do whatever City Council wanted to do, but it needed to be made clearer at the time of the design proposal process. He felt it would be difficult and costly to go back; however, Mr. Andrews spoke very confidently that it might not be that difficult.

Councilman John Jeffery referred to the blue line on the map on Bissonnet Street inside the Loop. He inquired as to whether the repairs were being made on the north or south side of the street.
Mr. Andrews indicated that he would have to review the detailed plans to be able to answer that question.

Councilman Jeffery stated that he remembered the Episcopal High School advising the City that they would help us with the sidewalk on the north side of Bissonnet Street. He noted that the sidewalk did not go all the way through to the Loop.

Mayor Siegel indicated that Episcopal High School was supposed to get with City Staff to work out how a sidewalk could be constructed on the north side.

She referred to the sidewalk on the south side of Bissonnet Street. She indicated that she remembered when City Council voted to install that sidewalk, which was within the last 10-12 years. She inquired as to why it needed work again.

Mr. Andrews indicated that the quantity of repair needed on that side of Bissonnet Street was very small.

City Manager Satterwhite indicated that there were quantities of sidewalk on the south side of Bissonnet Street that still needed to be constructed.

Mayor Siegel inquired as to whether this project addressed any of the sidewalk drainage problems in that area.

Mr. Andrews indicated that this was merely a repair.

Councilman McLaughlan stated that the line on Bissonnet Street did not go all of the way to the Loop either inside or outside of the Loop.

Mr. Andrews stated that he was certain that Councilman McLaughlan was correct. He advised that this was a generalized area and that there were very few spot repairs on the south side of Bissonnet Street.

Councilman James P. Avioli, Sr., commented that he had a sidewalk in front of his home and had no problem with that. The people on many sides did not have sidewalks. Procedurally City Council had discussed this, but before installing a sidewalk in front of someone’s home, he desired for that item to be on the agenda. He had learned in his short period on the City Council that sidewalks were a very dicey issue. He was certain that those residents would like an opportunity to state what they would like to have.
Mayor Siegel advised that Councilman Avioli’s point was well taken.

VOTE ON MOTION TO AWARD BID AND 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: 09-019}

2. ADOPTION OF ORDINANCES:

Agreements and Contracts

a. CONSIDERATION of and possible action on a recommendation from the Bellaire Parks & Recreation Department and Project Consultant Clark Condon Associates to award Bid No. 09-017, Bellaire Town Square – Loftin Park Improvements, to the lowest qualified bidder, D. L. Meacham, LP, in the amount of $363,001.00 (base bid) and $103,064.60 (add alternate) 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, a Standard Form of Agreement with D. L. Meacham, LP, for said project in the total amount of $466,065.60 – Item submitted by Director of Parks & Recreation Jane L. Dembski.

MOTION TO AWARD BASE BID AND ADD ALTERNATE BID AND TO ADOPT ORDINANCE:

A motion was made by Councilman John Jeffery and seconded by Mayor Pro Tem Peggy Faulk to award Bid No. 09-017, Bellaire Town Square – Loftin Park Improvements, to the lowest qualified bidder, D. L.
Meacham, LP, in the amount of $363,001.00 (base bid) and $103,064.60 (add alternate) 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, a Standard Form of Agreement with D. L. Meacham, LP, for said project in the total amount of $466,065.60.

**SUMMARY:**

City Manager Bernard M. Satterwhite, Jr., summarized the agenda item before City Council. This bid was split into a base bid and an add alternate bid to include the playground and southern sidewalk from the east limit to the west limit as a base bid. The remainder of the project was included as an add alternate. Basically, the entire amount for the base bid and add alternate bid was within the amount that City Staff had estimated the project to cost.

The entire amount of the project was budgeted, however, there was a revenue line item in the budget for this project indicating that the City anticipated getting approximately $250,000 from the Patrons for Bellaire Parks, Inc. (“Patrons”). City Staff had been informed that the Patrons would probably not make that revenue line item.

If City Council wanted to go forward with this project, the funding would not come from that revenue line item, but rather from the fund balance in the Capital Improvements Program Fund.

**DISCUSSION ON MOTION TO AWARD BASE BID AND ADD ALTERNATE BID AND TO ADOPT ORDINANCE:**

Mayor Cindy Siegel noted that she understood that the City had received a letter from the Patrons and inquired as to how much the Patrons felt that might be able to donate to the City.

City Manager Satterwhite stated that the letter indicated that the Patrons expected to be able to donate $100,000 to the City.

