The City Council of the City of Bellaire, Texas, met in Regular Session on Monday, December 6, 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 7:20 p.m. on Monday, December 6, 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.

B. INSPIRATIONAL READING AND/OR INVOCATION – Mayor Pro Tem Phil Nauert.

Mayor Pro Tem Nauert provided the inspirational reading for the evening.

C. PLEDGES TO THE FLAGS – Mayor Pro Tem Phil Nauert.

1. U.S. PLEDGE OF ALLEGIANCE.

2. PLEDGE TO THE TEXAS FLAG.

Mayor Pro Tem Nauert 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 stated that previous Councils, not satisfied with tax and spend, had embarked on a policy of borrow and spend and had cut taxes until the City’s options were very limited.

As a result, the City was unable to operate the parks it already had or to collect the trash or provide the residents with a first class police department. He urged City Council not to accept the generous offer of the Teas property
because the City certainly could not afford it and there was no prospect that the City would be able to do so in the future.

**Lynn McBee, 5314 Evergreen Street, Bellaire, Texas:**

Ms. McBee stated that she had a different perspective on City Council’s agenda regarding the acquisition in time of the Teas property from The Jerry and Maury Rubenstein Foundation. She expressed the citizens’ appreciation to the Rubensteins for putting their Foundation money forward to acquire the property and to establish a legacy that the property and family truly deserved.

Ms. McBee also commended the Rubensteins for not leaving future decisions about the property to a political or a management body, but rather to ensure their oversight through the means which they had outlined in the Memorandum of Understanding before City Council.

She was in favor of the conveyance of the property, but had some questions that she wished to see clarified. The term “recreational,” as defined in the *Oxford American Dictionary*, was “activity done for enjoyment when one is not working.” The term “conservancy,” was defined as “a nonprofit organization concerned with the preservation of nature, specific species, or natural resources; the careful guarding of an asset, conservation, husbandry, management, or preservation.”

Both terms, “recreational” and “conservancy,” had not been defined in the Memorandum of Understanding. Ms. McBee did not know the difference between the Memorandum of Understanding (which might be accepted later in the evening) and the future “Formal Agreement.” She asked City Council to clarify the fact that there were no definition of terms and what the difference was in the timing of the formal agreement.

Another area of concern was what might happen if the 501(c)3 entity was not approved by the Internal Revenue Service within one year. She assumed that the City would not pursue any other steps until the Conservancy was a 501(c)3 organization.

Secondly, the Board of Directors of the Conservancy was split between the City Council and the Foundation. She noted that one-half was appointed by the City, yet it was a 501(c)3 organization. The other one-half was appointed by the Foundation. She asked if the Conservancy would be subject to the *Texas Open Meetings Act and Texas Public Information Act*. If not, she inquired as to the protection that the City had for input, monitoring, or simply watching. She found that watching contributed to the integrity of the body being watched. She concluded by noting that she hoped City Council would clarify some of her questions later in the evening.
Mayor Siegel, prior to the City Manager’s Report, advised City Council that City Manager Satterwhite had requested that agenda item G.2. be removed from the agenda this evening. The item would be added to a future agenda for consideration by City Council.

E. REPORT:

CITY MANAGER’S REPORT regarding residential safety (police activity report), public infrastructure/utilities (Rebuild Bellaire Program update and Library renovation project update), cultural and recreational (Holiday in the Park), communications/technology (training on video streaming), employees (annual Employee Holiday Luncheon on December 15), 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 dated December 6, 2010.

Residential Safety

With respect to police activity, it was noted that the City had 14 part 1 criminal offenses in October, which was the same as the previous year. There were 65 traffic incidents during the month of October. Three robberies occurred during the month—one involved a student at Bellaire High School. Two suspects were arrested and charged with that robbery. A second robbery involved the assault of a female and theft of her purse. The third robbery involved an employee in a business in the 5400 block of Bellaire Boulevard. The suspect was arrested one block away from the business and charged with the robbery. There were seven assaults in October, six of which involved offenses of family violence and two auto thefts.

The Community Resource Office continued its job of going out into the public. Two residential security surveys were completed by Community Resource Officer Tim Quimby. One commercial security survey was conducted. There were also a number of Halloween safety programs given during the month.

Public Infrastructure/Utilities

With respect to the Rebuild Bellaire Program, the City was currently in Phase Three of that program. The 4500 block of Oleander Street and the 4700-4800 blocks of Holt Street were under construction at this time. The traffic plan for the construction was reviewed by City Manager Satterwhite. It was noted that 720 feet of 48” storm sewer had been installed on Oleander Street and 570 feet of 48” storm sewer had been installed on Holt Street. The City hoped to pour concrete on Oleander Street this week.
The Chestnut Street/Bissonnet Street Sanitary Sewer Relocation Project had been completed.

