SPECIAL 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, July 27, 2009. The Bellaire City Council met at that time and on that date in Special Session in the Council Chamber, First Floor of City Hall, 7008 South Rice Avenue, Bellaire, Texas. Mayor Siegel announced that a quorum was present consisting of herself and the following members of City Council:

Councilman James P. Avioli, Sr.;
Councilman Phil Nauert;
Councilman Pat McLaughlan; and
Councilman John Jeffery.

Councilman Will Hickman, Position No. 1, and Mayor Pro Tem Peggy Faulk, Position No. 3, were absent. Other officials present were Assistant City Manager Diane K. White, Attorney Jolie Lenz of Johnson Radcliffe Petrov & Bobbitt PLLC, and City Clerk Tracy L. Dutton.

B. ADOPTION OF ORDINANCE:

Lease Agreement

CONSIDERATION of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, authorizing the City Manager of the City of Bellaire, Texas, to execute, and the Chief Financial Officer of the City of Bellaire, Texas, to approve as to funding and business terms, for and on behalf of the City of Bellaire, Texas, a Lease Agreement with Chevron U.S.A. Inc. for the use of office space in building BTF-C and a portion of the parking area on a parcel of land in Harris County, Texas, known as the 4800 block of Fournace Place, Bellaire, Texas, to be used for the purpose of a temporary fire station and the parking of trucks and personal vehicles belonging to the City of Bellaire, Texas, and/or its staff for a period commencing on August 1, 2009, and terminating on April 30, 2011, with an option to renew said Lease Agreement on a monthly basis, and authorizing the City Manager of the City of Bellaire, Texas, to expend funds to reimburse Chevron U.S.A. Inc. for modification of workspace costs associated with the temporary relocation of the Bellaire Fire Department into said building BTF-C in an amount not to
exceed $190,000 – Item submitted by Facilities Management Director Karl Miller.

Mayor Cindy Siegel advised that this agenda item had been postponed twice partly due to conflicts of interest for several members of City Council resulting in their inability to participate in a vote on the agenda item.

MOTION TO ADOPT ORDINANCE AND APPROVE EXPENDITURE OF FUNDS:

A motion was made by Councilman John Jeffery and seconded by Councilman Phil Nauert to adopt an ordinance of the City Council of the City of Bellaire, Texas, authorizing the City Manager of the City of Bellaire, Texas, to execute, and the Chief Financial Officer of the City of Bellaire, Texas, to approve as to funding and business terms, for and on behalf of the City of Bellaire, Texas, a Lease Agreement with Chevron U.S.A. Inc. for the use of office space in building BTF-C and a portion of the parking area on a parcel of land in Harris County, Texas, known as the 4800 block of Fournace Place, Bellaire, Texas, to be used for the purpose of a temporary fire station and the parking of trucks and personal vehicles belonging to the City of Bellaire, Texas, and/or its staff for a period commencing on August 1, 2009, and terminating on April 30, 2011, with an option to renew said Lease Agreement on a monthly basis, and authorizing the City Manager of the City of Bellaire, Texas, to expend funds to reimburse Chevron U.S.A. Inc. for modification of workspace costs associated with the temporary relocation of the Bellaire Fire Department into said building BTF-C in an amount not to exceed $190,000.

Facilities Management Director Karl Miller thanked the members of City Council for taking the time to meet in a Special Session to consider the agenda item this evening.

The agenda item before City Council was originally presented on July 6, 2009, and consisted of a Lease Agreement with Chevron U.S.A. Inc. ("Chevron") to provide necessary facilities for a temporary relocation of the Bellaire Fire Department while a new fire station was constructed.

Over the past several months, City Staff had been exploring available options to relocate the Bellaire Fire Department during construction of a new fire station. City Staff’s previous recommendation and recommendation this evening was to enter into a Lease Agreement with Chevron to provide a temporary facility for that relocation.

During City Council’s last discussion of this agenda item, members of City Council made some recommendations regarding the length of the agreement and the terms of termination. Both of those recommendations were
discussed with Chevron and the company was very receptive in meeting those recommendations.

