CITY COUNCIL MEETING MINUTES
MONDAY, SEPTEMBER 13, 2010

The City Council of the City of Bellaire, Texas, met in Regular Session on Monday, September 13, 2010, in the Council Chamber, First Floor of City Hall, 7008 South Rice Avenue, Bellaire, Texas 77401, for the following purpose(s):

A. CALL TO ORDER AND ANNOUNCEMENT OF A QUORUM – Mayor Cindy Siegel.

Mayor Siegel called the City Council of the City of Bellaire, Texas, to order at 7:01 p.m. on Monday, September 13, 2010.

Also present were Mayor Pro Tem Phil Nauert, Councilmen James P. Avioli, Sr., Corbett Daniel Parker, and Andrew Friedberg, Councilwoman Mandy Nathan, City Manager Bernard M. Satterwhite, Jr., City Attorney Alan P. Petrov, and City Clerk Tracy L. Dutton. Councilman Will Hickman arrived shortly after the meeting was called to order.

B. INSPIRATIONAL READING AND/OR INVOCATION – Councilman Andrew Friedberg.

Councilman Friedberg provided the inspirational reading for the evening.

C. PLEDGES TO THE FLAGS – Councilman Andrew Friedberg.

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

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

D. PERSONAL/AUDIENCE COMMENTS.

Robert Riquelmy, 506 Winslow Lane, Bellaire, Texas:

Mr. Riquelmy addressed City Council and advised that there was more than $4,000,000 in non-essential items on City Council’s agenda this evening. He hoped that City Council would apply the same standards to the $4,000,000 that were customarily applied to sidewalks and park benches, and urged City Council to save the residents the $4,000,000.
Lynn McBee, 5314 Evergreen Street, Bellaire, Texas:

Ms. McBee addressed City Council and advised that she wished to give City Council an update on the November 2nd election. She noted that early voting was being encouraged at any of 37 locations during the hours set for early voting from October 18, 2010, through October 29, 2010.

For those voters who were 65 years of age or older, disabled, or who would not be in Harris County during the early voting or on Election Day, an application for a ballot by mail could be obtained from the Harris County Clerk.

Voters needing to register or to confirm if they were already registered were advised to contact the Harris County Voter-Registrar. The Harris County Clerk also had a host of election-related information available on her website (www.harrisvotes.com).

In closing, Ms. McBee advised that the Secretary of State had issued some material concerning a precinct’s ability to use student election clerks. The Texas State Legislature, for the first time in many years, had authorized high school students, 16 years of age or older, the opportunity to participate by serving as election clerks at the polling place on Election Day. To do this, the student must contact their school and obtain a permission slip (statutorily created) that must be signed by the family and the school. The student would be excused from school for a portion of the day. The student would be assigned or recruited by a particular precinct, and the student would get paid for their service. Ms. McBee indicated that her precinct was very anxious to have a student or students in her precinct. The Harris County Clerk’s Office had been asked to coordinate the effort by contacting the high school principals to make sure that everyone knew it was okay to do this.

E. REPORTS:

CITY MANAGER’S REPORT regarding residential safety (police activity report), public infrastructure/utilities (facilities update, South Rice Lift Station update, and Recycling Center closure), quarterly indicators (crime and building permits), and upcoming City Council meetings/events – Presented by City Manager Bernard M. Satterwhite, Jr.

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

Residential Safety

With respect to residential safety, City Manager Satterwhite advised that most of the City buildings around Bellaire Town Square had experienced a massive electrical failure during a recent storm. The Bellaire Police Department
backup generator was “fried” during the storm and rendered useless for a period of time. The City rented a generator for backup power and the damage was submitted to the City’s insurer (TML) as a casualty claim. An adjuster reviewed the situation and counted the damage as a casualty. The City received a check earlier in the day from TML in the amount of $47,389.00 to replace that generator and cover a few weeks of the generator rental cost.

**Infrastructure/Utilities**

<table>
<thead>
<tr>
<th>Project</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fire Station Construction</td>
<td>Project was coming along, with an expected move-in date of November. As the City came closer to the move-in date, some opening festivities would be planned.</td>
</tr>
<tr>
<td>Rebuild Bellaire, Phase Three</td>
<td>Bid award approval request on City Council’s agenda this evening.</td>
</tr>
<tr>
<td>South Rice Avenue Crosswalk</td>
<td>Survey completed; bids to be requested during the month of September.</td>
</tr>
<tr>
<td>Rice Lift Station Project</td>
<td>Project coming along. Expected completion of the project was slated for November.</td>
</tr>
<tr>
<td>Renwick Water Plant</td>
<td>Pump motor at the Renwick Water Plant went out. Repairs had been made. During the pump outage, the only well operating was at the Feld Park Water Plant. For that reason, the City was not able to supply 50% groundwater and 50% surface water.</td>
</tr>
<tr>
<td>Recycling Center</td>
<td>Expected closure of the Recycling Center was scheduled on September 30, 2010. Signage had been erected at the Recycling Center to notify users that the Center would be closing. Information had also been posted on the City’s website, Facebook, and in at least one of the newspapers. A notice would also appear in the City’s next water bill.</td>
</tr>
</tbody>
</table>
Upcoming City Council Meetings/Events

