CITY OF BELLAIRE
CITY COUNCIL
Minutes of Meeting
Monday, August 3, 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 7:00 p.m. on Monday, August 3, 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 James P. Avioli, Sr., Position No. 2;
   Councilman Pat McLaughlan, Position No. 5; and
   Councilman John Jeffery, Position No. 6.

Councilman Will Hickman, Position No. 1, and Councilman Phil Nauert, Position No. 4, were absent. Mayor Pro Tem Peggy Faulk, Position No. 3, arrived at 7:04 p.m. 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 James P. Avioli, Sr.

Councilman James P. Avioli, Sr., presented the inspirational reading for the evening. He noted that at the last City Council meeting the proposed budget for 2010 was presented by the City Manager. Budgeting was a form of goal setting and since today was the anniversary of Columbus sailing for the New World, Councilman Avioli wished to share a quote about Columbus’ goal as follows:

   By prevailing over all obstacles and distractions, one may unfailingly arrive at his chosen goal or destination.

   Meanwhile, Confucius says:  When it is obvious that the goals cannot be reached, don’t adjust the goals, adjust the action steps.

   Councilman Avioli shared two other quotes on Americanism, one of which dealt with a definition of Americanism and the other dealt with the use of Americanism, as follows:

   Americanism means the virtues of courage, honor, justice, truth, sincerity, and hardihood—the virtues that made America. The things that will destroy
America are prosperity-at-any-price, peace-at-any-price, safety-first instead of duty-first, the love of soft living and the get-rich-quick theory of life.

--Theodore Roosevelt
26th President of the United States

This American system of ours, call it Americanism, call it capitalism, call it what you will, gives each and every one of us a great opportunity if we only seize it with both hands and make the most of it.

--Al Capone
American Gangster

C. PLEDGES TO THE FLAGS – Councilman James P. Avioli, Sr.

1. U.S. PLEDGE OF ALLEGIANCE.

2. PLEDGE TO THE TEXAS FLAG.

Councilman James P. Avioli, Sr., led the audience and City Council in the Pledges to the Flags.

D. PERSONAL/AUDIENCE COMMENTS.

Lynn McBee, 5314 Evergreen Street, Bellaire, Texas:

Ms. McBee addressed City Council and referred to items that were on the “not done” list. The first item on the list was the sound system in the Council Chamber and for those watching the meetings from home. She inquired as to whether anyone had followed up on that matter.

The second item on the list was water meters. Ms. McBee stated that it had been ten years since the City Council and City management were asked to ensure that the usage of the water in the City was fully metered. As it stood, only those customers who paid for water usage were metered. In other words, the City did not know how much the City’s five swimming pools used, how much leakage there was, nor how much was used in the new irrigation system along the West Loop that the City contracted to do.

Ms. McBee next referred to the commemoration of a time capsule in Paseo Park earlier in the evening as the last vestige of the Centennial Planning Committee celebrating last year. The ceremony was not to bury the time capsule, because that had already been done without anyone knowing about it. Ms. McBee thanked the Mayor and Councilman Avioli for attending the event on behalf of the City.

Also of note was the City’s General Election scheduled on November 3, 2009. Ms. McBee advised that today, August 3, 2009, was the first day that a
person wishing to be a candidate could apply for a place on the ballot. There were at least three vacancies on the City Council. Will Hickman’s term was up; Peggy Faulk’s term was up and she was now termed out; Cindy Siegel, the Mayor, had an option for another two-year term; and Pat McLaughlan’s term was up and he was now termed out. Ms. McBee hoped that the City would mark this post-Centennial era with many, many candidates.

In order to run for City Council, one had to be 21 years of age, have lived in Bellaire for twelve months, have committed no felony, etc., and paid taxes. A candidate did not have to pay a filing fee to run for office in Bellaire, but did have to keep a record of what was collected and spent on campaign filings. The City Clerk had prepared a directional book on what to do, how to do it, and who to contact for questions. She urged residents to stand up, get involved, and ensure that every position was contested.

**Mayor Cindy Siegel** took an opportunity to recognize Mayor Louise Ware, who was present this evening for an agenda item renaming one of the City’s parks after her family. Mayor Ware was the first woman Mayor in Bellaire, and it was a great honor to have her attend this meeting.

### E. REPORTS:

**Mayor Cindy Siegel** requested that the presentation by representatives from the Texas Municipal Retirement System (TMRS) be considered at this point in the meeting due to the prior arrangement of their flights back to Austin, Texas.

2. **PRESENTATION and possible discussion regarding Bellaire’s employee retirement benefit program through the Texas Municipal Retirement System (TMRS), as well as Bellaire’s contribution rate and actuarial valuation – Item submitted by Director of Human Resources Roberta Murray on behalf of Mayor Cindy Siegel; Presentation by Anthony Mills, Texas Municipal Retirement System (TMRS).**

Roberta Murray, **Director of Human Resources**, introduced two members of the Texas Municipal Retirement System (TMRS) team that were present for the City Council meeting this evening—Sean Thompson and Anthony Mills.

**Anthony Mills, Texas Municipal Retirement System (TMRS),** addressed City Council and noted that he wished to speak on behalf of the entire employee staff at TMRS and their Board of Trustees (“Trustees”). He noted that the staff and Board were very pleased to assist Bellaire in any way that they could.

Mr. Mills continued and stated that he would spend a few moments talking with City Council about Bellaire’s TMRS plan. Mr. Mills provided
some handouts to City Council related to the plan. He noted that cities rarely made substantive changes in their TMRS plan on a year-to-year basis; however, retirement plans were often reported on in the news and TMRS’ program had been discussed quite a bit over the last few years. The reason was due to the fact that TMRS had made some of the most substantive changes in their 61-year history within the last few years.

Mr. Mills pointed out that the changes made to the TMRS program were proactive changes. TMRS had been a solid, dynamic retirement system over their 60-year history and were positioning themselves to continue to be so as TMRS moved forward through the next 60 years.

The City of Bellaire became a part of TMRS in October of 1975. Bellaire had been very deliberate in the way in which its benefits had been enhanced for its employees. Once a city became a part of TMRS, that city had an option as to whether or not to participate in the program. An employee who would have given a career of service to their community, Bellaire, would have paid into, along with the City, a dynamic retirement program that would guarantee a lifetime retirement pension once the employee retired from the City.

It was important to note that for a city that did not pay into social security, such as Bellaire, TMRS was very likely going to be the main source of income for those public servants who had given a career to Bellaire. Those employees paid into a program that had been decided by the City Council.

In comparing Bellaire to other cities in the San Jacinto Region (i.e., Harris and Fort Bend County areas), Bellaire’s plan looked much like most cities. Mr. Mills reviewed some of the basic provisions that Bellaire had in its plan. For example, Bellaire employees paid a 7% deposit rate into the program. Bellaire had 155 contributing employees in the program and each paid into the program at the same deposit rate established by the City Council.

