CITY COUNCIL MEETING MINUTES  
MONDAY, AUGUST 6, 2012

The City Council of the City of Bellaire, Texas, met in Regular Session on Monday, August 6, 2012, 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 – Mayor Philip L. Nauert.

Mayor Philip L. Nauert called the City Council of the City of Bellaire, Texas, to order at 7:27 p.m. on Monday, August 6, 2012.

B. ANNOUNCEMENT OF A QUORUM – Mayor Philip L. Nauert.

Mayor Philip L. Nauert announced that a quorum of the members of the Bellaire City Council were present consisting of himself, Mayor Pro Tem Amanda B. Nathan and Councilmen Roman F. Reed, James P. Avioli, Sr., Corbett Daniel Parker, Pat B. McLaughlan and Andrew S. Friedberg. Also present were City Manager Bernard M. Satterwhite, Jr., City Attorney Alan P. Petrov, and City Clerk Tracy L. Dutton.

C. INSPIRATIONAL READING AND/OR INVOCATION – Councilman James P. Avioli, Sr.

Councilman James P. Avioli, Sr., provided the inspirational reading for the evening.

D. PLEDGES TO THE FLAGS – Councilman James P. Avioli, Sr.

1. U.S. PLEDGE OF ALLEGIANCE.

2. PLEDGE TO THE TEXAS FLAG.

Councilman James P. Avioli, Sr., led the audience and members of the Bellaire City Council in the U.S. Pledge of Allegiance and the Pledge to the Texas Flag.

E. APPROVAL OR CORRECTION OF MINUTES:

1. CONSIDERATION of and possible action on the approval of the minutes of the Special Session (Public Hearing – Abandonment of Easement Rights) of the City Council of the City of Bellaire,
Texas, held on Monday, July 16, 2012 – Item submitted by City Clerk Tracy L. Dutton.

CITY COUNCIL MAIN MOTION/ACTION:

Councilman Roman F. Reed moved to approve the minutes of the Special Session (Public Hearing – Abandonment of Easement Rights) of the City Council of the City of Bellaire, Texas, held on Monday, July 16, 2012. Councilman James P. Avioli, Sr., seconded the motion.

The motion carried on a 6-0-1 vote as follows:

FOR: Mayor Pro Tem Amanda B. Nathan and Councilmen Roman F. Reed, James P. Avioli, Sr., Corbett Daniel Parker, Pat B. McLaughlan and Andrew S. Friedberg

OPPOSED: None

ABSENT: None

ABSTAIN: Mayor Philip L. Nauert*

*Mayor Philip L. Nauert abstained from voting on the minutes of the Special Session (Public Hearing – Abandonment of Easement Rights) due to his absence from that meeting.

2. CONSIDERATION of and possible action on the approval of the minutes of the Regular Session of the City Council of the City of Bellaire, Texas, held on Monday, July 16, 2012 – Item submitted by City Clerk Tracy L. Dutton.

CITY COUNCIL MAIN MOTION/ACTION:

Mayor Pro Tem Amanda B. Nathan moved to approve the minutes of the Regular Session of the City Council of the City of Bellaire, Texas, held on Monday, July 16, 2012. Councilman Andrew S. Friedberg seconded the motion.

The motion carried on a 6-0-1 vote as follows:

FOR: Mayor Pro Tem Amanda B. Nathan and Councilmen Roman F. Reed, James P. Avioli, Sr., Corbett Daniel Parker, Pat B. McLaughlan and Andrew S. Friedberg

OPPOSED: None
ABSENT: None

ABSTAIN: Mayor Philip L. Nauert

3. CONSIDERATION of and possible action on the approval of the minutes of the Special Session (Executive Session) of the City Council of the City of Bellaire, Texas, held on Monday, July 30, 2012 – Item submitted by City Clerk Tracy L. Dutton.

CITY COUNCIL MAIN MOTION:

Councilman Roman F. Reed moved to approve the minutes of the Special Session (Executive Session) of the City Council of the City of Bellaire, Texas, held on Monday, July 30, 2012. Mayor Pro Tem Amanda B. Nathan seconded the motion.

Prior to a vote on the main motion, Councilman Andrew S. Friedberg referred to a scrivener’s error on line 94. He indicated that the word “unanimously,” which appeared on line 94, had been inadvertently included and should have been omitted as the vote was a majority vote rather than a unanimous vote.

ACTION ON CITY COUNCIL MAIN MOTION, AS CORRECTED:

The main motion, as corrected, carried on a 6-0-1 vote as follows:

FOR: Mayor Pro Tem Amanda B. Nathan and Councilmen Roman F. Reed, James P. Avioli, Sr., Corbett Daniel Parker, Pat B. McLaughlan and Andrew S. Friedberg

OPPOSED: None

ABSENT: None

ABSTAIN: Mayor Philip L. Nauert*

*Mayer Philip L. Nauert abstained from voting on the minutes of the Special Session (Executive Session) due to his absence from that meeting.

F. PERSONAL/AUDIENCE COMMENTS.

POINT OF ORDER:

Councilman Corbett Daniel Parker raised a point of order, by inquiring of the City Attorney as to whether members of City Council had the ability or
authority to ask those residents who wanted to speak about an item that had been scheduled for a Special Session on Wednesday, August 8, 2012, to wait until Wednesday to make their comments and/or to be brief this evening.

City Attorney Alan P. Petrov advised that members of City Council could ask residents if they would wait and/or be brief; however, the Rules of Procedure of the City Council of the City of Bellaire, Texas, 2012-2014, as adopted on January 16, 2012, allowed anyone to address City Council on any matter.

Mayor Philip L. Nauert asked residents that were in agreement with comments made by others, to simply indicate so by stating their agreement rather than repeating comments or points previously made. Regardless of whether residents repeated comments or addressed new comments, each resident would be given five minutes to address City Council, and City Council would be happy to hear what residents had to say.

