CITY COUNCIL MEETING MINUTES
MONDAY, SEPTEMBER 12, 2011

The City Council of the City of Bellaire, Texas, met in Special Session (Public Hearing) on Monday, September 12, 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 6:03 p.m. on Monday, September 12, 2011.

Also present were Mayor Pro Tem Phil Nauert, Councilmen Roman F. Reed, James P. Avioli, Sr., Corbett Daniel Parker, and Andrew Friedberg, Councilwoman Mandy Nathan, City Manager Bernard M. Satterwhite, Jr., Assistant City Attorney Elliot Barner, City Clerk Tracy L. Dutton, and Director of Community Development John McDonald.

B. READING OF THE NOTICE OF PUBLIC HEARING – City Clerk Tracy L. Dutton.

City Clerk Dutton read the “Notice of Public Hearing” into the record. It was stated that the “Notice of Public Hearing” was posted on the City of Bellaire’s bulletin board and website on Monday, August 22, 2011 and published in the legal notices section of the Southwest News on Tuesday, August 23, 2011. Notices were mailed to real property owners of record located within 200+ feet of the site on Tuesday, August 23, 2011. A total of 71 notices were mailed as follows: 53 to property owners of record, 15 to assumed renters, one to the property owner of the site of the specific use permit request, one to the applicant (Community National Bank), and one to the applicant’s agent (Johnston, LLC). Two of the notices mailed to assumed renters were returned with the following postal notation: “Return to sender, vacant, unable to forward.” The mailing addresses of the two notices were stated as follows: 4424 Basswood Lane, Bellaire, Texas, and 4310 Compton Circle, Bellaire, Texas.

C. SUMMARY OF PUBLIC HEARING PROCEDURE – City Manager Bernard M. Satterwhite, Jr.

City Manager Satterwhite summarized the public hearing procedure for the evening.
D. PRESENTATION regarding an application and request submitted by Johnston, LLC, on behalf of Community National Bank, for a specific use permit to construct and operate a three-lane drive-in banking facility on a 1.56 acre parcel of land located at 4400 Bissonnet Street (between Howard Lane and Mulberry Lane) in Bellaire, Harris County, Texas, in the R-M.1 Residential-Commercial Mixed-Use Zoning District – Presentation by Representative(s) of Johnston, LLC, on behalf of Community National Bank.

Dinh Ho, P.E., Johnston, LLC, 3131 Red Maple Drive, Friendswood, Texas, introduced himself as the agent for Community National Bank and introduced those present with him as follows: James Woodall, Chairman of the Board, Community National Bank, and Lee Anne Dixon, P.E., Traffic Consultant with the firm of Walter P. Moore.

Mr. Ho indicated that the specific use permit application submitted on behalf of the applicant, Community National Bank, was for the construction of a three-lane drive-through banking facility at 4400 Bissonnet Street, Bellaire, Texas, on the inside of Interstate Highway 610.

The applicant’s place of business was currently located at 5123 Bellaire Boulevard, Bellaire, Texas.

The proposed site for the new three-lane drive-in banking facility was an undeveloped tract of 1.56 acres and roughly bounded by Howard Lane and Mulberry Lane just north of Bissonnet Street. Mr. Ho indicated that the proposed tract had been used in the past for construction storage, but had not been used for any permanent facilities. The tract was currently zoned as R-M.1, Residential-Commercial, Mixed-Use.

The reason for the request of the specific use permit was due to the fact that the facility would require drive-in banking. A traffic study was initiated and presented as part of the application.

The proposed development included approximately ±12,719 square feet of banking/office space, 69 parking spaces, five ADA (Americans with Disabilities Act) parking spaces, and three drive-through lanes. The development would have two access points—one from Bissonnet Street and the other from Howard Lane.

Mr. Ho presented a slide to City Council depicting a general architectural rendering of the proposed building. The building consisted of two stories, with traditional architectural design, and would be constructed of masonry and cast stones.
E. RECOGNITION OF CITIZENS AND/OR OTHER INTERESTED PARTIES – Mayor Cindy Siegel.

Lynn McBee, 5314 Evergreen Street, Bellaire, Texas, addressed City Council and advised that she had attended the public hearing that was held before the Bellaire Planning and Zoning Commission. She indicated that she had expressed a concern regarding the entrance to the proposed bank. It was noted that the proposed bank was located on the north side of Bissonnet Street. The entrance to the proposed bank was designed to be constructed mid-block and the eastbound traffic along Bissonnet Street traveling toward town would have to cross the westbound lane mid-block to access the bank. She referred to a similar traffic situation by the existing drive-in banks at Ferris Street whereby traffic had to cross double yellow lines to get to those facilities.