The City was evaluating proposals for the Bellaire City Library Renovation Project. City Staff hoped to have a bid award consideration on December 20, 2010. The City had received a number of bids, and the results looked good.

**Cultural and Recreational**

City Manager Satterwhite indicated that the Holiday in the Park event held during the previous week had been a success. City Manager Satterwhite thanked all of the Parks & Recreation Department staff, other City staff, and volunteers that made the event possible.

**Communications/Technology**

It was noted that training would be held during the week for the City’s streaming video project. A “dry run” would occur on December 20, 2010, with the January 3, 2011, meeting being fully operational.

**Employees**

A reminder was given to everyone that the annual Employee Holiday Luncheon would be held on December 15, 2010, at 11:30 a.m. Council members were invited. It was noted that longevity awards and the “Employee of the Year” award would be distributed during that luncheon.

City Manager Satterwhite next indicated that it was his pleasure to introduce Linda Symank, the City’s new Chief Financial Officer. Chief Financial Officer Symank came to Bellaire from Sugar Land where she served as Financial Services Director for four years. Prior to that, she had a long tenure at the City of Longview (served as Finance Manager and Finance Director). Chief Financial Officer Symank had a degree in Accounting, was a Certified Public Accountant (CPA), had a Masters of Business Administration (MBA), and was a certified Government Finance Officer. Chief Financial Officer Symank was welcomed to Bellaire.

**Upcoming City Council Meetings/Events**

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<tr>
<th>Date</th>
<th>Time</th>
<th>Event</th>
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<tr>
<td>December 13</td>
<td>6:00 p.m.</td>
<td>Special Session (Executive Session) – City Clerk and City Manager Annual Reviews</td>
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<tr>
<td>December 20</td>
<td>7:00 p.m.</td>
<td>Regular Session</td>
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Following questions from members of City Council regarding the City Manager’s Report, Councilman Hickman moved to accept the City Manager’s Report dated December 6, 2010, as presented by City
Manager Satterwhite into the record. 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

F. CONSENT AGENDA:

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 on Monday, October 4, 2010 – Item submitted by City Clerk Tracy L. Dutton.
   b. APPROVAL of the minutes of the Special Session (Public Hearing on Shipley Do-Nuts Specific Use Permit) of the City Council of the City of Bellaire, Texas, held on Monday, October 11, 2010 – Item submitted by City Clerk Tracy L. Dutton.
   c. APPROVAL of the minutes of the Special Session (Public Hearing on Bellaire High School Specific Use Permit) of the City Council of the City of Bellaire, Texas, held on Monday, October 11, 2010 - Item submitted by City Clerk Tracy L. Dutton.

2. BID AWARD:

CONSIDERATION of and possible action on a recommendation from the Bellaire Public Works Department to award Bid No. 10-008, Purchase of Recycling Materials to be Paid to the City of Bellaire, to Waste Management for the purchase of recycling materials from the City of Bellaire at a purchase price of $21.00 per ton and 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, for and on behalf of the City of Bellaire, Texas, a Standard Form of Agreement with Waste Management for the purchase of recycling materials from the City of Bellaire at a purchase price of $21.00 per ton – Item submitted by Director of Public Works Joe Keene.
3. APPROVAL OF CONTRACT:

CONSIDERATION of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, authorizing the Mayor and the City Attorney of the City of Bellaire, Texas, to execute and approve as to form, respectively, an Interlocal Agreement Between Harris County and the City of Bellaire, Texas, for the purpose of allowing the City of Bellaire, Texas, to utilize Harris County’s current contracts for the purchase of certain materials, goods, and services in order to increase the efficiency and effectiveness of government – Item submitted by Director of Public Works Joe Keene.

Mayor Pro Tem Nauert requested separate consideration of Consent Agenda items F. 2. and F. 3.

Councilman Friedberg moved to approve a portion of the Consent Agenda dated December 6, 2010, consisting of the following items:

- Minutes of the City Council Regular Session held on Monday, October 4, 2010;

- Minutes of the City Council Special Session (Public Hearing on Shipley Do-Nuts Specific Use Permit) held on Monday, October 11, 2010; and

- Minutes of the City Council Special Session (Public Hearing on Bellaire High School Specific Use Permit) held on Monday, October 11, 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

Separate Consideration of Consent Agenda Item F. 2.: Mayor Pro Tem Nauert moved to approve a recommendation from the Bellaire Public Works Department to award Bid No. 10-008, Purchase of Recycling Materials to be Paid to the
City of Bellaire, to Waste Management for the purchase of recycling materials from the City of Bellaire at a purchase price of $21.00 per ton 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, for and on behalf of the City of Bellaire, Texas, a Standard Form of Agreement with Waste Management for the purchase of recycling materials from the City of Bellaire at a purchase price of $21.00 per ton. Councilman Avioli seconded the motion.

