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 7:55 p.m. on Monday, March 22, 2010. 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;
- Councilman Corbett Daniel Parker, Position No. 3;
- Mayor Pro Tem Phil Nauert, Position No. 4;
- Councilman Andrew Friedberg, Position No. 5; and
- Councilwoman Mandy Nathan, 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 James P. Avioli, Sr.

Councilman James P. Avioli, Sr., provided the inspirational reading for the evening.

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 U.S. Pledge of Allegiance and the Pledge to the Texas Flag.

D. PERSONAL/AUDIENCE COMMENTS.

Johnnie P. Frazier, 4710 Jessamine Street, Bellaire, Texas,

Dr. Frazier addressed City Council and commended Bellaire’s Fire Chief, Darryl Anderson, for his demeanor, calm, and expert explanation and
commentary on the hazardous traffic incident that occurred at Bellaire Boulevard and the West Loop. His command of the situation, along with others, assured Dr. Frazier that she was safe and not in any imminent danger of harm due to the tanker that fell on its side, resulting in a fuel leakage. Dr. Frazier indicated that she was sure that other Bellaire residents who lived near Loop 610 and Bellaire Boulevard felt the same way.

In closing, she advised that she hoped that there were no long-term effects from this leakage and thanked the Fire Chief for being available, along with other firefighters and the support team.

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**Patrick Phelps, 4534 Pine Street, Bellaire, Texas:**

**Mr. Phelps** addressed City Council and advised that he was very glad to see the Pledge to the Texas Flag in the meeting notes, as he needed to learn the pledge.

He advised that he was present this evening to discuss the replacement school project for Horn Elementary and wished to relay some of his concerns. He lived across the street from Horn Elementary School and truly enjoyed living across from an elementary school. He did not consider the possibility that the school and its playing fields would be “flipped.” He was very concerned about the ball fields being constructed across the street from his home, especially in light of what was going on currently around the ball fields. For example, there was a tremendous amount of traffic, with people parking on both sides of Avenue B. As a parent of a young child as well as a driver of a vehicle, Mr. Phelps indicated that it was very difficult to drive along that stretch of road when the Little League was using the ball fields.

During a time when Mr. Phelps was part of the Bellaire Little League, he only saw one email that addressed parking and that email emphasized that people should not block in the concession vendor. There did not seem to be much emphasis on the safety of the children. He supported the construction of a replacement school for Horn Elementary and supported the plan of flipping the location of the school and the ball fields. However, he did not wish for the current situation with the ball fields to continue once those ball fields were located right across the street from him. His neighbors shared the same concern.

Other organizations worked on ways to control double parking and safety. He felt that the City did need to restrict the access to Pine Street and Avenue B so that people would be encouraged to park onsite and not in the street. He asked for his suggestion to be part of the consideration and recommendation in approving the proposal for Horn Elementary School.
Mayor Siegel stated that the City Council would hold a public hearing on HISD’s proposal for a replacement school for Horn Elementary on April 19, 2010. She encouraged Mr. Phelps, along with his neighbors, to attend that hearing to address the issue.

Lynn McBee, 5314 Evergreen Street, Bellaire, Texas:

Ms. McBee addressed City Council regarding three items, one of which was not on the agenda this evening. With respect to the infamous tanker spill in Bellaire, she stated that she left Bellaire around 11:00 a.m. and had seen a few patrol vehicles, but assumed that the vehicles had responded to an accident on the West Loop. Around 4:30 p.m., she started traveling back into Bellaire, noting that the amount of time it took her to get to Bellaire was quite lengthy. Although she had the radio on, she had no idea what was going on in Bellaire. By the time she finally got home, she logged onto the City’s website and saw nothing regarding the incident.

A few days later when talking to City Staff, she was advised that there was a robocall system in place to some of the residents in Bellaire. Her question this evening was how many households the robocall system was supposed to reach. Her household was not called. She felt that the City needed to look into what the emergency procedures were when an unexpected event, such as the tanker spill, occurred. Certainly, the website should carry something about such an incident. To be silent about an emergency was appalling. She urged management and City Council to utilize the website.

Secondly, she referred to City Council’s review of the Rules of Procedure. She knew that this was the second go-round, indicating that the City Clerk had found something that needed to be corrected. While the City Council was going to consider the Rules of Procedure, she stated that she would like to mention that the Rules of Procedure document was originally “born” back in the early 1990s. There were two areas in particular that Ms. McBee wished to address. First, there was no section governing Council committees and procedures that would be applicable to any committees. The second area she wanted to point out to City Council was on page 16 of the Rules of Procedure, which had to do with “subjects introduced by comments to be deferred.” That section specifically read as follows:

*Any subject not on the agenda but introduced during public comment may not be discussed, but may be deferred for future investigation or future City Council consideration.*

Ms. McBee stated that she had read something right on point in another publication, the Texas Open Meetings Act Handbook, as follows:
If in a meeting of a government body, a member of the public, or a governmental body inquires about a subject for which notice has not been given as required by this subchapter, the notice provisions of this subchapter do not apply to a statement of specific factual information given in response to the inquiry or a recitation of existing policy in response to the inquiry.

Ms. McBee thanked the emergency personnel in the City that were trying to deal with all of the chaos on Friday (i.e., tanker spill). She was sure it was handled very well. She also suggested that there might be some room for declaring Loop 610 “not permitted” for hazardous materials.

**Mayor Siegel** asked Ms. McBee for a copy of the language she had read from the *Texas Open Meetings Act Handbook*.

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### E. REPORTS:

1. **CITY MANAGER’S REPORT** regarding residential safety (police activity report and review of March 5th tanker spill incident), public infrastructure/utilities (street and drainage projects update, facilities update, and storm sewer pollution markers), cultural/recreational (Friends of the Bellaire Library book sale and Trolley Run), quarterly indicators (crime and building permits), current issues/information (Right Tree/Right Place Planting Event, Google broadband RFI), 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**

There were 21 Part 1 criminal offenses for the month of February, which was fairly low. With respect to the Bellaire Police Department’s response to suspicious activities, it was noted that on February 21, a Bellaire Police Officer observed a vehicle being driven without lights in the 5200 block of Mimosa Street. During a subsequent investigation, it was determined that the occupants had an outstanding warrant for a burglary of a motor vehicle and were found to be in possession of burglary tools.

On March 1, a resident reported two suspicious persons hiding behind a vehicle on the street. During the investigation, it was determined that the suspects had just committed a burglary of a residence in The
Woodlands and the suspects were also charged with committing two previous burglaries of a residence in Bellaire.

There were no robberies through the end of February; however, there were nine burglaries. This was not a good number. Seven of the nine burglaries involved forced entry into buildings or residences with property stolen. Those burglaries were currently under investigation.

The City's Community Resource Officer, Tim Quimby, had been busy during the month. He was available to conduct security surveys for the residents at no charge. Residents might be able to get a homeowners’ insurance discount as a result of that survey. Officer Quimby also presented a Stranger Danger Program for a Girl Scout troop at one school and a community anti-terrorism presentation for Bellaire seniors.

With respect to the tanker spill incident, the tanker was never on Loop 610; it was actually on Bellaire Boulevard and turning onto the Service Road. This tanker was a delivery truck that delivered fuel to gasoline stations. Apparently, the driver of the tanker took the corner too quickly and the load shifted, causing the tanker to become top heavy. This situation caused the truck to flip onto its side. Fuel started leaking out of the tanker, which was 15 feet from the nearest storm drain. That fuel started going down the storm drain and this was what created a difficult situation. The fuel was then hard to contain and spread fairly rapidly.

The Bellaire Fire Department and Police Department responded very quickly, as did many other emergency responders from other nearby communities. The Bellaire Public Works Department responded quickly with soil to dam the leak and slow the flow into the storm drain. The tanker leaked for quite some time.

The storm drain went down the West Loop and emptied into Cypress Ditch. The City immediately informed the appropriate authorities and the leak was contained at the outfall. As a result, there was no major pollution into the waterway. The fumes in the storm drain system itself caused concerns. Tests were performed at all of the manholes and inlets on the west and east sides of the Service Road and along the main lanes of Loop 610. Until after 7:00 p.m. in the evening, the readings of fuel-air mixtures were such that could have set off a bad situation had someone on the main lanes or Service Road flicked a cigarette into the area.

A decision was made by emergency personnel to keep the Service Road and main lanes of the freeway closed through the entire cleanup process. There was a great deal of pressure to open up the West Loop, some of that pressure coming from the City Manager himself.
Rightfully so, the Commander on the scene stood his ground and made the proper decisions. City Manager Satterwhite was glad to see that the Commander stood his ground.

In retrospect, in some of City Staff’s discussions after the incident, there would have been different types of notifications. The City did have an emergency Twitter account and a message was posted on that account. The television news stations covered the incident, as did the TranStar cameras along the West Loop.

City Manager Satterwhite thanked Houston Hazmat for their response, as well as all of the responders who came from various areas, such as Houston, Houston Independent School District, West University Place, Southside Place, and METRO. A number of intersections were closed and vehicles redirected after the incident and through the cleanup process. City Manager Satterwhite also thanked Commander Deacon Tittel, an outstanding Commander, had done a marvelous job despite a great deal of pressure that was placed on him. Fire Chief Darryl Anderson did a wonderful job keeping the media and residents informed.

**Public Infrastructure/Utilities**

With respect to streets and drainage projects, the City had completed the current phase of the Rebuild Bellaire Program. A few sprinkler repairs and the sodding of a few yards remained on Whipple Drive project.

The Rebuild Bellaire Program, Phase Three, and Baldwin Avenue Paving and Drainage Improvements Project would be coming to City Council for consideration in the near future. For the next month or so, the City would be between street projects.

The signal light project was moving along, and all lights were now working except the light at Bissonnet Street and Fifth Street. The pedestrian signals at Bissonnet Street and Newcastle Drive and Bissonnet Street and Avenue B were working. Sidewalk work was still underway at various places. The sidewalks leading to Bissonnet Street from South Rice Avenue were the best sidewalks the City had ever had at that location. There was very little or no right-of-way to work with in many places. He thanked the private property owners in the area for cooperating and allowing the City to put sidewalks where they needed to be with handicapped ramps. The sidewalks and final timing for all the lights should be completed within the next month or so.

City Staff was working on getting an engineering proposal for the crosswalk on South Rice Avenue.
Although a bid had been approved for the Rice Lift Station Replacement Project, the City had held off starting the project until after the Trolley Run occurred (i.e., scheduled on April 10, 2010). The City needed to keep South Rice Avenue open during the Trolley Run and it would be difficult to do so with construction underway.

With respect to facilities, the steel beams were going up at the Fire Station, and that project was moving along fairly well.