Mayor Siegel referred to the check the Patrons presented to the City in October and inquired as to the amount of that check.

Director of Parks & Recreation Jane L. Dembski advised that the Patrons had donated $250,000 to the City in October.
Councilman John Jeffery referred to the map that Clark Condon Associates had prepared and inquired as to whether the add alternate bid included all of the pathways on the north side of the swimming pool in Loftin Park.

Sheila Condon, Clark Condon Associates, advised that the bid was geographically divided. In other words, the base bid had the playground, the walks, lights, benches, etc., associated with that geographic area. The add alternate, the northeast and northwest portion of Loftin Park, included the pathway, lights, benches, etc.

Councilman Jeffery asked for confirmation that the total bid in the amount of $466,065.60 would finish Loftin Park.

Ms. Condon advised that Councilman Jeffery was correct.

Councilman Jeffery inquired as to the material that the pathway would be constructed of.

Ms. Condon advised that the pathway would be constructed of concrete.

Councilman James P. Avioli, Sr., referred to page 3 of 6, number 41, of the bid analysis. This item was listed as four six-foot benches with concrete pads. Then on page 4 of 6, item number 9, consisted of one six-foot bench with concrete pad for $7,020. The unit cost was supposed to be $2,340. He inquired as to whether the numbers were transposed.

Ms. Condon advised that she could see the discrepancy that Councilman Avioli referred to, but did not know what had happened.

Councilman Avioli referred to another discrepancy on item 46, which consisted of eight units for $8,800. On page 4 of 6, item 14, which was the same item of one unit, was $6,600.

Ms. Condon advised that she was not sure she could answer the question without going back and reviewing it.

Councilman Avioli indicated that it would affect the bottom line cost.

Director of Parks & Recreation Jane L. Dembski advised that the bottom line cost was correct.
Ms. Condon advised that she believed that a typographical error had occurred with respect to her bid summary sheet. The number of units should have been three rather than one. In other words, on the bid summary, the one unit was incorrect.

Councilman Avioli made a suggestion that in the future the bid summary be correct, as it was very confusing. He indicated that he had spent a great deal of time trying to figure it out.

Ms. Condon advised that she understood Councilman Avioli’s point.

Councilman Phil Nauert referred to the engineering and tactical approach with respect to this project and inquired as to whether the City could do the base bid without the add alternate without affecting the remainder of the park with respect to grading, storm sewer work, etc. In other words, if the add alternate were not done, how would that affect the base bid area? Would it still drain properly?

Ms. Condon advised that it would not materially affect the other area. The additional inlets in the add alternate would take care of a couple of ponding problems on the north side. The scope of the work was not to take the entire site and scrape it clean and start with raw dirt. Modifications of areas with problems were being addressed, but the sidewalk itself was getting cut into the land a little bit. The majority of anything to do with the underground had to do with the playground area. The other low spots were dips here and there scattered throughout the park.

Councilman Nauert asked for confirmation that the base bid would not be negatively affected by what the City did not do in the add alternate bid.

Ms. Condon advised that Councilman Nauert was correct.

Councilman Pat McLaughlan referred to some of the playground items with springs and noted that years ago such items were removed because the springs were considered a danger. He inquired as to whether those types of items were back in favor again.

Ms. Condon stated that those types of items were in favor again, and the City already had some in a few parks.

Councilman McLaughlan noted that at one time those were considered dangerous.
Ms. Condon stated that as products were redeveloped, they were often improved upon. These items were quite sturdy.

Councilman McLaughlan referred to the exercise equipment, indicating that some of the equipment had moving parts. His experience had been that equipment with moving parts was often not maintained. If the equipment was not maintained, it could freeze up and rust, thereby causing a loss of functionality. His question to the City Manager and Director of Parks & Recreation was how the City would budget for the continuous maintenance of such outdoor athletic equipment.

Ms. Condon indicated that there was a tremendous amount of discussion about this equipment through the last months with the Parks & Recreation Advisory Board (“Board”). There was a strong desire by members of the Board to have some type of exercise equipment for the mom or the dad near and in or around the playground.

Her firm had originally looked at some elements that were nonmoving and then came across a fairly new product made by an older, reputable playground equipment manufacturer within the last year or so. These products were more interesting than the nonmoving products. The products were hydraulic and encased and extremely durable.

A few weeks ago Ms. Condon was in a public park on a school campus and saw the exact products that the City was considering. That equipment was in a northeastern climate with snow and harsh weather conditions and had been in working order for approximately one year or so.