The City set aside funds in a separate account that would, upon retirement, be used to help pay a lifetime retirement benefit to annuitants. The matching ratio that Bellaire had in place right now was a 2 to 1 match. Under state law, the matching ratio could be a 1 to 1, 1.5 to 1, or 2 to 1 match.

The vesting requirement that Bellaire had was a five-year vesting requirement. He noted that he believed most of the members of City Council came from the private sector with 401k retirement plans and when they heard the term “vesting,” that generally meant that an employee had worked long enough to be entitled to the contribution that he had made toward his retirement and would be entitled to the
contributions that the employer had made toward his retirement. In TMRS, it was different. Once an employee was vested under the TMRS program, that employee had worked long enough to be entitled to a lifetime pension, but he was not entitled to the City’s contributions until he actually retired.

“Retire” under TMRS meant that an employee had terminated his employment and now he was eligible to receive a benefit, requested a benefit, and would draw a monthly pension for the rest of his lifetime. The contributions that the City had set aside were only used to help pay a monthly pension to its future retirees.

The way that an employee established his eligibility for retirement in Bellaire was to become vested (i.e., at least five years of service) and to reach the age of 60. If an employee with five years of service and less than 60 years of age terminated his employment, he would be entitled to receive either a refund (i.e., of the funds he had paid in, but not the funds the City had paid in) or would remain in the system until he reached age 60.

If an employee at Bellaire had 20 years of service credit, then that employee had established enough minimum service time to qualify for retirement benefits before the age of 60. The age of the employee did matter in calculating the retirement benefit because the TMRS plan was ultimately a defined benefit plan, although it worked much like a defined contribution plan. The TMRS plan was unusual in that regard and was often referred to as a “hybrid.” The TMRS plan worked much like a 401k plan. In a 401k plan, employees paid in throughout their career. The account grew with interest and the balance at retirement helped determine how much the benefit was going to be. In TMRS, the balance did matter at retirement. However, it was not just the employee’s balance that determined the benefit. TMRS would also calculate the employee’s annuity based on the matching monies that had been set aside.

The matching monies that the City paid into TMRS were a percentage of the City’s annual payroll. The rate was an actuarially determined rate and calculated on an annual basis for the City’s retirement benefit for that year. The provisions that Bellaire had adopted in its plan helped determine what the rate was.

Each of the 835 cities in TRMS was individually valued each year. At the end of December of each year, the plan was valued and the rate determined for the coming year. So, on December 31, 2009, TMRS would calculate what Bellaire’s rate would be for 2011. In calculating the rate, TMRS would look at the City’s demographics (i.e., number of employees, average age of employees, salaries of employees, payroll
growth, and how close employees were to qualifying for retirement benefits) and the provisions Bellaire had adopted in its plan.

Mr. Mills next reviewed additional provisions that Bellaire had in its retirement plan. He noted that Bellaire had supplemental death benefits for employees and retirees. This was a lump sum death benefit that would be paid in the event that an active employee died while an employee at Bellaire. If an employee were retired from Bellaire, a lower lump sum amount would be paid to that employee’s beneficiaries. This was over and above the monthly annuity that beneficiaries might be entitled to.

Bellaire also had 100% updated service credit with transfers on an auto re-adoption basis (i.e., a repeating ordinance). Mr. Mills advised that he was going to come back to this provision and explain it further.

Along with the annuity increase, Bellaire had a 70% annuity increase on an auto re-adoption basis (i.e., repeating ordinance).

Bellaire also had the restricted prior service credit provision. Basically the restricted prior service credit provision allowed an employee at Bellaire to use any other public employment that he had anywhere in the United States for time purposes. It had no monetary value and there was not cost to the city upfront for this particular provision. However, the time could be used to help an employee qualify ultimately for a retirement benefit. The benefit would be calculated based on the actual monies that had been contributed by the employee and the monies that had been contributed by the City.

Mr. Mills reiterated that an employee paid into his own retirement account while the City paid into a separate account, the Municipal Accumulation Fund. He also restated that TMRS provided each member city with an actuarially determined rate annually so that cities could figure out how much they needed to pay in to make sure that they were on schedule to ultimately fully fund the city’s retirement plan.

Mr. Mills next referred to the amortization schedule and other changes that TMRS had made in the last few years. As he stated at the outset, TMRS had probably made the most substantive changes in its 60-year history over the last few years. The changes were proactive changes to ensure that TMRS stayed on solid ground as TMRS moved forward.

One of the three changes was related to TMRS’ investment strategy. TMRS had been an institutional investor that invested primarily in a fixed income investment portfolio (i.e., corporate and government bonds). TMRS had invested mainly in corporate and government bonds. Prior to 2008, 100% of TMRS’ portfolio was in fixed income
securities. That strategy was changed because all eggs in one basket did not do the system a great deal of good. TMRS was in a fortuitous position in that when the market did its major correction into 2007, 2008, and this past year, TMRS’ portfolio was still made up of 100% bonds. For this reason, TMRS’ annual return finished in the top one percentile of all pension plans in the country in 2008. Even though TMRS finished in the top one percentile, the plan finished at –1.3% for the year. If TMRS continued with that strategy and knowing the yields that TMRS was looking at coming down the pike, they knew at some point it was going to continue to increase the rates that cities paid into the system because part of the rate had to do with the returns that TMRS got on its investments.

TMRS began moving out into the equities market in 2008 by moving 1% of the trust fund each month. TMRS had a five-year goal to have 60% of the fund ultimately invested in the equities market. As it stood right now, the equities TMRS was investing in were passively managed equities, such as domestic equities, the Russell 3000 Index, and a Morgan Stanley fund, which was an international index fund that looked at Europe, Asia and Far East developed countries. Approximately 35% of the fund would still be in fixed income investments and 15% would be invested in real estate, absolute return, and real return investments.

By diversifying the portfolio, TMRS knew that in the long run stocks outperformed bonds. By moving all of their eggs from the same basket, TMRS was looking toward ensuring that they had non-correlated assets. Higher interest in the city accounts would help to lower instantly the rates TMRS charged cities, including Bellaire’s 2010 rate that was already supplied to the City. TMRS’ strategy was passed during the recent Texas State Legislature.

The other two changes that TMRS recently made were actuarial changes. In the past TMRS had used the traditional unit credit method, which took a year-by-year look at the liabilities on a city’s plan to help determine what those liabilities actually cost. TMRS had changed to a more responsible approach by using a projected unit credit methodology. The projected unit credit methodology took into account a city’s liability for the current year and prospectively. By doing so, TMRS was getting the cities to advance fund the provisions they had in their plans.