City Manager Satterwhite next referred to storm sewer pollution and noted that the City had entered into an agreement with Harris County so that Harris County could help the City with the education portion of the City’s storm water prevention permit, which was a mandatory requirement of the permit. An informational insert was placed in a recent water bill mailed to residents in Bellaire. The City was also placing decals on all inlets in the City. The decals read as follows: This is not a garbage can. It flows to Galveston Bay. Clean water waste start here. Another requirement of the storm water permit process was community involvement. The decals had been and would continue to be installed by local Eagle Scouts. Decals had been placed on approximately one-half of the City’s inlets thus far.

**Cultural/Recreational**

The Friends of the Bellaire Library Book Sale was scheduled on Saturday and would be held in the parking lot between the Bellaire City Library and the construction area of the Bellaire Fire Station. The cost of books was noted to be $1.00 for a hardback and $0.50 for a paperback.

As noted earlier in the City Manager’s Report, the Trolley Run was scheduled to occur on April 10, 2010 (i.e., the weekend after Easter).

**Current Issues/Information**

City Manager Satterwhite reminded everyone about the U.S. Census and advised that everyone should have received his or her forms via the U.S. mail. U.S. Census packets were available at the Bellaire City Library if a resident did not receive forms by mail.

On Friday, March 26, 2010, at 8:00 a.m., the City, in conjunction with CenterPoint Energy and the Bellaire Southwest Houston Rotary Club, would have a “Right Tree/Right Place Planting Event” in Loftin Park in Bellaire Town Square. He urged everyone to attend the event.

City Manager Satterwhite also advised that Google had solicited “Requests for Interest” (RFI) in possibly bringing ultra high speed broadband to a city and/or cities in the United States. The United
States was devoid of ultra high speed broadband, which was one gigabyte per second. Other countries already had ultra high speed broadband. Bellaire was going to respond to the RFI, and Director of Communications Technology Services, Larry Parks, was completing the necessary paperwork, which had to be submitted by the end of March. In the RFI, Google was interested in finding out why a particular city thought it would be a good candidate for ultra high speed broadband.

To put the RFI into perspective, City Manager Satterwhite indicated that there were many cities in the United States making their case for ultra high speed broadband. Google was looking at cities of 50,000 to 500,000 in population. Although Bellaire did not have 50,000 residents, it was possible for Bellaire to be paired up with other cities in the area. He read several articles depicting what other cities were doing to attract Google to their cities.

**Upcoming Meetings/Events**

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Type of Meeting</th>
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<tbody>
<tr>
<td>April 19, 2010</td>
<td>6:00 p.m.</td>
<td>Special Session (Public Hearing) on Specific Use Permit Application from HISD for Horn Elementary School</td>
</tr>
<tr>
<td>April 19, 2010</td>
<td>7:00 p.m.</td>
<td>Regular Session</td>
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**QUESTIONS FROM CITY COUNCIL:**

**Mayor Pro Tem Phil Nauert** stated that he was home when the gasoline tanker flipped over, and he had received a few calls from some of his neighbors. There was a strong smell of gasoline in the air and he thought people were rightfully concerned about the fuel-air mixture and possible combustion. He inquired as to what steps the City had taken to keep a combustible incident from occurring.

**City Manager Satterwhite** indicated that the City closed down access to the West Loop. The City had staff at all of the inlets taking fuel-air measurements.

**Mayor Pro Tem Nauert** inquired as to whether the City had put chemical foam on top of the gasoline.

**City Manager Satterwhite** advised that the spill was blanketed with chemical foam. Reverse 911 calls went to areas the City had targeted as areas in which residents needed to specifically shelter in place. Those areas were fairly close to the actual spill.

**Mayor Pro Tem Nauert** inquired as to whether the City would have a meeting regarding the incident to sharpen its “point” a little bit.
City Manager Satterwhite advised that the City had done that. One thing that was not done immediately following the incident was to go into a full NIMS (National Incident Management System) organization. In retrospect, the City should have done so once the traffic got real heavy. Had the City gone into a full NIMS organization, the focus would have been on a larger area rather than on just the immediate incident area.

Councilman Andrew Friedberg stated that he was glad to hear that the tanker driver, while shaken and having suffered minor injuries, was okay. He also joined in commending all of the responders—the Bellaire Fire Department, Bellaire Police Department, and other communities nearby. He noted that all of that came at a cost, however. He understood that the City was reviewing the situation and trying to determine whether any of the incurred by the City of Bellaire could be recouped.

City Manager Satterwhite indicated that the cost to clean up hazardous spills and the cost of many of the responders would be recouped. The City was working on compiling those numbers. Bellaire would only claim what the incident actually cost the City of Bellaire. He assumed that the tanker company would also get a bill from Houston Hazmat and some of the other responding organizations.

Councilman Friedberg inquired as to whether all of Bellaire’s costs associated with the incident would be recouped.

City Manager Satterwhite indicated that he would probably not bill for the overtime costs of Public Works employees. He really did not have the answers right now, but indicated that the cost would be a large number.

Councilman Friedberg noted that tanker companies typically had insurance for incidents such as the one that had occurred in Bellaire.

City Manager Satterwhite stated that Assistant City Manager Diane White and Fire Chief Darryl Anderson reported that the tanker company was onsite during the entire cleanup process and were very concerned about the incident. The company understood the ramifications.

Councilman Corbett Daniel Parker referred to Cedar Street and inquired as to whether City Manager Satterwhite had a report as to whether one of the commercial businesses on the street was also used as a residence.
City Manager Satterwhite stated that there were commercial and residential activities going on in the home Councilman Parker referred to.

Councilman Parker asked for confirmation that the owner was in compliance with the City’s Code.

City Manager Satterwhite advised that Councilman Parker was correct.

Councilman Parker inquired as to whether there had been any communication with Brighton Gardens or residents of Cedar Street regarding the traffic congestion (i.e., parking issues) on Cedar Street.

City Manager Satterwhite stated that he did not know what direction the residents would end up going and noted that the City had some conversations with some of the residents. There had also been discussions with Brighton Gardens. Brighton Gardens was waiting to hear back from their corporate office. The City believed that it was Brighton Gardens’ intention to try to create more parking onsite.

Councilman Parker asked if the additional parking had been created already, noting that he had heard that it might have already occurred.

City Manager Satterwhite indicated that he did not know if the additional parking had already been created.

Councilman Parker asked if the City of Bellaire had the absolute authority to close the West Loop. He inquired as to the chain of command with other emergency responders, etc.

City Manager Satterwhite stated that the City did have the authority to close the West Loop in an emergency. In this instance, the City set up the necessary roadblocks and contacted the Texas Department of Transportation, as well as TranStar.

Councilman Parker inquired as to whether Harris County or the Texas Department of Transportation could override Bellaire’s decision.

City Manager Satterwhite advised that they could not override Bellaire’s decision.

Councilman James P. Avioli, Sr., referred to the City’s planned closure of the Recycling Center and a number of questions that he had received from some of Bellaire’s senior citizens. He stated that the questions were as follows: “I am a recycler, but I don’t subscribe to curbside. What are you going to do? Are you going to give me a bin? Are you going to charge me?” Councilman Avioli indicated that he
obviously could not answer the questions. He felt that at some point the City needed to address those questions.

Residents wanted to continue to recycle, but for some reason they had opted out of the curbside recycling program.

**City Manager Satterwhite** indicated that he would make a note to address those questions.

**Councilman Avioli** advised that he did receive a comment from a senior citizen indicating how pleased they were with the bathhouse renovation at Evergreen Pool. It appeared, however, that the leaves might still be a problem in the ladies bathhouse. There were several suggestions on how to mitigate the problem, but he did not know whether the suggestions were practical or not. One suggestion was to put some kind of screening or hardware around the top. He thought this had been suggested before, but the City was concerned about deterioration. He asked City Manager Satterwhite if he could look into the problem once again.

**City Manager Satterwhite** advised that he would do so.

**Councilman Will Hickman** referred to drainage issues he had mentioned at a previous meeting at Feld Park. He inquired as to whether there had been an update on those issues.

**City Manager Satterwhite** apologized and advised that he would look into it.

**Mayor Cindy Siegel** commented that the Bellaire Police and Fire Departments did a superb job with respect to the tanker incident. She stated that if anyone had any doubt as to how much traffic typically traveled on Loop 610, they could have looked around Bellaire on that Friday, because all of the traffic was rerouted through the streets of Bellaire.

**City Manager Satterwhite** advised that the traffic was also impacted on Richmond and Montrose and on Westheimer.

**Mayor Siegel** added Receptionist Tillie Wiedemann to the list of people to thank. Tillie dealt with a lot of telephone calls during the incident.

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

A joint motion was made by Councilman Will Hickman and Councilman Corbett Daniel Parker and seconded by Councilman James P. Avioli, Sr., 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.
     Parker, Corbett Daniel
     Nauert, Phil
     Friedberg, Andrew
     Nathan, Mandy

OPPOSED: None

ABSENT: None

2. FINANCE REPORT for the City of Bellaire, Texas, covering the period ended February 28, 2010, and including discussion of revenues and expenditures in the General Fund, Enterprise Fund, Debt Service Fund, Vehicle, Equipment, and Technology Fund, and Capital Improvement Program Fund, as well as a discussion of statistical data – Presented by Chief Financial Officer Donna Todd.

Chief Financial Officer Donna Todd presented the Finance Report to City Council, advising that she was reporting on the results of the first five months ended February 28, 2010.

Revenues

Revenues of approximately $16.6 million were $600,000 less than last February (i.e., a 3-1/2% difference). The City’s current property tax revenues totaled $11.7 million (General and Debt Service Funds). This represented approximately $317,000 more than last fiscal year to date for current taxes. Delinquent taxes and penalties and interest were down approximately $17,000.

The City’s sales tax revenues were $83,000 less than last year at this time. The biggest dip occurred in the month of February, which represented sales tax collected for December sales (i.e., $69,000 of the difference in prior year revenues).

Permits were down $24,000 (i.e., basically building-related permits). The City’s court fines were down approximately $113,000, with
citations down 28% versus last year. A number of violations were
down 31% and the City’s payment plans increased by 38%.

Investment earnings in all funds (General, Debt Service, and
Enterprise) were $76,000 lower than last year.

Water revenues were down $152,000, and sprinkler revenues
represented $60,000 of the $152,000. On a brighter note, the City’s
new service meters were up $4,000 and new sewer taps were up
$8,000.

The Capital Improvement Program Fund included a $25,000 grant that
the City received from the Texas Parks & Wildlife Commission.

Expenditures

The City was at $12.4 million in expenditures for the five months
ended February 28, 2010, which was $473,000 or 3.68% less than the
previous year. Most of the variance of $674,000 was associated with
Hurricane Ike (i.e., expenditures were incurred in the previous year for
Hurricane Ike that were not incurred in the current fiscal year). If the
Hurricane Ike expenditures were removed from the previous year, the
City’s operations and maintenance expenditures were up about
$340,000 or 3%. Capital spending was approximately $139,000 less
than the previous year.