Matt Mueller, 520 Hidden Mesa, Leander, Texas:

Mr. Mueller addressed City Council by reading into the record a letter that members of City Council had received earlier in the day related to property at 5119 Jessamine Street, Bellaire, Texas.

To the Honorable City Council of Bellaire:

The main reason I am here tonight is that Mrs. Glass received what I would consider a scare tactic-ridden lawsuit threatening letter dated August 3rd from the City Attorney which states that Mrs. Glass has expressed an unwillingness to honor the Right of First Refusal (ROFR) on the sale of her house.

The ROFR states that if an owner receives a written offer to purchase property from a third party within the terms of the ROFR, owner shall provide the City with written notice of such offer. Mrs. Glass provided such notice with the $305K offer, just as she did with the subsequent $320K offer.

At best, this ROFR is a poorly worded document and, at worst, it’s a “gotcha” that one side is unreleasable. I would like to think that the former is true not the latter. Per the ROFR, we are obligated to bring written notice of any offer.

Hypothetically, if we received an offer for $1K and brought that to the City, per the ROFR, the City could exercise such right at which time we would be obligated to sell the property to the City for $1K. Whether this was the intention of the ROFR, I would like to think not.

Also per the ROFR, proper notice of these offers has not been given by either side. The ROFR states that any notice to be given or served hereunder shall be in writing and delivered by the U.S. registered or certified mail, return
receipt requested, postage prepaid, and addressed to the parties at the respective addresses set forth below . . .

Mr. Mueller advised that no notices had been sent or received by registered or certified mail and continued reading the letter.

Less than 24 hours after the $305K offer had been received, Mrs. Glass received a higher offer for $320K. The $320K offer was subsequently presented to the City on August 3, 2012, per the ROFR requirements. The City Attorney letter threatens that if Mrs. Glass refuses to complete the sale of her home to the City for $305K, she will be in breach and be exposed to significant liability. It is shameful that this City Council is threatening to sue an 85-year old long-time resident of this City who has nothing to her name except for what she will make from the sale of her home.

At the end of the day, Mrs. Glass does not have a personal stake in who purchases her home. We realize the City needs it. Indeed, the Mayor Pro Temp was quoted in the paper last week stating “It’s an opportunity of a lifetime—a once in a lifetime opportunity.” We understand that the neighbors also want it. She just needs to make the most money she can from the sale.

In this down economy, it is inherent upon you, as the honorable City Council of Bellaire, to let the market work as it is intended. It is obvious Mrs. Glass has an opportunity to make substantially more money if she sells her house to a higher offer. This overage may not amount to much for some, but it is a significant amount of money for my mother-in-law.

This house is all she has left in the world of monetary value. She is 85 years old and has suffered with major health issues in the past. She realizes that whatever money she makes from the sale of her home may be unfortunately needed to pay for future bills.

At the end of the day, we don’t want to get into minutia of details that have brought us to this point. My elderly mother-in-law has no interest in pursuing legal proceedings and is, in fact, in no condition to do so.

If the Council decides to pursue the legal threats in the letter, shame on you. If that is the legacy that this Council wants to leave, scaring a long-time 85-year old Bellaire resident with lawsuits because she won’t sell her home to you for $15K less than she would make with another offer, that’s shameful.

Mr. Mueller advised that he was Mrs. Glass’s son-in-law and held a durable power of attorney for Mrs. Glass. Mr. Mueller felt that Mrs. Glass had complied with the ROFR in spirit, and that written offers were provided to the City in accordance with the ROFR.

He indicated further that Mrs. Glass was widowed 11 years ago and her home was all she had. The family got one shot at selling the home, and Mr. Mueller
did not think that it was unreasonable to try to get the most that they could get for Mrs. Glass. Mr. Mueller closed by urging City Council to let the market work.

**Emmanuel Chris Kaitson, 5121 Jessamine Street, Bellaire, Texas:**

**Mr. Kaitson** addressed City Council and advised that he was the neighbor just referenced in the previous discussion that was interested in buying the property addressed as 5119 Jessamine Street, Bellaire, Texas.

He advised that he was shocked at the City’s interest in the property in question due to the demand in the area for parking (i.e., police station, municipal court, library, pool, and baseball field). He suggested that a development by the City on the property would further congest the area.

Mr. Kaitson indicated that he had the property appraised prior to making an offer, and that it appraised for $270,000. If one considered the value of demolishing the property, maintenance costs, lost tax revenue ($5,000 per year), and the impact to the adjacent properties (a reduction in value in Mr. Kaitson’s opinion), the value the City would be putting in on this property would be $340,000 (or 20-30% over the fair market value).

Mr. Kaitson advised that he made an offer to the owner to buy the property and an offer to the City to sell the property to the City when he retired and/or downsized in approximately ten years. He indicated that he hoped the City was seriously considering his offer.

Mr. Kaitson expressed concern that the Right of First Refusal (ROFR) document did not reflect the intentions of City Council and urged them to be fair to the owner of the property.

**Leslie Clark, 4411 Camellia Lane, Bellaire, Texas:**

**Ms. Clark** addressed City Council regarding problems with the Evelyn’s Park “Park”) project. She indicated that the park planning process had been shrouded with silence from the beginning and continuing through to this day from the Evelyn’s Park Conservancy (“Conservancy”). especially when asked any question about plans for the Park.

Ms. Clark referenced email correspondence with the Conservancy which resulted in a response, but no answers to any of the questions posed by residents.

As Ms. Clark’s family lived in one of seven homes that directly abutted the north perimeter of the Park site, her family had a great deal of interest in what would be built directly behind their fence (personal interest, as well as security, financial, neighborly, community, and taxpayer interests).
She referred to steps that were taken by her husband to apply and interview for a position on the Conservancy in order to represent the interests of their neighborhood in the Park development process. His application was denied, and the neighborhood was silenced.