Ms. McBee stated that she had no idea what could be done to ameliorate the situation, but felt that something could be designed to direct traffic to an intersection to make a u-turn or a left turn lane could be provided. Ms. McBee expressed her concern that traffic accidents could easily occur as vehicles attempted to enter the facility, resulting in a threat to public safety.

Other than her cited traffic concern, Ms. McBee indicated that she had no objection to the application.

In closing, Ms. McBee advised that she did have one question of the applicant, which was whether the applicant had obtained clear title on the property as of this date or if there were a difficulty in getting clear title at this point.

Mayor Siegel, after noting that there were no further oral comments, read one written comment into the record as follows:

Richard E. Franke, 1104 Howard Lane, Bellaire, Texas:

I will be unable to attend the subject public hearing for Community National Bank on September 12, 2011. Please arrange to have these comments read into the record and distributed to City Council, Planning and Zoning Commissioners and other parties pertinent to the hearing. I spoke earlier at the Public Hearing sponsored by the Planning and Zoning Commission for Community National Bank.

1. The proposed development is in a small section of Bellaire known as Mulberry Manor comprised of the 1000-1200 blocks of Mulberry and Howard Lane and homes on Newcastle adjacent to those blocks. I do not represent the neighborhood of Mulberry Manor.

2. Unless there has been a material change to the proposed development, I remain in support of Community National Bank’s application. It should be noted that bank officials evidenced sound
planning and sensitivity to the neighborhood. A bank is preferable to other potential development on that property. Bank officials committed to planning lighting that is not offensive to adjacent residential properties and taking measures to protect the privacy of those properties. Those measures should be reexamined. I recall that signage was planned only on Bissonnet and should be evaluated under the new sign ordinance.

3. As noted at the Planning and Zoning Public Hearing, increased traffic flow is the major concern of the proposed development and the proposed commercial development on the vacant lot at the northeast corner of Bissonnet and Newcastle. It should be noted that three lots on the west side of Howard Lane to the immediate north of the proposed chimerical development and across the street from the bank have apparently been platted for residential development.

4. The 1000-1100 blocks of Mulberry and Howard Lane have been a cut-through passage for errant motorists avoiding the automated traffic control at Newcastle and Bissonnet. That control is very efficient and there is no justification for the cut-through traffic that frequently includes aggressive acceleration and speed by motorists of all ages. Having witnessed such cut-through traffic for 13 years I can attest to the dangerous practices of many motorists.

5. The affect of traffic congestion on Bissonnet to ingress and egress to the bank was raised at the Planning and Zoning Public Hearing and should be studied. Eastbound traffic on Bissonnet that enters the middle turning lane to enter the bank will conflict with westbound traffic that enters the middle turning lane prematurely before Howard Lane to make a left turn to Newcastle or to enter the Valero store. This is a very dangerous situation.

6. The proposed commercial development on the northeast corner of Bissonnet and Newcastle may promote westbound cut-through traffic through the parking lot to Newcastle off Bissonnet. It is recommended that the City of Bellaire install or require the property owner to install a right-turn only city street lane for westbound traffic on Bissonnet to enter Newcastle that is protected by a blinking red light traffic control with "yield to Newcastle traffic." Access to Fournace should be prohibited by making the exit to that lane north of Fournace.

7. A security gate should be installed by the City of Bellaire in the 1000 block of Howard Lane on the southern lot line of the southernmost residential lot in that block. Similar gates have been installed along Newcastle and Loop 610 to protect neighborhoods from cut-through traffic and there is no justification for denying Howard Lane that protection.
Thank you for your time and effort on this matter.

F. QUESTIONS FROM THE CITY COUNCIL OF THE CITY OF BELLAIRE, TEXAS – Mayor Cindy Siegel.

Mayor Siegel called upon members of the City Council with questions of the applicant, the applicant’s agent, and/or City Staff.

Councilman James P. Avioli, Sr., inquired as to what would happen with Community National Bank’s existing bank facilities—in other words, would those facilities remain open as well?

James Woodall, Chairman of the Board, Community National Bank, advised that the existing main location (5123 Bellaire Boulevard) would be abandoned. The existing drive-through facility (also on Bellaire Boulevard) would remain in operation. In other words, Community National Bank would move its major operations to 4400 Bissonnet Street.

Councilman Avioli asked for confirmation that the drive-through facility located on Bellaire Boulevard would remain in operation.

Mr. Woodall advised that Councilman Avioli was correct.