The City made a debt service payment in February (principal and
interest). After that payment, the City’s new outstanding principal
balance was $61,560,000. The total debt service (principal and
interest due on all remaining debt outstanding) was a little over
$91,000,000.

Housing Statistics

Chief Financial Officer Todd noted that on the housing front, excluding
“by owner,” the City had 173 residential properties for sale at the end
of February. This was unchanged from the end of January. Thirty-five
homes were for lease at the end of February, which was down from 39
in January. There were six addresses up for auction and seven
properties that were bank owned.

QUESTIONS FROM CITY COUNCIL:

Councilman Will Hickman referred to new residential home
construction of 23 and inquired as to whether that number was
annualized or represented year-to-date new construction.
Chief Financial Officer Todd indicated that “23” was a fiscal year number. She referred to a column to the left of the column that Councilman Hickman was looking at.

Councilman Hickman asked for confirmation that the number was representative of a portion of the year.

Chief Financial Officer Todd advised that there had been 23 new residential home permits issued during the five months of this fiscal year (October 2009 through February 2010).

Councilman Hickman noted that the total fund balances as of October 1, 2009, on page 1 of the report were down $1.6 million. He asked if the reason was due to Hurricane Ike.

Chief Financial Officer Todd advised that compared to the prior fiscal year, she believed most of the difference was related to Hurricane Ike.

Councilman Hickman referred to page 2 of the Finance Report and noted that water revenues were down $152,000. He inquired as to whether the City was aware of any reason as to why that occurred.

Chief Financial Officer Todd advised that some of the difference was related to Hurricane Ike. The City had to do some true ups through the period after Hurricane Ike. During that time, the City was unable to read water meters and it was necessary to estimate usage. The usage was normalized in March of 2009. She was hoping that the City would see a truer picture next month. She also indicated that $60,000 of the difference was related to less usage of sprinklers. Additionally, the City had eight extra inches of rain this year versus last year.

Councilman Andrew Friedberg asked for confirmation that investment revenues were so far off from the budget due to interest rates being so low.

Chief Financial Officer Todd agreed and noted that some of the difference had to do with how much cash the City actually had invested. The City was spending a little more out of the Enterprise Fund this year for capital needs. The other aspect was that when the interest rates fell from the City’s investment pools, there was a trickle down effect. Once interest rates increased, the investment revenues would lag that increase.

Chief Financial Officer Todd indicated that she was trying to buy more direct governmental securities, which would give the City a little better interest rate. For example, the City’s pools might be at .15% and she might be able to pick up a government agency at 1.7%. She was
trying to make up some of that difference. The City’s primary investments in the pools were virtually nothing.

Councilman Friedberg advised that he could certainly appreciate those constraints, but brought up the issue because he wanted to make sure that the City’s budgeting was as realistic as it could be. He assumed that was taken into account going forward.

Chief Financial Officer Todd indicated that the City would be reviewing that as part of the mid-year review that Assistant City Manager Diane White would be presenting next month. The City had some optimism when the budget was created that the City was not currently seeing, so the budgeted revenues might have to be readjusted downward as the City moved forward in terms of a forecast.

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

A motion was made by Councilman Corbett Daniel Parker and seconded by Councilman Andrew Friedberg to accept the Finance Report for the City of Bellaire, Texas, covering the period ended February 28, 2010, as presented by Chief Financial Officer Donna Todd into the record.

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

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

FOR: Siegel, Cindy
    Hickman, Will
    Avioli, James P., Sr.
    Parker, Corbett Daniel
    Nauert, Phil
    Friedberg, Andrew
    Nathan, Mandy

OPPOSED: None

ABSENT: None

F. PRESENTATION:

PRESENTATION of the Arts and Humanities Awards to the Bellaire Cultural Arts Commission from the Texas Recreation and Park Society (TRAPS) and the National Recreation and Park Association (NRPA) SW Region Council for the BelleArtz Expo and BelleArtz Expo for Kids programs that provided Bellaire artists of all ages a local venue to publicly display artwork in a non-juried format – Item submitted by
Director of Parks and Recreation Jane L. Dembski; Awards presented by Bellaire Recreation Superintendent and NRPA SW Region Board Member Cheryl Bright-West and Bellaire Park Superintendent and TRAPS Region IV Director Brooks Smith.

Director of Parks and Recreation Jane L. Dembski advised that the Texas Recreation and Park Society, affectionately called “TRAPS,” and the National Recreation and Park Association (NRPA), were the professional organizations that she and most of her staff were members of. Each year both organizations offered the opportunity for parks and recreation departments to submit nominations for awards in several categories that included excellent staff, excellent facilities, and excellent programs.

Throughout the years, the City of Bellaire had been a recipient of many of the awards, including the highest honor, “Gold Medal Award for Excellence in all Areas of Parks and Recreation.” A few years ago, Recreation Superintendent Cheryl Bright-West was the recipient of the highest NRPA individual award for being an “Excellent Young Professional.” This was like receiving the Oscar.

The Bellaire Parks and Recreation Department was very proud of their accomplishments, but could not achieve those without the support of the City Manager and City Council. Director Dembski thanked the Mayor and City Council for their continued support for the department’s participation in such fine organizations as TRAPS and NRPA. Most of the staff was certified and in order to maintain certification, must attend classes that were part of workshops and conferences to attain the needed continuing education credits. Attending the classes helped the staff to stay on top of changing laws and new and innovative programs and facilities.

Additionally, many professional relationships had grown out of staff’s leadership and participation on the boards and committees of TRAPS and NRPA. Director Dembski was the Past Region IV Director and Past President of TRAPS. Recreation Superintendent Cheryl Bright-West was the Past Region IV Director and Park Superintendent Brooks Smith was the current Regional Director. Many other staff members had been on committees and continued to participate.

Much needed information could be attained easily because of staff’s connections to other professionals around the state and the country. City Council could be assured that the Bellaire Parks and Recreation Department was one of the best in the state, if not in the country. Director Dembski had a super staff and excellent programs. The department made a difference in people’s lives, changed lives, and promoted a positive environment.

On any given day, there were hundreds of children and adults enjoying the Newcastle Trail, the parks, and the Recreation Center. Even during this recession, there were over 550 children enjoying Camp Paseo and 13 other specialty camps on a daily basis. Exercise and dance classes had over 700
participants. The Fitness Center Room had over 450 patrons, athletic leagues enjoyed 2,500 participants, swim lessons were booked with well over 300 participants, pool attendance was over 500 people per day, and Bellaire Life had 4,500 participants for their daily activities and special programs and trips. Total participation in programs throughout the year was over 40,000 people.

Director Dembski noted that the Bellaire City Library had a stellar year last year during the recession as well. Parks, recreation, and libraries mattered. Based on national statistics, nice parks, playgrounds, and libraries near homes increased the value of property and the livability of a community. People were staying home more to save money and it was important for Bellaire to maintain its facilities and programs for all to enjoy.

Recreation Superintendent Cheryl Bright-West stated that the Southwest Regional Council of the National Recreation and Park Association was a council that consisted of parks and recreation professionals from the southwest region of the NRPA, which consisted of five states (Texas, Louisiana, New Mexico, Oklahoma, and Arkansas). The Southwest Regional Council liked to recognize outstanding programs and professionals, such as the BelleArtz Expo, to encourage excellence in programming and to encourage excellence in the parks and recreation profession. The BelleArtz Expo occurred last year in January 2009, in conjunction with the Bellaire Centennial Gala. It was a non-juried art show that encouraged Bellaire residents and Bellaire artists to display their art in a non-juried fashion.

As a member of the Southwest Regional Council of the NRPA, Recreation Superintendent Bright-West advised that she was proud to present the Arts and Humanities Award – Class IV to the Bellaire Cultural Arts Commission for their hard work and dedication to the BelleArtz Expo.

Park Superintendent Brooks Smith stated that as the TRAPS Region IV Director, it was his pleasure on behalf of TRAPS to present the Arts and Humanities Award – Class IV to the Bellaire Cultural Arts Commission for their BelleArtz Expo and the BelleArtz for Kids Expo.

Chair Kathy Biddle, Bellaire Cultural Arts Commission, stated that in October of 2010, the Bellaire Cultural Arts Commission (“Commission”) would be having another BelleArtz Expo and on April 16, 2010, the Commission would be hosting a reception for the Bellaire Arts Festival with the Greater Southwest Houston Chamber of Commerce.

On behalf of the Bellaire Cultural Arts Commission, Chair Biddle thanked the City and the Parks and Recreation Department for their support of the Bellaire Cultural Arts Commission’s programs and activities.

G. CONSENT AGENDA – All items listed under the Consent Agenda are considered routine and are recommended for approval by a single motion of City Council, without discussion. If discussion is desired,
any one or more members of City Council and/or the Mayor may request that an item be removed and considered separately.

1. 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, February 15, 2010 – Item submitted by City Clerk Tracy L. Dutton.

   b. APPROVAL of the minutes of the Special Session (Executive Session) and Regular Session of the City Council of the City of Bellaire, Texas, held Monday, March 1, 2010 – Item submitted by City Clerk Tracy L. Dutton.

2. CALL OF PUBLIC HEARING:

CONSIDERATION of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, calling a public hearing before the City Council of the City of Bellaire, Texas, on Monday, April 19, 2010, at 6:00 p.m. concerning an application and request submitted by the Houston Independent School District (HISD) for a specific use amendment and permit to construct and operate an 85,000 square foot replacement school for Paul W. Horn Elementary on the northeast corner of Avenue B and Holly Street on a tract of land owned by HISD and legally described as Block 1, Reserve A of the Resubdivision of Block 6 and 7 of the First Subdivision of Westmoreland Farms, Amending Plat No. 1 (a.k.a. Horn Elementary School), being a subdivision of 8.903 acres out of the John Beldin Survey, A-166, and also being an amending plat of “Resubdivision of Block 6 and 7 of the First Subdivision of Westmoreland Farms” as recorded in Volume 268, Page 14 of the H.C.D.R. (specifically Lots 6 through 15, Block 5) of the City of Bellaire, in Harris County, Texas, and more commonly known as 4530 Holly Street, Bellaire, Texas, in the R-3 Zoning District – Item submitted by City Clerk Tracy L. Dutton.

Councilman Will Hickman requested separate consideration of agenda item G. 2. Councilman Andrew Friedberg requested separate consideration of agenda item G. 1. b.

MOTION TO APPROVE CONSENT AGENDA DATED MARCH 22, 2010:

A motion was made by Councilman James P. Avioli, Sr., and seconded by Councilwoman Mandy Nathan to approve the
Consent Agenda dated March 22, 2010, consisting of the following item:

- Minutes of the Regular Session of the City Council of the City of Bellaire, Texas, held Monday, February 15, 2010.