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Type of Meeting</th>
</tr>
</thead>
<tbody>
<tr>
<td>September 20</td>
<td>7:00 p.m.</td>
<td>Regular Session (budget to be presented and tax roll to be certified, as well as an item for City Council to take a record vote on a proposed tax rate increase)</td>
</tr>
<tr>
<td>September 28</td>
<td>6:00 p.m.</td>
<td>Public Hearing on Tax Rate Increase</td>
</tr>
<tr>
<td>October 4</td>
<td>6:00 p.m.</td>
<td>Public Hearing on Tax Rate Increase</td>
</tr>
<tr>
<td>October 4</td>
<td>7:00 p.m.</td>
<td>Regular Session</td>
</tr>
<tr>
<td>October 11</td>
<td>6:00 p.m.</td>
<td>Public Hearing on Specific Use Permit for Bellaire High School’s new addition; Public Hearing on Specific Use Permit for the operation of a drive-through window by Shipley Do-Nuts; and Public Hearing on recommended changes to Chapter 24 of the City Code (zoning amendments)</td>
</tr>
<tr>
<td>October 18</td>
<td>7:00 p.m.</td>
<td>Regular Session (approval of tax rate)</td>
</tr>
</tbody>
</table>

At the conclusion of City Council questions of the City Manager regarding his report, Councilman Avioli moved to accept the City Manager’s Report into the record. Councilman Hickman seconded the motion. The motion carried unanimously on a 7-0 vote as follows:

FOR: Mayor Siegel, Mayor Pro Tem Nauert, Councilmen Hickman, Avioli, Parker, and Friedberg and Councilwoman Nathan

OPPOSED: None

ABSENT: None

F. CONSENT AGENDA:

1. APPROVAL/CORRECTION OF MINUTES:

   a. APPROVAL of the minutes of the Special Session (Public Hearing) of the City Council of the City of Bellaire, Texas, held on Monday, July 12, 2010 – Item submitted by City Clerk Tracy L. Dutton.

   b. APPROVAL of the minutes of the Regular Session of the City Council of the City of Bellaire, Texas, held on Monday, July 12, 2010 – Item submitted by City Clerk Tracy L. Dutton.
c. APPROVAL of the minutes of the Special Session (Public Hearing on Episcopal High School Amendment to Specific Use Permit (S-71) of the City Council of the City of Bellaire, Texas, held on Monday, July 19, 2010 – Item submitted by City Clerk Tracy L. Dutton.

d. APPROVAL of the minutes of the Special Session (Public Hearing on Alder Circle Planned Development Permit Request) of the City Council of the City of Bellaire, Texas, held on Monday, July 19, 2010 – Item submitted by City Clerk Tracy L. Dutton.

2. BID AWARD:

Bissonnet Sanitary Sewer Improvements

CONSIDERATION of and possible action on a recommendation from the Bellaire Public Works Department and Consulting Engineers HDR|Claunch & Miller to award Bid No. 10-006, Bissonnet Sanitary Sewer Improvements, to the lowest responsive bidder, Calco Contracting, Ltd., for the construction of approximately 400 linear feet of sanitary sewer and restoration of reinforced concrete roadway pavement, driveways, sidewalk, wheelchair ramps and miscellaneous associated items in an amount not to exceed $101,241.00 and on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, authorizing the Mayor and the City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, a Standard Form of Agreement with Calco Contracting, Ltd., for said construction services in an amount not to exceed $101,241.00 – Item submitted by Director of Public Works Joe Keene.

3. TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM:

a. CONSIDERATION of and possible action on the adoption of a resolution of the City Council of the City of Bellaire, Texas, designating certain officials to open and maintain a non-interest bearing account with the depository bank of the City of Bellaire, Texas, for the purpose of receiving contract funds from the Texas Community Development Block Grant Program – Item submitted by Chief Financial Officer Donna Todd.

b. CONSIDERATION of and possible action on the adoption of a resolution of the City Council of the City of Bellaire, Texas, authorizing the Mayor of the City of Bellaire, Texas, to execute, for and on behalf of the City of
Bellaire, Texas, any and all documents related to project funding by the Texas Community Development Block Grant Program requiring the approval or signature of a local elected official – Item submitted by Chief Financial Officer Donna Todd.

c. CONSIDERATION of and possible action on the adoption of a resolution of the City Council of the City of Bellaire, Texas, appointing a Labor Standards Officer and a Fair Housing/Equal Opportunity/Section 504 Standards Officer for the City of Bellaire, Texas, as required under the Texas Community Development Block Grant Program – Item submitted by Chief Financial Officer Donna Todd.

