CITY COUNCIL MEETING MINUTES
MONDAY, OCTOBER 1, 2012

The City Council of the City of Bellaire, Texas, met in Regular Session on Monday, October 1, 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 7:02 p.m. on Monday, October 1, 2012.

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

Mayor Philip L. Nauert announced that a quorum was present consisting of himself and the following members of City Council: Mayor Pro Tem Amanda B. Nathan and Councilmen Roman F. Reed, James P. Avioli, Sr., 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.

Councilman Corbett Daniel Parker was absent.

C. INSPIRATIONAL READING AND/OR INVOCATION – Councilman Andrew S. Friedberg.

Councilman Andrew S. Friedberg provided the inspirational reading for the evening.

D. PLEDGES TO THE FLAGS – Councilman Andrew S. Friedberg.

1. U.S. PLEDGE OF ALLEGIANCE.

2. PLEDGE TO THE TEXAS FLAG.

Councilman Andrew S. Friedberg led the audience and members of the 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 Regular Session of the City Council of the City of Bellaire, Texas, held on Monday, September 10, 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 Regular Session of the City Council of the City of Bellaire, Texas, held on Monday, September 10, 2012. Councilman James P. Avioli, Sr., seconded the motion.

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

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

OPPOSED: None

ABSENT: Councilman Corbett Daniel Parker

2. CONSIDERATION of and possible action on the approval of the minutes of the Special Session (Public Hearing) of the City Council of the City of Bellaire, Texas, held on Monday, September 17, 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) of the City Council of the City of Bellaire, Texas, held on Monday, September 17, 2012. Mayor Pro Tem Amanda B. Nathan seconded the motion.

The motion carried on a majority vote of 5-0-1 vote as follows:

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

OPPOSED: None

ABSENT: Councilman Corbett Daniel Parker
ABSTAIN:  Councilman Andrew S. Friedberg*

*Councilman Andrew S. Friedberg abstained from voting on the approval of the minutes of the Special Session (Public Hearing) of the City Council dated September 17, 2012, due to his absence from the meeting for religious observance of the Rosh Hashanah holiday.

3. 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, September 17, 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 Regular Session of the City Council of the City of Bellaire, Texas, held on Monday, September 17, 2012. Councilman James P. Avioli, Sr., seconded the motion.

The motion carried on a majority vote of 5-0-1 vote as follows:

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

OPPOSED: None

ABSENT: Councilman Corbett Daniel Parker

ABSTAIN: Councilman Andrew S. Friedberg*

*Councilman Andrew S. Friedberg abstained from voting on the approval of the minutes of the Regular Session of the City Council dated September 17, 2012, due to his absence from the meeting for religious observance of the Rosh Hashanah holiday.

F. PERSONAL/AUDIENCE COMMENTS.

Johnnie P. Frazier, 4721 Jessamine Street, Bellaire, Texas, addressed City Council and advised that she was present to seek City Council’s favorable consideration for a new sign and sign location on behalf of The Nature Discovery Center (NDC). She advised that City Council would hear a well-laid out and thoughtful presentation with supporting evidence for a new NDC sign and sign location. Dr. Frazier indicated that the evidence would show that the new proposed sign and location was safe for those driving by, walking near, or passing by in any mode of transportation.
Dr. Frazier advised that since its inception, NDC had a sign parallel to and facing the street that was not easily visible from the street. It was time for a new sign and sign location for the NDC, another gem in Bellaire waiting to be rediscovered.

NDC’s request for a proper sign and sign location to allow people to find the NDC easily and safely would require a favorable vote from members of City Council. The NDC was very aware and would amplify later in the meeting sound and reasonable arguments why the new sign location was safe. Dr. Frazier stated that after careful thought, she believed that City Council would agree as well.

Although NDC had grown over the years, in order to ensure future growth and ease of location, it was paramount that a sign commensurate with the learning institute it represented was properly put in place. If properly placed, the sign would satisfy the visual location of NDC while providing and maintaining street safety and visibility for citizens.

Dr. Frazier closed by urging members of City Council to look and learn from the presentation to be given later in the meeting and to vote favorably on the sign and requested location without delay. Dr. Frazier added that careful study of the evidence to be presented to City Council and the will of the citizens of Bellaire should guide a “yes” vote.