**VOTE ON MOTION TO APPROVE CONSENT AGENDA DATED MARCH 22, 2010:**

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

**FOR:** Siegel, Cindy  
Hickman, Will  
Avioli, James P., Sr.  
Parker, Corbett Daniel  
Nauert, Phil  
Friedberg, Andrew  
Nathan, Mandy

**OPPOSED:** None

**ABSENT:** None

**INDIVIDUAL CONSIDERATION OF AGENDA ITEM G. 1. b.:**

APPROVAL of the minutes of the Special Session (Executive Session) and Regular Session of the City Council of the City of Bellaire, Texas, held Monday, March 1, 2010 – *Item submitted by City Clerk Tracy L. Dutton.*

**MOTION TO APPROVE MINUTES:**

A motion was made by Councilman Phil Nauert and seconded by Councilman Corbett Daniel Parker to approve the minutes of the Special Session (Executive Session) and Regular Session of the City Council of the City of Bellaire, Texas, held, Monday, March 1, 2010.

**DISCUSSION ON MOTION TO APPROVE MINUTES:**

Councilman Andrew Friedberg referred to page 34 of the minutes, lines 1556-1565, and asked if the City Clerk would go back to the recording and type his comments verbatim.
VOTE ON MOTION TO APPROVE MINUTES, AS CORRECTED FOR COUNCILMAN FRIEDBERG’S COMMENTS ON PAGE 34:

Motion carried on a 6-0-1 vote as follows:

FOR:  
Siegel, Cindy  
Avioli, James P., Sr.  
Parker, Corbett Daniel  
Nauert, Phil  
Friedberg, Andrew  
Nathan, Mandy

OPPOSED:  None

ABSENT:  None

ABSTAIN:  Hickman, Will*

*Councilman Will Hickman abstained from voting on the minutes of the Special Session (Executive Session) and Regular Session of the City Council of the City of Bellaire, Texas, held on Monday, March 1, 2010, due to his absence from that meeting.

INDIVIDUAL CONSIDERATION OF AGENDA ITEM G. 2:

2. CALL OF PUBLIC HEARING:

CONSIDERATION of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, calling a public hearing before the City Council of the City of Bellaire, Texas, on Monday, April 19, 2010, at 6:00 p.m. concerning an application and request submitted by the Houston Independent School District (HISD) for a specific use amendment and permit to construct and operate an 85,000 square foot replacement school for Paul W. Horn Elementary on the northeast corner of Avenue B and Holly Street on a tract of land owned by HISD and legally described as Block 1, Reserve A of the Resubdivision of Block 6 and 7 of the First Subdivision of Westmoreland Farms, Amending Plat No. 1 (a.k.a. Horn Elementary School), being a subdivision of 8.903 acres out of the John Beldin Survey, A-166, and also being an amending plat of “Resubdivision of Block 6 and 7 of the First Subdivision of Westmoreland Farms” as recorded in Volume 268, Page 14 of the H.C.D.R. (specifically Lots 6 through 15, Block 5) of the City of Bellaire, in Harris County, Texas, and more commonly known as 4530 Holly Street, Bellaire, Texas, in the R-3 Zoning District – Item submitted by City Clerk Tracy L. Dutton.
MOTION TO ADOPT ORDINANCE:

A motion was made by Councilman Andrew Friedberg and seconded by Councilwoman Mandy Nathan to adopt an ordinance of the City Council of the City of Bellaire, Texas, calling a public hearing before the City Council of the City of Bellaire, Texas, on Monday, April 19, 2010, at 6:00 p.m. concerning an application and request submitted by the Houston Independent School District (HISD) for a specific use amendment and permit to construct and operate an 85,000 square foot replacement school for Paul W. Horn Elementary on the northeast corner of Avenue B and Holly Street on a tract of land owned by HISD and legally described as Block 1, Reserve A of the Resubdivision of Block 6 and 7 of the First Subdivision of Westmoreland Farms, Amending Plat No. 1 (a.k.a. Horn Elementary School), being a subdivision of 8.903 acres out of the John Beldin Survey, A-166, and also being an amending plat of "Resubdivision of Block 6 and 7 of the First Subdivision of Westmoreland Farms" as recorded in Volume 268, Page 14 of the H.C.D.R. (specifically Lots 6 through 15, Block 5) of the City of Bellaire, in Harris County, Texas, and more commonly known as 4530 Holly Street, Bellaire, Texas, in the R-3 Zoning District.

DISCUSSION ON MOTION TO ADOPT ORDINANCE:

Councilman Will Hickman advised that he was zoned to the Paul W. Horn Elementary School and had three children, the oldest of which would start at the elementary school next year. He inquired as to whether there would be any conflict for him to take action on the request for a specific use permit.

City Attorney Alan P. Petrov advised that it would not create a conflict for Councilman Hickman.

VOTE ON MOTION TO ADOPT ORDINANCE:

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

FOR: Siegel, Cindy
     Hickman, Will
     Avioli, James P., Sr.
     Parker, Corbett Daniel
     Nauert, Phil
     Friedberg, Andrew
     Nathan, Mandy

OPPOSED: None

ABSENT: None
{Ordinance was subsequently numbered:  10-019}

H. ADOPTION OF ORDINANCES:

Payment Collection Services for Unpaid Fines, Fees and Delinquent Accounts

1. 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 Contract for Court Fees and Fines Collection Services with Perdue, Brandon, Fielder, Collins & Mott, L.L.P., for the performance of services necessary for the collection of fines, fees, restitution, other debts, and costs ordered to be paid by a court serving the City of Bellaire, Texas – Item submitted by Chief Financial Officer Donna Todd.

MOTION TO ADOPT ORDINANCE:

A motion was made by Councilman James P. Avioli, Sr., and seconded by Councilman Will Hickman to adopt an ordinance of the City Council of the City of Bellaire, Texas, authorizing the Mayor of the City of Bellaire, Texas, to execute a Contract for Court Fees and Fines Collection Services with Perdue, Brandon, Fielder, Collins & Mott, L.L.P., for the performance of services necessary for the collection of fines, fees, restitution, other debts, and costs ordered to be paid by a court serving the City of Bellaire, Texas.

DISCUSSION ON MOTION TO ADOPT ORDINANCE:

City Manager Bernard M. Satterwhite, Jr., advised that the firm of Perdue, Brandon, Fielder, Collins & Mott, L.L.P. ("Perdue, Brandon"), had long collected the City's delinquent taxes. In the interest of trying to collect as many fees and fines as possible, the City was presenting a contract to City Council for their consideration this evening. Perdue, Brandon would perform the services necessary to assist the City in collecting fines and fees ordered by the Bellaire Municipal Court, as well as with delinquent utility account fees (i.e., the next agenda item).

Michael Darlow, 5201 Huisache Street, Bellaire, Texas, advised that he was a resident of Bellaire and a Partner with the firm of Perdue, Brandon, Fielder, Collins & Mott, L.L.P. ("Perdue, Brandon"), and provided a quick overview of the services his firm would perform for the City of Bellaire.
The City of Bellaire’s Municipal Court did a lot of activity with people who got tickets in town. Most of the people that lived in town probably paid their tickets, but people who did not live in Bellaire tended not to pay their tickets. A person who received a ticket in Bellaire had a certain amount of time to go to court and either pay their ticket or ask for a trial. When a person failed to appear before the court, the court issued a “Failure to Appear.” The person/violator would then have the original violation to take care of and an added “Failure to Appear.” What might have started out as a $150.00 ticket was now upward of $300.00. The court would make an attempt to collect the fine, and the City had a warrant officer who also made attempts to collect the fine. When that did not work, there was a statute that allowed for a 30% penalty to be added to the total amount owed by the violator to help collect the fine. The violator, not the City, paid the 30% penalty. For the most part, there was no cost to the City for Perdue, Brandon’s services.

Perdue, Brandon would send out demand letters urging people to contact the court and try to resolve their problem (either by paying their fine, talking to the judge and explaining why the fine should not have to be paid, and/or the court could find the person indigent and dismiss the case. Many of the letters would be returned as a bad address. From the moment that the violator filled out a form for the police officer as to where they lived, the information was incorrect. Mr. Darlow indicated that his firm’s job was to find the violator and suggest that they contact the City to resolve their problem. Perdue, Brandon expended a great deal of time, effort, and expense to locate the violators. There were a variety of Internet resources that Perdue, Brandon used to try to find the right person. Once a violator was found, letters were sent again and telephone calls made.

If approved, Perdue, Brandon would receive a data dump into their software system from the Bellaire Court Clerk as to payments and adjustments that had been received and on accounts that had become due. Perdue, Brandon would not receive any new accounts until those accounts were at least 60 days old by statute.

Mr. Darlow noted that Perdue, Brandon provided these services for many other cities, such as Southside Place, Friendswood, Rosenberg, Tomball, Shenandoah, Cleveland, etc. His firm provided these services for various counties around the state as well.

There were two fee components for the services. One was for violations that occurred before June 18, 2003. Perdue, Brandon was proposing a fee on those violations of 15%. That amount would come out of the cities funds. The reason for that was shortly after the statute was passed allowing a 30% penalty to be added, the Attorney General of Texas issued an opinion that indicated that the pass
through for unadjudicated accounts could not be applied prior to that date. If a person were found guilty after that date, then the full 30% penalty could be applied as a straight pass through to the violator.

Perdue, Brandon proposed a thirty (30) day contract meaning that the contract would stay in place so long as the City was satisfied with Perdue, Brandon’s service. If the City became dissatisfied, the contract could be canceled with a thirty (30) day notice.

City Manager Satterwhite advised that Municipal Court Judge Lisa A. Wesely was present and as an appointed official by City Council, she had some concerns about the contract. He felt that it would be fair for her to possibly talk to City Council about those concerns. He noted that the City was looking at all means, including the warrant officer, etc., to try to collect fines and fees due to the City, but he wanted to give Judge Wesely an opportunity to discuss that with City Council.

Mayor Cindy Siegel invited Judge Wesely to come to the podium to state her concerns.

Municipal Court Presiding Judge Lisa A. Wesely advised that she received notice of this agenda item late last week and Chief Financial Officer Donna Todd had been very busy and had the misfortune of scheduling vacation before this, so she had not been able to talk to Chief Financial Officer Todd until later this afternoon.

Judge Wesely advised that there were a number of outstanding warrants. The City had a warrant officer, but in terms of actually doing anything to collect on warrants, he really did not. She was sure that the Police Department had their reasons, but this was the way they chose to do that function.

She continued and advised that this was an esoteric area and there was really no reason why City Manager Satterwhite or Chief Financial Officer Todd would be familiar with it. There were a number of different avenues to try to collect on warrants besides signing a contract for every warrant that the City had and having the Municipal Court collect 30% in addition from everyone that walked through their door who had received a letter from Perdue, Brandon.

City Council might, in fact, still wish to pursue the contract before them this evening. She thought that for some people, this was probably the best way to go. Judge Wesely advised that Associate Judge Jerel S. Twyman had just attended a seminar about collections. She and Judge Twyman were suggesting that they give the City and City Council the information for the different avenues that the City might want to look at besides this contract so that City Council could
make a little more informed decision as to how they might want to attempt to collect on these particular assets of the City.