Ms. Clark’s husband was later contacted and appointed to a Planning and Design Subcommittee for the Park planning process. He attended the pre-planning meetings, participated in the interview process for design firms, and several meetings beginning last fall and continuing until May of the current year. In May, he received a letter informing him that the Planning and Design Subcommittee on which he served had been dissolved because the Board would take over all design duties. As a result, his voice on behalf of the neighborhood was silenced.

According to the City of Bellaire’s Park and Recreation Master Plan, a park the size of Evelyn’s Park was designated as a “neighborhood park” and was intended to serve residents in a one-half mile radius of the Park. Not a single member of the Conservancy Board lived in the one-half mile area. Additionally, no one from the immediate Park neighborhood had been included in the planning process in any way.

Ms. Clark advised that there had been silence by the Board members and the SWA Project Designers when asked direct and specific questions about the Park plans during meetings. She referred to the seriousness and size of the project, which was reported to be approximately $12-17 million by the Board President.

Ms. Clark continued and noted that there had been silence by the City Council when presented with emails and a petition from residents concerned about the Park design, commercialization of the Park, and grossly inadequate parking facilities. There was silence by City Council when neighbors told them about the Board stonewalling neighbors’ requests for information and ignoring neighbors’ concerns about safety, traffic, and other issues.

Ms. Clark advised that there was silence by the Board last week when neighbors asked when the plans for the Park would be made available prior to the public hearing in two days. Plans were finally available after 5:00 p.m. on Friday afternoon. By contrast, materials prepared for the proposed budget public hearing for next year’s City budget were prepared and distributed more than five weeks before that hearing.

There was silence by City Council when Ms. Clark asked for a postponement of the public hearing to allow for additional time for review and consideration of the plans once they were made public. When the materials were finally posted, the materials were incomplete and over-commercialized.

{The speaker’s allotted time ended at this point in the meeting}
Dean Hunt, 4411 Camellia Lane, Bellaire, Texas:

Mr. Hunt addressed City Council and referring to the characteristics of accountability and transparency. He advised that the City Council had accepted what it thought was a gift to build a park for Bellaire and then gave complete control over that process to a private corporation who invited in the world.

Last Friday, the City posted some documents it received from the Evelyn’s Park Conservancy Board (“Board”) in preparation for a public hearing this Wednesday. One of those documents was a permission slip that told the City to keep the land for another two months. After that, the land could be taken away if the City did not agree to the Board’s plan. Mr. Hunt advised that if the property were truly a gift, the City would not need a permission slip to keep it for two more months.

In Mr. Hunt’s opinion, the Board was accountable to no one. City Council could, however, hold the Board accountable, and Mr. Hunt urged City Council to set boundaries and establish rules now. Mr. Hunt urged City Council to tell the Board that they could not build a facility that broke ordinances or laws of the City of Bellaire (laws such as “no alcohol” in parks and “no commercial facilities” in parks). He urged City Council to establish park curfews now for Evelyn’s Park.

With respect to transparency, Mr. Hunt advised that the City Council attempted to adhere to the Texas Open Meetings Act; however, the Board did not currently operate under those same constraints.

Mr. Hunt stated that requests for meetings with and questions of the Board had been ignored. He restated some of the questions for members of City Council as follows:

What is the budget?

How do you intend to pay for maintenance?

How many people were anticipated to participate at the park?

Does the plan include alcohol service?

Why is there no entrance on Bellaire Boulevard?

The documents posted on the City’s website on Friday did not answer the questions that the residents had been asking for months. Neighbors were told earlier in the day that the draft documents posted were only received by the Board late last week. Yet, the study was dated June of 2012. The apparent delay disclosure did not really matter as it was a preliminary study
and no one had seen the final study that would supposedly be used to justify the design on Wednesday.

With respect to the restaurant study, the Board had hired Ala Carte, one of the largest food services and catering consultants in the United States. Mr. Hunt advised that this was as commercial as one could get. The Board commissioned a report that so far was “top secret” and, presumably, was the key to funding the park operations. Mr. Hunt asked how residents or the City Council could ask any questions at a public hearing about something that is kept a secret.

City Council could make the process transparent and invoke the Texas Open Meetings Act. The Texas Open Meetings Act was designed to protect the public from exactly what was happening here. It was without question that the City of Bellaire had granted the Board the authority to supervise and control public business and public policy and to spend at least $100,000 of the taxpayers’ money. Mr. Hunt indicated that an Attorney General’s opinion should not be needed as the Texas Open Meetings Act did apply, and that the Board should be willing to voluntarily subject itself to the Texas Open Meetings Act requirements and City Council should ask them to do so.

Mr. Hunt referred to Bellaire’s claim to be a “City of Homes,” and noted that this was not true right now in his neighborhood. He urged City Council to demand transparency and accountability. He asked that the plan not be accepted until it was done right—even if the City’s permission slip expired.

David Montague, 4517 Live Oak Street, Bellaire, Texas:

Mr. Montague addressed City Council and indicated that he agreed with both of the previous speakers. Building on the comments made by Mr. Hunt, Mr. Montague asked if City Council could possibly see their way to give the Conservancy some direction as to what the City Council would like to see presented on Wednesday. For example, if the presentation involved the pretty pictures already posted by the City, the neighbors’ questions would not be answered.

Mr. Montague noted that he was an engineer and had come up with a list of approximately 100 questions and his wife had built on some of her own. This was about how many questions the residents had and felt the City Council should have.

He inquired as to how the City was going to begin the process of unraveling and defining what Evelyn’s Park was all about, such as how it was governed, paid for, maintained, its impact to the neighborhood, safety, security, and what resources it would draw from.