Mr. Mills referred back to the 100% updated service credit with transfers. He pointed out the fact that Bellaire had a repeating ordinance for that particular provision, along with the 70% annuity increase. When an employee ultimately retired from Bellaire, his retirement benefit would stay fixed for the rest of his lifetime. In other words, the amount of benefit would not change over the employee’s
lifetime if Bellaire did not have the annuity increase provision in place. Mr. Mills stressed that Bellaire was not increasing their retirees’ benefits by 70% each year. What Bellaire was doing was paying a percentage of the change in the Consumer Price Index (CPI). TMRS used federal tables to determine how much inflation affected the cost of goods and services in the larger marketplace. Bellaire was paying 70% of whatever change occurred in the CPI year over year. Typically speaking, the inflation index changed about 3%. Seventy percent of the 3% would give Bellaire’s retiree a 2.1% increase in his annuity benefit.

Importantly, Bellaire currently had this provision on a repeating ordinance. This meant that TMRS, from a fiduciary prospective, anticipated that Bellaire would continue to pay a cost of living increase to its retirees whose main source of income, not having paid into social security, was going to be their TMRS retirement benefit.

Again, by going to the projected unit credit method, TMRS was stating what the cost of the annuity increase was today and also what the cost was anticipated to be over a generation. This was an acceptable accounting standard used to account for certain provisions in a retirement plan, such as TMRS’ plan.

Bellaire did have an option to adopt the 100% updated service credit and the 70% annuity increase on an annual, ad hoc basis. If a city chose to adopt those provisions on an ad hoc basis, the city would decrease the rate it was providing for the provisions, but the decrease would only be a short-term decrease. Ultimately, if the City’s goal was to make sure that their retirees got a cost of living adjustment to keep up with inflation, the City would end up paying more because it did not pre-fund the benefit earlier in the life of that particular provision and would miss out on some income that the City could have earned on its accumulation account by not paying the higher rate.

Cities that elected to adopt the referenced provisions on an annual basis rather than a repeating basis would have a shorter amortization schedule—a fifteen-year schedule for that particular liability. Normally the amortization schedule would last 30 years.

The third significant change made by TMRS in recent years had to do with the amortization schedule. It had been a rolling, open amortization schedule. By using a 30-year fixed schedule, along with a the projected unit credit method, cities would pay a lower rate into TMRS and cities would ultimately move toward a 100% funded ratio at a faster clip than the cities would have under the old method used to calculate the cost of a city’s plan.
Mr. Mills indicated that he had presented a broad overview of Bellaire’s plan and recent changes made by TMRS. He opened the floor for questions from City Council.

**QUESTIONS/COMMENTS FROM CITY COUNCIL:**

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

**Q:** Councilman John Jeffery referred to the annuity increase of 70% of the CPI increase and asked for confirmation that the increase had been averaging 2.1%.

**A:** Mr. Mills stated that in a typical year, inflation had hovered at 3%. Therefore, 70% of the increase would be about 2.1%. Under TMRS’ plan, a city could adopt an increase of 50% or 30% of CPI. He pointed out that this year would be an anomaly in that inflation was stagnant. Bellaire’s retirees would likely see no increase this year.

**Q:** Councilman Jeffery inquired as to whether there was any future plan to cap the amount of increase. For example, if the CPI increase were 6% in a given year, would TMRS consider lowering the gap or let it run as high as inflation might actually get, such as 15%?

**A:** Mr. Mills advised that under state law, there was no cap, per se, on the amount of increase other than 70% of the change.

**Q:** Councilman Jeffery inquired as to whether cities could opt to lower the increase to 50% or 30% of the change.

**A:** Mr. Mills indicated that Councilman Jeffery was correct. If the country moved into a period where inflation rose upward at a higher or faster clip than it normally did, a city could look at the percentage rate and move it down.

**Q:** Councilman James P. Avioli, Sr., inquired as to how the employee’s rate of 7% paid into the system was established. In other words, was it flexible?

**A:** Mr. Mills stated that it was flexible under state law, but flexible upward. When the City became a member of TMRS in 1975, the City entered at a 5% deposit rate. The deposit rate was increased to 6% in 1999. The City ultimately moved up to 7% in 2001. The City Council could move the rate upward without any employee input. If the City Council wanted to move the deposit rate downward, then an approval rate of 2/3 of the 155
employees who paid into the system would have to be obtained.

Q: Councilman Avioli asked for confirmation that if he were a City employee, he would have to deposit 7% of his pay into TMRS.

A: Mr. Mills advised that Councilman Avioli was correct.

Q: Councilman Avioli asked for confirmation that the rate to be paid by the City was determined by the Board of Trustees based on balances.

A: Mr. Mills stated that part of the calculation in determining a city’s rate was the balances, net assets on a city’s books, and in the Municipal Accumulation Fund. One of the things that TMRS had to account for was the liabilities themselves. The difference in the assets versus the liabilities on the books ultimately determined the City’s rate for that year.

Q: Councilman Avioli asked if he were an employee and made a deposit into TMRS if that deposit was unique to him or if it went into a fund with all of the other contributions deposited by employees.

A: Mr. Mills indicated that Bellaire had its own individual account. Each of the 835 cities that were members of TMRS had their own individual accounts.

Q: Councilman Avioli asked for confirmation that it would always be his money.

A: Mr. Mills advised that Councilman Avioli was correct.

Q: Councilman Avioli referred to the retirement of an employee and asked for confirmation that the employee would receive his own contributions and inquired as to when the employee would receive the City’s portion of his contributions.

A: Mr. Mills indicated that there was a difference in terminating and refunding under TMRS versus terminating and retiring under TMRS. In the private sector, if an employee was vested and in a 401k plan, that employee might be able to terminate and receive a lump sum refund of his money and the employer’s money. In TMRS, that was not the case. Just because an employee was vested did not mean that the employee could terminate and get a lump sum of the City’s contributions. The City’s contributions stayed separate from
the employee’s account until that employee actually applied for retirement and drew an annuity benefit.

Q: Councilman Avioli inquired as to whether there were any lump sum options under TMRS.

A: Mr. Mills advised that there was a partial lump sum payment option at retirement that a retiree could take. There was a cap on that lump sum payment. The retiree could draw no more than 75% of the balance that was in the retiree’s personal account at retirement.

Q: Councilman Avioli inquired as to whether there was an option for a survivor’s benefit.

A: Mr. Mills stated that TMRS did have survivor options. The retiree would have the option to take a guaranteed lifetime benefit for himself and himself only or he could choose himself and a joint survivor. TMRS would take into account the difference in age of the retiree and the beneficiary to calculate the retiree’s annuity benefit. The retiree would give up part of his benefit to ensure that there was something left for a survivor. There were three lifetime survivor options—leaving the survivor 100% of his benefits, 75% of his benefits, or 50% of his benefits.