**Councilman Corbett Daniel Parker** inquired of Judge Wesely as to at what point she and Judge Twyman might be able to summarize the information for City Council.

**Judge Wesely** indicated that they could summarize the information and provide it to City Council by Friday of this week.

**Councilman James P. Avioli, Sr.** stated that in listening to Mr. Darlow, it would seem that his firm had plenty of resources to do this. If the City were to pursue other avenues, what would the City’s resources be? In other words, did the City have adequate resources to collect these fines?

**Judge Wesely** advised that Mr. Darlow had the ability to go out to the Internet and run names and find addresses. Anyone could do that if they were willing to pay the fees to the services that did so. Mr. Darlow had people who made telephone calls. The City had a volunteer that made phone calls on its warrants already. Additionally, Mr. Darlow sent a letter on the law firm’s letterhead, which she did not deny that this was what it would really take on occasion. Then the firm waited for the violator to walk through the Municipal Court door and for Municipal Court to collect their 30% penalty for them.

The City could also access those databases if the City chose to go that route. She was not saying that the City would never want to send their unpaid warrants to Mr. Darlow. She was just saying there were other options.

Judge Wesley continued and referred to a state system wherein a person could not renew their drivers license if they had outstanding warrants. The City of Bellaire had never joined that system, which involved paying a fee to the state. She felt that Chief Financial Officer Todd might not be familiar with the system.

**City Manager Satterwhite** advised that he was familiar with the system.

**Judge Wesely** indicated that she was merely making the statement that there were other options that the City had not used.

**Councilman Andrew Friedberg** advised that in looking over the other contract the City was going to consider with Perdue, Brandon, one of the differences was that the firm would only collect fees on accounts that the City turned over to them. Under the proposed contract for court fines and fees, the City would agree to turn all of
them over to Perdue, Brandon. He asked if Judge Wesely would have more comfort if the contract provided that the City would decide which accounts to turn over.

**Judge Wesely** advised that she believed it would be a step in the right direction. Her point was that City Council might well want to end up entering into a contract for Perdue, Brandon’s services. She also felt that the City Council might want to know what their other options might be before making a decision on the contract.

**Councilwoman Mandy Nathan** inquired as to whether Judge Wesely’s concern was the addition of a 30% penalty on top of funds already owed by a violator.

**Judge Wesely** stated that some of her concern was $1,000 worth of warrants, which happened. If the violator came in and wanted to plead and work out their payment plan, then the City would get to collect $1,500 and turn over $433.33 to Mr. Darlow. There were other ways to make people sit up and pay attention short of getting them for another 30%. Most of these people did not pay in the first place because it was a lot of money to start with. Putting another 30% on top of that would be difficult. She stated that the City did have interagency agreements where violators were picked up on Bellaire warrants by other agencies.

Mr. Darlow was very clear that if people were handcuffed and brought in, that he would not accept his 30% fee from those cases. If a person received one of Mr. Darlow’s letters and came in to Municipal Court, then Municipal Court would need to collect Mr. Darlow’s 30% under the contract.

**Councilman Will Hickman** referred to the interagency agreements mentioned by Judge Wesely. He inquired as to how that process worked. In other words, if Bellaire issued a warrant to a violator and that violator was arrested in Houston, would Houston bring the violator to the Bellaire Municipal Court?

**Judge Wesely** advised that the violator was either brought to the Bellaire Police Station, or a Bellaire Police Officer met the other agency and picked the violator up, or a Bellaire Officer could pick up the violator from Houston’s jail, if the violator was arrested in Houston. Judge Wesely or Judge Twyman visited the Bellaire Jail everyday to arraign violators.

**Councilman Hickman** asked if the violator could then pay the fine.

**Judge Wesely** stated that the violator could enter their plea and pay all of their fine, post a bond, or pay a portion of the fine and set up a
payment plan for the remainder of the fine. Under state law, a violator received $100 credit for each day the violator sat in jail. Some chose to sit in jail and wait out their fine that way. The violators the City picked up from another jail also had to be given $100 credit for each 24 hours that they sat in the other jail.

**Councilman Hickman** asked, jokingly, if a violator would have to stay 30% longer for Mr. Darlow’s fee.

**Judge Wesely** indicated that she had spoken with Mr. Darlow about those situations and he was agreeable to losing his fees on those violators arrested by other agencies.

**Councilman Friedberg** asked for confirmation that there was only one 30% penalty that could be tacked onto a violation by statute. He asked if the City would be collecting that penalty if Mr. Darlow’s firm did not collect the penalty.

**Judge Wesely** stated that the City collected that penalty on behalf of Mr. Darlow.

**Councilman Friedberg** asked if the statute only applied if an outside firm were retained to provide collection services. He asked if the penalty were available to be charged by the City if a firm was not utilized.

**Judge Wesely** stated that she had not looked into the statute closely enough and deferred to Mr. Darlow.

**Councilman Parker** referred to the payment plans set up by the Municipal Court. If a payment plan were set up, would the City owe Perdue, Brandon at that time for the 30% or would it be paid once the City actually received its funds?

**Judge Wesely** indicated that she did not know how that penalty would work in terms of a payment plan.

**Councilman Parker** noted that City Council learned during the Finance Report that the City’s fines were down, but the payment plans were up. Other options and alternatives aside, Councilman Parker asked Judge Wesely if she felt the current relationship was working. In other words, was the City aggressively collecting on its warrants?

**Judge Wesely** advised that the City was not very aggressive at all right now. This was the reason the City had so many uncollected warrants in its files. These were times when people looked for other possible sources of revenue.
Councilman Parker asked if there was a great difference in the collection rates of one firm versus another. If the City wanted to go this route, was Judge Wesely happy with the specific performance of Perdue, Brandon?

Judge Wesely advised that she was not familiar with the performance of Perdue, Brandon. She knew that there were many firms and companies in the area that provided collection services. She did not know the answer as to why the City had decided to recommend Perdue, Brandon.

Mayor Pro Tem Phil Nauert stated that he was trying to get a feel as to how many warrants would have to be acted on each month. For example, were there 100 per month or 1,000 per month? Would the City need a phone bank of ten employees working the phones? In other words, how big of an operation were we talking about?

Judge Wesely advised that the new warrants were down right now because the tickets were down. She and Judge Twyman were responsible for signing all of the warrants. She believed that the City had between 100-200 outstanding warrants right now. She felt that the contract this evening was motivated by the fact that there was $1 million outstanding in old warrants where people had payment plans, but did not pay on them. These were the people that definitely deserved to hear from Mr. Darlow because they had a chance to work it out.

The City had $3 million outstanding for people that did not show up for a Municipal Court appearance. There were all sorts of reasons why people did that. The new warrants were probably easier to collect on because the information was a little fresher. Those were fairly manageable.

Mayor Siegel asked Chief Financial Officer Todd if she could come forward to provide some clarification as to the amounts of fines and fees that were outstanding.

City Manager Satterwhite answered Councilman Parker’s question about Perdue, Brandon while Chief Financial Officer Todd was walking to the podium. He indicated that Perdue, Brandon had been collecting the City’s delinquent taxes for many, many years. There was a time when the City turned over its tax collecting to Harris County. There was a great deal of pressure from them for Bellaire to switch to their firm, Linebarger, Coggin. He watched them in action, but felt that Perdue, Brandon was the firm that Bellaire needed to continue with. The City had been very pleased and had a high collection rate. Perdue, Brandon also took action for the City went situations occurred that went beyond collections to other tax matters. He would
recommend Perdue, Brandon as the firm that the City would want to hire for the collection of municipal court fines and fees and delinquent utility accounts.

Mayor Siegel noted that the agenda statement indicated that as of March 12, 2010, the City had 16,946 outstanding warrants for a total amount of $4,144,232.00 based on a report dated September 17, 1999, to the present. She asked for confirmation that the City had outstanding warrants that were over ten years old.

Chief Financial Officer Donna Todd indicated that Mayor Siegel was correct. All she could say about the numbers was that this was the information that the Court Clerk had provided to her as support information for the agenda item. She did not have a copy of that report, but the Court Clerk emailed the figures to Chief Financial Officer Todd.

Mayor Siegel inquired as to whether this showed up as a receivable on the City’s books.

Chief Financial Officer Todd indicated that it did not.

Mayor Siegel inquired as to why the City would not book it as a receivable.

Chief Financial Officer Todd advised that some of the amount was related to people that did not appear in court. It was at the discretion of the judge to find a violator innocent or guilty, reduce their fees, etc.

Mayor Siegel inquired as to who was responsible for the collection of the court fines and fees. In other words, was it the Bellaire Police Department?

Chief Financial Officer Todd advised that the City had a warrant officer. She assumed his role, as Judge Wesley mentioned, was to try and collect the warrants.

Mayor Siegel stated that when she first looked at the agenda statement, she thought the numbers were wrong. It was incredible that the City had $4 million in outstanding fees, some of which had been sitting there for ten years. She apologized to Judge Wesley, but indicated that the system was just not working. She knew that the Municipal Court worked with people on payment plans. What the City was currently doing was not working. She stated that it was appalling that this much money was owed to the City. If she understood it correctly, $3 million of the outstanding fees were due to people that failed to even show up for court.
Mayor Siegel stated further that the City did not have the resources to go chasing after $4 million.

Councilwoman Nathan inquired as to how many of the warrants preceded the 2003 date applicable to the statute.

Chief Financial Officer Todd indicated that she did not and the Court Clerk was unfortunately gone for a few days to attend a funeral. She could provide the information at another meeting.

Mayor Siegel indicated that these outstanding fines represented one and one-half percent of the City’s budget, which was unbelievable.

Chief Financial Officer Todd agreed that this was a bigger number than she expected to see as well.

Councilman Parker inquired as to whether Chief Financial Officer Todd could also provide some historical information as a percentage from the payment plan perspective. In other words, was the City collecting even less on the payment plans that were set up? He also would like to see the percentage of total citations versus the amount owed over the last five years. He wanted to see if this had been a long-term problem or if it were something that was escalating with each additional year.

Chief Financial Officer Todd indicated that she would work on that information.

Councilman James P. Avioli, Sr., asked if Mr. Darlow could comment on his success rate in pursuing these types of collections.

Mr. Darlow stated that it varied from city to city. His firm’s goal was 10-20% in the first year, then upward as years went on. He advised that it took awhile to get the program underway. All of the City’s records were on a system called “Incode.” If Mr. Darlow’s firm was hired, the City would transfer its data to Perdue, Brandon. His firm would then perform an analysis to help them understand where the dollars were by year. He would then have an idea has to how much of the outstanding warrants were before June of 2003 and how much was after that. The 30% fee was statutory. The City could not keep the fee. The only way that the fee could be imposed was by hiring a third-party vendor to collect it.