Hana Ginzberg, 4520 Oleander Street, Bellaire, Texas, addressed City Council and thanked them and the City for supporting The Nature Discovery Center. She also thanked the thousands of people, companies, corporations, foundations, volunteers and creative staff who had converted a dream into a reality.

She stated that Russ Pitman Park had become more than a facility. It had become a place for enjoyment and education. Included among the many programs offered at the NDC were landscaping, prevention of flooding and protection and preservation of the diversity of native plants and wildlife. Many high school and college students that had grown up at the NDC often spoke of how much the NDC had changed their lives and their education. Teachers also often emulated the NDC’s creative approach which stimulated discovery and learning.

Ms. Ginzberg indicated that the new sign the NDC was proposing was unique and designed specifically for the NDC. She closed by urging favorable City Council consideration of the sign and location requests from the NDC.

Helen (and Gemma) Bohnn, 4501 Magnolia Street, Bellaire, Texas, addressed City Council and advised that she had already sent a letter to each member of City Council describing the impact and importance of The Nature Discovery Center (NDC) to her daughters. Her oldest two daughters were three and two years of age when they first started visiting the NDC. Many
hours were spent looking at the fish pond and learning about tadpoles, frogs and goldfish. The wonderful experiences afforded her daughters by the NDC had lead them to pursue science-orientated classes later in life. Today, Ms. Bohnn visited the NDC with her youngest daughter, Gemma.

Ms. Bohnn continued and referred to the wonder and amazement she had seen in all of her daughters as they learned something new at the NDC. She shared some wonder and amazement with members of City Council and the audience by displaying an adult and a baby African leopard tortoise. Ms. Bohnn advised that she shared her tortoises with the NDC and indicated that sharing with others was what the NDC was all about.

In closing, Ms. Bohnn indicated that she had recommended the NDC to many of the parents with children at Gemma's school and found that many had difficulty locating the NDC. She urged City Council to support the new sign and location.

**Paul Coselli, 5311 Huisache Street, Bellaire, Texas,** addressed City Council and stated that he had the opportunity to meet with City Attorney Alan P. Petrov and Councilman Corbett Daniel Parker to talk about the possibility of ordinances and the direction in which those should flow. He appreciated the opportunity to meet with them in an effort to ensure that what had happened to him would not happen to anyone else (i.e., removal of tree next door to him resulted in the tree falling onto his home).

**Lynn McBee, 5314 Evergreen Street, Bellaire, Texas,** addressed City Council and advised that on September 17, 2012, she had spoken to them regarding training for members on City boards and commissions. She advised further that six weeks had passed since City Council approved an ordinance setting forth the Sunset Review Committee's report recommendations related to City boards and commissions, and she had not heard anything related to training. She reminded City Council that time was wasting and pled with them to get the training out of the way. Members were serving on City boards and commissions and, in some instances, did not necessarily know what they were supposed to do, which Ms. McBee attributed to lack of training. Additionally, there was a lack of recognition and appreciation by City Council of the 50+ members that had been appointed.

With respect to the request by The Nature Discovery Center (NDC) for a new sign, Ms. McBee indicated that she supported information and noted that the City had been without signs for generations. The Cultural Arts Commission would be coming forward to City Council with a need for wayfaring signage to be installed everywhere in Bellaire. This need was highly critical in Ms. McBee's view.

In addition, should there be any debate at all about the NDC sign, Ms. McBee pointed out that she watched a City board give away the use of City right-of-way on Fifth Street to a landowner who did not have enough parking under...
the zoning requirement. By variance petition, the landowner requested permission to park seven cars on Fifth Street northbound. Ms. McBeesuggested that the City should not have second thoughts about the NDC placing a sign in the right-of-way when commercial entities had been allowed to use right-of-way for parking.

Mayor Philip L. Nauert advised that the City Clerk had received one email on behalf of City Council to be read in to the record this evening. He read the email in its entirety as follows:

Mary Ann Beauchemin, 5406 Pine Street, Bellaire, Texas:

The Honorable Mayor Dr. Phil Nauert and City of Bellaire Council Members,

I have worked at The Nature Discovery Center (NDC) since 1987 and lived in Bellaire even longer. As both a resident and as an employee, I have encountered many people who ask me why we can’t have a sign to help them (and others) find The Nature Discovery Center.

Bellaire residents I have talked to believe that The Nature Discovery Center is a fantastic asset to the community and see it as a unique and positive community resource. It would be a benefit to all for the City to allow the NDC to put up a sign that would:

- aid folks in identifying the entrance to the NDC; and

- let folks in town and traveling along Newcastle know that we are here as a unique public resource.

