The City Council of the City of Bellaire, Texas, met in Regular Session on Monday, August 1, 2011, 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 7:02 p.m. on Monday, August 1, 2011.

Also present were Councilmen Roman F. Reed, James P. Avioli, Sr., Corbett Daniel Parker, and Andrew Friedberg, Councilwoman Mandy Nathan, Assistant City Manager Diane K. White, City Attorney Alan P. Petrov, and City Clerk Tracy L. Dutton.

Mayor Pro Tem Phil Nauert and City Manager Bernard M. Satterwhite, Jr., were absent.

B. INSPIRATIONAL READING AND/OR INVOCATION – Councilman Roman F. Reed.

Councilman Reed provided the inspirational reading for the evening.

C. PLEDGES TO THE FLAGS – Councilman Roman F. Reed.

1. U.S. PLEDGE OF ALLEGIANCE.

2. PLEDGE TO THE TEXAS FLAG.

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

D. PERSONAL/AUDIENCE COMMENTS:

Laura Thurmond, 4531 Park Court, Bellaire, Texas, addressed City Council regarding the home next door to hers at 4529 Park Court, which was ordered to be demolished by the Bellaire Building and Standards Commission. Ms. Thurmond advised that the property was a health hazard and had not been lived in since prior to 2004. Hurricane Ike took down many tree limbs in
the rear of the property, which were now dead, dry, and ready to catch on fire.

Unfortunately, the order to demolish the property came in April or May, but the City was unable to act on it before another ruling came down in Dallas where a Building and Standards Commission ended up having to pay a property owner for their home after it was demolished. Because of that ruling, the City Attorney told the Bellaire Building and Standards Commission that they needed to hold off on the demolition. His opinion was to sit back and see if the Texas Supreme Court made any changes to the ruling.

Ms. Thurmond indicated that she was not willing to sit back and wait to see what the Texas Supreme Court decided. She urged City Council to rule on this issue and give the City Attorney the ability to file suit in this matter to get a court order to demolish the property.

Lynn McBee, 5314 Evergreen Street, Bellaire, Texas, addressed City Council in support of the prior speaker, Laura Thurmond, in urging the City to protect its citizens and consider taking action to protect the property of the City.

She next referred to an item on the agenda requesting City Council approval for the Patrons for Bellaire Parks to auction a temporary (one year) donor naming right for either the playground or the walking trail in Loftin Park, the proceeds of which would be used for improvements for Bellaire Town Square. Ms. McBee referred to the Internal Revenue Service, who had jurisdiction over nonprofit organizations of a 501c3 character. It was her understanding that such organizations were independent and run by their own Board of Directors. Ms. McBee questioned the relationship between the City and the Patrons for Bellaire, an independent 501c3 organization. Ms. McBee stated that she believed the City needed an ethics opinion regarding the relationship insofar as fundraising was concerned.

E. CONSENT AGENDA:

1. APPROVAL/CORRECTION OF MINUTES:
   a. CONSIDERATION of and possible action on the adoption of the minutes of the Special Session (Public Hearing) of the City Council of the City of Bellaire, Texas, held on Monday, July 11, 2011 – Item submitted by City Clerk Tracy L. Dutton.
   
   b. CONSIDERATION of and possible action on the adoption of the minutes of the Regular Session of the City Council of the City of Bellaire, Texas, held on Monday, July 11, 2011 – Item submitted by City Clerk Tracy L. Dutton.
Councilman Friedberg moved to approve the Consent Agenda dated August 1, 2011, 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 11, 2011; and
- Minutes of the Regular Session of the City Council of the City of Bellaire, Texas, held on Monday, July 11, 2011.

Councilman Parker seconded the motion. The motion carried on a 5-0-1 vote as follows:

FOR: Mayor Siegel, Councilmen Reed, Parker, and Friedberg, Councilwoman Nathan

OPPOSED: None

ABSENT: Mayor Pro Tem Nauert

ABSTAIN: Councilman Avioli

*Councilman Avioli abstained from voting on the Consent Agenda due to his absence from the meetings held on July 11, 2011.

F. ADOPTION OF ORDINANCES:

CODE AMENDMENTS:

Signs

1. CONSIDERATION of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, amending the Code of Ordinances of the City of Bellaire, Texas, Chapter 24, Planning and Zoning, by repealing the existing Article X, Signs, and replacing it with a new Article X, Signs, for the purpose of including new definitions and provisions, amending existing sign types and expanding the allowance for special exceptions – Item submitted by Director of Community Development John McDonald.