Mr. Montague referred to the traffic study and indicated that the site was not treated as a public park in that study.
In closing, Mr. Montague urged City Council to give the Conservancy some guidance. He referred to one of the items on the agenda, recognition of citizens and/or other interested parties, and asked how the item worked. For example, would residents' questions be answered during that item?

**Mayor Nauert** advised that Mr. Montague could certainly provide his questions to the City Council in advance of the public hearing.

**Councilman Parker** urged Mr. Montague to provide his questions to Councilman Parker and that he would ask those questions of the Conservancy on Mr. Montague's behalf.

**Mr. Montague** asked if the Conservancy would be compelled to answer the questions.

**Councilman Parker** indicated that he believed the Conservancy would be responsive.

**Rachel Crochet, 4913 Holly Street, Bellaire, Texas:**

**Ms. Crochet** addressed City Council regarding the property the City owned on Edith Street across from the Wastewater Treatment Plant. She indicated that she wished to make it clear that Tim Leppard of DALT, Inc., the developer, was present this evening and available to answer any questions.

Ms. Crochet advised that the City's asking price for the property was $584,250. Mr. Leppard's company, DALT, Inc., offered $600,000 ($15,750 more than the City's asking price). DALT, Inc., planned to build six new homes on the property at prices ranging from $550,000 to $600,000.

Ms. Crochet disclosed that she was the realtor bringing the contract in, as well as a resident of Bellaire. She noted that she was selling two new constructions in the area right now and had them priced at $849,000. The reason that Mr. Leppard would be asking for a lower price for his homes was due to the fact that the property was located directly across from the Wastewater Treatment Plant. She understood that there would be an odor. In fact, people that lived five or six blocks away could also smell the odor. It was noted that Mr. Leppard was trying to make the homes he wanted to build more affordable (due, in part, to their location) in the hope that people who could not afford to spend $849,000 could come into one of his homes. The homes would still be of high quality.

Mr. Leppard also wanted to install a nice fence and plant crepe myrtles, at his own expense and with the permission of the City, to make the area nicer. In short, Mr. Leppard would be improving the neighborhood. As a taxpayer, Ms. Crochet hoped that City Council would approve the sale. The total project would add approximately $3.3-$3.6 million to the City's tax rolls. Having
attended several City meetings recently, Ms. Crochet had noted that Bellaire seemed eager to get some development going, and Mr. Leppard's project would be a good development effort.

In closing, Ms. Crochet indicated that she was curious as to City Council's hesitation with respect to this project and/or the sale of the property. She understood that there was concern by some members of City Council as to what might be beneath the surface as the property was previously used as a recycling center. Those same members referred to the City's use of the property as a park. If the City thought there was something under the ground, why would the City consider constructing a park on the site where children would play?

**Eric Geisler, 4320 Lafayette Street, Bellaire, Texas:**

**Mr. Geisler** addressed City Council and expressed his opposition to the City selling the former Recycling Center property for the use of single-family homes. As he had expressed in numerous emails to most, or at least some, of the members of City Council, he had concerns that the City was acting prematurely by entertaining a bid to purchase the property and allow the builder to build submarket homes on the site.

Mr. Geisler was perplexed that the issue was back on the agenda without what he thought was instruction by the City Council to staff to research and analyze various and best uses for the property.

He advised that since the last meeting of City Council, City Staff had mailed out what he would describe as a very misleading letter to Bellaire citizens requesting comment on the proposed sale of the property. The letter did not solicit any ideas for the disposition or future use of the property. In fact, it seemed to purposely leave the reader with the impression that the sale for use as residential homes was a foregone conclusion and that the City was merely soliciting comment on what appeared to be a positive cash transaction. As a result, Mr. Geisler felt that the City lost a great opportunity to get more creative and helpful input from the citizens and neighbors in the area.

**Mr. Geisler** reiterated his position that the City had not adequately analyzed the highest and best long-term use of the property nor had it really even evaluated the long-term repercussions of the sale and use for single-family homes.

In all due respect to Ms. Crochet, Mr. Geisler advised that he did not have a financial interest in the issue. He was looking out for the best interest of the neighborhood. He referred to one of his neighbors whose home had been on the market for the last six months at a price ranging from $550,000-600,000. The neighbor was unable to sell their home.
Mr. Geisler urged City Council to evaluate the six lots and the two-block area of Edith and Lafayette Streets that included other City-owned property and residential homes. Once the property was sold, he advised that the City no longer had any control over it. He urged City Council to think long-term and to fully assess the future use of the property, as well as the property around it. In closing, Mr. Geisler encouraged City Council not to accept the bid from DALT Inc. and to start the process over.

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

Ms. McBee indicated that she wished to address three items this evening. First, she referred to a requested newsletter she had received by email from a Councilman who had been distributing City news in the past. Included with the newsletter was information related to the Evelyn’s Park Vision Plan hearing, information about a Sarah Davis reception, and an invitation related to Sarah Davis. In Ms. McBee’s opinion, it was poor judgment to include political invitations with a newsletter regarding City news. She urged City Council to keep politics and City business separate.

Secondly, Ms. McBee was very much in favor of having a public hearing on Evelyn’s Park, and noted that it was not legally necessary to do so. Although Ms. McBee was still in favor of the public hearing, she also requested that the City Council, City Manager, and City Attorney put out a written agenda of events before Wednesday. She urged the City Attorney to provide a summary outlining the terms of the Memorandum of Agreement with which the City and the Conservancy joined forces and agreed to carry out the development plans. She indicated that she would like to know what the parties could or could not do—such as whether the City could modify the plans.

