CITY COUNCIL MEETING MINUTES
MONDAY, NOVEMBER 29, 2010

The City Council of the City of Bellaire, Texas, met in Special Session (Executive Session) on Monday, November 29, 2010, in the Council Chamber and Council Conference Room, both of which were located on the 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, November 29, 2010.

Also present were Mayor Pro Tem Phil Nauert, Councilmen Will Hickman, 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. City Clerk Dutton did not participate in the closed portion of the Special Session.

B. CONVENE in Executive Session (Closed Session) under the Texas Government Code, Chapter 551, Open Meetings Act, Section 551.073, Deliberations Regarding Gifts and Donations, to deliberate a negotiated contract for a prospective gift or donation to the City of Bellaire, Texas, consisting of a parcel of real property located at 4400 Bellaire Boulevard, Bellaire, Texas.

Councilman Avioli moved to convene in Executive Session under the Texas Government Code, Chapter 551, Open Meetings Act, Section 551.073, Deliberations Regarding Gifts and Donations, to deliberate a negotiated contract for a prospective gift or donation to the City of Bellaire, Texas, consisting of a parcel of real property located at 4400 Bellaire Boulevard, Bellaire, Texas. Councilmen Hickman and 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
The Bellaire City Council reconvened in the Council Chamber, First Floor of City Hall, 7008 South Rice Avenue, Bellaire, Texas, at 8:36 p.m. on Monday, November 29, 2010.

Mayor Siegel advised that The Jerry and Maury Rubenstein Foundation had purchased what was formerly known as the Teas Nursery Property located at 4400 Bellaire Boulevard approximately one year ago with the intent to gift that land to the City of Bellaire to be used as a park. During the evening’s Executive Session, City Council discussed a Memorandum of Understanding that would start the process of transferring the property to the City of Bellaire. Mayor Siegel read the “Memorandum of Understanding” into the record, advising that she would accept a motion to approve the Memorandum of Understanding after it had been read.

This Memorandum of Understanding (“Memo”) is entered into this 29th day of November, 2010, by and between THE JERRY AND MAURY RUBENSTEIN FOUNDATION (“Donor”) and THE CITY OF BELLAIRE, TEXAS (“City”) (collectively, the “Parties”).

1. Donor is the owner of the property legally described on attached Exhibit A located within the corporate limits of the City (the “Property”).

2. Subject to the execution of a formal agreement (the "Formal Agreement") between the Parties and the Conservancy (hereafter defined), the preliminary understanding of the Parties is as follows:

   A. Donor will convey the Property to the City by special warranty deed (the "Deed"). The Deed will include, among other things, the following provisions:

      (i) The Property shall be used solely for public park and public recreational purposes, as hereafter specified.

      (ii) Donor shall retain the right to utilize or to designate the use of up to ½ acre of the Property, as designated by Donor, for public park or recreation purposes, as determined by Donor in consultation with the City’s park designer.
(iii) Donor will retain the right to erect a monument, plaque or other memorial to Donor's ancestors at any public entrances to the Property which may exist at any time, as designated by Donor, which shall at all times be maintained at each such public entrance to the Property.

(iv) Donor, its successors and assigns, shall retain the right to name the park, which name shall continue in perpetuity. Prior to the completion of the Conservancy’s park design, Donor shall provide to the City the name to be given to the park.

(v) The Deed shall contain a specific provision providing that if the Property is not being used for a public park or public recreational use, as specifically designated by the Conservancy and approved by Donor, within three (3) years from the date of the Deed or, if thereafter, the Property ceases to be used for such purpose for a period of six (6) months or longer, title to the Property shall, at Donor’s election, revert in its entirety to Donor, after which the City shall have no right, title, or interest in or to any portion of the Property and Donor, its successors and assigns, shall have the right to use the Property for any legal purpose. The specific language in the Deed shall be subject to agreement by the Parties.

B. The Parties will work together to create a Texas non-profit corporation, to be known as Bellaire Park Conservancy (the “Conservancy”).

(i) The Conservancy will qualify as a 501(c)(3) corporation so as to enable it to receive income tax deductible contributions.

(ii) The Conservancy will be governed by a Board of Directors consisting of four (4) to eight (8) voting members, one-half of whom will be selected by the City and one-half of whom will be selected by Donor. The by-laws of the Conservancy will also provide for any number of non-voting advisory directors. The Parties will agree upon qualifications to serve, such as being a resident of the City, etc.

(iii) The Conservancy will be charged with the responsibility of designing a public park and/or public recreational facility on the Property (the “Park Design”) and determining a source of funding for the initial capital improvements for the park. The design and permitted uses shall be specific and detailed and shall be subject to Donor's prior approval.
(iv) In connection with its duties, the Conservancy may engage architects, engineers, land planners, fund raising professionals and such other parties as deemed appropriate by the Conservancy.

(v) The City and Donor will work together to arrange sufficient “seed” money to accomplish preliminary studies.

C. Simultaneously with the delivery of the Deed from Donor to the City, the City shall execute and deliver to Donor a special warranty deed reconveying the Property to Donor (the “Reconveyance Deed”). The Reconveyance Deed shall not be recorded by Donor at the time of its delivery, but shall be held subject to the following terms:

(i) If, within one (1) year from the date of the Deed, the Parties and the Conservancy have agreed upon and completed a Park Design; and

(ii) If, within two (2) years from the date of the Deed, the Parties and the Conservancy have obtained commitments to fund the agreed upon capital improvements; and

(iii) If, within three (3) years from the date of the Deed:

(a) the agreed upon improvements have been completed on the Property; and

(b) if the Parties and the Conservancy have otherwise complied with the provisions of the Formal Agreement;

the unrecorded Reconveyance Deed will be returned to the City.

(iv) If the conditions set forth in Section C have not been complied with and satisfied, the Reconveyance Deed may be recorded by Donor, after which the ownership of the Property shall revert to Donor and Donor shall have the right to use the Property for any legal purpose.

3. It is the intention of the Parties that this Memo shall not be binding on either Party until and unless the Formal Agreement is prepared and executed by both Parties.
Mayor Pro Tem Nauert moved to accept the Memorandum of Understanding, as read by Mayor Siegel. Councilmen Friedberg and Parker seconded the motion.

Mayor Siegel asked Scott Rubenstein, who was present on behalf of The Jerry and Maury Rubenstein Foundation, to convey the City’s thanks to Jerry and Maury “Bo” Rubenstein for such a tremendous gift to the citizens of Bellaire. Mayor Siegel advised that the Memorandum of Understanding was a letter of intent and a Formal Agreement and Deed were still necessary steps in the process for obtaining title to the property.

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

D. ADJOURNMENT.

Councilman Parker moved to adjourn the Special Session (Executive Session) of the City Council of the City of Bellaire, Texas, at 8:45 p.m. on Monday, November 29, 2010. 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

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