Councilwoman Nathan moved to adopt an ordinance of the City Council of the City of Bellaire, Texas, amending the Code of Ordinances of the City of Bellaire, Texas, Chapter 24, Planning and Zoning, by repealing the existing Article X, Signs, and replacing it with a new Article X, Signs, for the purpose of including new definitions and provisions, amending existing sign types and
expanding the allowance for special exceptions. Councilman Parker seconded the motion.

Following questions of Director of Community Development John McDonald regarding the proposed amendments to Chapter 24, Planning and Zoning, Article X, Signs, Councilman Friedberg moved to amend the first sentence under Section 24-1006, General provisions, subsection (B), Permit required, by adding a comma before the phrase “for which permits are not required,” said sentence of which would read in its entirety as follows:

No sign shall be displayed without a permit obtained from the City of Bellaire, except residential name, address identification, realty, construction, political, auxiliary/public information, and community services signs, for which permits are not required.

Councilman Parker seconded the amendment.

FOR: Mayor Siegel, Councilmen Reed, Avioli, Parker, and Friedberg, and Councilwoman Nathan

OPPOSED: None

ABSENT: Mayor Pro Tem Nauert

Councilman Parker noted that there were two clerical errors in the first and third “whereas” clauses on page 1 of the proposed ordinance. He indicated that the word “where” should be “were” in both instances.

Following additional questions and discussion regarding the proposed amendments to Chapter 24, Planning and Zoning, Article X, Signs, Councilman Parker moved to amend the definition, (46) Sign, outfield, under Section 24-1003, General definitions and definitions of and requirements for signs, by adding the word “outfield” before the word “wall,” said definition to read in its entirety as follows:

(46) Sign, outfield. A sign attached to or a part of an outfield fence or outfield wall associated with a sports field that displays the name of the institution, the institution’s logo or motto, or mascot in pictorial or written form and has an area not greater than fifty percent (50%) of the total area of the outfield fence or outfield wall. The top of the sign may not be more than ten (10) feet above ground level.

Councilman Avioli seconded the amendment. The amendment carried on a 5-1 vote as follows:
Councilman Parker moved to consider an additional amendment to strike the phrase “and has an area no greater than fifty percent (50%) of the total area of the outfield fence or outfield wall” at the end of the first sentence of definition (46), Sign, outfield, under Section 24-1003, General definitions and definitions of and requirements for signs, said definition to read in its entirety as follows:

(46) Sign, outfield. A sign attached to or a part of an outfield fence or outfield wall associated with a sports field that displays the name of the institution, the institution’s logo or motto, or mascot in pictorial or written form. The top of the sign may not be more than ten (10) feet above ground level.

Councilman Avioli seconded the amendment.

Following discussion on the amendment, Councilman Parker restated his amendment to also strike the phrase “that displays the name of the institution, the institution’s logo or motto, or mascot in pictorial or written form” from the first sentence of definition (46), Sign, outfield, under Section 24-1003, General definitions and definitions of and requirements for signs, said definition to read in its entirety as follows:

(46) Sign, outfield. A sign attached to or a part of an outfield fence or outfield wall associated with a sports field. The top of the sign may not be more than ten (10) feet above ground level.

Councilman Avioli agreed to the restatement of the amendment.

Following discussion of the amendment, Councilman Reed made a friendly amendment to add the phrase, “and has an area no greater than thirty percent (30%) of the total area of the outfield fence or outfield wall” back into the first sentence of definition (46), Sign, outfield, under Section 24-1003, General definitions and definitions of and requirements for signs, said definition to read in its entirety as follows:

(46) Sign, outfield. A sign attached to or a part of an outfield fence or outfield wall associated with a sports field and has an area no greater than thirty percent (30%) of the total area of the outfield
fence or outfield wall. The top of the sign may not be more than ten (10) feet above ground level.