Director of Parks & Recreation Dembski advised that she, too, had questioned the maintainability of the equipment. She advised that the maintenance would have to be included in her operations budget.

Councilman McLaughlan indicated that this was great, but right now in the City’s exercise room, which was in a protected, climate controlled, supervised area, the equipment often broke down and was not promptly repaired. He understood that residents had been told that the Parks & Recreation Department did not have the budget to fix that equipment.

Director of Parks & Recreation Dembski advised that her department had budgeted for repairs to equipment and had been maintaining that equipment better than ever before. The exercise equipment to be installed in Loftin Park was much
different than the computerized equipment inside the City’s exercise room.

Councilman McLaughlan advised that from his professional experience, a hydraulic mechanism needed maintenance and he urged that the City ensure that maintenance costs were included in the budget.

Additionally, Councilman McLaughlan referred to the sidewalk going east from the Family Aquatic Center toward South Rice Avenue and inquired as to whether it was included in this project.

Ms. Condon stated that it was included in the base bid. She referred to a big loop sidewalk that was going to go around the whole park. The base bid would give the City the southern part of the loop. After further discussion, it was realized that the sidewalk that Councilman McLaughlan was talking about was not in the base bid.

Councilman McLaughlan stated that the City was sorely missing a sidewalk on the south side of the pool entrance. When people came across the parking lot, they would not walk over to Loftin Park to take a loop around to the pool.

Ms. Condon indicated that the sidewalk Councilman McLaughlan referred to was planned for later, but was not included in this particular phase.

City Manager Satterwhite indicated that the sidewalk was not included because a fountain still needed to be constructed and other items that had not been planned out.

Councilman McLaughlan indicated that the City had just passed some good legislation for the City’s friends on Laurel Street.

City Manager Satterwhite indicated that the parking lot went from the south side to the north side of the pool and there was a sidewalk on the north side of the pool.

Councilman McLaughlan advised that it was still a difficult and torturous path. He inquired as to how one would get to the sidewalk in Loftin Park.

Ms. Condon referred to a point on the map indicating how one would get to the sidewalk.
Councilman McLaughlan noted that at one time the City had discussed that the area essentially south of the Greater Southwest Houston Chamber of Commerce did not necessarily have the same restrictions that Loftin Park had and could be used for parking. He inquired as to whether any consideration had been given to constructing a parking lot at that location.

City Manager Satterwhite stated that if City Council advised City Staff what they wanted in that location, it could be put in that location.

Mayor Siegel noted that when the City went through the public process for Bellaire Town Square, the City did say that if push came to shove, the City could go into that area with parking.

Councilman McLaughlan advised that at the time of the original discussion, the City was not aware of the issues that would occur for the residents on Laurel Street. At any rate, he felt that the area could be converted into a parking lot at some point in time.

City Manager Satterwhite stated that it would probably be up for debate. He referred to the fact that the sidewalk going to South Rice Avenue was offset because the City was planning on putting a parking lot in to hold between 35 and 45 cars.

Councilman Will Hickman inquired as to how he could get to the path in the park if he came down South Rice Avenue and turned into the parking lot.

Ms. Condon advised that there was a little spur that would allow people to access the path. It did not show up well on the map.

Councilman Hickman inquired as to how long the equipment with moving parts at Feld Park had been installed.

Director of Parks & Recreation Dembski advised that the equipment had been installed for three years.

Councilman Hickman indicated that he used the equipment yesterday and that it was in great working order. He mentioned that he also loved the spring riders as well. He stated that he was happy to see that the benches in Loftin Park were less than half the cost of other benches that the City had paid for.
Councilman Hickman referred further to City Council’s discussion of a meditation area for Loftin Park as part of the City’s Centennial Celebration. He inquired as to how that would fit in with the plans under consideration this evening for Loftin Park.

City Manager Satterwhite indicated that this was not part of the scope of Ms. Condon’s work. It would be added in once the City figured out what would be done with respect to this project.

Ms. Condon indicated that there was a natural place for the meditation area in the park.

Councilman Hickman asked for confirmation that the meditation area would not be inconsistent with current plans for Loftin Park.

Ms. Condon indicated that she had not seen what had been planned, but believed that the mediation area would not be inconsistent with the rest of the plans for Loftin Park.