Please consider letting The Nature Discovery Center put up a sign that will be visible to those people driving down Newcastle.

Thank you.

G. REPORT(S):

1. CITY MANAGER’S REPORT regarding residential safety (police activity report and National Night Out), public infrastructure (monthly project report), cultural and recreational (Wine and Tapas fundraising event on October 6) and upcoming City Council meetings/events - Item submitted and presented by City Manager Bernard M. Satterwhite, Jr.

City Manager Bernard M. Satterwhite, Jr., presented the City Manager's Report dated October 1, 2012, to members of City Council. Following questions of City Manager Satterwhite by members of City Council regarding his report, action was taken to accept the City Manager’s Report into the record.
CITY COUNCIL MAIN MOTION/ACTION:

Mayor Pro Tem Amanda B. Nathan moved to accept the City Manager’s Report dated October 1, 2012, as presented by City Manager Bernard M. Satterwhite, Jr., into the record. Councilman Pat B. McLaughlan seconded the motion.

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

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

OPPOSED: None

ABSENT: Councilman Corbett Daniel Parker

2. FINANCE REPORT for the City of Bellaire, Texas, covering the period ended August 31, 2012, and including discussion of revenues and expenditures in the General Fund, Enterprise Fund, Debt Service Fund, Vehicle, Equipment and Technology Fund, and Capital Improvement Program Fund, as well as discussion of statistical data – Item submitted and presented by Chief Financial Officer Linda Symank.

Chief Financial Officer Linda Symank presented the Finance Report for the City of Bellaire, Texas, covering the period ended August 31, 2012, to members of City Council. Following questions of Chief Financial Officer Symank by members of City Council regarding her Finance Report, action was taken to accept the report into the record.

CITY COUNCIL MAIN MOTION/ACTION:

Councilman Andrew S. Friedberg moved to accept the Finance Report for the City of Bellaire, Texas, covering the period ended August 31, 2012, as presented by Chief Financial Officer Linda Symank into the record. Councilman James P. Avioli, Sr., seconded the motion.

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

FOR: Mayor Philip L. Nauert, Mayor Pro Tem Amanda B. Nathan and Councilmen Roman F. Reed, James P. Avioli, Sr., Pat B. McLaughlan and Andrew S. Friedberg
OPPOSED: None
ABSENT: Councilman Corbett Daniel Parker

H. NEW BUSINESS:

1. TAX RATE AND TAX LEVY FOR TAX YEAR 2012:

CONSIDERATION of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, fixing the tax rate and tax levy for the City of Bellaire, Texas, for tax year 2012 (fiscal year beginning October 1, 2012, and ending September 30, 2013) – Item submitted by Chief Financial Officer Linda Symank.

Note: The rate recommended by City Staff is $0.3999 per $100 valuation, with $0.2554 apportioned to the General Fund and $0.1445 apportioned to the Debt Service Fund.

Mayor Philip L. Nauert summarized the tax rate process by reading a portion of Chief Financial Officer Linda Symank's agenda statement into the record as follows:

On August 21, 2012, the Bellaire City Council held a public hearing for the proposed budget for the fiscal year beginning October 1, 2012, and ending September 30, 2013. The budget was then placed on the September 10, 2012, agenda and was approved by City Council. The adopted budget included a proposed tax rate of $0.3999 per $100 of valuation apportioned among the General Fund and Debt Service Fund, respectively, as follows: $0.2554 and $0.1445. This proposed rate exceeds the lower of the effective rate or the rollback rate of $0.3918 and $0.4066, respectively. Because the proposed rate exceeds the effective rate, the City conducted two public hearings on September 17, 2012, and September 24, 2012. Based on the Certified Appraisal Roll from the Harris County Appraisal District received August 24, 2012, the 2012 total taxable value calculation for truth-in-taxation was $3,337,676,009, and the total tax revenue that would be raised at the proposed tax rate of $0.3999 per $100 valuation was $13,347,366. This information was published in the "Notice of Tax Revenue Increase" in the September 25, 2012, edition of the Southwest News.

Mayor Nauert continued and referred to the following statements included in the ordinance fixing the tax rate and tax levy for the City of Bellaire for tax year 2012 as follows:

"That this tax rate will raise more taxes for maintenance and operations than last year's tax rate"; and
“That the tax rate will effectively be raised by 4.84 percent and will raise taxes for maintenance and operations on a $100,000 home by approximately $7.90."