Councilmen Parker and Avioli accepted the friendly amendment. A vote was taken on the amendment, as restated, which carried unanimously as follows:

FOR: Mayor Siegel, Councilmen Reed, Avioli, Parker, and Friedberg, and Councilwoman Nathan

OPPOSED: None

ABSENT: Mayor Pro Tem Nauert

Following further discussion related to the proposed revisions to Chapter 24, Planning and Zoning, Article X, Signs, Councilman Friedberg moved to amend Section 24-1014, Variances and special exceptions, by adding the following text to be inserted after enumerated item (2), as follows:

In any special exception granted by the Board of Adjustment pursuant to this section, the Board of Adjustment shall include hours of operation and any other conditions the Board of Adjustment may deem appropriate in accordance with Section 24-721.*

Mayor Siegel seconded the amendment. A vote was taken on the amendment, which carried unanimously as follows:

FOR: Mayor Siegel, Councilmen Reed, Avioli, Parker, and Friedberg, and Councilwoman Nathan

OPPOSED: None

ABSENT: Mayor Pro Tem Nauert

*Councilman Friedberg indicated, later in the meeting, that he had made an error in his motion to amend Section 24-1014, Variances and special exceptions. He meant to use the word “subsection” rather than “section,” such that the text would read as follows:

In any special exception granted by the Board of Adjustment pursuant to this subsection, the Board of Adjustment shall include hours of operation and any other conditions the Board of Adjustment may deem appropriate in accordance with Section 24-721.

Members of City Council agreed that the word “section” should be changed to “subsection.”
Councilman Reed moved to amend Section 24-1010, General provisions for signs, Section F, Banners/permits, Subsection 2, Disaster, by adding a third sentence to read as follows:

A permit shall not be required to display a temporary banner/pennant for the first ten (10) days following a disaster or significant event as designated by the City Manager or the Mayor of Bellaire.

Councilman Parker seconded the amendment.

Following further discussion related to the amendment, the following language was crafted by Councilman Friedberg and Councilwoman Nathan and agreed to by Councilmen Reed and Parker:

A temporary banner/pennant for a period not to exceed ten (10) days is allowed due to a disaster or significant event as designated by the City Manager or Mayor of Bellaire. A permit may be issued to grant an extension for displaying such temporary banner/pennant in fourteen (14) day increments, as needed, following the initial ten (10) day period in which a permit is not required.

A vote was taken on the amendment, which carried unanimously on a 6-0 vote as follows:

FOR: Mayor Siegel, Councilmen Reed, Avioli, Parker, and Friedberg, and Councilwoman Nathan

OPPOSED: None

ABSENT: Mayor Pro Tem Nauert

Following further questions and discussion and after noting no further amendments, Mayor Siegel called for a vote on the motion, as amended, which carried unanimously on a 6-0 vote as follows:

FOR: Mayor Siegel, Councilmen Reed, Avioli, Parker, and Friedberg, and Councilwoman Nathan

OPPOSED: None

ABSENT: Mayor Pro Tem Nauert

{Ordinance was subsequently numbered: 11-059}

Garage Sales

2. CONSIDERATION of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas,
amending the Code of Ordinances of the City of Bellaire, Texas, by repealing the existing Chapter 15, Garage Sales, and adopting a new Chapter 15, Garage Sales and Estate Sales, for the purpose of amending regulations related to the holding of garage and estate sales and the use of signs to advertise such sales – Item submitted by Director of Community Development John McDonald.

Councilman Reed moved to adopt an ordinance of the City Council of the City of Bellaire, Texas, amending the Code of Ordinances of the City of Bellaire, Texas, by repealing the existing Chapter 15, Garage Sales, and adopting a new Chapter 15, Garage Sales and Estate Sales, for the purpose of amending regulations related to the holding of garage and estate sales and the use of signs to advertise such sales. Councilman Avioli seconded the motion.

Following questions and discussion related to the proposed amendments to Chapter 15, Garage Sales and Estate Sales, Councilman Avioli moved to amend Chapter 15, Garage Sales and Estate Sales, Section 15-3, Permit Procedures, Subsection c, by striking the phrase “and not more than one (1) per quarter,” and to amend Chapter 15, Garage Sales and Estate Sales, Section 15-3, Permit Procedures, Subsection d, by striking the second sentence indicating that signs would be provided by the City of Bellaire. Subsections c and d would, therefore, read in their entirety as follows:

(c) Each residence shall be allowed two (2) garage or estate sales per calendar year. Each event shall be for a duration not to exceed three (3) consecutive days.

(d) Each residence shall be allowed three (3) signs per garage sale event and one (1) sign per estate sale.

Councilman Reed seconded the amendment.