Q: Councilman Avioli provided a scenario and inquired as to what would happen to an employee’s account in that instance. The scenario was an employee with 20 years of service that retired and collected two checks, then passed away.

A: Mr. Mills indicated that if the employee retired and selected a beneficiary to draw a lifetime survivor benefit, the survivor would continue to draw the benefit for the remainder of the survivor's lifetime. If the employee did not select a survivor benefit and chose a retiree only benefit, the personal account balance of that retiree would be paid in a lump sum to his beneficiary. The beneficiary would not receive the City’s match. The City’s match was only paid out in a monthly benefit check to the retiree or his survivor.

Q: Councilman Avioli indicated that it appeared that the system was sound financially. He inquired as whether the system had any association with the federal pension guaranteed fund should there be a problem.

A: Mr. Mills advised that the federal pension guaranteed fund was set aside for private sector pension plans. Companies could
and did go out of business. Support was there to protect those funds. In a plan, such as TMRS’ plan, all cities were individually valued and individually transferred to pay a benefit for their retirees. In the unlikely event that Bellaire went away, the monies would have been advanced funded and employees that had already retired would have their guaranteed benefit from the trust fund itself.

Q: Mayor Pro Tem Peggy Faulk inquired as to whether Mr. Mills could provide a telephone number that a member or members of City Council could call if they had more questions regarding the plan.

A: Mr. Mills indicated that he would make sure that his information was left with the City Clerk, as well as Human Resources Director Roberta Murray. He advised that the information was also included in the publication he had distributed to City Council just prior to his presentation. The number was noted to be 800-924-8677.

Q: Mayor Pro Tem Faulk referred to the annual contribution rate letter that TMRS submitted to cities. She inquired as to whether she could see a copy of that letter for the City of Bellaire, as well as the GASB disclosure letters from the last few years. She referred to TMRS’ change in investment strategy and inquired as to what the beta ratio had been and what TMRS’ goal for the beta ratio would be going forward.

A: Mr. Mills advised that TMRS’ ultimate goal was to get to a 100% funded ratio. It was not likely that anyone would ever see 100% funding across the board for all plans. He mentioned that each plan was individually funded. Bellaire was currently 62.2% funded in its plan, but moving toward 100%. Bellaire had always paid in the actuarially determined rate for the City. This was what was needed to adequately fund the benefits that might be paid out from Bellaire’s plan.

The total TMRS fund was at an 80% funded ratio. At its high point, the fund had been 89% funded. With the changes TMRS recently made, more liability had been placed on the books than TMRS had previously. TMRS was still on an acceptable schedule to get to a 100% funded ratio.

Q: Mayor Pro Tem Faulk advised that Mr. Mills had provided some good information, but she was interested in the beta ratio. She asked that someone find out the ratio and get back to her.
Mr. Mills indicated that he would certainly do that.

Mayor Pro Tem Faulk inquired as to the amount of the actuarial value of the assets versus the actuarial accrued liability for Bellaire.

Mr. Mills stated that the unfunded actuarial accrued liability was about $16.4 million. The actuarial value of the assets was $17.2 million at the end of 2008. He noted further that Human Resources Director Roberta Murray could get a copy of the rate letter for City Council.

Mayor Pro Tem Faulk referred to the fact that the City of Bellaire had its own separate fund. She inquired as to whether that meant that the funds for the City of Bellaire were invested using the same strategy as all other cities within the San Jacinto Region.

Mr. Mills advised that all cities in TMRS had their own accounts. The overall trust fund had a value of $14 billion. At the end of 2008, $17.2 million of the $14 billion was Bellaire’s. TMRS did invest monies that Bellaire had on account with TMRS, along with the contributions that Bellaire’s employees paid into TRMS. All monies in the trust fund (Bellaire’s and those funds of other cities) were uniformly invested. The total return strategy that TMRS had in place would be shared.

That strategy would no longer be shared uniformly with employees and the cities. Previously, both the city and the employee got the same interest rate each year from the investment returns. As it stood now, the cities could get a variable rate of return. The employees would get a guaranteed five percent interest rate. That guarantee for the employees had not always been in place. That guarantee came out of the most recent Texas State Legislature. TMRS was assuming that the return for the cities would be 7.5%, however, it could be a higher or a lower amount.

Mayor Pro Tem Faulk advised that she had worked in both the private and public sectors. She felt that the rate for the City of Bellaire was pretty impressive. She asked for a summary of matching ratios for all of the cities in the San Jacinto Region.

Mr. Mills indicated that TMRS would certainly assist City Staff in pulling together a summary for the cities in the San Jacinto Region. He noted that what was often seen in a public sector plan was a multiplier where an employee worked a certain
number of years and that number was multiplied by a multiplier resulting in a percentage of the employee's salary. This was not something seen in the TMRS plan. There was no multiplier effect in the TRMS plan—it was more of a cash balance plan.

Q: Mayor Cindy Siegel inquired as to what the Board of Trustees would consider doing in terms of the plan if the economy kept going down and did not turn around for the next five years. In other words, could the retirement age be changed?

A: Mr. Mills advised that TMRS had always kept up with what was going on in the State of Texas and had always responded to the needs of its member cities. TMRS could certainly change state law, if need be. He suspected that there would be changes that would go into effect in the next Texas Legislative Session.

When speaking about the investments and the performance of those investments, because TMRS was a long-term institutional investor, it could sustain the downturns in the market by using smoothing techniques.

TMRS was going to a strategy that would allow them to, in any given year, pass on a certain percentage of the actual gains that TMRS gained in any given year and a percentage of the losses in any given year and smooth that over a time-certain period. It was very likely that this period would encompass ten years. So, in a down year, cities might see one-tenth of a loss passed on to them.

Q: Mayor Siegel noted that a statement was made that the higher returns would be included in a City’s accumulation account. Since TMRS was switching to an investment strategy of 60% equities, she inquired as to what would occur if in ten years the country still experienced the same issues it was experiencing today. In other words, what if the value of the fund decreased by a large percentage?

A: Mr. Mills indicated that the smoothing technique and the reserve policy that TMRS was putting in place would help the system in the event of a downturn in the equities market. The reserve policy would help shore up the fund and ensure that TMRS would not have to pass on any total loss to member cities in any given year.

Q: Mayor Siegel inquired as to what other cities facing economic downturns were doing with their retirement plans. For example, Mayor Siegel assumed that a city could change its matching ratio.
Mr. Mills advised that when TMRS increased its rates due to the changes he mentioned earlier, one of the things they knew was that most cities were not going to be able to immediately budget and afford to pay the higher contribution rate. TMRS implemented an eight-year phase in to allow cities to ultimately stair step up to the full contribution rate. Bellaire had always paid the full contribution rate in the past and ultimately would get back to that rate once Bellaire got through the eight-year phase in.