Discussion ensued among members of City Council wherein it was clarified that if Bid No. 10-008 were awarded this evening, Waste Management would pay the City of Bellaire $21.00 per ton for the City of Bellaire’s recycling materials.

Mayor Siegel called for a vote on the motion before City Council. 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

{Ordinance was subsequently numbered: 10-081}

Separate Consideration of Consent Agenda Item F. 3.: Councilman Hickman moved to adopt an ordinance of the City Council of the City of Bellaire, Texas, authorizing the Mayor and the City Attorney of the City of Bellaire, Texas, to execute and approve as to form, respectively, an Interlocal Agreement Between Harris County and the City of Bellaire, Texas, for the purpose of allowing the City of Bellaire, Texas, to utilize Harris County’s current contracts for the purchase of certain materials, goods, and services in order to increase the efficiency and effectiveness of government. Mayor Pro Tem Nauert seconded the motion.

Discussion ensued among members of City Council regarding correspondence included with the agenda packet indicating that Harris County desired to receive the executed Interlocal Agreements by November 29, 2010. It was noted that the City had not received the correspondence from Harris County in time to include it on an agenda
before their deadline. City Staff felt that there would be no problem in submitting the documentation to Harris County after that deadline.

It was noted that the Interlocal Agreement contained a clause that stated that the vendor had the right to refuse the City’s request to use Harris County’s contract. In response, the City Attorney advised that the vendor had entered into a contract with Harris County to provide goods or services for a specific price. Harris County was entering into an Interlocal Agreement with Bellaire to allow Bellaire to piggyback onto that contract. The vendor’s expectation was to enter into an agreement with Harris County, which they did. This Interlocal Agreement, if honored by the vendor, would save the City the time and expense on a public bidding procedure since Harris County had already publicly bid for the goods and services.

Mayor Siegel called for a vote on the motion before City Council. 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

{Ordinance was subsequently numbered: 10-082}

G. ADOPTION OF ORDINANCES:

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, for and on behalf of the City of Bellaire, Texas, a Memorandum of Understanding with The Jerry and Maury Rubenstein Foundation related to a proposed conveyance of property located at 4400 Bellaire Boulevard, Bellaire, Texas, to the City of Bellaire, Texas, said property of which shall be used for public park and public recreational purposes – Item submitted by City Clerk Tracy L. Dutton on behalf of The Jerry and Maury Rubenstein Foundation.

Introduction:

Mayor Siegel advised that the City Council met last Monday in Executive Session and took action in an Open Session to accept a Memorandum of Understanding (or letter of intent) presented to the City by The Jerry and Maury Rubenstein Foundation (“Foundation”),
with a few changes. The document, as amended and accepted by City Council, was then sent to the Foundation. Their attorney recommended some different changes and presented a new version of the document to City Council for consideration.

Councilman Hickman moved 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, for and on behalf of the City of Bellaire, Texas, a Memorandum of Understanding with The Jerry and Maury Rubenstein Foundation related to a proposed conveyance of property located at 4400 Bellaire Boulevard, Bellaire, Texas, to the City of Bellaire, Texas, said property of which shall be used for public park and public recreational purposes. Councilwoman Nathan seconded the motion.

Summary:

Mayor Siegel stated that the Conservancy mentioned in the Memorandum of Understanding was based upon the City of Houston’s Discovery Green. The Foundation acquired the Teas property (4400 Bellaire Boulevard) in December of 2009 with the purpose of being able to donate the property to the City of Bellaire to ultimately be used as a public park. Given the fact that this property was a legacy for the Rubensteins and that it would be a park forever, the Rubensteins had spent the last year working on how to best facilitate the process of turning the property over to the City.

She advised that there were definitely plans to receive public input. In terms of specifics, there were not any other than what was seen within the Memorandum of Understanding. Once the Memorandum of Understanding was accepted by both parties, the process to deed or transfer the property would begin and then the Formal Agreement would be created and considered by both parties.

Councilman Avioli moved to postpone consideration of an ordinance authorizing the Mayor to execute a Memorandum of Understanding with The Jerry and Maury Rubenstein Foundation related to a proposed conveyance of property located at 4400 Bellaire Boulevard until such time as members of City Council had an opportunity to meet with the Foundation’s attorney to discuss some of the changes requested by the Foundation in the Memorandum of Understanding. Councilwoman Nathan seconded the motion to postpone.
Discussion:

Discussion ensued among members of City Council regarding the motion to postpone consideration of an ordinance authorizing the execution of a Memorandum of Understanding. It was noted that several members had questions that they wished to present to the Foundation’s attorney.