**CITY COUNCIL MOTION:**

Councilman Pat B. McLaughlan moved to adopt a property tax rate of $0.3999 per $100 valuation, which was effectively a 2.07 percent increase over the effective tax rate, and to adopt an ordinance of the City Council of the City of Bellaire, Texas, fixing the tax rate and tax levy for the City of Bellaire, Texas, for tax year 2012 (fiscal year beginning October 1, 2012, and ending September 30, 2013), upon all taxable property in said City. Mayor Pro Tem Amanda B. Nathan seconded the motion.

**Discussion** ensued among members of City Council regarding the motion. **Councilman Andrew S. Friedberg** referred to paragraph 4 of the ordinance, read into the record by Mayor Nauert, which stated that the tax rate will effectively be raised by 4.84 percent and will raise taxes for maintenance and operations on a $100,000 home by approximately $7.90. He noted that the percent increase in that paragraph was 4.84 and 2.07 percent elsewhere. He inquired as to how the 4.84 percent increase was calculated.

**Chief Financial Officer Linda Symank** advised that 2.07 was the increase in the tax rate and 4.84 was the increase in taxes.

**Councilman Friedberg** stated that he raised the question because paragraph 4 of the ordinance turned out to be more misleading. He confirmed for the public that City Council was not raising taxes on a $100,000 home. If a home was valued at $100,000 the previous year and $100,000 this year, then the taxes paid would be the same amount.

**Chief Financial Officer Symank** advised that Councilman Friedberg was correct.

**Councilman Friedberg** inquired as to whether it was satisfactory that the ordinance referred to the 4.84 percent increase in taxes and the notice of tax revenue increase referred to the 2.07 percent increase in the proposed tax rate as compared to the effective tax rate.

**Chief Financial Officer Symank** advised that the ordinance presented to City Council was based on a sample ordinance required under the truth-in-taxation laws.

**City Attorney Alan P. Petrov** concurred and advised that it was necessary for the City to adopt the ordinance as presented.
Councilman Friedberg agreed, but noted that the statement was confusing. He thanked everyone for all of the work that went into the ordinance and truth-in-taxation calculations.

Councilman Roman F. Reed asked for clarification that last year’s tax rate was $0.3999 per $100 valuation and that this year’s tax rate was $0.3999 per $100 valuation.

Chief Financial Officer Symank advised that Councilman Reed was correct.

Councilman Reed asked for confirmation that the City was not effectively raising the tax rate and noted that property values had increased.

Chief Financial Officer Symank agreed and stated that the City was not raising the tax rate, but was adopting a proposed rate that was greater than the effective tax rate and that property values had increased.

CITY COUNCIL ACTION:

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

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

OPPOSED: None

ABSENT: Councilman Corbett Daniel Parker

{Ordinance was subsequently numbered: 12-046}

2. ENGINEERING SERVICES:

CONSIDERATION of and possible action on a request and recommendation from the Bellaire Public Works Department to award a contract to Klotz Associates, Inc., for the provision of professional engineering services for design and bidding phases necessary for the rehabilitation and painting of the elevated storage tank and two ground storage tanks at the Central Water Plant located at 7008 South Rice Avenue, Bellaire, Texas, in an amount not to exceed $49,300.00, 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, an Agreement for Consulting Services with Klotz Associates, Inc., for said services in an amount not to exceed $49,300.00 – Item submitted by Director of Public Works Joe Keene.

CITY COUNCIL MAIN MOTION:

Councilman Roman F. Reed moved to approve a recommendation from the Bellaire Public Works Department to award a contract to Klotz Associates, Inc., for the provision of professional engineering services for design and bidding phases necessary for the rehabilitation and painting of the elevated storage tank and two ground storage tanks at the Central Water Plant located at 7008 South Rice Avenue, Bellaire, Texas, in an amount not to exceed $49,300.00 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, an Agreement for Consulting Services with Klotz Associates, Inc., for said services in an amount not to exceed $49,300.00. Councilman Pat B. McLaughlin seconded the motion.