Mr. Mills indicated that most of the cities in the San Jacinto Region so far had managed to budget to keep the benefits in place that they currently had. Cities surrounding a major metropolitan area often became a training ground to do all of the credentialing for employees. Once those employees were trained, a nearby city with better benefits was often able to take those employees away. Cities were always weighing and figuring out a sustainable level of benefit to retain employees. He added again that most cities in the area had maintained their current plans.

Mayor Siegel asked for confirmation that the plan was at an 80% funded ratio.

Mr. Mills advised that Mayor Siegel was correct—it was just a tad under 80%.

Mayor Siegel noted that Bellaire’s plan was 62.2% funded. She asked how Bellaire’s funding compared to neighboring cities, such as the City of West University Place.

Mr. Mills indicated that he could get the information for the Mayor. He pointed out that Bellaire had 155 active employees, but also had 87 retirees. That ratio, when compared across the board, was a higher ratio of retirees to active that one would normally find. Apparently people came to work for Bellaire, like it, and stayed. One of the real cost drivers in Bellaire’s plan obviously was to keep the retirees up to pace with inflation. If Bellaire was not growing its payroll the projected amount that TMRS would assume when valuing its plan, that ratio difference had something to do with some of the liability on Bellaire’s books.

Councilman Avioli inquired as to how TMRS’ board was appointed.

Mr. Mills indicated that the TMRS Board of Trustees consisted of six members that were appointed by the Governor of Texas--
three members came from executive positions throughout the cities and three members came from the employee class positions throughout the cities. The Texas State Senate ultimately approved the Governor’s appointments. TMRS also contracted with outside consultants for actuarial services and investment services.

Q: Councilman Avioli inquired as to whether new appointments would be made if there were a change in the Governor’s office.

A: Mr. Mills advised that the terms of the trustees were six years. With a new Governor and new appointments coming available, there would be new trustees all of the time.

At this point in the meeting, Mayor Cindy Siegel requested that City Council consider the recommendation from the City Facility Naming Committee regarding the renaming of Jaquet Park (agenda item F. 2. a.).

F. NEW BUSINESS:

2. ADOPTION OF ORDINANCES:

Renaming of Public Facility

a. CONSIDERATION of and possible action on a recommendation from the City Facility Naming Committee to rename “Jaquet Park,” located at 6200 Jaquet Street, Bellaire, Texas, in honor of the Ware Family and on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, amending Ordinance No. 95-028, which provided for the naming and dedication of Jaquet Park as a public park in the City of Bellaire, Texas, for the purpose of changing the name of “Jaquet Park” to the “Ware Family Park” to commemorate and recognize Henry and Louise Ware and their family for their many contributions and hours of volunteerism to the City of Bellaire and the community – Item submitted by City Clerk Tracy L. Dutton on behalf of Councilman Pat McLaughlan, Facilitator for the City Facility Naming Committee.

MOTION TO ADOPT ORDINANCE:

A motion was made by Councilman Pat McLaughlan and seconded by Mayor Pro Tem Peggy Faulk to accept the recommendation from the City Facility Naming Committee to rename “Jaquet Park,” located at 6200 Jaquet Street,
Bellaire, Texas, in honor of the Ware Family and to adopt an ordinance of the City Council of the City of Bellaire, Texas, amending Ordinance No. 95-028, which provided for the naming and dedication of Jaquet Park as a public park in the City of Bellaire, Texas, for the purpose of changing the name “Jaquet Park” to the “Ware Family Park” to commemorate and recognize Henry and Louise Ware and their family for their many contributions and hours of volunteerism to the City of Bellaire and the community.

SUMMARY/DISCUSSION ON MOTION TO ADOPT ORDINANCE:

Mayor Cindy Siegel advised that she had appointed a committee, the City Facility Naming Committee, to review a request the City had received to rename “Jaquet Park,” located at 6200 Jaquet Street, Bellaire, Texas, in honor of the Ware Family. The members of the City Facility Naming Committee were Councilman Pat McLaughlan, who also served as the Council Liaison to the Parks & Recreation Advisory Board, Chair of the Parks & Recreation Advisory Board Leslie Little, and Director of the Parks & Recreation Department Jane L. Dembski. Mayor Siegel inquired of Councilman McLaughlan as to whether there had been any discussion related to naming the park anything other than the "Ware Family Park."

Councilman Pat McLaughlan advised that there was some discussion and citizen input related to keeping the name of the street “Jaquet” as part of the name of the park. For example, a recommendation was made to name the park “Jaquet Ware Park.” The City Facility Naming Committee elected, by unanimous vote, to recommend that “Jaquet Park” be renamed as the “Ware Family Park.”

Councilman McLaughlan continued and noted that resident Lynn McBee had graciously put together a little bit of history regarding Louise and Henry Ware. He read a portion of what Ms. McBee had provided as follows:

Henry and Louise from their arrival in Bellaire in 1953 through Henry’s death in 2008, were well known and admired by all of the community. They were truly living symbols of volunteerism and involvement. Bellaire has gained greatly from their combined civic service.

The Wares were very active in the Bellaire Historical Society, Friends of the Bellaire Library, the Bellaire Antique Festivals, and the Bellaire Arts and Crafts Shows.
Louise was a Girl Scout Leader, a member of the San Jacinto Girl Scout Council, an instructor in first aid, sailing, canoeing, and swimming at the Evergreen Pool for over 20 years.

In 1974, Louise began her involvement with the City of Bellaire City Council. She was elected in 1974 to the Bellaire City Council, serving two terms or a total of four years, through the political eruption of a Bellaire City Council recall, which she survived.

In 1978, Louise was elected the first woman Mayor of the City of Bellaire. Following her term as Mayor, the Mayors of the Harris County Small Cities elected her to the Metropolitan Transit Authority (METRO) Board of Directors where she served six years.

The Bellaire Southwest Chamber of Commerce named Louise "Mr. Bellaire" in 1982. The Bellaire Southwest Chamber of Commerce awarded Henry the "Mr. Bellaire" recognition in 1986.

Councilman McLaughlan closed by thanking Louise for her contributions and service to Bellaire.

**VOTE ON MOTION TO ADOPT ORDINANCE:**

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

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

**OPPOSED:** None

**ABSENT:** Hickman, Will
             Nauert, Phil

{Ordinance was subsequently numbered: 09-048}

Mayor Siegel invited the Ware Family to come forward so that those in the audience could recognize them.

At this point in the meeting, the Bellaire City Council returned to agenda item E. 1. and considered the remainder of the agenda in the order in which it was written.
E. REPORTS:

1. CITY MANAGER’S REPORT regarding residential safety (police activity report), public infrastructure/utilities (street and drainage projects update), crime and building permit indicators, and upcoming City Council meetings/events – Presented by City Manager Bernard M. Satterwhite, Jr.