Of concern to some members was a timeline in which certain milestones were to be met—the first of which was the agreement by the Conservancy on a park design within one year. The Conservancy had two years to obtain commitments to fund the entire project and three years to complete the entire project. If any of those milestones/conditions were not met, the property would be reconveyed back to the Foundation (i.e., mandatory reconveyance rather than an optional reconveyance). The ability to obtain the funding for such a project was an additional concern.

Councilman Friedberg moved to call the question. Councilman Parker seconded the motion to call the question. 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

A vote was taken on the motion to postpone, which carried on a majority vote of 5-2, as follows:

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

OPPOSED: Councilmen Hickman and Friedberg*

ABSENT: None

*Councilmen Hickman and Friedberg were not certain that a postponement would bring anything to the table as the Memorandum of Understanding was nonbinding on both parties. Both felt that the details could be worked out in the Formal Agreement to be considered by City Council at a later date.
2. CONSIDERATION of and possible action on a recommendation from the Bellaire Public Works Department to award engineering services to HDR Engineering, Inc., for the FY2010 Paving and Drainage Rehabilitation Project in the amount of $97,580.00 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 Engineering, Inc., for engineering services in an amount not to exceed $97,580.00 – Item submitted by Director of Public Works Joe Keene.

Mayor Siegel advised earlier in the meeting that City Manager Satterwhite had requested that this agenda item be removed from consideration by City Council this evening. The item would be brought back for consideration at a later date.

H. ADOPTION OF RESOLUTION:

CONSIDERATION of and possible action on the adoption of a resolution of the City Council of the City of Bellaire, Texas, in support of the application by D/J Venture to the Texas Commission on Environmental Quality (TCEQ) for a Municipal Setting Designation for property located north of Branard Street between Argonne Street and Revere Avenue in the City of Houston, Harris County, Texas, and more commonly known as 3131 Argonne Street, and authorizing the Mayor of the City of Bellaire, Texas, to execute an Indemnity Agreement in favor of the City of Bellaire, Texas, as Indemnitee, and as executed by D/J Venture, owner of the property, as Indemnitor – Item submitted by Director of Community Development John McDonald.

Councilman Parker moved to adopt a resolution of the City Council of the City of Bellaire, Texas, in support of the application by D/J Venture to the Texas Commission on Environmental Quality (TCEQ) for a Municipal Setting Designation for property located north of Branard Street between Argonne Street and Revere Avenue in the City of Houston, Harris County, Texas, and more commonly known as 3131 Argonne Street, and authorizing the Mayor of the City of Bellaire, Texas, to execute an Indemnity Agreement in favor of the City of Bellaire, Texas, as Indemnitee, and as executed by D/J Venture, owner of the property, as Indemnitor. Mayor Pro Tem Nauert and Councilman Hickman jointly seconded the motion.

Councilman Friedberg advised that he would recuse himself from deliberations on this matter. Up until very recently, he was employed by the law firm that represented the applicant and while he had no current or future continuing interests, he was employed by the firm throughout the time the firm represented the applicant in connection with the
matter presently before Council. To avoid any potential or perceived conflict, he left the Council table during the discussion and consideration of this agenda item.

Following questions by members of City Council of the applicant’s representative, Weston Solutions, Councilman Avioli moved to amend page 2, section 3, *Timely Notice of Indemnified Claim, of the Indemnity Agreement* to remove the word “timely” and replace it with the phrase “within sixty (60) days”. Mayor Pro Tem Nauert seconded the amendment. The amendment carried on a 6-0-1 vote as follows:

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

OPPOSED: None

ABSENT: None

ABSTAIN: Councilman Friedberg*

*Councilman Friedberg abstained from voting due to previous recent employment by the law firm representing the applicant.

A vote was taken on the original motion, as amended, which carried on a 6-0-1 vote as follows:

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

OPPOSED: None

ABSENT: None

ABSTAIN: Councilman Friedberg*

*Councilman Friedberg abstained from voting due to previous recent employment by the law firm representing the applicant.

{Resolution was subsequently numbered: 10-21}

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

Items of community interest from the Mayor and City Council included thanks and congratulations to City Staff and volunteers who helped with the City’s fabulous Holiday in the Park event; invitation to the Bellaire City Library Wassail Open House from 9:00 a.m. until 8:00 p.m. on December 20, 2010;
welcome and congratulations to newly hired Chief Financial Officer Linda Symank; congratulations to City Manager Satterwhite for ten years of service to the City; and reminder of a City Council Executive Session for the purpose of evaluating the City Clerk and City Manager at 6:00 p.m. on December 13, 2010.

J. ADJOURNMENT.

Mayor Pro Tem Nauert moved to adjourn the Regular Session of the City Council of the City of Bellaire, Texas, at 8:53 p.m. on Monday, December 6, 2010. Councilman Parker 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:

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Cynthia Siegel, Mayor
City of Bellaire, Texas