Councilman Avioli indicated that he was satisfied with the adjustment that had been made to the bid summary earlier in the evening. He stated that he would really like to suggest that before these bids were presented to City Council that someone check them for accuracy. He stated that he was getting tired of having to work these items out at the Council table.

Mayor Siegel agreed, noting that Councilman Avioli’s point was well taken. She referred to the concrete pad below the bench, and asked if the City could install concrete pads in Loftin Park. She stated that she seemed to remember discussion as to whether a concrete pad could be placed under a picnic bench, etc. She felt that the sidewalk was okay, but was not sure about the pads.

Ms. Condon indicated that the City had concrete pads in Loftin Park under picnic tables right now.

City Attorney Alan P. Petrov indicated that the ordinance that established Loftin Park was not particularly clear. The idea was to maintain green space and passive uses, but it did not flat out prohibit all the incidentals that might go along with the park, such as walkways or benches or pads. There could be a difference of opinion of some felt that the City had overreached its boundaries.
Mayor Siegel inquired as to how large the pads were.

Ms. Condon advised that the pads were not large. The pads were sized so that the City did not end up with worn areas and water standing underneath. In other words, there would be enough of a pad to support the picnic table.

Mayor Siegel inquired as to the width of the pathways.

Ms. Condon stated that she was pretty sure the pathways were six feet in width. She did not have the plans with her to double-check that. She indicated that she believed the City really needed the pathway to be large enough for multiple uses. A normal sidewalk was noted to be four feet in width.

Mayor Siegel inquired as to whether the Board had addressed the width of the pathway.

Ms. Condon indicated that width and materials were discussed a great deal with the Board.

Mayor Siegel expressed concern that the City might be putting too much concrete in Loftin Park. She inquired what might happen to the cost of the project if the City waited one year to do the add alternate bid.

Ms. Condon advised that the numbers the City received on this bid were extremely favorable. She felt that the City was getting a lot for its dollars, and noted that the City received bids from three very strong bidders, all of whom did a great deal of parks and recreation and site work. Even moreover than just the dollars, her feeling was that it might feel incomplete if the whole project was not constructed at one time. There had been a great deal of talk about building a walkway around the perimeter of Loftin Park.

Mayor Siegel asked for confirmation that if the base bid and add alternate bid were approved, then Loftin Park would be completely done.

Ms. Condon advised that Mayor Siegel was correct.

Mayor Siegel referred to the lighting in the park, noting that the park did back up to residents.

Ms. Condon advised that the lights were not bright. There would be enough lighting so that someone could walk through
comfortably. The fixtures were cut-off, low, and angled where
the light hit the ground in “pools.”

Councilman Jeffery inquired as to when the project would
commence and be completed if approved this evening.

Ms. Condon indicated that the construction schedule was six-
months in length.

Councilman Jeffery expressed concern with traffic with the
opening of the Family Aquatic Center coming around soon.

City Manager Satterwhite advised that the City could handle
it.

Mayor Siegel referred to a letter City Council received with
respect to Evergreen Park and the condition of the old
playground. She asked if the old playground would be removed
there, but would remain until the Loftin Park playground was
finished.

Director of Parks & Recreation Dembski advised that Mayor
Siegel was correct.

**VOTE ON MOTION TO AWARD BASE BID AND ADD
ALTERNATE BID AND 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: 09-021}

**Code Amendment**

**b.** CONSIDERATION of and possible action on the adoption
of an ordinance of the City Council of the City of Bellaire,
Texas, amending Chapter 30, Traffic and Vehicles, Article
II, Traffic-Control Regulations, Division 5, Parking, of the
Code of Ordinances of the City of Bellaire, Texas, by
adopting a new Section 30-115, Restricted Parking –
Town Square Area, for the purpose of establishing a
permit parking process for an area in the vicinity of
Bellaire Town Square – Item submitted by City Clerk
Tracy L. Dutton on behalf of City Attorney Alan P. Petrov.

Note: This item was considered earlier in the meeting. See
pages 18-28 of these minutes for the discussion and
action related to this agenda item.

G. ADJOURNMENT.

MOTION TO ADJOURN:

A motion was made by Councilman Will Hickman and seconded by
Councilman John Jeffery to adjourn the Regular Session of the City
Council of the City of Bellaire, Texas, at 9:47 p.m. on Monday, April 6,
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
   McLaughian, Pat
   Jeffery, John

OPPOSED: None

ABSENT: None

Respectfully submitted,

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

______________________________
Cynthia Siegel, Mayor
City of Bellaire, Texas