Mayor Pro Tem Nauert requested separate consideration of Consent Agenda item F.3.a. Councilman Friedberg requested separate consideration of Consent Agenda items F.2. and F.3.c.

Mayor Pro Tem Nauert moved to approve, accept, and adopt a portion of the Consent Agenda dated September 13, 2010, consisting of the following items:

- Minutes of the Special Session (Public Hearing) of the City Council of the City of Bellaire, Texas, held on Monday, July 12, 2010;

- Minutes of the Regular Session of the City Council of the City of Bellaire, Texas, held on Monday, July 12, 2010;

- Minutes of the Special Session (Public Hearing on Episcopal High School Amendment to Specific Use Permit S-71) of the City Council of the City of Bellaire, Texas, held on Monday, July 19, 2010;

- Minutes of the Special Session (Public Hearing on Alder Circle Planned Development Permit Request) of the City Council of the City of Bellaire, Texas, held on Monday, July 19, 2010; and

- Resolution of the City Council of the City of Bellaire, Texas, authorizing the Mayor of the City of Bellaire, Texas, to execute, for and on behalf of the City of Bellaire, Texas, any and all documents related to project funding by the Texas Community Development Block Grant Program requiring the approval or signature of a local elected official.

Councilwoman Nathan seconded the motion. The motion carried unanimously on a 7-0 vote as follows:
FOR: Mayor Siegel, Mayor Pro Tem Nauert, Councilmen Hickman, Avioli, Parker, and Friedberg and Councilwoman Nathan

OPPOSED: None

ABSENT: None

{Resolution was subsequently numbered: 10-16}

Separate Consideration of Consent Agenda Item F.2.: Councilman Will Hickman moved to approve a recommendation from the Bellaire Public Works Department and Consulting Engineers HDR|Claunch & Miller to award Bid No. 10-006, Bissonnet Sanitary Sewer Improvements, to the lowest bidder, Calco Contracting, Ltd., for the construction of approximately 400 linear feet of sanitary sewer and restoration of reinforced concrete roadway pavement, driveways, sidewalk, wheelchair ramps and miscellaneous associated items in an amount not to exceed $101,241.00 and to adopt an ordinance of the City Council of the City of Bellaire, Texas, authorizing the Mayor and the City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, a Standard Form of Agreement with Calco Contracting, Ltd., for said construction services in an amount not to exceed $101,241.00. Councilman James P. Avioli, Sr., seconded the motion.

Councilman Friedberg requested separate consideration of this item in order to ensure that this project was related to City Council’s recent sale of a right-of-way to First Street Holdings for the expansion of First Street Hospital. Upon notification that it was related to that sale, Councilman Friedberg questioned whether the relocation of the referenced sanitary sewer line was necessitated by the expansion of the hospital or if the City had planned to relocate the line. City Manager Satterwhite indicated that the sanitary sewer line was too close to the existing structure and should have been scheduled for relocation some time ago.

The motion and second to approve the award of Bid No. 10-006 and authorize the Mayor and City Clerk to execute and attest, respectively, a Standard Form of Agreement with Calco Contracting, Ltd., carried unanimously on a 7-0 vote as follows:

FOR: Mayor Siegel, Mayor Pro Tem Nauert, Councilmen Hickman, Avioli, Parker, and Friedberg and Councilwoman Nathan

OPPOSED: None
Ordinance was subsequently numbered: 10-065

Separate Consideration of Consent Agenda Item F.3.a.:

Councilwoman Mandy Nathan moved to adopt a resolution of the City Council of the City of Bellaire, Texas, designating certain officials to open and maintain a non-interest bearing account with the depository bank of the City of Bellaire, Texas, for the purpose of receiving contract funds from the Texas Community Development Block Grant Program. Councilman Will Hickman seconded the motion.

Mayor Pro Tem Nauert requested separate consideration of this agenda item in order to determine the name of the City employee designated as “Finance Manager” and whether or not any banking charges were anticipated as a result of opening said non-interest bearing account for the Texas Community Development Block Grant Program funds. Designated officials with respect to the account were noted to be the City Manager, Chief Financial Officer, and Finance Manager. Chief Financial Officer Donna Todd noted that the employee designated as “Finance Manager” was Vickey O’Donnell and that the City anticipated that there would be no banking charges for the referenced account.

Councilman Hickman moved to amend paragraph 2 of the proposed resolution by changing the word “or” to “and/or,” said paragraph to read as follows:

THAT the Chief Financial Officer or and/or the City Manager are each hereby authorized to open and maintain a non-interest bearing depository account at the City’s depository bank, for the receipt of contract funds and to execute, for and on behalf of the City of Bellaire, Texas, any necessary documentation related to this depository account.