Thirdly, Ms. McBee addressed the City’s Edith Street property. She indicated that she understood the neighbors’ concerns and noted that she lived far enough away not to be affected. She referred to a thought by the Planning and Zoning Commission some years ago that no one would want to build a home on Bellaire Boulevard near the office buildings. That ended up not to be the case and many residential developments had occurred in that area. She urged City Council not to make assumptions about what people would do. She advised that housing would continue to be in demand and the population would continue to escalate.

**G. NEW BUSINESS:**

1. **CONSENT AGENDA:**

   **FINAL CLOSEOUT OF PROJECT:**

   CONSIDERATION of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas,
authorizing the City of Bellaire, Texas, to make a final payment to the Texas Department of Transportation Trust Fund (CSJ 0912-72-111) in the amount of $30,960.85 for the City of Bellaire’s portion of the final payment of construction costs related to the Congestion Mitigation Air Quality (CMAQ) Improvement Category 5 Project authorized by an Advance Funding Agreement between the State of Texas, by and through the Texas Department of Transportation, and the City of Bellaire, Texas, for traffic signal and signal interconnect improvements to various intersections within the “Bellaire Traffic Signal System,” as well as authorization for the Mayor of the City of Bellaire, Texas, to execute a Statement of Cost form for said project in an amount not to exceed $30,960.85 — Item submitted by Director of Public Works Joe Keene.

CITY COUNCIL MAIN MOTION/ACTION:

Councilman Pat B. McLaughlin moved to approve the Consent Agenda dated August 6, 2012, consisting of the following item:

- Adoption of an ordinance authorizing the City of Bellaire, Texas, to make a final payment to the Texas Department of Transportation Trust Fund (CSJ 0912-72-111) in the amount of $30,960.85 for the City of Bellaire’s portion of the final payment of construction costs related to the Congestion Mitigation Air Quality (CMAQ) Improvement Category 5 Project authorized by an Advance Funding Agreement between the State of Texas, by and through the Texas Department of Transportation, and the City of Bellaire, Texas, for traffic signal and signal interconnect improvements to various intersections within the “Bellaire Traffic Signal System,” as well as authorization for the Mayor of the City of Bellaire, Texas, to execute a Statement of Cost form for said project in an amount not to exceed $30,960.85.

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

FOR: Mayor Philip L. Nauert, Mayor Pro Tem Amanda B. Nathan and Councilmen Roman F. Reed, James P. Avioli, Sr., Corbett Daniel Parker, Pat B. McLaughlan and Andrew S. Friedberg

OPPOSED: None
ABSENT: None
2. ADOPTION OF ORDINANCES:

a. CONSIDERATION of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, authorizing the abandonment of the City of Bellaire’s interest in an easement, being a 25-foot by 175-foot alley right-of-way, consisting of 4,375 square feet of land located between Lots 20 and 21, Block 15, Town of Bellaire, a subdivision in Harris County, Texas, also known as 4908 and 4912 Bellaire Boulevard, Bellaire, Texas; authorizing Atul Raj to purchase the City of Bellaire’s interest in the east one-half of said alley right-of-way from the City of Bellaire, Texas, said one-half of which abuts 4908 Bellaire Boulevard (Lot 21, Block 15, Town of Bellaire); authorizing Vernon D. and Phyllis T. Williams to purchase the City of Bellaire’s interest in the west one-half of said alley right-of-way from the City of Bellaire, Texas, said one-half of which abuts 4912 Bellaire Boulevard (Lot 20, Block 15, Town of Bellaire); and authorizing the Mayor and the City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, Abandonment of Alley Right-of-Way documents and Declaration of Municipality Claiming No Interest in Real Estate documents - Item submitted by City Clerk Tracy L. Dutton on behalf of the City Council of the City of Bellaire, Texas.

CITY COUNCIL MAIN MOTION:

Mayor Pro Tem Amanda B. Nathan moved to adopt an ordinance of the City Council of the City of Bellaire, Texas, abandoning the City’s interest in the 25-foot by 175-foot alley right-of-way between 4908 and 4912 Bellaire Boulevard and to authorize each of the petitioners to purchase one-half of the alley at $11.00 per square foot representing 50% of the appraised value of $22.00 per square foot. Councilman Corbett Daniel Parker seconded the motion for purposes of discussion.

Discussion ensued among members of City Council regarding the independent appraisal that had been provided for the property. Specifically, questions were asked regarding the appraiser’s recommended discount of 25%. The appraiser indicated that he had made a notation in his report that the 25% discount might not be warranted considering the future
redevelopment of Lot 20. The property was worth the full fair market value to the owner of Lot 20. At the same time, the alley right-of-way standing on its own was not an economic unit. Due to the nature of the property, the appraiser indicated that a 50% discount was unwarranted.

**CITY COUNCIL MOTION TO AMEND:**

Councilman Andrew S. Friedberg moved to amend the main motion to reflect a price of $22.00 per square foot (rather than $11.00 per square foot). Councilman Pat B. McLaughlan seconded the motion to amend.

Following discussion on the motion to amend, Mayor Philip L. Nauert called for a vote on the motion to amend.

**CITY COUNCIL ACTION ON THE MOTION TO AMEND:**

The motion to amend failed on a 3-4 vote as follows:

**FOR:** Mayor Philip L. Nauert and Councilmen Pat B. McLaughlan* and Andrew S. Friedberg*

**OPPOSED:** Mayor Pro Tem Amanda B. Nathan** and Councilmen Roman F. Reed, James P. Avioli, Sr., and Corbett Daniel Parker

**ABSENT:** None

*Councilman Friedberg opposed a discount in the circumstances presented by this application. Given the stated intention for redevelopment, and the value to the applicant in assembling a bigger lot for that purpose, he felt no marketability discount was warranted and it would be unfair to the taxpayers and other property owners who did not have discounted alleyways to award a below-market deal here. He also noted that the appraiser’s report indicated that a discount may not be appropriate in this case. Councilman McLaughlan indicated his vote to approve of the motion to amend was based on the tremendous value of the property.