The City could add another source that Judge Wesely referred to, which was called “OmniBase.” This could be done in addition to what Perdue, Brandon was proposing to do for the City. The con of OmniBase was that a person only had to renew their drivers license every six years. Depending on when someone got a ticket and when
their license was renewed, the violator might not be caught for six years. There was a fee associated with that service and the City got to keep a portion of that fee.

The City was also part of an organization that consisted of many cities in the area that agreed to cooperate. When someone was stopped in another location and that agency determined that there were outstanding warrants in Bellaire, then that agency would make arrangements with Bellaire so that the violator could make arrangements to resolve the fine owed to Bellaire.

Mr. Darlow advised that there were many situations where his firm did not get their fee. For example, if a person were in handcuffs, then his firm did not get their fee.

He continued and advised that some cities his firm served were in the 30-40% collection rate after a couple of years. With 16,000+ warrants outstanding, maybe 70-80% would have bad addresses and would not be residents of Bellaire. He advised Mayor Siegel that she should not count on the entire $4 million. He would be disingenuous if he told City Council that he could collect it all. Many of those warrants were for people who had not been found guilty. The defendants were merely not coming in and dealing with the problem they created. Part of what his firm did (and did well) was to get the defendants to come in and deal with their problem. He noted that his firm would mail a series of letters and make several telephone calls. He referred to the Warrant Roundup that the State of Texas just did. This occurred every year in March. Perdue, Brandon sent letters out in February about two weeks before the Roundup warning defendants that they were subject to arrest.

The City’s warrant officer could only do so much. He had a finite amount of time and location that he could afford to go to. The City could not send him down to Angleton to go get someone for $300.00. This was why the City needed to supplement whatever it was doing in the court with what Perdue, Brandon was proposing.

Councilman Parker stated that the City’s incentives and Mr. Darlow’s incentives were slightly misaligned. If Mr. Darlow were going to receive the same flat fee regardless of the age of the debt, would the firm become more aggressive as the debt matured?

Mr. Darlow indicated that the computer did not distinguish between the age of the debt. The fee was different. His firm only got 15% on the older debt versus 30% on new debt. From 2003 forward, he would bet that the City had a bulk of money to collect. He would know the answer once his firm completed the research. The goal of his firm was to turn the bad addresses into good addresses. If the City did not
transfer the old debt to him, then obviously he would not collect it. Assuming that the City dumped its entire database to Perdue, Brandon, he would not look at it from one age versus another age.

Councilman Parker asked for confirmation that Perdue, Brandon did not look at the return on newer debt being easier to collect and thus let the older debt slide.

Mr. Darlow advised that his firm looked at the entire amount. It was all debt to them.

Councilman Parker asked if Mr. Darlow could comment on the historical data that he had requested of Chief Financial Officer Todd.

Mr. Darlow indicated that he was not sure the information existed. He did not know that Councilman Parker was going to get what he was looking for. He believed that “Incode” had an aging report that would tell the City by year how many violations there were and how much money could be attributed to those violations. He was not sure about the comparison reports—it was all a function of what the City’s software system could do.

Councilman Parker asked if debt was harder or easier to collect with today’s technology.

Mr. Darlow advised that it depended on the type of debt. To some extent, it was harder because people were not rooted as much. There was a little more to the process than just looking on the Internet. One might find “Joe Smith” on the Internet, but there also might be twenty “Joe Smiths.” Perdue, Brandon could track the violator better with a social security number and drivers license number. He would send letters multiple times until they reached the right person. There would be times when his firm would not find the right person.

With property tax, Bellaire could collect 97-98% and not look back. This type of debt was the exact opposite of property tax debt—it was much harder to collect.

Mr. Parker asked how Perdue, Brandon could do a better job in helping the City collect on this debt, assuming the City authorized the contract. In other words, were there any specific ideas that Mr. Darlow was working on internally, such as additional debt collection practices?

Mr. Darlow stated that the Warrant Roundup letter was working very well for his other clients. Another way was to just sit down and get after this debt—it had not been worked over a lot. He could not sue
with this type of debt, because it was not civil debt. Other than letters and phone calls, there was not that much more that could be done.

Mayor Pro Tem Nauert asked for confirmation that Mr. Darlow indicated that one of the things the City could do was to be more aggressive in going after this debt because it really had not been worked aggressively.

Mr. Darlow indicated that his firm would be aggressive in trying to collect the debt for the City.

Mayor Pro Tem Nauert asked for confirmation that it was time to get really aggressive and go after the debt.

Mr. Darlow indicated that one could say it was past time to do so.

Mayor Pro Tem Nauert advised that the reason he was asking the question was because the agenda statement indicated that Perdue, Brandon had been performing this service for the City for the last 13 years.

Mr. Darlow advised that his firm had performed tax collection services for the City, not municipal court fines and fees. He indicated that he and Chief Financial Officer Todd had been talking for the last several months about Perdue, Brandon providing this service for the City.

Councilwoman Nathan inquired as to whether the fee that Mr. Darlow would collect on the older debt was the same fee he charged other municipalities.

Mr. Darlow advised that he charged 20% for some clients and 15% for others. The rate was “negotiable.”

Councilman Hickman referred to the red light cameras in other areas and noted that he had heard that a person could not renew their registration if they had an unpaid red light camera fine. He asked if this were a practice with tickets or only with the red light citation.

Mr. Darlow indicated that he believed that only applied to the red light citations. He advised that Houston and Harris County had not reached an agreement on that. Other parts of the state were doing that. He did not believe it was the vehicle registration tied to the citation, but rather a person’s drivers license for failure to pay.

Councilman Hickman inquired as to how the 15% and 30% fees were derived.
City Manager Satterwhite advised that the 30% penalty was statutory in nature.

Councilman Hickman inquired as to whether the City could charge that penalty if the City did not engage a firm to collect on outstanding fines and fees.

City Attorney Alan P. Petrov advised that the City could not.

Councilman Hickman asked if the City could pay a firm 20% and retain the extra 10%.

Mr. Darlow advised that the City could not. The statute was 30%. It was not an “up to 30%.” It was because of the Texas Attorney General opinion that his firm was able to take the amount due prior to June of 2003 and collect less than the 30% penalty.

Councilman Hickman asked for confirmation that the City could not set the penalty at 20% and pay that penalty to Perdue, Brandon.

Mr. Darlow advised that Councilman Hickman was correct. The City could not set a lesser penalty.

Councilman Hickman asked if it were possible for the City to charge 30% and pay Perdue, Brandon 20%.

Mr. Darlow advised that it was not possible to do so.

Councilman Hickman asked for confirmation that if the City wanted to use a firm for collection, then the City had to collect 30% and had to pay the firm 30%.

Mr. Darlow advised that Councilman Hickman was correct.

Councilman Hickman stated that the only difference between firms would be the collection success rate. He asked if the City had looked at the success rate of Perdue, Brandon versus other firms.

City Manager Satterwhite advised that the City had not done so.

Councilman Hickman assumed that there were other firms that did this type of work.

City Manager Satterwhite indicated that there were many firms that did this type of work.
Councilman Hickman asked for confirmation that the City had an existing relationship with this firm due to their collection efforts on behalf of the City with respect to property taxes.

City Manager Satterwhite advised that Councilman Hickman was correct.

Councilman Hickman referred to the term of the contract. He asked if the City were allowed to have an evergreen term.

City Attorney Petrov advised that the City could have an evergreen term.

Councilman Hickman stated that he had no problem with the contract, but would like to limit the term to one year.

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

Councilman Will Hickman made an amendment (no. 1) to the motion to adopt an ordinance of the City Council of the City of Bellaire, Texas, to authorize the Mayor to execute a Contract for Court Fees and Fines Collection Services with Perdue, Brandon, Fielder, Collins & Mott, L.L.P., for the purpose of amending Section 5 of the Contract for Court Fees and Fines Collection Services, to limit the term to one year commencing on April 1, 2010, and ending on April 1, 2011. Councilman Corbett Daniel Parker seconded the amendment.

Mayor Siegel inquired as to Councilman Hickman’s thought with respect to limiting the contract to one year.

Councilman Hickman advised that he did not like the idea of an evergreen contract, noting that City Council would probably never look at it again. He also did not know how this was going to work in terms of collecting anything. He would also like the opportunity to talk to other firms. He was happy to put this in place for now and give it a one-year trial. The City Council could revisit the contract in a year to see if the contract should be extended.

Councilwoman Nathan stated that it sounded as if Perdue, Brandon anticipated that there might be some sort of startup period. She asked if a two-year contract would make any difference. In other words, would City Council see results that would be indicative of long-term work in one year?

Mr. Darlow indicated that a great deal depended on how fast his firm could get the data and run with it. Generally, it took two months to complete the data transfer. Letters would be sent out within a matter
of days of confirming the data. Obviously he would like a longer term. As long as City Council knew that part of the year was eaten away by the initial startup, then he was good to go and would work it double hard.

Councilman Avioli advised that he would be more supportive of a two-year term. With the massive amount of work the City was talking about, $4 million, he believed that Perdue, Brandon needed a two-year term.

Councilman Friedberg stated that he would second Councilman Avioli’s amendment if he wished to change the term to two years.

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

An amendment to Amendment No. 1 was made by Councilman James P. Avioli, Sr., and seconded by Councilman Andrew Friedberg to adopt an ordinance to authorize the Mayor to execute a *Contract for Court Fees and Fines Collection Services* with Perdue, Brandon, Fielder, Collins & Mott, L.L.P., for the purpose of amending Section 5 of the *Contract for Court Fees and Fines Collection Services*, to limit the term to two years commencing on April 1, 2010, and ending on April 1, 2012.

Mayor Pro Tem Nauert asked if the contract would be renewed annually thereafter or in two-year cycles.

Councilman Avioli advised that the initial test should be given two years.

Mayor Pro Tem Nauert asked if it would be renewed annually thereafter.

Mayor Siegel advised that it would be up to the City Council in place at that time. It did not have to be decided this evening.

City Attorney Petrov indicated that City Council could choose whatever length of time to renew the contract when it came up for renewal.

Councilman Parker inquired as to the length of time most of Perdue, Brandon’s contracts ran.

Mr. Darlow advised that the term could be anything the City Council wanted it to be. Two years was fine. He hoped to provide updates to City Council on his firm’s progress.
Judge Wesely advised that the Perdue, Brandon contract could be stopped within thirty (30) days notice right now. If City Council gave them a two-year term, Perdue, Brandon would have a two-year ride. She understood the thought process behind giving Perdue, Brandon a chance to work on the fines and fees.

Judge Wesely noted further that City Manager Satterwhite mentioned the firm of Linebarger, Coggins and she knew that the firm had gotten themselves in a great deal of trouble lately. Perdue, Brandon did not seem to have the problems that Linebarger, Coggins had. She believed this was the reason that Perdue, Brandon had a thirty (30) day notice clause.

Councilman Parker referred to Councilman Hickman’s point. It was one thing if the City had someone that was willing to look at the problem and give City Council a report on how they were doing. Clearly someone had not been watching this, because City Council would have done something before now in order to address it. He was going to support the original amendment of one year. He did not think anyone on City Council was going to take the time to look at this again in one or two years with other issues that could come up.