Councilman Parker seconded the amendment. The amendment carried unanimously on a 7-0 vote as follows:

FOR: Mayor Siegel, Mayor Pro Tem Nauert, Councilmen Hickman, Avioli, Parker, and Friedberg and Councilwoman Nathan

OPPOSED: None

ABSENT: None

The original motion, as amended, carried unanimously on a 7-0 vote as follows:
FOR: Mayor Siegel, Mayor Pro Tem Nauert, Councilmen Hickman, Avioli, Parker, and Friedberg and Councilwoman Nathan

OPPOSED: None

ABSENT: None

{Resolution was subsequently numbered: 10-15}

Separate Consideration of Consent Agenda Item F.3.c.:

Councilman Friedberg requested separate consideration of this agenda item in order to ask a few questions of the City Attorney. Since the City Attorney had not yet arrived for Bellaire’s meeting, consideration of this item was postponed until he arrived.

G. ADOPTION OF ORDINANCES:

Rebuild Bellaire Program, Phase Three

1. CONSIDERATION of and possible action on a recommendation from the Bellaire Public Works Department and Consulting Engineers HDR|Claunch & Miller to award Bid No. 10-007, Rebuild Bellaire Phase Three, to the lowest responsive bidder, Total Contracting, Ltd., for the reconstruction of the 4500 block of Oleander Street, Second Street from Braeburn Drive to Evergreen Street, Second Street from Evergreen Street to Jessamine Street, the 4700 through 5000 blocks of Holt Street, and Englewood Street from Maple Street to Pine Street, including the replacement of the existing asphalt and concrete pavement with a reinforced concrete curb and gutter street and the construction of storm sewer in an amount not to exceed $3,699,638.90 and on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, authorizing the Mayor and the City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, a Standard Form of Agreement with Total Contracting, Ltd., for said services in an amount not to exceed $3,699,638.90 – Item submitted by Director of Public Works Joe Keene.

Mayor Pro Tem Nauert moved to approve a recommendation from the Bellaire Public Works Department and Consulting Engineers HDR|Claunch & Miller to award Bid No. 10-007, Rebuild Bellaire Phase Three, to the lowest responsive bidder, Total Contracting, Ltd., for the reconstruction of the 4500 block of Oleander Street, Second Street from Braeburn Drive to Evergreen Street, Second Street from Evergreen Street to
Jessamine Street, the 4700 through 5000 blocks of Holt Street, and Englewood Street from Maple Street to Pine Street, including the replacement of the existing asphalt and concrete pavement with a reinforced concrete curb and gutter street and the construction of storm sewer in an amount not to exceed $3,699,638.90 and to adopt an ordinance of the City Council of the City of Bellaire, Texas, authorizing the Mayor and the City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, a *Standard Form of Agreement* with Total Contracting, Ltd., for said services in an amount not to exceed $3,699,638.90. Councilwoman Nathan seconded the motion.

Questions were asked of James Andrews, Senior Vice President of HDR|Claunch & Miller, Consulting Engineers, regarding the project timeline (12 months), the fact that the project would result in improvements to the drainage for the area, and the favorability of the bid (i.e., noted to be excellent).

Following questions and answers, the **motion and second unanimously carried on a 7-0 vote** as follows:

**FOR:** Mayor Siegel, Mayor Pro Tem Nauert, Councilmen Hickman, Avioli, Parker, and Friedberg and Councilwoman Nathan

**OPPOSED:** None

**ABSENT:** None

{**Ordinance was subsequently numbered:** 10-066}

At this point in the meeting, City Attorney Alan Petrov arrived and City Council returned to the Consent Agenda to consider Consent Agenda Item F.3.c.: Councilman Hickman moved to adopt a resolution of the City Council of the City of Bellaire, Texas, appointing a Labor Standards Officer and a Fair Housing/Equal Opportunity/Section 504 Standards Officer of the City of Bellaire, Texas, as required under the Texas Community Development Block Grant Program. Councilwoman Nathan and Councilman Parker seconded the motion.

Councilman Friedberg asked questions of City Attorney Petrov regarding this particular agenda item. His first question related to whether or not the City could appoint third parties to be officials of the City and, secondly, whether or not there was an issue from the City’s perspective. In other words, would the third party official be as much
an “employee” as a member of the City Staff. City Attorney Petrov indicated that the City could appoint third parties as officials of the City and that he could see no issue(s) for the City making the recommended appointments.

Chief Financial Officer Todd recommended that the City appoint individuals to the referenced positions that were familiar with the Davis-Bacon Act (Labor Standards Officer) and oversight and compliance with fair housing and equal opportunity activities (Fair Housing/Equal Opportunity/Section 504 Standards Officer). The names of the individuals to be appointed were Nicholas Foster, Community Development Specialist with Camp Dresser & McKee, as the City’s Labor Standards Officer, and Gary Truelsen, Project Manager with Camp Dresser & McKee, as the Fair Housing/Equal Opportunity/Section 504 Standards Officer.