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

Residential Safety

Given the fact that the month of July just ended and it was early August, City Manager Satterwhite noted that he did not yet have a full police activity report for the month of July. He stated that there had been three residential robberies in Bellaire within the past week or so. The good news was that there were suspects in custody in all three of those robberies.

Infrastructure/Utilities

With respect to street and drainage projects, Evergreen Street on the west side of town was open to two-way traffic. The contractor was finishing work on curbs and yards.

The Newcastle Drive reconstruction project was still ongoing. The contractor would begin pouring driveways and sidewalks on the east side and the trail in the near future. The section of Newcastle Drive currently underway was expected to be completed by August 20th. This date was significant because school was scheduled to start on August 24th. At the very least, traffic should be flowing well even if the street reconstruction was not fully completed by August 24th.

The Rebuild Bellaire Program, Phase Two, was also going very well. The City had experienced a few “bumps in the road” regarding the signal light project. There was a great deal of boring involved in the project as it was necessary to install conduit for fiber optics between each signal. With that boring came the inadvertent breaking of other types of utilities. The utilities were all marked in advance of any boring, however, the marking of utilities was never an exact science. As a result, the City had experienced some telephone cable breaks, electrical cable breaks, and a water line break. Crews were able to repair the breakages right away. There was no liability for the City or even the contractor because the lines were properly marked prior to boring. City Manager Satterwhite advised that the signal poles had been delivered and were awaiting inspection by the Texas Department of Transportation (TXDOT). Once the inspection was completed, the
poles would be galvanized, then inspected again, then powder coated, and then inspected again. The poles should be installed within the next few weeks.

**Cultural/Recreational**

It was noted that 1,035 kids had completed the Summer Reading Program this year as compared to approximately 935 the previous year. The Bellaire City Library was planning a celebration on Friday at 3:00 p.m. for those kids that had completed the program. City Council was invited to attend that celebration as well.

The Loftin Park improvements were also noted to be close to completion. The City had a walk-through earlier in the day, and there were a few items that needed to be taken care of. All in all, the project had been a very good one. The Parks & Recreation Department, Parks & Recreation Advisory Board, and the Patrons for Bellaire Parks, Inc., would hold a ribbon-cutting ceremony for Loftin Park on August 12th at 11:30 a.m.

**Crime and Building Permit Indicators**

City Manager Satterwhite presented a slide depicting crime report indicators for the current year as compared to previous years. Total crime was up in May over the month of April, but had gone down by the month of June. In other words, there were no real steady trends.

With regard to individual crimes, robbery was up significantly. Assault, on the other hand, was down. Residential burglary was up somewhat significantly, however, building burglary was down significantly. Theft was about the same.

The building permit information was not put together in a “graph format” this evening, but would be presented during the next City Manager’s Report. As of June 2009 (three-quarters through the year), 37 new home building permits had been issued. For the same period in 2008, the City had issued 93 new home building permits. The value of the permits year-to-date for 2008 was approximately $73 million. The value of the permits this year was approximately $34 million.

**Upcoming Meetings/Events**

The following upcoming meetings were noted:

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Type of Meeting</th>
</tr>
</thead>
<tbody>
<tr>
<td>August 17, 2009</td>
<td>6:00 p.m.</td>
<td>Budget Public Hearing</td>
</tr>
<tr>
<td>August 17, 2009</td>
<td>7:00 p.m.</td>
<td>Regular Session</td>
</tr>
</tbody>
</table>
City of Bellaire  
City Council  
Minutes of Meeting  
Monday, August 3, 2009

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Type of Meeting</th>
</tr>
</thead>
<tbody>
<tr>
<td>August 18, 2009</td>
<td>7:00 p.m.</td>
<td>Special Session (Budget)</td>
</tr>
<tr>
<td>September 14, 2009</td>
<td>7:00 p.m.</td>
<td>Regular Session</td>
</tr>
</tbody>
</table>

QUESTIONS/COMMENTS FROM CITY COUNCIL:

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

Q: Councilman Pat McLaughlan referred to the signal light upgrade. He noted that there was a large aluminum signal box at the end of Paseo Park near the Bellaire Boulevard and South Rice Avenue intersection. He advised that he did not know if this was part of the new signal light upgrade project or not. He stated that he was hopeful that the City would be able to consider some additional improvements in Paseo Park near that intersection, and he inquired as to whether this was a new signal box.

A: City Manager Satterwhite advised that this was not a new signal box.

Q: Councilman McLaughlan inquired as to whether the location was a permanent one for that box.

A: City Manager Satterwhite advised that it was a permanent location.

C: Councilman McLaughlan noted that the Public Works Director, Joe Keene, had done a great job years ago with an aluminum ventilator located on top of a lift station. Director Keene had painted the ventilator dark green so that it would blend in with the environment. He suggested that Director Keene consider painting the signal box dark green so that it would tend to blend in with the nice environment in the area.

Q: Councilman James P. Avioli, Sr., inquired as to whether the signal box could be buried or moved.

A: Director of Public Works Joe Keene advised that it could possibly be moved, but could not be buried.

City Manager Satterwhite stated that City Staff would look into it.

Q: Councilman Avioli referred to the robberies that had occurred in Bellaire in the last few weeks. He inquired as to whether those were break-ins or armed robberies.
A: City Manager Satterwhite indicated that he did not have the
details about the robberies at the moment. He stated that if
the incidents were break-ins, then they would be classified as a
burglary. A robbery was generally person-to-person. He was
assuming that these were probably armed robberies.

MOTION TO ACCEPT REPORT INTO THE RECORD:

A motion was made by Councilman Pat McLaughlan and seconded
by Councilman John Jeffery 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 4-0 vote as follows:

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

OPPOSED: None

ABSENT:
Hickman, Will
Nauert, Phil
Faulk, Peggy*

*Mayor Pro Tem Peggy Faulk stepped away from the City Council table
temporarily and did not participate in the vote to accept the City
Manager’s Report into the record.

2. PRESENTATION and possible discussion regarding Bellaire’s
employee retirement benefit program through the Texas
Municipal Retirement System (TMRS), as well as Bellaire’s
contribution rate and actuarial valuation – Item submitted by
Director of Human Resources Roberta Murray on behalf of
Mayor Cindy Siegel; Presentation by Anthony Mills, Texas
Municipal Retirement System (TMRS).

Note: This agenda item was considered earlier in the meeting. See
pages 3-16 of these minutes for the discussion related to this agenda
item.
F. NEW BUSINESS:

1. CONSENT AGENDA:

   Approval/Correction of Minutes

   a. APPROVAL of the minutes of the Regular Session of the City Council of the City of Bellaire, Texas, held Monday, July 20, 2009 – Item submitted by City Clerk Tracy L. Dutton.

   b. APPROVAL of the minutes of the Special Session of the City Council of the City of Bellaire, Texas, held Monday, July 27, 2009 – Item submitted by City Clerk Tracy L. Dutton.