Councilman Avioli inquired as to whether Community National Bank owned the property that housed their major operations (5123 Bellaire Boulevard).

Mr. Woodall advised that Community National Bank did not own the property at 5123 Bellaire Boulevard—they were tenants.

Councilman Avioli inquired of Director of Community Development John McDonald as to what the tax impact would be to the City if Community National Bank moved their major operations.

Director of Community Development John McDonald indicated that the tax impact would be based on the final construction cost of the new building. He noted that his department had not yet received plans for the new building.

Councilman Avioli stated that Community National Bank’s specific use permit application indicated that the structure would be valued at $3.2 million. His concern was the impact to the City of the existing operation to be closed and the new operation to be opened as far as tax revenue to the City.

Director McDonald stated that the building that Community National Bank would be vacating would be leasable property, which could be refilled with another business. It was the City’s hope that the leasable property would not lose taxable value, but gain due to the construction of a new facility.
Councilman Avioli asked for confirmation that there was a potential gain in tax revenue to the City.

Director McDonald advised that Councilman Avioli was correct. While Community National Bank would leave and empty out current lease space, it was assumed that the owner of the space would seek a new tenant to fill the space vacated by Community National Bank. The City would see a net gain through the construction of the bank’s new facility.

Councilman Avioli referred to several caveats that the Bellaire Planning and Zoning Commission had related to the new location. He felt that the caveat related to electrical service was certainly a good lesson the City of Bellaire had learned as a result of the construction of the Coptic Church.

The other caveat that caught Councilman Avioli’s attention was the caveat related to servicing the dumpster at the facility. He inquired as to whether the City had any restrictions or regulations related to the location of the dumpster on the site, as well as how the dumpster would be concealed.

Director McDonald indicated that the City did have regulations regarding the location and concealment of dumpsters. The City’s regulations also allowed pickup from dumpsters as late as 10:00 p.m. Since the banking facility was located adjacent to residential property, City Staff recommended, and the Bellaire Planning and Zoning Commission agreed, to reduce the pickup time by one hour to 9:00 p.m.

Councilman Avioli advised that he felt that the reduction in pickup time was certainly a good addition. His concern, however, was related to the concealment of the dumpster. He indicated that there were currently trash collection facilities throughout the City that were eyesores with no concealment around them. He asked what type of restriction would exist with respect to concealment of the banking facility’s dumpster.

Director McDonald indicated that the dumpster at the banking facility would be required to be located behind a wooden gate that would remain closed when it was not being serviced.

Councilman Avioli asked if the requirement cited by Director McDonald was from an existing City ordinance.

Director McDonald advised that Councilman Avioli was correct. He indicated that there were some properties in Bellaire that, due to their location, their age, or the size of the property, could not meet the City’s requirements as set by law or predated the City’s requirements. The City did its best to ensure that dumpster areas were properly secured. Specific signage was also required to be placed on dumpsters to let people know when those dumpsters could be serviced and any other applicable restrictions.
Councilman Avioli asked for confirmation that the Community National Bank facility would be in compliance with the City's regulations with respect to dumpsters.

Director McDonald advised that Councilman Avioli was correct.

Councilman Avioli asked if those regulations needed to be included as a "caveat."

Director McDonald advised that the regulations did not need to be included as a caveat, other than the recommendation to reduce the pickup hours.

Councilman Andrew Friedberg referred to the three conditions suggested by the Bellaire Planning and Zoning Commission to the specific use permit and inquired as to whether those conditions were proposed to the Bellaire Planning and Zoning Commission by City Staff.

Director McDonald advised that the "counterclockwise" issue came up in a meeting of the Bellaire Planning and Zoning Commission. Based on concerns expressed by the Bellaire Planning and Zoning Commission as to the internal circulation of traffic, City Staff formulated a condition as part of the recommendation for final approval. The electrical service condition had become a more typical condition related to specific use permits. Due to the location of the proposed facility to residences, City Staff recommended addressing the dumpster issue as well.

Councilman Friedberg noted, in particular, that City Staff brought forward what he would call the "Coptic Church condition" because there was not an ordinance that would otherwise require such a condition.

Director McDonald advised that Councilman Friedberg was correct. He noted that he held discussions with the Chairman of the Bellaire Planning and Zoning Commission that certain recommendations might need to be readdressed as changes to the City’s ordinance so that such conditions would become requirements.

Councilman Friedberg inquired as to whether it was appropriate for City Staff, or perhaps the applicant, to address concerns raised by two residents regarding left turns by eastbound traffic. His recollection was that a center turn lane already existed along Bissonnet Street.