At the conclusion of questions and answers regarding Consent Agenda Item F.3.c., the motion and second to adopt a resolution appointing a Fair Labor Standards Officer and a Fair Housing/Equal Opportunity/Section 504 Standards Officer carried unanimously on a 7-0 vote as follows:

**FOR:** Mayor Siegel, Mayor Pro Tem Nauert, Councilmen Hickman, Avioli, Parker, and Friedberg and Councilwoman Nathan

**OPPOSED:** None

**ABSENT:** None

{Resolution was subsequently numbered: 10-17}

G. ADOPTION OF ORDINANCES (CONT.):

**Rebuild Bellaire Program, Phase Three**

1. See pages 9-10 of these minutes for discussion and action related to agenda item G. 1.

2. CONSIDERATION of and possible action on a recommendation from the Bellaire Public Works Department to award an engineering services contract to HDR|Claunch & Miller for construction phase services related to the Rebuild Bellaire Program, Phase Three Paving and Drainage Improvements Project, in the amount of $230,390.00 and on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, authorizing the Mayor and the City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, a Contract and
Agreement for Engineering Services with HDR|Claunch & Miller for said construction phase services in the amount of $230,390.00 – Item submitted by Director of Public Works Joe Keene.

Councilman Parker moved to approve a recommendation from the Bellaire Public Works Department to award an engineering services contract to HDR|Claunch & Miller for construction phase services related to the Rebuild Bellaire Program, Phase Three Paving and Drainage Improvements Project, in the amount of $230,390.00 and to adopt an ordinance of the City Council of the City of Bellaire, Texas, authorizing the Mayor and the City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, a Contract and Agreement for Engineering Services with HDR|Claunch & Miller for said construction phase services in the amount of $230,390.00. Mayor Pro Tem Nauert and Councilman Hickman seconded the motion.

Questions were asked of James Andrews, Senior Vice President of HDR|Claunch & Miller, regarding the construction phase services necessary for the Rebuild Bellaire Program, Phase Three Paving and Drainage Improvements Project. It was noted that there would be additional costs to the City for construction material testing (performed by an outside firm at a cost of approximately $20,000) and for an independent arborist (at a cost of approximately $3,000 to $5,000).

Councilman Avioli made an amendment to the motion to award an engineering services contract to HDR|Claunch & Miller for construction phase services related to the Rebuild Bellaire Program, Phase Three Paving and Drainage Improvements Project, by adding a bullet point to page 3 of HDR|Claunch & Miller’s proposal to state that “HDR would notify the City of Bellaire if work performed by the Contractor(s) did not conform to the Contract Documents and Specifications.” Councilman Parker seconded the amendment. The amendment carried unanimously on a 7-0 vote as follows:

FOR: Mayor Siegel, Mayor Pro Tem Nauert, Councilmen Hickman, Avioli, Parker, and Friedberg and Councilwoman Nathan

OPPOSED: None

ABSENT: None
The original motion, as amended, carried unanimously on a 7-0 vote as follows:

FOR: Mayor Siegel, Mayor Pro Tem Nauert, Councilmen Hickman, Avioli, Parker, and Friedberg and Councilwoman Nathan

OPPOSED: None

ABSENT: None

{Ordinance was subsequently numbered: 10-067}

Citywide Telephone System

3. CONSIDERATION of and possible action on a recommendation from the Communications Technology Services Director to accept a proposal from DataVox, Inc., for the purchase of a citywide telephone system, including the labor, services, materials, equipment, and installation necessary for such system, in an amount not to exceed $110,431.83 and 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 Purchase Proposal with DataVox, Inc., for said system in an amount not to exceed $110,431.83 – Director of Communications Technology Services Larry Parks.

City Manager Satterwhite advised City Council that City Staff’s original proposal for a new telephone system would have been a lease-purchase agreement over a period of three years (2010, 2011, and 2012). City Staff had anticipated that the cost of the new telephone system would be $250,000. The proposal received to purchase the system outright was $110,431.83. City Staff recommended the purchase outright as the City would save $20,000-$25,000 by purchasing the system versus entering into a lease-purchase agreement for the system.

Councilman Parker moved to approve a recommendation from the Communications Technology Services Director to accept a proposal from DataVox, Inc., for the purchase of a citywide telephone system, including the labor, services, materials, equipment, and installation necessary for such system, in an amount not to exceed $110,431.83 and 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 Purchase Proposal with DataVox, Inc., for said system in an amount not to exceed $110,431.83. Councilman Friedberg seconded the motion.
Questions were asked of Communications Technology Services Director Larry Parks and Greg Smith of DataVox, Inc., regarding the system, including total expected annual operating costs (license fees, maintenance, and software) (i.e., noted to be $9,000 per year), a maintenance agreement, and flexibility.

Councilman Parker amended the motion to adopt an ordinance authorizing execution by the Mayor of a Purchase Proposal with DataVox, Inc., for a citywide telephone system, by changing the first sentence under condition number 8 in DataVox, Inc.’s Purchase Agreement – Terms and Conditions to read as follows:

8. **Non-Solicitation of Employees**

*Buyer agrees not to hire or otherwise solicit the employment of any DataVox employee in which the City of Bellaire comes in contact with for a period of two (2) years after the date of this Agreement.* . . .