   Contract for Cooperative Purchasing Program

   c. CONSIDERATION of and possible action on the adoption of a resolution of the City Council of the City of Bellaire, Texas, approving the terms and conditions of a Municipality Master Service Interlocal Contract Between Harris County Department of Education, which sponsors choice facility partners, providing for a cooperative purchasing program for goods and services, and the City of Bellaire, Texas; designating Donna Todd, Chief Financial Officer, as official representative for the City of Bellaire, Texas, relating to the program; and authorizing the Mayor of the City of Bellaire, Texas, to execute said contract for purposes of the City of Bellaire’s participation in the program – Item submitted by Chief Financial Officer Donna Todd.

   Final Payment on Contracts

   d. CONSIDERATION of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, authorizing the City of Bellaire, Texas, to make the final payment to Beck Disaster Recovery, Inc., related to a Services Agreement for the performance of monitoring services associated with debris management and disaster recovery provided to the City of Bellaire, Texas, as a result of Hurricane Ike and authorizing the Mayor of the City of Bellaire, Texas, to execute the Beck Disaster Recovery, Inc., Invoice Summary for Disaster Debris Monitoring Services, Hurricane Ike (FEMA-DR-1791), in the amount of $51,665.95 – Item submitted by Director of Public Works Joe Keene.
e. CONSIDERATION of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, authorizing the City of Bellaire, Texas, to make the final payment to DRC Emergency Services, LLC, related to an Interlocal Agreement for Debris Removal and Disposal Services, by and between the City of Bellaire, Texas, and Harris County, Texas, for the use by the City of Bellaire, Texas, of DRC Emergency Services, LLC, for the performance of debris removal and disposal services as a result of Hurricane Ike and authorization for the Mayor of the City of Bellaire, Texas, to execute a Recommendation for Retainage Release, DRC Emergency Services, LLC, in the amount of $90,538.81 – Item submitted by Director of Public Works Joe Keene.

Councilman James P. Avioli, Sr., requested separate consideration of Consent Agenda item F. 1. e. in order to ask a question related to that item (i.e., final payment to DRC Emergency Services, LLC).

MOTION TO APPROVE AND ADOPT CONSENT AGENDA DATED AUGUST 3, 2009:

A motion was made by Councilman Pat McLaughlan and seconded by Councilman James P. Avioli, Sr., to approve and adopt the Consent Agenda dated August 3, 2009, consisting of the following items:

- Minutes of the Regular Session of the City Council of the City of Bellaire, Texas, held Monday, July 20, 2009;

- Minutes of the Special Session of the City Council of the City of Bellaire, Texas, held Monday, July 27, 2009;

- Resolution of the City Council of the City of Bellaire, Texas, approving the terms and conditions of a Municipality Master Service Interlocal Contract Between Harris County Department of Education and the City of Bellaire, Texas; designating Donna Todd, Chief Financial Officer, as official representative of the City of Bellaire, Texas, relating to the program; and authorizing the Mayor of the City of Bellaire, Texas, to execute said contract for purposes of the City of Bellaire’s participation in the program; and
• Ordinance of the City Council of the City of Bellaire, Texas, authorizing the City of Bellaire, Texas, to make the final payment to Beck Disaster Recovery, Inc., related to a Services Agreement for the performance of monitoring services associated with debris management and disaster recovery provided to the City of Bellaire, Texas, as a result of Hurricane Ike and authorizing the Mayor of the City of Bellaire, Texas, to execute the Beck Disaster Recovery, Inc., Invoice Summary for Disaster Debris Monitoring Services, Hurricane Ike (FEMA-DR-1791), in the amount of $51,665.95.

VOTE ON MOTION TO APPROVE AND ADOPT CONSENT AGENDA DATED AUGUST 3, 2009:

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

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

OPPOSED: None

ABSENT: Hickman, Will
Nauert, Phil

{The Interlocal Contract between the Harris County Department of Education and Bellaire was subsequently numbered: Resolution No. 09-06; the final payment to Beck Disaster Recovery, Inc., was subsequently numbered: Ordinance No. 09-046}

INDIVIDUAL CONSIDERATION OF CONSENT AGENDA ITEM F. 1. e.:

CONSIDERATION of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, authorizing the City of Bellaire, Texas, to make the final payment to DRC Emergency Services, LLC, related to an Interlocal Agreement for Debris Removal and Disposal Services, by and between the City of Bellaire, Texas, and Harris County, Texas, for the use by the City of Bellaire, Texas, of DRC Emergency Services, LLC, for the performance of debris removal and disposal
services as a result of Hurricane Ike and authorization for the Mayor of the City of Bellaire, Texas, to execute a Recommendation for Retainage Release, DRC Emergency Services, LLC, in the amount of $90,538.81 – Item submitted by Director of Public Works Joe Keene.

MOTION TO ADOPT ORDINANCE AUTHORIZING FINAL PAYMENT:

A motion was made by Councilman Pat McLaughlan and seconded by Councilman James P. Avioli, Sr., to adopt an ordinance of the City Council of the City of Bellaire, Texas, authorizing the City of Bellaire, Texas, to make the final payment to DRC Emergency Services, LLC, related to an Interlocal Agreement for Debris Removal and Disposal Services, by and between the City of Bellaire, Texas, and Harris County, Texas, for the use by the City of Bellaire, Texas, of DRC Emergency Services, LLC, for the performance of debris removal and disposal services as a result of Hurricane Ike and authorization for the Mayor of the City of Bellaire, Texas, to execute a Recommendation for Retainage Release, DRC Emergency Services, LLC, in the amount of $90,538.81.

DISCUSSION REGARDING MOTION TO ADOPT ORDINANCE AUTHORIZING FINAL PAYMENT:

Councilman James P. Avioli, Sr., referred to Exhibit A to the Retainage Release, DRC Emergency Services, LLC, which consisted of a table. He mentioned that there were several columns on the table as follows: invoiced amount, payment recommendation, payment by the City, and balance due. He inquired as to the difference between the column titled “invoiced amount” and the column titled “payment recommendation.”

Director of Public Works Joe Keene indicated that the “invoiced amount” was the amount the contractor sent for payment. The “payment recommendation” was the amount of money that was finally settled on those payment requests.

Councilman Avioli inquired as to whether the amount of payment was a negotiated amount.

Director Keene indicated that the amount was not negotiated. The contractor was paid by the yards of material picked up. With projects this large, the amount of yardage picked up according to the contractor and the amount the observer noted
as having been picked up differed somewhat. Those differences were subsequently reconciled between the contractor and observer.

**Councilman Avioli** stated that he noted that a difference occurred on only three of the invoices. He asked if this type of reconciliation between a contractor and an observer was normal.