City Attorney Petrov indicated that the amendment was to change the phrase that created the evergreen portion of the contract. It did not change the second half of that paragraph, which left in the thirty (30) day right to cancellation.

Councilman Parker stated that a one-year term would make the City Council address the issue earlier.

Mayor Siegel indicated that City Council would still address the issue whether the contract was for one or two years.

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

Motion failed on a 3-4 vote as follows:

**FOR:**
- Avioli, James P., Sr.
- Friedberg, Andrew
- Nathan, Mandy

**OPPOSED:**
- Siegel, Cindy
- Hickman, Will
- Parker, Corbett Daniel
- Nauert, Phil

**ABSENT:**
- None
VOTE ON AMENDMENT (NO. 1) TO MOTION TO ADOPT ORDINANCE:

Motion carried on a 6-1 vote as follows:

FOR:        Siegel, Cindy  
            Hickman, Will  
            Parker, Corbett Daniel  
            Nauert, Phil  
            Friedberg, Andrew  
            Nathan, Mandy

OPPOSED:    Avioli, James P., Sr.

ABSENT:     None

MOTION TO POSTPONE CONSIDERATION OF AGENDA ITEM:

A motion was made by Councilman Corbett Daniel Parker to postpone consideration of the adoption of an ordinance to authorize the Mayor to execute a Contract for Court Fees and Fines Collection Services with Perdue, Brandon, Fielder, Collins & Mott, L.L.P., until such time as City Council could receive more complete information from Municipal Court as to other alternative collection methods and from City Staff as to the collection rates of other firms. Councilman Will Hickman seconded the motion.

DISCUSSION ON MOTION TO POSTPONE CONSIDERATION OF AGENDA ITEM:

Councilman Hickman indicated that he would vote against the motion. Clearly, there was a problem. He felt that the City should get Mr. Darlow’s firm working. In the meantime, it could take the City a year to figure out the best solution—whether it be to continue with Mr. Darlow’s firm, to utilize another firm, or to utilize another alternative, such as one of the ones Judge Wesely alluded to. This would give the City a year to study all of the options and come up with a solution. He did not believe that the City would want to miss an opportunity to get started now seeing the size and scope of the problem.

Councilman Friedberg agreed with Councilman Hickman’s comments and added that the City was not locked into an entire year. There was a thirty (30) day termination subject to six months for Perdue, Brandon to complete any work on cases turned over to them and pending.
Councilman Avioli noted that he was very surprised the outstanding warrants totaled $4 million. He thought the City needed to do something right away. He felt that a letter from a lawyer would really get someone’s attention. He believed that the most expeditious way to get the money, with all due respect to Judge Wesely, was to hire outside counsel.

City Manager Satterwhite commented that it was not unusual for people not to pay their fines. One of the reasons that there were statutes and firms out there collecting was because people did not always pay their fines—in fact, a fairly large number did not.

He noted that the next item on the agenda had been discussed in past years. Should the City make the attempt to collect debt that had previously been determined uncollectible? City Staff felt that it was time to make those efforts and this was the reason that the contract with Perdue, Brandon was brought forward.

City Manager Satterwhite was also aware that there were other alternatives and City Staff would look at those other options and alternatives. The City would continue to employ its warrant officer and perhaps get him to more work the warrants more aggressively. As Mr. Darlow stated earlier, the City would probably only collect a small portion of the $4 million that was outstanding. Although the outstanding warrants sounded unusually high, City Manager Satterwhite was not sure that it really was.

Mayor Siegel stated that she was not expecting to collect $4 million. She was looking at the situation from the standpoint that anything the City collected was more than the City had right now. She believed that City Council had an obligation to its citizens to ensure that the money was collected. She knew that the Judges bent over backwards to try to work with people on payment plans.

City Manager Satterwhite stated that the reason it was not considered a receivable was because no product or service had been rendered for the payment.

VOTE ON MOTION TO POSTPONE TO POSTPONE CONSIDERATION OF AGENDA ITEM:

Motion failed on a 1-6 vote as follows:

FOR: Parker, Corbett Daniel

OPPOSED: Siegel, Cindy
        Hickman, Will
        Avioli, James P., Sr.
FOR (CONT.): Nauert, Phil
Friedberg, Andrew
Nathan, Mandy

ABSENT: None

VOTE ON 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.
Parker, Corbett Daniel
Nauert, Phil
Friedberg, Andrew
Nathan, Mandy

OPPOSED: None

ABSENT: None

{Ordinance was subsequently numbered: 10-020}

2. 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 Contract for Collection of Delinquent Accounts with Perdue, Brandon, Fielder, Collins & Mott, L.L.P., for the performance of services necessary for the collection of delinquent utility accounts for compensation in the amount of twenty percent (20%) of the total amount actually collected and paid to the City of Bellaire, Texas – Item submitted by Chief Financial Officer Donna Todd.

MOTION TO ADOPT ORDINANCE:

A motion was made by Councilman Corbett Daniel Parker and seconded by Councilman James P. Avioli, Sr., to adopt an ordinance of the City Council of the City of Bellaire, Texas, authorizing the Mayor of the City of Bellaire, Texas, to execute a Contract for Collection of Delinquent Accounts with Perdue, Brandon, Fielder, Collins & Mott, L.L.P., for the performance of services necessary for the collection of delinquent utility accounts for compensation in the amount of twenty percent (20%) of the total amount actually collected and paid to the City of Bellaire, Texas.
DISCUSSION ON MOTION TO ADOPT ORDINANCE:

Michael Darlow, Partner, Perdue, Brandon, Fielder, Collins & Mott, L.L.P. ("Perdue, Brandon") advised that delinquent utility accounts were much harder to collect than court fines and fees. It was a consumer debt and controlled by the Fair Debt Collection Act. The letters were different and how people were dealt with was different. It was trickier from Perdue, Brandon’s side as the collector and trickier for the City to make sure everything was done correctly.

Mr. Darlow indicated that Finance Manager Vickey O’Donnell was putting together a spreadsheet for him to give him an idea of the amount deemed uncollectible. The sum of money was not too large—he believed it was less than $25,000. He had no guarantees on this type of debt. His firm did not perform these collection services for many clients, because it was a really tough debt to collect.

Mayor Pro Tem Phil Nauert asked how the 20% fee was derived on the collection of delinquent utility accounts.

Mr. Darlow stated that he made the number up. He believed this was a reasonable amount to charge. It was the same amount that he charged a few other cities that he performed this service for.

Councilman Will Hickman inquired as to whether Perdue, Brandon could litigate with respect to the delinquent utility accounts.

Mr. Darlow advised that his firm could with the City’s approval. He did not know that he would recommend litigation, but he could litigate. He indicated that he would provide this service because he lived in the City and, therefore, he was motivated to try it and see if he could collect any money for the City. For that reason, he did not make the contract too complex with tiered collection rates since the debt was so small.

Councilman Hickman asked for confirmation that the process for delinquent utility accounts would be similar to the warrant process (i.e., telephone calls and letters).

Mr. Darlow advised that Councilman Hickman was correct. His firm would consider lawsuits if they could find them. With $25,000 outstanding, there would not be that many lawsuits.

Councilman Hickman asked if Perdue, Brandon had the capability of taking payments over the phone, such as with a credit card.
Mr. Darlow indicated that he would request that the person from whom the debt was collected mail a check payable to Bellaire directly to the City. Nothing would be payable to him or his law firm.

Councilman Hickman asked if the City required a deposit on utility accounts.

City Manager Satterwhite advised that the City did have a deposit requirement.

Councilman Hickman asked if the uncollected fee usually exceeded the deposit on file with the City.

City Manager Satterwhite indicated that one of the reasons that the uncollected amount was somewhat small was because the City was able to shut the water service off. The uncollectible accounts were mostly accounts of people who had left Bellaire without paying for their service. In the past, the City had written off its uncollectible debts, but had wondered if some effort should be made to try to collect. He did not know how successful the efforts would be, but in these times where revenues were critical, City Staff felt that the effort should be made.

Chief Financial Officer Donna Todd indicated that the City did have deposit requirements for residents, tenants, and commercial businesses. Those deposits had been increased for this fiscal year. For tenants, the deposit would be refunded upon termination of service.

There were residents in Bellaire that incurred $300-$400 water bills per month. Those residents had paid a deposit of $100. That deposit would not even cover one month. The City had a sixty (60) day cycle before people were cut off. Oftentimes the City received incorrect telephone numbers, no forwarding address, or incorrect forwarding addresses. The City’s attempts to try to contact those people often failed.

Chief Financial Officer Todd indicated that it was very distressing to see that type of loss for the City. In talking with Mr. Darlow about the fines and fees, she had asked him if he could help with City with utility accounts as well. He may have little or no success with the collections, but it was an opportunity to see if the City could collect some of those uncollectible revenues.

She noted that with respect to this item, the City would have to pay on what was collected. There was no statute that allowed the City to add a penalty to the fees.
Councilman Corbett Daniel Parker noted that there were thirteen builders on the list that owed the City fees for utilities. He asked if any of them presently had projects going on in the City.

Chief Financial Officer Todd advised that all of the business were bankrupt.

Councilman Parker asked if the City could theoretically restrict permitting to those builders if they owed the City delinquent fees for utilities.

City Manager Satterwhite advised that the City could do so.

Councilman Parker asked if there were any way the City could legally implement a tiered system for deposits where a person’s deposit depended on the size of the improvements. In other words, was there a correlation between water usage and the size of improvements?

City Attorney Alan P. Petrov advised that there were different ways to structure deposits. Some places structured deposits based on historic usage. The City could also distinguish between renters and homeowners, noting that renters could represent a flight risk.

Councilman Parker inquired as to whether the deposit could be structured based on credit ratings.

City Attorney Petrov indicated that he would be hesitant to base a deposit structure on credit ratings.

Councilman Hickman proposed the same amendment for this contract as the previous contract (i.e., a one-year term).