Director McDonald advised that he believed Councilman Friedberg was correct with respect to a center turn lane. He indicated further that a traffic impact analysis ("TIA") was not required for a specific use permit. The City asked the applicant to provide one, and the applicant complied. Based on Community National Bank's TIA, the drive-through, as well as the main banking facility, would not change the level of service existing today. While there were increases, the current levels of service were still maintained.
With regard to entrances to commercial property, there were many entrances to commercial properties all along Bissonnet Street. One way in which to maintain good internal circulation and good distribution of traffic was to have entrances and exits from properties directly onto the street.

Councilman Friedberg agreed that there certainly were a number of commercial entrances and exits all along Bissonnet Street. With respect to the specific use permit under consideration, two entrances would be added along Bissonnet Street.

Director McDonald advised that there would only be one entrance to the proposed banking facility from Bissonnet Street.

Councilman Friedberg indicated that even by adding an entrance, the TIA implied that nothing would change in terms of the flow of traffic.

Director McDonald advised that Councilman Friedberg was correct—the level of service would remain the same.

Councilman Friedberg asked for confirmation that eastbound traffic would not be impeded as long as the center lane was clear for cars to stack in while waiting for westbound traffic to pass.

Director McDonald advised that Councilman Friedberg was correct.

Councilwoman Mandy Nathan inquired as to whether Richard Franke and Lynn McBee were the only two citizens that addressed the Bellaire Planning and Zoning Commission during their public hearing on this matter.

Director McDonald advised that he could not recall.

Councilwoman Nathan noted that the public hearing documentation provided for City Council referenced two speakers.

[Ms. McBee indicated with a nod of her head that she and Richard Franke were the only two speakers at the Bellaire Planning and Zoning Commission Public Hearing on this matter]

Mayor Cindy Siegel inquired as to whether Community National Bank had a clear title to the property.

Chairman Woodall indicated that Community National Bank was in the process of purchasing the property and there had been a problem in obtaining clear title to the property. Community National Bank did have a contract on the property and was working on the matter on a daily basis to get the issues related to the property cleared up. He indicated further that there was a legal issue involved.
Mayor Siegel inquired as to Community National Bank’s expectation as to their target date for build out (once clear title had been obtained).

Mr. Woodall advised that he believed that once the property had been acquired, it would take nine months for construction to be completed.

Mayor Siegel asked for confirmation that Community Development Bank would have two drive-through banking facilities in Bellaire—one outside of Interstate Highway 610 (on Bellaire Boulevard) and one inside Interstate Highway 610 adjacent to the proposed facility (4400 Bissonnet Street).

Mr. Woodall advised that Mayor Siegel was correct.

Councilman Friedberg referred to the currently pending acquisition of property by Community National Bank and inquired as to whether that would matter from the City’s standpoint. He stated his understanding that the granting of a specific use permit would be specific to the “applicant” and, if nothing else, the parameters that would be approved would be the same irrespective of who eventually owned the property.

Acting City Attorney Elliot Barner advised that Councilman Friedberg was correct.

Councilman Friedberg asked for confirmation that from the City’s standpoint, the fact that Community National Bank did not yet own the property did not matter.

Acting City Attorney Barner advised that Councilman Friedberg was correct. He noted that title to the property with respect to the Bellaire Planning and Zoning Commission’s level of consideration in granting the permit was not an issue. He agreed that title to the property was also not a factor with respect to the City Council’s level of consideration in granting a specific use permit.

G. CLOSE OF PUBLIC HEARING – Mayor Cindy Siegel.

Mayor Siegel closed the public hearing before the City Council of the City of Bellaire, Texas, at 6:25 p.m. on Monday, September 12, 2011. She advised that oral comments would not be received following the close of the public hearing. Written comments could be submitted to the City Council of the City of Bellaire, Texas, in care of the City Clerk prior to final deliberation on the matter. It was anticipated that final deliberation would occur on Monday, September 19, 2011; therefore, written comments should be submitted to the City Clerk by noon on Thursday, September 15, 2011.
H. ADJOURNMENT.

Councilman Roman F. Reed moved to adjourn the Special Session (Public Hearing) of the City Council of the City of Bellaire, Texas, at 6:25 p.m. on Monday, September 12, 2011. Mayor Pro Tem Phil Nauert seconded the motion. The motion carried unanimously on a 7-0 vote as follows:

FOR: Mayor Cindy Siegel, Mayor Pro Tem Phil Nauert, Councilmen Roman F. Reed, James P. Avioli, Sr., Corbett Daniel Parker, and Andrew Friedberg and Councilwoman Mandy 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