Mayor Pro Tem Nauert seconded the amendment.

Councilman Friedberg made a friendly amendment to the amendment to condition number 8 wherein the condition would read as follows:

8. **Non-Solicitation of Employees**

*Buyer agrees not to hire or otherwise solicit the employment of any DataVox employee that Buyer comes in contact with for a period of two (2) years after the date of this Agreement.* . . .

Councilman Parker and Mayor Pro Tem Nauert accepted the friendly amendment to the amendment from Councilman Friedberg.

Discussion ensued among members of City Council regarding the risk of delay that might be involved in getting DataVox’s attorney to agree with the City’s requested change to condition number 8 in the Purchase Agreement – Terms and Conditions.

The amendment, as amended, to the motion to adopt an ordinance authorizing execution by the Mayor of a Purchase Proposal with DataVox, Inc., for a citywide telephone system, with a change to condition number 8 in the DataVox, Inc.,
Purchase Agreement – Terms and Conditions failed on a 1-5 vote as follows:

FOR: Councilman Parker

OPPOSED: Mayor Siegel, Mayor Pro Tem Nauert, Councilmen Hickman, Avioli, and Friedberg and Councilwoman Nathan

ABSENT: None

The motion to adopt an ordinance authorizing execution by the Mayor of a Purchase Proposal with DataVox, Inc., for a citywide telephone system carried unanimously on a 7-0 vote as follows:

FOR: Mayor Siegel, Mayor Pro Tem Nauert, Councilmen Hickman, Avioli, Parker, and Friedberg and Councilwoman Nathan

OPPOSED: None

ABSENT: None

{Ordinance was subsequently numbered: 10-068}

H. ADOPTION OF RESOLUTION:

CONSIDERATION of and possible action on the adoption of a resolution of the City of Bellaire, Texas, designating a Representative and an Official Alternate to the General Assembly of the Houston-Galveston Area Council (H-GAC) for the year 2011 – Item submitted by City Clerk Tracy L. Dutton on behalf of H-GAC.

Mayor Pro Tem Nauert made a motion to adopt a resolution designating Will Hickman as the City of Bellaire’s Representative and Corbett Daniel Parker as the City of Bellaire’s Official Alternate to the General Assembly of the Houston-Galveston Area Council (H-GAC) for the year 2011. Councilmen Parker and Avioli seconded the motion. The motion carried unanimously on a 7-0 vote as follows:

FOR: Mayor Siegel, Mayor Pro Tem Nauert, Councilmen Hickman, Avioli, Parker, and Friedberg and Councilwoman Nathan

OPPOSED: None

ABSENT: None
Resolution was subsequently numbered: **10-18**

I. ITEMS FOR INDIVIDUAL CONSIDERATION:

1. **CONSIDERATION** of and possible action on the selection of Trustees for Place 6, Place 7, Place 8, and Place 9 to serve on the Texas Municipal League Intergovernmental Risk Pool (Workers’ Compensation, Property and Liability) Board of Trustees for a six-year term commencing October 1, 2010, and ending September 30, 2016 – **Item submitted by City Clerk Tracy L. Dutton on behalf of the Texas Municipal League Intergovernmental Risk Pool.**

Councilman Parker moved for the City of Bellaire, Texas, to abstain from voting on the selection of Trustees for Place 6, Place 7, Place 8, and Place 9 to serve on the Texas Municipal League Intergovernmental Risk Pool (Workers’ Compensation, Property and Liability) (TML-IRP) Board of Trustees for a six-year term commencing October 1, 2010, and ending September 30, 2016, due to the limited time available for members of City Council to invite applicants for an interview and to review nominees’ qualifications for a place on the TML-IRP Board of Trustees. Councilman Hickman seconded the motion. The motion carried unanimously on a 7-0 vote as follows:

- **FOR:** Mayor Siegel, Mayor Pro Tem Nauert, Councilmen Hickman, Avioli, Parker, and Friedberg and Councilwoman Nathan
- **OPPOSED:** None
- **ABSENT:** None

2. **DISCUSSION** of and possible action on the formation of a Sunset Review Committee to review all City of Bellaire boards, commissions, and committees (hereinafter referred to as “board” or “boards”) for purposes including, but not limited to, a review of the responsibilities and function of each board, number of board members, and review and update, as needed, of the City’s **Board Handbook** – **Item submitted by Mayor Cindy Siegel.**

Mayor Siegel advised that the City’s **Board Handbook** was last updated while Councilwoman Debra Marz Davison was on City Council (i.e., a number of years ago). In light of changes in focus of some of the City’s boards, it seemed that the time to review the Board Handbook and the boards, in general, was upon City Council. She
noted that she had recommended the formation of a Sunset Review Committee (“Committee”) and identified some suggested objectives of that Committee. Additionally, Mayor Siegel had suggested two separate proposals for the makeup of the Sunset Review Committee.