The Lease Agreement would go into effect on August 1, 2009, and expire on April 30, 2011, with the option to renew the Lease Agreement thereafter on a month-to-month basis. The lease term represented a nine-month extension from the previous Lease Agreement presented to City Council, as well as the addition of the month-to-month renewal thereafter.

The cost of the lease would be $1 for the entire length of the lease. The City of Bellaire would pay a fixed cost of $2,500 per month for after-hour utilities and services while the Bellaire Fire Department occupied the building. This meant that the City of Bellaire would not have to pay the fixed $2,500 per month cost until after the Bellaire Fire Department actually moved into the Chevron facility.

The estimated cost of the lease for a period of one year (i.e., the estimated construction time, including the time the Bellaire Fire Department moved into the Chevron facility until the time the Bellaire Fire Department moved out and into the new fire station) would be $30,000.

Due to the high level of security on the Chevron property site, Chevron required that all renovations and moving be performed by their approved contractors. The City of Bellaire would then reimburse Chevron for their actual cost to renovate the facility to accommodate the Bellaire Fire Department.

At the conclusion of the Lease Agreement, the permanent changes to the Chevron facility would then become the property of Chevron or, if requested by Chevron, the City of Bellaire would be responsible for removing the permanent changes that were made to the facility. Based on Director Miller's conversations with Chevron, removal of the permanent changes was very unlikely. If a request for removal were made, the removal of changes would be minimal.

The termination clause regarding Chevron’s ability to terminate the agreement for any reason with a 120-day notification was removed in its entirety.

As noted earlier, City Staff had looked at several different options for a temporary Bellaire Fire Department facility and felt that Chevron had offered the City an excellent opportunity to meet the needs of the Bellaire Fire Department and ensure that the Bellaire Fire Department, as well as other departments, were still providing current community service levels. The Lease Agreement also provided a sound fiscal management opportunity for the City.
City Staff recommended that City Council approve the proposed Lease Agreement, which had been reviewed by the City Attorney, and authorize the expenditure by the City Manager, in an amount not to exceed $190,000, for reimbursement to Chevron for the identified modifications to the facility to accommodate the Bellaire Fire Department.

QUESTIONS/COMMENTS FROM CITY COUNCIL:

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

C: Mayor Cindy Siegel advised that she wished to clarify the conflicts of interest that members of City Council had. It was noted that City Attorney Alan P. Petrov had reviewed Councilman John Jeffery’s situation and determined that it did not represent a conflict of interest. Councilman James P. Avioli, Sr., did have a conflict of interest in that his son worked in management for Chevron, therefore, he would be abstaining from a vote taken this evening.

R: Councilman James P. Avioli, Sr., advised that Mayor Siegel was correct in that he would be abstaining from a vote taken this evening.

C: Councilman Phil Nauert advised that he wished to thank Chevron for their initial civic-minded participation and for being so patient with the Bellaire City Council and so amenable to making the modifications that the Bellaire City Council had requested. He appreciated the fact that Chevron was such a good corporate citizen.

Q: Councilman John Jeffery asked for confirmation that an approved Chevron contractor would perform the workspace modifications.

A: Director Miller advised that Councilman Jeffery was correct.

Q: Councilman Jeffery inquired as to whether the modifications would be bid.

A: Director Miller indicated that Chevron went through a bidding process. These contractors performed work for Chevron on a regular basis. Chevron actually went back to their contractors on Bellaire’s behalf and negotiated a lower price for the modifications.

Q: Councilman Jeffery inquired as to whether Director Miller would have oversight with respect to those modifications.

A: Director Miller advised that he would have some oversight with respect to the modifications.

C: Councilman Jeffery thanked Chevron as well for the use of the facility and for being a good corporate citizen.
Q: Mayor Cindy Siegel referred to Councilman Jeffery’s question regarding Chevron contractors. She asked for confirmation that the modification project would meeting all of the rules, regulations, state law, and ordinances that the City must follow.