Following questions of Ralph Cox, P.E., Klotz Associates, Inc., regarding the scope of the engineering project to rehabilitate the water storage tanks at the Central Water Plant, as well as possible reimbursable expenses (i.e., noted to be a lump sum agreement, therefore, any and all reimbursable expenses would be included in the engineering proposal of $49,300.00) and the timeline for the work (i.e., 60 days for engineering design and a 30-day bid period or approximately 3-4 months), Mayor Pro Tem Amanda B. Nathan inquired as to whether a clause related to liability on page 2 of the engineer’s “Agreement for Consulting Services” was negotiable. Mr. Cox advised that the liability clause was a standard clause included in the firm’s agreements, however, it was negotiable and he would be amenable to removing that clause.

CITY COUNCIL AMENDMENT (NO. 1) TO MAIN MOTION/ACTION:

Mayor Pro Tem Amanda B. Nathan moved to amend the main motion by amending Exhibit A to the ordinance, Agreement for Consulting Services, by removing the liability clause on page 2, paragraph 2, as follows (i.e., clause has been struck through):

Client hereby agrees that Engineer’s total liability to Client for injuries, claims, losses, expenses, or damages arising out of or related to the Project or this Agreement, including any liability for attorney’s fees or
costs of litigation, shall not exceed the total compensation actually received by Engineer for Basic and Additional Services, if any, under this Agreement. Client further agrees that Engineer shall not be liable to Client for any injuries, claims, losses, expenses, or damages, except to the extent caused by Engineer's own professional negligence or willful misconduct. There are no third party beneficiaries of this Agreement. Engineer's work product, including the Instruments of Service (defined below) are not intended for use by any other person or entity except Client and may not be relied upon by anyone other than Client for any purpose whatsoever.

Councilman Andrew S. Friedberg seconded the amendment to the main motion.

The amendment (no. 1) to the main motion carried unanimously on a 6-0 vote as follows:

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

**OPPOSED:**
- None

**ABSENT:**
- Councilman Corbett Daniel Parker

Following additional clarification with respect to the scope of services to be performed at the Central Water Plant, 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 6-0 vote as follows:

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

**OPPOSED:**
- None

**ABSENT:**
- Councilman Corbett Daniel Parker

{Ordinance was subsequently numbered: 12-047}
3. ITEMS FOR INDIVIDUAL CONSIDERATION:

a. 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 the playground in Loftin Park, said auction to occur at the 2012 Wine and Tapas fundraising event, the auction proceeds of which would be used for improvements to Bellaire Town Square – Item submitted by Mayor Pro Tem Amanda B. Nathan on behalf of the Patrons for Bellaire Parks.

SUMMARY:

Mayor Pro Tem Amanda B. Nathan noted that City Council considered a similar item last August when the Patrons for Bellaire Parks ("Patrons") requested to auction donor naming rights for the playground in Loftin Park. The Patrons had requested to do so again during their 2012 Wine and Tapas fundraising event. She introduced David Onufer, the current President of the Patrons, to say a few words about the request.

David Onufer, President, Patrons for Bellaire Parks, 5210 Woodlawn Place, Bellaire, Texas, advised that the Patrons’ 5th Annual Wine and Tapas fundraising event would be held on Saturday, October 6, 2012. The money raised at this event would be used to help the City’s plan to fund area parks.

President Onufer advised that the naming rights to the Loftin Park playground were auctioned the previous year for approximately $2,000. He advised further that the Patrons would coordinate with City Staff on the project, if approved by City Council.

CITY COUNCIL MAIN MOTION/ACTION:

Mayor Pro Tem Amanda B. Nathan moved to approve a request from the Patrons for Bellaire Parks to auction a temporary (one year) donor naming right for the playground in Loftin Park, said auction to occur at the 2012 Wine and Tapas fundraising event, and the auction proceeds of which would be used for improvements to Bellaire Town Square. Councilman Roman F. Reed seconded the motion.
The **motion carried unanimously on a 6-0 vote** as follows:

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

**OPPOSED:**
- None

**ABSENT:**
- Councilman Corbett Daniel Parker

b. **CONSIDERATION of and possible action on a request from The Nature Discovery Center, Inc., to the City Council of the City of Bellaire, Texas, for authorization to install a sign in the right-of-way on the west side of Newcastle Drive between the curb and the trail — Item submitted by Director of Community Development John McDonald on behalf of The Nature Discovery Center.**

Sarah Flournoy, Executive Director, The Nature Discovery Center, addressed City Council and advised that The Nature Discovery Center (NDC) in Russ Pitman Park was a place where people could have a sense of peace and learn about the natural world around them. The Staff Members, Board Members and volunteers worked very hard every day to improve the facility and meet their mission. The NDC was very proud of what they offered Bellaire; however, they had a problem and needed City Council’s help.