Councilman Friedberg indicated that he wished to make a friendly amendment to subsection (d) regarding the provision of signs by the City, said subsection (d) to read in its entirety as follows:

(d) Each residence shall be allowed three (3) signs per garage sale event and one (1) sign per estate sale. Signs may be provided by the City of Bellaire during the application process and may, but are not required, to be used to advertise a garage sale. Any sign used to advertise a garage sale, whether provided by
the City of Bellaire or otherwise shall display a valid permit number.

Following the decline of the friendly amendment by Councilmen Avioli and Reed, Councilwoman Nathan requested separate consideration by City Council of the amendments to subsection (c) and (d) as she was in favor of one of the amendments, but not the other. Mayor Siegel advised that she would request separate votes on the amendments to (c) and (d).

Mayor Siegel called for a vote on the amendment to Chapter 15, Garage Sales and Estate Sales, Section 15-3, Permit Procedures, Subsection c, which would read in its entirety as follows:

(c) Each residence shall be allowed two (2) garage or estate sales per calendar year. Each event shall be for a duration not to exceed three (3) consecutive days.

The amendment carried unanimously on a 6-0 vote as follows:

FOR: Mayor Siegel, Councilmen Reed, Avioli, Parker, and Friedberg, and Councilwoman Nathan

OPPOSED: None

ABSENT: Mayor Pro Tem Nauert

Mayor Siegel called for a vote on the amendment to Chapter 15, Garage Sales and Estate Sales, Section 15-3, Permit Procedures, Subsection d, which would read in its entirety as follows:

(d) Each residence shall be allowed three (3) signs per garage sale event and one (1) sign per estate sale.

The amendment failed on a 3-3 vote as follows:

FOR: Councilmen Reed, Avioli, and Friedberg

OPPOSED: Mayor Siegel, Councilman Parker, and Councilwoman Nathan

ABSENT: Mayor Pro Tem Nauert

Mayor Siegel called for other discussion or amendments, at which time Councilman Friedberg moved to amend Chapter 15, Garage
Sales and Estate Sales, Section 15-3, Permit Procedures, Subsection d, to read in its entirety as follows:

(d) Each residence shall be allowed three (3) signs per garage sale event and one (1) sign per estate sale. Signs may be provided by the City of Bellaire during the application process and may, but are not required, to be used to advertise a garage sale. Any sign used to advertise a garage sale, whether provided by the City of Bellaire or otherwise, shall display a valid permit number.

Councilman Avioli seconded the amendment.

Following discussion regarding the amendment, Councilman Friedberg stated that he wished to withdraw his amendment and offer a different one, which was to eliminate Chapter 15, Garage Sales, from the Code of Ordinances of the City of Bellaire, Texas, in its entirety and relocate the chapter within Article X, Signs, of Chapter 24, Planning and Zoning. Councilman Avioli advised that he did not wish to withdraw his second and would not support the amendment to relocate Chapter 15 within Article X of Chapter 24.

Councilman Avioli made an amendment (i.e., the same amendment that Councilman Friedberg withdrew) to Chapter 15, Garage Sales and Estate Sales, Section 15-3, Permit Procedures, Subsection d, to read in its entirety as follows:

(d) Each residence shall be allowed three (3) signs per garage sale event and one (1) sign per estate sale. Signs may be provided by the City of Bellaire during the application process and may, but are not required, to be used advertise a garage sale. Any sign used to advertise a garage sale, whether provided by the City of Bellaire or otherwise, shall display a valid permit number.

Councilman Reed seconded the amendment. The amendment failed on a 3-3 vote as follows:

FOR: Councilmen Reed, Avioli, and Friedberg

OPPOSED: Mayor Siegel, Councilman Parker, and Councilwoman Nathan

ABSENT: Mayor Pro Tem Nauert

Councilman Friedberg indicated that he wished to restate his amendment to eliminate Chapter 15, Garage Sales, from the
*Code of Ordinances of the City of Bellaire, Texas, in its entirety and relocate the chapter within Article X, Signs, of Chapter 24, Planning and Zoning.*

*Councilman Friedberg stated that he offered this amendment in response to an argument that the City already regulates signs in the Sign Ordinance, which had just been extensively discussed in the preceding agenda item. He stated that this argument proved his point: Garage sale signs have historically not been part of the Sign Ordinance in recognition of the fact that they are different. If Council now feels they should be regulated to the same extent as other signs, then Council should move them into the Sign Ordinance.*

Mayor Siegel suggested that City Council move to table consideration of this item with direction to City Staff to craft a new ordinance, which would need to go back to the Planning and Zoning Commission for a public hearing and then to City Council for a public hearing. Councilman Friedberg indicated that City Council could send the text to the Planning and Zoning Commission without having them rewrite the text.