A: Director Miller advised that the modification project would comply with all necessary rules and regulations.

C: Mayor Siegel thanked Chevron as well for being such a good corporate citizen, not only in this particular case, but in other cases as well. She also thanked Director Miller for giving up vacation time and jumping through hoops to bring this Lease Agreement, for the third time, before City Council. She thanked Fire Chief Darryl Anderson for his work on the Lease Agreement as well.

Mayor Siegel continued and stated that she wished to make some clarification on the statement of estimated costs that the City Council had been provided for the lease. She noted that the Lease Agreement stated that the City of Bellaire would reimburse Chevron for workspace modification costs in the amount of $190,000, which consisted of $164,360 for building renovations, $15,000 for emergency power, $8,000 for notification system, and a contingency of $2,640. The City’s assumption was that the Bellaire Fire Department would only need to occupy the temporary facility for one year or 12 months. The cost of after-hour utilities and services for one year would total $30,000 (i.e., $2,500 per month X 12 months). If the City continued the lease for an additional nine months thereafter, the cost of after-hour utilities and services would be $22,500 (i.e., $2,500 per month X 9 months). In other words, the after-hour utilities and services for one year and nine months would be $52,500 ($2,500 per month X 21 months).

Mayor Siegel asked for confirmation that the after-hour utilities and services monthly cost would come from the General Fund budget and that the workspace modification costs would come from bond proceeds.

R: Assistant City Manager Diane K. White and Director Miller advised that Mayor Siegel was correct.

Q: Mayor Siegel referred to the additional costs associated with the temporary relocation of $16,000 for moving, $600 for an electric stove, $3,000 for portable storage units, $5,000 for an Opticom detector, and other expenses of $6,000, for a total of $30,600. Mayor Siegel asked for confirmation that those items would come back to the City.
A: Director Miller stated that the portable storage units were rentals and the cost was associated with renting those units. The Opticom detector was necessary for the City to control the traffic light system at Fournace Place and South Rice Avenue.

C: Mayor Siegel noted that if she added up all of the estimated costs for relocating the Bellaire Fire Department to the Chevron facility, then the total cost would be $273,101. If the City were only in the facility for one year, then the total cost would be $250,601.

R: Director Miller advised that Mayor Siegel was correct.

Q: Mayor Siegel inquired as to what would happen if the after-hour utilities and service cost was determined to be greater than $2,500 per month.

A: Director Miller stated that when Chevron proposed the figure to Director Miller, he went back and questioned the cost. Chevron advised that they felt the number was very fair and that they had rounded it down. From that angle, he did not imagine that Chevron would return to the City requesting more money. Additionally, the Lease Agreement spelled out the $2,500 monthly charge.

C: Mayor Siegel noted that there was a provision in the Lease Agreement wherein Chevron could come back to the City and request the difference.

R: Director Miller agreed that Mayor Siegel was correct as to that provision.

**VOTE ON MOTION TO ADOPT ORDINANCE AND APPROVE EXPENDITURE OF FUNDS:**

Motion carried unanimously on a **4-0-1** vote as follows:

**FOR:** Siegel, Cindy  
Nauert, Phil  
McLaughian, Pat  
Jeffery, John

**OPPOSED:** None

**ABSENT:** Hickman, Will  
Faulk, Peggy
ABSTAIN: Avioli, James P., Sr.*

*Councilman James P. Avioli, Sr., abstained from voting on this agenda item due to a conflict of interest wherein Chevron employed his son in management.

C. ADJOURNMENT.

MOTION TO ADJOURN:

A motion was made by Councilman Phil Nauert and seconded by Councilman Pat McLaughlan to adjourn the Special Session of the City Council of the City of Bellaire, Texas, at 7:15 p.m. on Monday, July 27, 2009.

VOTE ON MOTION TO ADJOURN:

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

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

OPPOSED: None

ABSENT: Hickman, Will  
Faulk, Peggy

Respectfully submitted,

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

Approved:

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Cynthia Siegel, Mayor  
City of Bellaire, Texas