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

Councilman Will Hickman made an amendment (no. 1) to the motion to adopt an ordinance of the City Council of the City of Bellaire, Texas, to authorize the Mayor to execute a Contract for Collection of Delinquent Accounts with Perdue, Brandon, Fielder, Collins & Mott, L.L.P., for the purpose of amending paragraph 3 of the Contract for Court Fees and Fines Collection Services, to limit the term to one year commencing on April 1, 2010, and ending on April 1, 2011. Councilman Corbett Daniel Parker seconded the amendment.
VOTE ON AMENDMENT (NO. 1) TO MOTION TO ADOPT ORDINANCE:

Amendment No. 1 carried unanimously on a 7-0 vote as follows:

FOR: Siegel, Cindy
    Hickman, Will
    Avioli, James P., Sr.
    Parker, Corbett Daniel
    Nauert, Phil
    Friedberg, Andrew
    Nathan, Mandy

OPPOSED: None

ABSENT: None

VOTE ON MOTION TO ADOPT ORDINANCE, AS AMENDED:

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

FOR: Siegel, Cindy
    Hickman, Will
    Avioli, James P., Sr.
    Parker, Corbett Daniel
    Nauert, Phil
    Friedberg, Andrew
    Nathan, Mandy

OPPOSED: None

ABSENT: None

{Ordinance was subsequently numbered: 10-021}

I. ITEMS FOR INDIVIDUAL CONSIDERATION:

Rules of Procedure

1. CONSIDERATION of and possible action on a recommendation from the City Clerk to amend the Rules of Procedure for the City Council of the City of Bellaire, Texas, for the period 2010-2012 (“Rules”) approved and adopted by the City Council of the City of Bellaire, Texas, on March 1, 2010, said recommendation of which would amend Article 6, Agenda Order, Section I, Council Correspondence and Comments, of the Rules to match the requirements of the Texas Government Code, Chapter 551,
Open Meetings Act, Section 551.0415, Governing Body of Municipality; Reports About Items of Community Interest Regarding Which No Action Will Be Taken – Item submitted by City Clerk Tracy L. Dutton.

Mayor Cindy Siegel suggested, in the interest of time, that City Council postpone the item on Rules of Procedure, as it was not a critical item.

Policy Regarding Funds for Future Purchase of Bellaire Parkland

2. DISCUSSION of and possible action to direct City Staff to prepare a policy stating that the consideration (i.e., funds) paid by a petitioner and/or other affected or abutting property owners for a City easement, right-of-way, alley, street, or other public way, or any portion thereof, shall be restricted to the future purchase of Bellaire parkland – Item submitted by City Clerk Tracy L. Dutton on behalf of Mayor Siegel.

Mayor Cindy Siegel stated that she was open to postponing the item before City Council to direct City Staff to prepare a policy to restrict funds from property owners for City easements, rights-of-way, alleys, streets, or other public ways for the future purchase of Bellaire parkland. She advised that she would like to get a motion on the floor so that she could outline her thoughts on the matter.

She noted that the City had recently received funds from the sale of a few rights-of-way and would be considering the sale of Chestnut Street in the next month or so to First Street Surgical Center. Her husband suggested many years ago that the City put aside the money that people paid for City property into a fund for the purchase of other parkland (i.e., an investment in other land in Bellaire). This was the reason she had brought this forward.

Mayor Siegel noted, too, that the City did have a line item in its Capital Improvement Program budget that was not funded and was titled “Acquisition of Future Parkland.” Her thought was that the funds could be restricted in that line item and could sit there until the City had an opportunity to purchase land. The City had not sold that many of its properties over the years.

MOTION TO DIRECT CITY STAFF TO PREPARE A POLICY TO RESTRICT FUNDS FOR THE FUTURE PURCHASE OF BELLAIRE PARKLAND:

A motion was made by Mayor Cindy Siegel to direct City Staff to prepare a policy stating that the consideration (i.e., funds) paid by a petitioner and/or other affected or abutting property
owners for a City easement, right-of-way, alley, street, or other public way, or any portion thereof, shall be restricted to the future purchase of Bellaire parkland. Councilman Corbett Daniel Parker seconded the motion.

Councilman Corbett Daniel Parker inquired as to whether the funds could be used for development as well.

Mayor Siegel advised that it could be used for development. For example, it could be used on what would ultimately be the Rubenstein-Teas Property. It was really up to City Council. Her thought was that instead of applying the funds to operating expenses and those funds being expended after one year, it would actually go toward something that had value to the residents for a long time.

Councilman Parker inquired as to whether this policy would be binding on a future City Council.

City Attorney Alan P. Petrov advised that the next City Council could change the policy.

Councilman Parker asked for confirmation that this was a show of support for the concept.

Mayor Siegel indicated that Councilman Parker was correct.

Councilman Hickman inquired of Mr. Darlow if his firm handled property foreclosures. After determining that Mr. Darlow did handle property foreclosures, Councilman Hickman inquired as to whether the City could bid on its own tax foreclosures and buy those properties.

Mr. Darlow advised that the City could do so. The City Council would have to grant to the Mayor or the City Manager the authority to attend a public tax sale and bid like anyone else.

City Attorney Petrov advised that he had clients that had done that very thing—not necessarily for parkland, but for various municipal uses.

Mayor Pro Tem Phil Nauert stated that the City Council could direct City Staff to prepare a policy and the policy could be voted on at another time.

Mayor Siegel advised that Mayor Pro Tem Nauert was correct. This item was simply to start the ball rolling.

Mayor Pro Tem Nauert indicated that he did not see any reason to postpone the item, as it would be considered again at another time.
He felt that it was a great idea, noting essentially that the City was turning one piece of land into another.

Councilman Hickman inquired as to the Chestnut Street abandonment that Mayor Siegel alluded to earlier.

City Manager Bernard M. Satterwhite, Jr., stated that the parking lot for the First Street Surgical Center and the strip shopping center next to it was a City right-of-way. It had been used as a parking lot for many, many years. First Street Surgical Center desired to expand the hospital itself. They submitted a petition to purchase the street so that they could build on parts of it.

Councilman Hickman asked for confirmation that the funds for that street would go into the fund that Mayor Siegel wished to restrict for parkland.

Mayor Siegel advised that Councilman Hickman was correct. She believed the City had also received approximately $13,000 from three of the residents that backed up to Fournace Place. She hoped that those funds could also be restricted for future parkland. She noted that when people did pay for City properties, the payments were not small chunks. Requests to purchase City property were fairly infrequent.

Councilman Parker indicated that this was a great idea and he did not see why the City should not create a policy for parkland at this time.

VOTE ON MOTION TO DIRECT CITY STAFF TO PREPARE A POLICY TO RESTRICT FUNDS FOR THE FUTURE PURCHASE OF BELLAIRE PARKLAND:

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

FOR:  
Siegel, Cindy  
Hickman, Will  
Avioli, James P., Sr.  
Parker, Corbett Daniel  
Nauert, Phil  
Friedberg, Andrew  
Nathan, Mandy

OPPOSED: None

ABSENT: None
J. COMMUNITY INTEREST ITEMS FROM THE MAYOR AND CITY COUNCIL.

Mayor Cindy Siegel reminded City Council that there would be a Special Session on Monday, March 29, 2010, to discuss goals and objectives. After noting that several members of City Council had not received notice of the Special Session, the Mayor indicated that she would reschedule it for another time.

She continued and thanked the Bellaire Fire Department, Bellaire Police Department, and Receptionist Tillie Wiedemann for doing a great job on the City’s tanker crisis. She also noted that she had received a compliment from a resident regarding the Bellaire Public Works Department and their responsiveness to citizen problems.

In closing, Mayor Siegel advised that she had the pleasure of hosting a 13-year old birthday party at the City facilities. She commended Director Jane Dembski’s group, Cheryl and Jamie, in working with her. She offered a special thanks to Jessica, noting that it was her job to go back and forth to check on the birthday party and a Parks and Recreation event in the Recreation Center. Jessica did a great job.

Mayor Pro Tem Phil Nauert expressed his sincere appreciation to the City’s professional Bellaire Fire Department. The professional management of a potentially dangerous circumstance was well worth all the City had invested in the Department’s training. He also reminded everyone of the Friends of the Bellaire Library Book Sale that would occur on Saturday, noting that it was probably one of the best deals in town.

Councilman Andrew Friedberg congratulated Firefighter Mark Allen who ran 100 miles in 23 hours and 15 minutes during the month of February. He raised $1,200 for children who were the victim of burn injuries. He also congratulated the Bellaire Cultural Arts Commission, the Bellaire Historical Society, and Karl Miller for the wonderful job each had done with the plinths installed around town.

The Bellaire Men’s Club, a young men’s service organization not exclusively to Bellaire High School, put having a great representation from there, was having their Fifth Annual Scholarship and Awards Gala on April 17, 2010, at 6:30 p.m. to raise money for deserving students. He and his wife, Jennifer, were excited to be the Honorary Co-Chairs of the event and encouraged everyone to come out. He asked those interested to please look him up on the City website.

Councilwoman Mandy Nathan added her congratulations and thanks to all of the City’s emergency services folks and to the Bellaire Public Works Department for all of their good works as a result of the tanker spill.
Councilman Will Hickman echoed the thanks to Fire Chief Darryl Anderson, Assistant Fire Chief Alton Moses, and all of the responders who kept the City safe. He noted that he went out to see them Friday night at 11:00 p.m. The responders still had a sense of humor after a long day.

Councilman Hickman continued and thanked the Bellaire Police Department for assistance they provided to Councilman Hickman’s wife recently. He advised that she had attended a conference in Miami, Florida, and had her identity stolen. Someone broke into her hotel room, made copies of all of her credit cards, and put them all back in her wallet. That person was able to take the copies and make charges to the cards. He and his wife did not find out until the bank called them. The Bellaire Police Department provided a report for them and helped them get through the process. It was a new scam he had never heard of and wanted to warn everyone about it.

Councilman James P. Avioli, Sr., advised that Fire Chief Darryl Anderson looked great on television. He noted that there would soon be a new television show called—Bellaire CSI. On a serious note, he thanked Fire Chief Anderson and all of his people for their service.

He also thanked City Manager Satterwhite, noting that he was going to let Councilman Avioli host his granddaughter’s Girl Scout troop at the City on Friday afternoon.

Councilman Avioli closed by thanking the City’s Librarian, Mary Alford Cohrs, for all that she did for the City.

Councilman Corbett Daniel Parker echoed all of the comments made regarding the first responders and subsequent responders that kept the City safe during the tanker spill. Secondly, he stated that the Bellaire Boys Basketball Team came within a second of going to state. Clearly, Coach Glover, his staff, and team deserved to be commended for coming so close.

In closing, Councilman Parker advised that the Bellaire Men’s Club helped Kay Hieronymus and the Bellaire Historical Society over the weekend on a project to help restore Bellaire’s trolley. He provided a few pictures of the project.

As Liaison to the Bellaire Cultural Arts Commission, Councilman Parker stated that he was so excited to see that he joined a winning team. He congratulated the Bellaire Cultural Arts Commission and the Bellaire Parks and Recreation Department for the NRPA award they were presented with this evening.
K. ADJOURNMENT.

MOTION TO ADJOURN:

A motion was made by Councilman Corbett Daniel Parker and seconded by Councilman James P. Avioli, Sr., to adjourn the Regular Session of the City Council of the City of Bellaire, Texas, at 10:11 p.m. on Monday, March 22, 2010.

VOTE ON MOTION TO ADJOURN:

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

FOR: Siegel, Cindy
     Hickman, Will
     Avioli, James P., Sr.
     Parker, Corbett Daniel
     Nauert, Phil
     Friedberg, Andrew
     Nathan, Mandy

OPPOSED: None

ABSENT: None

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