Following discussion of the process that would be required to move Chapter 15 to Chapter 24, Councilman Friedberg withdrew his amendment and called the question on the entire ordinance, as amended. Councilman Reed seconded the motion to call the question. The motion to call the question failed on a 3-3 vote as follows:

**FOR:**
- Councilmen Reed, Avioli, and Friedberg

**OPPOSED:**
- Mayor Siegel, Councilman Parker, and Councilwoman Nathan

**ABSENT:**
- Mayor Pro Tem Nauert

Mayor Siegel moved to postpone consideration of the adoption of an ordinance of the City Council of the City of Bellaire, Texas, amending the Code of Ordinances of the City of Bellaire, Texas, by repealing the existing Chapter 15, Garage Sales, and adopting a new Chapter 15, Garage Sales and Estate Sales, for the purpose of amending regulations related to the holding of garage and estate sales and the use of signs to advertise such sales until such time as all seven members of City Council could be present to consider the ordinance. Councilman Reed seconded the motion. The motion carried on a 5-1 vote as follows:
G. ITEM FOR INDIVIDUAL CONSIDERATION:

CONSIDERATION of and possible action on a request for City Council approval for the Patrons for Bellaire Parks to auction a temporary (one year) donor naming right for either the playground or walking trail in Loftin Park, said auction to occur at the 2011 Wine and Tapas Party, the auction proceeds of which would be used for improvements to Bellaire Town Square – Item submitted by Mayor Cindy Siegel on behalf of the Patrons for Bellaire Parks.

Councilman Avioli moved to approve a request for the Patrons of Bellaire Parks to auction temporary one-year donor naming rights for either the playground or walking trail in Loftin Park, said auction to occur at the 2011 Wine and Tapas Party, the auction proceeds of which would be used for improvements to Bellaire Town Square. Councilman Parker seconded the motion.

Councilman Parker asked for confirmation from the City Attorney as to whether or not the City could grant authority for the Patrons for Bellaire Parks to auction off temporary naming rights. City Attorney Petrov indicated that the City could do so and he suggested, if the request were approved this evening, that a letter agreement be prepared from the City Manager to the Patrons for Bellaire Parks indicating that City Council had authorized them to auction temporary naming rights for a one-year period of time in consideration of the Patrons for Bellaire Parks remitting the funds generated from the sale to the City for improvements to Bellaire Town Square.

Councilman Friedberg offered a friendly amendment to include the letter agreement suggested by City Attorney Petrov memorializing the agreement as part of the motion. Councilmen Avioli and Parker agreed to the friendly amendment.

Following further discussion, a vote was taken on the motion, as amended, which carried unanimously on a 6-0 vote as follows:

FOR: Mayor Siegel, Councilmen Reed, Avioli, Parker, and Friedberg, and Councilwoman Nathan

OPPOSED: None

ABSENT: Mayor Pro Tem Nauert
H. COMMUNITY INTEREST ITEMS FROM THE MAYOR AND CITY COUNCIL.

Community interest items from the Mayor and City Council included reminders to residents to attend the budget public hearing on August 15, 2011, at 6:00 p.m., followed by a Regular Session at 7:00 p.m. in which the Baldwin Avenue Project would be discussed and to attend a Special Session on the budget on August 16, 2011, at 7:00 p.m. It was noted that the City Council would hold a Special Session (Executive/Closed Session) on August 16, 2011, at 6:00 p.m. to receive advice from the City Attorney on a property mentioned earlier in the meeting on Park Court. In closing, Mayor Siegel recognized and congratulated Councilman Corbett Daniel Parker on his having been named as one of the Outstanding Young Houstonians by the Jaycees.

I. ADJOURNMENT.

Councilman Reed moved to adjourn the Regular Session of the City Council of the City of Bellaire, Texas, at 9:46 p.m. on Monday, August 1, 2011. Councilman Parker seconded the motion. The motion carried unanimously on a 6-0 vote as follows:

FOR: Mayor Siegel, Councilmen Reed, Avioli, Parker, and Friedberg, and Councilwoman Nathan

OPPOSED: None

ABSENT: Mayor Pro Tem Nauert

Respectfully submitted,

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

Approved:

Cynthia Siegel, Mayor
City of Bellaire, Texas