**Mayor Pro Tem Nathan opposed the motion to amend and advised that the discount she had recommended in her main, original motion was a marketability discount. In reviewing the marketability discounts given by the City Council for past alley
rights-of-way abandonments, all of those discounts had been 50%, with the exception of one property.

Councilman James P. Avioli, Sr., stated his desire to offer an amendment that would reflect a price of $18.75 per square foot. His reasoning was related to a recent sale of the Chestnut Street right-of-way at $18.75 per square foot. He noted that he believed that the Chestnut Street property was more valuable than the alley easement between 4908 and 4912 Bellaire Boulevard.

CITY COUNCIL MOTION TO AMEND/ACTION:

Councilman James P. Avioli, Sr., moved to amend the main motion to reflect a price of $18.75 per square foot (rather than $11.00 per square foot). Councilman Pat B. McLaughlan seconded the motion to amend.

The motion to amend failed on a 2-5 vote as follows:

FOR: Councilmen James P. Avioli, Sr., and Pat B. McLaughlan

OPPOSED: Mayor Philip L. Nauert, Mayor Pro Tem Amanda B. Nathan and Councilmen Roman F. Reed, Corbett Daniel Parker and Andrew S. Friedberg

ABSENT: None

Councilman Andrew S. Friedberg stated his desire to consider the price separately from the ordinance. He indicated that he was in favor of the sale, but not necessarily the price.

CITY COUNCIL MOTION TO SEVER THE MAIN MOTION/ACTION:

Councilman Andrew S. Friedberg moved to sever the main motion such that price would be voted on separately from the ultimate ordinance. Councilman Corbett Daniel Parker seconded the motion to sever.

The motion to sever failed on a 2-5 vote as follows:

FOR: Councilmen Corbett Daniel Parker and Andrew S. Friedberg
Minutes of Meeting
August 6, 2012

City of Bellaire
City Council

OPPOSED: Mayor Philip L. Nauert, Mayor Pro Tem Amanda B. Nathan and Councilmen Roman F. Reed, James P. Avioli, Sr., and Pat B. McLaughlan

ABSENT: None

CITY COUNCIL MOTION TO AMEND/ACTION:

Councilman Andrew S. Friedberg moved to amend the main motion to reflect a price of $21.99 per square foot (rather than $11.00 per square foot). Councilman Pat B. McLaughlan seconded the motion to amend.

The motion to amend failed on a 2-5 vote as follows:

FOR: Councilmen Pat B. McLaughlan and Andrew S. Friedberg

OPPOSED: Mayor Philip L. Nauert, Mayor Pro Tem Amanda B. Nathan and Councilmen Roman F. Reed, James P. Avioli, Sr., and Corbett Daniel Parker

ABSENT: None

CITY COUNCIL MOTION TO AMEND/ACTION:

Councilman Corbett Daniel Parker moved to amend the main motion to reflect a price of $13.75 per square foot (rather than $11.00 per square foot) or a 37.5% discount. Mayor Pro Tem Amanda B. Nathan seconded the motion to amend.

The motion to amend carried on a 5-1-1 vote as follows:

FOR: Mayor Philip L. Nauert, Mayor Pro Tem Amanda B. Nathan and Councilmen Roman F. Reed, James P. Avioli, Sr., and Corbett Daniel Parker

OPPOSED: Councilman Andrew S. Friedberg*

ABSENT: None

ABSTAIN: Councilman Pat B. McLaughlan**
*As noted above, Councilman Friedberg opposed a discount in the circumstances presented by this application. Given the stated intention for redevelopment, and the value to the applicant in assembling a bigger lot for that purpose, he felt no marketability discount was warranted and it would be unfair to the taxpayers and other property owners who did not have discounted alleyways to award a below-market deal here. He also noted that the appraiser’s report indicated that a discount may not be appropriate in this case.

**Councilman McLaughlan abstained due to his concern with the original appraisal of $22.00 per square foot, which he felt was too low.

**CITY COUNCIL ACTION ON MAIN MOTION, AS AMENDED:

The main motion, as amended, carried on a 5-1-1 vote as follows:

FOR: Mayor Philip L. Nauert, Mayor Pro Tem Amanda B. Nathan and Councilmen Roman F. Reed, James P. Avioli, Sr., and Corbett Daniel Parker

OPPOSED: Councilman Andrew S. Friedberg*

ABSENT: None

ABSTAIN: Councilman Pat B. McLaughlan**

*As noted above, Councilman Friedberg opposed a discount in the circumstances presented by this application. Given the stated intention for redevelopment, and the value to the applicant in assembling a bigger lot for that purpose, he felt no marketability discount was warranted and it would be unfair to the taxpayers and other property owners who did not have discounted alleyways to award a below-market deal here. He also noted that the appraiser’s report indicated that a discount may not be appropriate in this case.

**Councilman McLaughlan abstained due to his concern with the original appraisal of $22.00 per square foot, which he felt was too low.

Mayor Pro Tem Amanda B. Nathan requested City Council consideration of agenda item G. 3. at this point in the meeting.
Mayor Philip L. Nauert, after noting no objection from members of the City Council, advised that agenda item G. 3. would be considered at this point in the meeting.

{Ordinance was subsequently numbered: 12-034}

3. TABLED ITEM:

CITY COUNCIL MOTION TO REMOVE ITEM FROM THE TABLE/ACTION:

Councilman Roman F. Reed moved to remove an agenda item regarding a possible sale of City property located at the northeast corner of Newcastle Drive and Edith Street (former Recycling Center) to DALT Inc. from the table. Mayor Pro Tem Amanda B. Nathan seconded the motion to remove the agenda item from the table.