Mayor Pro Tem Nauert nominated Councilman Andrew Friedberg to serve as Chair of the Sunset Review Committee. Mayor Siegel seconded the motion.

Councilman Friedberg accepted the nomination and a formal vote was not taken on the motion and second as all members of City Council concurred with the nomination.

Mayor Pro Tem Nauert further suggested that City Council consider Proposal 1 for the makeup of the Committee.

Proposal 1 has been restated for the record as follows:

One (1) City Council member appointed by the Mayor to chair the Sunset Review Committee. The Chair would not vote except in a tie.

One (1) representative form each board to be appointed by the board chair (i.e., seven representatives appointed in total).

Mayor Siegel seconded the suggestion to consider Proposal 1 for the makeup of the Committee.

Councilman Hickman suggested either adding to an existing objective or adding a new objective to review the number of boards. For example, City Council had discussed in the past creating a Youth Commission or other types of boards or commissions. Additionally, there could be boards or commissions that City Council might wish to sunset (i.e., no longer fulfilling their objectives or have no purpose).

Councilman Hickman moved to add an objective as follows: Review the number of boards, including creating new boards and/or eliminating existing boards. Councilman Avioli seconded the motion.

Mayor Siegel suggested that Councilman Hickman’s objective be numbered “2,” thereby renumbering the existing remaining objectives as “3,” “4,” and “5.”

Councilman Friedberg made a friendly amendment to reword the objective as follows: Review existing boards and consider creating new and/or eliminating existing boards. Councilmen Hickman and Avioli accepted the friendly amendment.
motion to create a second objective carried unanimously on a 7-0 vote as follows:

FOR: Mayor Siegel, Mayor Pro Tem Nauert, Councilmen Hickman, Avioli, Parker, and Friedberg and Councilwoman Nathan

OPPOSED: None

ABSENT: None

Discussion ensued among members of City Council wherein it was noted that several members of City Council desired to add citizens as members of the Committee.

Councilman Parker made a motion regarding the makeup of the Committee as follows: one (1) City Council member appointed by the Mayor to chair the Committee and six (6) citizens to be interviewed and appointed by the City Council. The chair would be given the authority to vote on matters before the Committee.

The motion failed due to lack of a second.

Councilwoman Nathan made a motion regarding the makeup of the Committee as follows: one (1) City Council member appointed by the Mayor to chair the Committee (would not vote except in a tie) and seven (7) representatives, one (1) from each of the existing City boards, and one or two citizen representatives at the discretion of City Council. Councilman Parker seconded the motion.

Councilman Hickman made a friendly amendment to add a new paragraph to Proposal 1 to include two citizens to be interviewed and appointed by City Council. Councilwoman Nathan and Councilman Parker accepted the friendly amendment. The motion carried unanimously on a 7-0 vote as follows:

FOR: Mayor Siegel, Mayor Pro Tem Nauert, Councilmen Hickman, Avioli, Parker, and Friedberg and Councilwoman Nathan

OPPOSED: None

ABSENT: None
Councilman Hickman made a motion to delete the word “chair” from the Committee makeup under Proposal 1 to read as follows: One (1) representative from each board to be appointed by the board. Councilwoman Nathan seconded the motion. The motion carried unanimously on a 7-0 vote as follows:

FOR: Mayor Siegel, Mayor Pro Tem Nauert, Councilmen Hickman, Avioli, Parker, and Friedberg and Councilwoman Nathan

OPPOSED: None

ABSENT: None

Proposal 1 (Sunset Review Committee makeup), as amended, carried unanimously on a 7-0 vote as follows:

FOR: Mayor Siegel, Mayor Pro Tem Nauert, Councilmen Hickman, Avioli, Parker, and Friedberg and Councilwoman Nathan

OPPOSED: None

ABSENT: None

3. DISCUSSION of and possible action regarding concerns related to the construction of First Street Hospital located at the intersection of Bissonnet Street and First Street in Bellaire, Texas – Item submitted by City Manager Bernard M. Satterwhite, Jr., on behalf of Councilwoman Mandy Nathan.

Councilwoman Nathan advised that Tim Sandifer had appeared before City Council a few weeks ago and expressed his concern about the fact that he had not received the notice that the City mailed in connection with the First Street Hospital Specific Use Permit public hearing and, as a result, he did not get to come and express his concerns to City Council.

Since that time, he had communicated several times with the City Manager about the concerns and the City Manager had toured the building and spoke with Dr. Varon and offered to facilitate a tour for Mr. Sandifer as well.

Mr. Sandifer had also relayed to City Manager Satterwhite and to Councilwoman Nathan that he would like to have his concerns addressed in a formal agenda item. Councilwoman Nathan advised that she did believe it was appropriate to allow Mr. Sandifer and his
wife to come in and make their comments so that City Council could officially respond to them. She did not know that anyone’s vote would have been different, but she did think it was appropriate to extend them the courtesy of making the comments that they would like to make and for them to receive a response however City Council felt appropriate as had been done for the people who submitted comments in connection with the public hearing.