**Director Keene** advised that it was normal.

**City Manager Bernard M. Satterwhite, Jr.** advised that the letter the City received was from the monitoring company or observer. The monitoring company recommended the amount of payment based on their observations. He noted further that the Federal Emergency Management Agency (FEMA) also scrutinized the billings and recommendations.

**VOTE ON MOTION TO ADOPT ORDINANCE AUTHORIZING FINAL PAYMENT:**

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

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

**OPPOSED:** None

**ABSENT:** Hickman, Will  
Nauert, Phil

{Ordinance was subsequently numbered: 09-047}

2. **ADOPTION OF ORDINANCES:**

**Renaming of Public Facility**

a. **CONSIDERATION of and possible action on a recommendation from the City Facility Naming Committee to rename “Jaquet Park,” located at 6200 Jaquet Street, Bellaire, Texas, in honor of the Ware Family and on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, amending Ordinance No. 95-028, which provided for the naming and dedication of Jaquet Park as a public park in the City**
of Bellaire, Texas, for the purpose of changing the name of “Jaquet Park” to the “Ware Family Park” to commemorate and recognize Henry and Louise Ware and their family for their many contributions and hours of volunteerism to the City of Bellaire and the community – Item submitted by City Clerk Tracy L. Dutton on behalf of Councilman Pat McLaughlan, Facilitator for the City Facility Naming Committee.

Note: This item was considered earlier in the meeting. See pages 16-18 of these minutes for discussion and action related to this agenda item.

Right-of-Way Abandonment

b. CONSIDERATION of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, authorizing the abandonment of an interest in a six-foot wide strip of the Fournace Place right-of-way abutting the properties on the south side of the 4600 block of Pin Oak Lane, Bellaire, Harris County, Texas; authorizing the owners of the properties on the south side of the 4600 block of Pin Oak Lane, Bellaire, Harris County, Texas, to purchase the interest in said right-of-way from the City of Bellaire, Texas; and authorizing the Mayor and the City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, an Abandonment of Right-of-Way and a Deed – Item submitted by City Attorney Alan P. Petrov at the direction of City Council.

MOTION TO ADOPT ORDINANCE AUTHORIZING RIGHT-OF-WAY ABANDONMENT:

A motion was made by Councilman Pat McLaughlan and seconded by Councilman John Jeffery to adopt an ordinance of the City Council of the City of Bellaire, Texas, authorizing the abandonment of an interest in a six-foot wide strip of the Fournace Place right-of-way abutting the properties on the south side of the 4600 block of Pin Oak Lane, Bellaire, Harris County, Texas; authorizing the owners of the properties on the south side of the 4600 block of Pin Oak Lane, Bellaire, Harris County, Texas, to purchase the interest in said right-of-way from the City of Bellaire, Texas; and authorizing the Mayor and the City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, an Abandonment of Right-of-Way and a Deed.
DISCUSSION REGARDING MOTION TO ADOPT ORDINANCE AUTHORIZING RIGHT-OF-WAY ABANDONMENT:

Councilman Pat McLaughlan inquired as to whether individual owners could purchase their respective portion of the right-of-way or if all property owners had to agree to purchase the right-of-way simultaneously.

City Attorney Alan P. Petrov stated that the purchase of the right-of-way did not have to occur simultaneously. Individual lot owners could purchase their portion of the right-of-way. The price that City Council had set was good for a period of six months. The owners could decide to purchase their portion of the right-of-way within an additional 9 and ½ years, but would be required to pay for a new appraisal if the purchase occurred after six months from the date of passage of the ordinance authorizing the abandonment.

Councilman McLaughlan inquired as to what would happen to the existing fence line if no one purchased the right-of-way.

City Manager Satterwhite indicated that the existing fence line would go back to the property line. The fence should be on the property line.

Councilman McLaughlan inquired as to what action the City would take to achieve that.

City Manager Satterwhite advised that, in accordance with the City Code, City Staff would send a letter giving a certain amount of notice to the property owners to move their fences. After the notice period ended, the City would have the option of issuing citations.

Councilman James P. Avioli, Sr., noted that when this topic was discussed at a prior City Council meeting, he thought that there would be some type of caveat such that if the City had to go in and fix its water main or line, that the homeowner would be responsible for reinstalling his or her fence.

City Manager Satterwhite indicated that City Council had opted for a six-foot abandonment. With the six-foot abandonment, the water lines would not come into play. There was a disclaimer in the ordinance that property owners had to get either permission from CenterPoint Energy for the gas line or dedicate an easement back to CenterPoint Energy for the gas line.
Councilman Avioli pointed out that the residents really had some more work to do with CenterPoint Energy. He inquired as to how much revenue the City would receive if all ten property owners participated in the purchase of six-feet of the right-of-way.

City Manager Satterwhite stated that he could not remember off of the top of his head.

Councilman Avioli indicated that he believed the revenue to the City would be approximately $100,000, depending on the length of the individual lots.

Mayor Pro Tem Peggy Faulk referred also to previous City Council discussions on this matter and noted that she was not in favor of this abandonment. She inquired as to what would happen if the agenda item failed this evening.

City Attorney Petrov indicated that the abandonment would not occur if the ordinance failed this evening. He noted that City Council previously directed him to draft an ordinance based on certain conditions. He did the best he could to incorporate those conditions into the document before City Council this evening. If City Council did not pass the ordinance, however, then the abandonment would not be approved. He supposed that in accordance with City Council’s Rules and Procedures that the item could be reconsidered at a subsequent meeting when other members of City Council could be present.

Mayor Cindy Siegel pointed out that it would take a 2/3 vote of City Council to reconsider the agenda item or someone who voted on the prevailing side (the failure side) could change their mind and bring the agenda item forward for consideration at the next City Council meeting.

Since the residents had paid money for an appraisal and an attorney, Mayor Siegel advised that she would suggest that City Council postpone the item until a full City Council could be present rather than voting and the item failing. Four favorable votes were required for the agenda item to pass.

**VOTE ON MOTION TO ADOPT ORDINANCE AUTHORIZING RIGHT-OF-WAY ABANDONMENT:**

Motion carried on a majority vote of 4-1 as follows:

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

OPPOSED: Faulk, Peggy  

ABSENT: Hickman, Will  
Nauert, Phil  

{Ordinance was subsequently numbered: 09-049}  

G. ADJOURNMENT.  

MOTION TO ADJOURN:  

A motion was made by Councilman Pat McLaughlan and seconded by Councilman James P. Avioli, Sr., to adjourn the Regular Session of the City Council of the City of Bellaire, Texas, at 8:36 p.m. on Monday, August 3, 2009.  

VOTE ON MOTION TO ADJOURN:  

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

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

OPPOSED: None  

ABSENT: Hickman, Will  
Nauert, Phil  

Respectfully submitted,  

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

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