The motion to remove an agenda item from the table carried unanimously on a 7-0 vote as follows:

FOR: Mayor Philip L. Nauert, Mayor Pro Tem Amanda B. Nathan and Councilmen Roman F. Reed, James P. Avioli, Sr., Corbett Daniel Parker, Pat B. McLaughlan and Andrew S. Friedberg

OPPOSED: None

ABSENT: None

CONSIDERATION of and possible action on a recommendation from City Staff to award Bid No. 2012-01, Sale of City Property, to bidder DALT, Inc., in the amount of $600,000.00 and authorization for the City Manager of the City of Bellaire, Texas, to negotiate a contract with DALT, Inc., for the sale of a property owned by the City of Bellaire, Texas, which encompasses all of Lots 12 through 17, Block 38, and the adjacent south 2.5 feet of an abandoned alley, in Southdale Addition, Bellaire, Harris County, Texas, and generally located at the northeast corner of Newcastle Drive and Edith Street (former Recycling Center) – Item submitted by Director of Community Development John McDonald.

CITY COUNCIL MAIN MOTION:

Councilman Corbett Daniel Parker moved to sell the City property generally located at the northeast corner of
Newcastle Drive and Edith Street (former Recycling Center) encompassing all of Lots 12 through 17, Block 38, and the adjacent south 2.5 feet of an abandoned alley, in Southdale Addition, Bellaire, Harris County, Texas, to DALT, Inc., in the amount of $600,000.00 as previously discussed by the Bellaire City Council on July 2, 2012. Councilman Roman F. Reed seconded the motion.

Discussion ensued among members of City Council regarding the current use of the property and/or analyses of higher uses (such as parkland, continued use by the Public Works Department as a storage yard, reopening of the Recycling Center, and/or residential development), possible environmental issues associated with the property and odor issues related to the close proximity of the City's Wastewater Treatment Plant to the property.

The Director of Community Development, John McDonald, was asked to report on the net value that the City would receive from the sale of the property. He indicated that the net value would be $582,000 ($600,000 less an $18,000 commission to be paid to the real estate agent).

**CITY COUNCIL MOTION TO POSTPONE/ACTION:**

Councilman Corbett Daniel Parker moved to table consideration of this agenda item until Monday, September 10, 2012, to give members of City Council ample time to obtain information needed in order to feel comfortable voting on the agenda item. Councilman Pat B. McLaughlan seconded the motion to postpone.

The motion to postpone failed on a 2-5 vote as follows:

**FOR:** Councilmen Corbett Daniel Parker and Pat B. McLaughlan

**OPPOSED:** Mayor Philip L. Nauert, Mayor Pro Tem Amanda B. Nathan and Councilmen Roman F. Reed, James P. Avioli, Sr., and Andrew S. Friedberg

**ABSENT:** None
CITY COUNCIL VOTE ON MAIN MOTION:

The main motion failed on a 3-4 vote as follows:

FOR: Mayor Pro Tem Amanda B. Nathan and Councilmen Roman F. Reed and Corbett Daniel Parker

OPPOSED: Mayor Philip L. Nauert* and Councilmen James P. Avioli, Sr.*, Pat B. McLaughlan* and Andrew S. Friedberg*

ABSENT: None

*The opposition by Mayor Nauert and Councilman Avioli was related to concerns of possible environmental contamination. Mayor Nauert and Councilman McLaughlan also took into consideration a statement by City Staff that the property was needed by the Public Works Department for a storage yard. Councilman Friedberg indicated that he was not opposed to the sale of the property; he was opposed to a sale at this point in time, as he felt the City had not fully vetted the issue in light of having received an idea as to the fair market value of the property.

b. CONSIDERATION of and possible action on a recommendation from the Public Works Department to award a contract to Klotz Associates, Inc., for engineering design and bid phase services for a new water supply well at the Central Water Plant site, as well as plugging and abandoning existing inoperable wells at the Central Water Plant and the Evergreen Water Plant sites, 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, for and on behalf of the City of Bellaire, Texas, a Letter Agreement for Consulting Services with Klotz Associates, Inc., for said engineering services in an amount not to exceed $93,100.00 – Item submitted by Director of Public Works Joe Keene.

CITY COUNCIL MAIN MOTION/ACTION:

Councilman Corbett Daniel Parker moved to approve a recommendation from the Public Works Department to award a contract to Klotz Associates, Inc., for engineering design and bid phase services for a new water supply well at the Central Water Plant site, as well as plugging and abandoning existing inoperable wells at
the Central Water Plant and the Evergreen Water Plant sites, 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, for and on behalf of the City of Bellaire, Texas, a Letter Agreement for Consulting Services with Klotz Associates, Inc., for said engineering services in an amount not to exceed $93,100.00. Councilman Pat B. McLaughlan seconded the motion.

The main motion carried unanimously on a 7-0 vote as follows:

FOR: Mayor Philip L. Nauert, Mayor Pro Tem Amanda B. Nathan and Councilmen Roman F. Reed, James P. Avioli, Sr., Corbett Daniel Parker, Pat B. McLaughlan and Andrew S. Friedberg

OPPOSED: None

ABSENT: None

{Ordinance was subsequently numbered: 12-035}

c. CONSIDERATION of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, amending Chapter 30, Traffic and Vehicles, Article II, Traffic Control Regulations, Division 5, Parking, of the Code of Ordinances of the City of Bellaire, Texas, for the purpose of providing for the regulation of parking spaces or area for persons with disabilities, by adding a new Section 30-116, to be titled “Parking space(s) or area for persons with disabilities” – Item submitted by City Attorney Alan P. Petrov at the direction of the City Council of the City of Bellaire, Texas.