Tim Sandifer, 4809 Beech Street, Bellaire, Texas:

Mr. Sandifer advised City Council that his concern was even greater than that expressed by Councilwoman Nathan. Mr. Sandifer not only did not receive notice at his home address, but his office did not receive notification, Dr. Joe Hutchins did not receive notification, and Mr. Sandifer’s next door neighbor did not receive notification. Four people that should have had notification for whatever reason (without laying blame) did not get notification.

He felt that if these four individuals had received their notification and been given an opportunity to express their concerns to City Council, the outcome might have been different. The concerns of the four individuals were noted.

First, a specific use permit was granted by the City to a hospital, an institutional use open 24 hours per day, with glass enclosures around exits and stairwells would be lit 24 hours per day. People utilizing the stairwell would be able to stare into the Sandifers’ living room, dining room, hallway, pool, and backyard.

Mr. Sandifer indicated that he had been to enough City Council and Planning and Zoning Commission meetings to know that if both governing bodies had known of this issue, it would have been addressed. He had been trying to meet with Dr. Varon for six weeks and had yet to facilitate a meeting to discuss the issue with him.

Mr. Sandifer advised that he felt the process would have been much different before the specific use permit was granted as opposed to now (i.e., after it had been granted). Mr. Sandifer advised that the proper steps were not taken to grant the specific use permit and wanted City Council to pull the specific use permit and go through the process once again.

Mayor Siegel opened the floor for discussion and asked the City Attorney to address, from a legal standpoint, if the action Mr. Sandifer had requested could be done.

City Attorney Alan P. Petrov stated that the City’s documentation indicated that the process was properly followed. The notices were
mailed and the City records indicated that those notices were mailed to the property owners of record. He could not say why those notices might not have reached the property owners. The City certainly followed its processes required by the statute.

Mayor Siegel asked if the City could legally pull the specific use permit.

City Attorney Petrov indicated that at this point, with the construction well underway, the City would open itself up to some liability with respect to some sort of detrimental reliance claim from the hospital as they had expended their funds to move forward.

Mayor Siegel asked if City Council would be precluded from reconsidering a specific use permit after it had been issued.

City Attorney Petrov stated that if City Council found that there were facts that were not known to them at the time, an item could be reconsidered.

Mayor Siegel referred to the City’s Rules of Procedure and noted that in order to reconsider this item, someone who voted on the prevailing side would have to place the item on a future agenda for reconsideration (i.e., at the next meeting following the action). The second way in which the item could be reconsidered would require a suspension of the City Council’s Rules of Procedure by a two-thirds vote of City Council (i.e., five members would need to support a motion to suspend the rules and reconsider the item).

Mayor Siegel opened the floor for discussion and comments. Mr. Sandifer was asked to answer several questions posed by members of City Council.

After discussion and questions had concluded, Councilman Hickman made a motion to postpone any action related to the construction of First Street Hospital until such time as the City Manager could set up a meeting with Mr. Sandifer and Dr. Varone and report back to City Council on the results of that meeting. Mayor Pro Tem Nauert seconded the motion. The motion failed on a 2-5 vote as follows:

FOR: Mayor Pro Tem Nauert and Councilman Hickman

OPPOSED: Mayor Siegel, Councilmen Avioli, Parker, and Friedberg and Councilwoman Nathan

ABSENT: None
The motion failed because several members of City Council desired a more formal action and request for a meeting with Dr. Varone.

Councilwoman Nathan moved to direct the City Manager to set up a meeting between the Sandifers and First Street Hospital to address the Sandifers’ concerns and report back to City Council. Councilman Friedberg seconded the motion. The motion carried unanimously on a 7-0 vote as follows:

FOR: Mayor Siegel, Mayor Pro Tem Nauert, Councilmen Hickman, Avioli, Parker, and Friedberg and Councilwoman Nathan

OPPOSED: None

ABSENT: None

J. COMMUNITY INTEREST ITEMS FROM THE MAYOR AND CITY COUNCIL:

Community interest items from the Mayor and City Council included expressions of sympathy to the family of Sam McKinney on their loss; reminder of the Patrons for Bellaire Parks Wine & Tapas fundraising event on October 1st, and encouragement of high school students to consider serving as election clerks during the November 2, 2010, election.

K. ADJOURNMENT.

Councilman Parker moved to adjourn the Regular Session of the City Council of the City of Bellaire, Texas, at 9:33 p.m. on Monday, September 13, 2010. Councilman Avioli seconded the motion. The motion carried unanimously on a 7-0 vote as follows:

FOR: Mayor Siegel, Mayor Pro Tem Nauert, Councilmen Hickman, Avioli, Parker, and Friedberg and Councilwoman Nathan

OPPOSED: None

ABSENT: None

Respectfully submitted,

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

_________________________________
Cynthia Siegel, Mayor
City of Bellaire, Texas