CITY COUNCIL MAIN MOTION:

Councilman Roman F. Reed moved to adopt an ordinance of the City Council of the City of Bellaire, Texas, amending Chapter 30, Traffic and Vehicles, Article II, Traffic Control Regulations, Division 5, Parking, of the Code of Ordinances of the City of Bellaire, Texas, for the purpose of providing for the regulation of parking spaces or area for persons with disabilities, by adding a new Section 30-116, to be titled “Parking space(s) or area for persons with disabilities.” Councilman Pat B. McLaughlan seconded the motion.
CITY COUNCIL MOTION TO AMEND MAIN MOTION/ACTION:

Councilman Andrew S. Friedberg moved to amend Appendix A to the referenced ordinance as follows:

- Replace all references in Appendix A to “Texas Commission of Licensing and Regulation” to “Texas Department of Licensing and Regulation (formerly known as the Texas Commission of Licensing and Regulation)”; and

- To delete the phrase “the designation of” from the second line of subsection (a) under Appendix A and add the word “designated” as the fourth word of line three, such that subsection (a) would read as follows:

(a) The city, as authorized by Section 681.009(c)(2) of the Texas Transportation Code, as amended, adopts the standards and specifications for parking spaces and areas designated for persons with disabilities, as stated in Section 681.009(b) of the Texas Transportation Code, as amended, being those standards and specifications adopted by the Texas Department of Licensing and Regulation (formerly known as the Texas Commission of Licensing and Regulation) under Section 5(i), Article 9102, as amended. A copy of these standards and specifications may be obtained from the city’s department of community development.

Councilman Corbett Daniel Parker seconded the motion.

The motion to amend the main motion carried unanimously on a 7-0 vote as follows:

FOR: Mayor Philip L. Nauert, Mayor Pro Tem Amanda B. Nathan and Councilmen Roman F. Reed, James P. Avioli, Sr., Corbett Daniel Parker, Pat B. McLaughlan and Andrew S. Friedberg

OPPOSED: None

ABSENT: None
CITY COUNCIL MOTION TO AMEND MAIN MOTION:

Councilman Corbett Daniel Parker moved to amend subsection (c) of Appendix A by deleting the phrase “license plates or placards” and inserting the phrase “a valid license plate or placard,” such that subsection (c) would read as follows:

(c) From and after the effective date of the ordinance from which this section is derived, it shall be unlawful for any person to park a motor vehicle, in a parking space designated for persons with disabilities, unless such vehicle is properly identified with a valid license plate or placard issued by the state department of transportation to persons with disabilities, or for any conduct which constitutes an offense under Section 681.011 of the Texas Transportation Code, as amended.

Mayor Pro Tem Philip L. Nauert seconded the motion.

The motion to amend the main motion carried unanimously on a 7-0 vote as follows:

FOR: Mayor Philip L. Nauert, Mayor Pro Tem Amanda B. Nathan and Councilmen Roman F. Reed, James P. Avioli, Sr., Corbett Daniel Parker, Pat B. McLaughlan and Andrew S. Friedberg

OPPOSED: None

ABSENT: None

After noting no further amendments, Mayor Philip L. Nauert called for a vote on the main motion, as amended.

CITY COUNCIL ACTION ON MAIN MOTION, AS AMENDED:

The main motion, as amended, carried unanimously on a 7-0 vote as follows:

FOR: Mayor Philip L. Nauert, Mayor Pro Tem Amanda B. Nathan and Councilmen Roman F. Reed, James P. Avioli, Sr., Corbett Daniel Parker, Pat B. McLaughlan and Andrew S. Friedberg

OPPOSED: None
3. TABLED ITEM:

CONSIDERATION of and possible action on a recommendation from City Staff to award Bid No. 2012-01, Sale of City Property, to bidder DALT, Inc., in the amount of $600,000.00 and authorization for the City Manager of the City of Bellaire, Texas, to negotiate a contract with DALT, Inc., for the sale of a property owned by the City of Bellaire, Texas, which encompasses all of Lots 12 through 17, Block 38, and the adjacent south 2.5 feet of an abandoned alley, in Southdale Addition, Bellaire, Harris County, Texas, and generally located at the northeast corner of Newcastle Drive and Edith Street (former Recycling Center) – Item submitted by Director of Community Development John McDonald.*

*This item was tabled by the City Council of the City of Bellaire, Texas, on Monday, July 2, 2012.

Note: This item was considered earlier in the evening. See pages 19-21 of these minutes for discussion and action related to this agenda item.

I. ITEMS FOR FUTURE AGENDAS; COMMUNITY INTEREST ITEMS FROM THE MAYOR AND CITY COUNCIL.

Community interest items from the Mayor and City Council included reminders to attend the Bellaire City Library Reading Club party on August 10, 2012; the Parks and Recreation Department’s Dive-In Movie on August 9, 2012; and the budget public hearing for the City’s 2013 fiscal year on August 20, 2012.

J. ADJOURNMENT.

CITY COUNCIL MOTION TO ADJOURN/ACTION:

Councilman Andrew S. Friedberg moved to adjourn the Regular Session of the City Council of the City of Bellaire, Texas, at 10:00 p.m. on Monday, August 6, 2012. Councilman Corbett Daniel Parker seconded the motion.

The motion carried unanimously on a 7-0 vote as follows:

FOR: Mayor Philip L. Nauert, Mayor Pro Tem Amanda B. Nathan and Councilmen Roman F. Reed, James P. Avioli, Sr., Corbett Daniel Parker, Pat B. McLaughlan and Andrew S. Friedberg
City of Bellaire
City Council

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OPPOSED: None

ABSENT: None

Respectfully submitted,

[Signature]
Tracy L. Dutton, TRMC
City Clerk
City of Bellaire, Texas

Approved:

[Signature]
Philip L. Nauert, Mayor
City of Bellaire, Texas