Executive Director Flournoy advised that people did not quite understand what the NDC was. People looking for the NDC frequently drove right past it. Residents did not know about the NDC’s excellent offerings, designed with them in mind. Overall, it was essential to the NDC’s mission and sustainability as an organization that they created awareness and increased their profile in the community.

Executive Director Flournoy referred to the wealth of programs that the NDC offered and advised that the NDC’s children and adult programming was top notch, exciting, and much needed.

The NDC offered a solution to enhance awareness and increase their profile in the form of a sign which would 1) state that the facility was a nature center; 2) show people where the NDC was and where to park; and 3) inform residents of upcoming programs and events.
Executive Director Flournoy presented an image of the proposed design to members of City Council and stated that the sign would be scaled to the space within the proposed location. The sign was designed specifically for the NDC. Aluminum tubing would surround the sign and polycarbonate panels would consist of the bulk of the sign, with the lower portions changeable. The lower portions would be changed on a monthly basis with things such as “Movie Night in the Park,” “Pumpkin Patch,” “Summer Camp” and “Wildflowers in Bloom.”

In addition, the sign would be internally lit (very modestly), while keeping in mind the surrounding neighborhood. The sign, if approved, would be fabricated by a Bellaire resident, Ed Soheili of Intex United. Executive Director Flournoy closed by introducing the Vice President of the NDC Board, Ben Cowan, for additional discussion on the sign and its recommended location.

Ben Cowan, Vice President of the Board, The Nature Discovery Center, Inc., 4409 Jim West Street, Bellaire, Texas, walked the City Council through the NDC’s request to install a sign in a specific location, as well as to address some of the important concerns that had been raised.

Vice President Cowan displayed a slide depicting an aerial view of the length of Russ Pitman Park along Newcastle Drive and the adjacent streets. Intex United constructed a full-sized plywood mock up of the proposed sign to enable the NDC to evaluate proper placement. Four potential locations were reviewed.

The key elements to be considered were whether the sign would be on the street side or the park side of the walking path and where the sign would be located in relation to the parking lot entrance and the pedestrian driveway. Vice President Cowan displayed a map with the possible sign locations numbered 1 through 4.

Based on the NDC’s evaluation, location one was the preferred location, which was between the walking path and Newcastle Drive and between the two driveways (pedestrian and vehicular). Location two was also between the walking path and Newcastle Drive, but south of both driveways. Locations three and four were between the path and vegetation and both resulted in very limited visibility.

The NDC recognized that there were some concerns with their preferred location. First, the location was in the City’s right-of-
way. In fact, the entire strip between the vegetation of the park and the street was both City property and City right-of-way. If the NDC were going to have a sign, they had no alternative but to be in the right-of-way.

The recently adopted sign ordinance allowed City Council to authorize nonconforming signs on City property. The NDC recognized that the City needed to be judicious in its use of this authority; however, the NDC believed their situation was unique. The NDC was a nonprofit tenant in a City-owned park. They knew of no other similar circumstances in Bellaire and believed their situation both justified the approval they were seeking and was easily distinguishable in the event of any future requests that the City might receive.

Second, the NDC had heard concerns from City officials that a sign between the path and the street could be hit by a car, thus damaging the sign. While the NDC acknowledged that possibility, the NDC believed the likelihood was remote. There were many other signs located alongside the streets in Bellaire, including several along Newcastle Drive, such as the electronic speed sign. The NDC was not aware of there being a pattern of vehicle collisions with those signs. In the event that did happen, however, the NDC carried insurance that would cover the cost of repair or replacement of the sign.

The NDC also recognized that none of the proposed locations complied with the view triangle provisions of the sign ordinance because of their proximity to the parking lot entrance and/or the pedestrian driveway. Using the full size mock up of the sign that Intex United built for the NDC, the NDC tested the visibility of oncoming traffic from the south while pulling out from the parking lot. They believed that location one did not materially impair the view. The notched design of the sign allowed a driver to maintain an almost uninterrupted view of oncoming traffic.

Second, and very importantly, this location allowed vehicles exiting the parking lot a completely uninterrupted view of pedestrians, runners and cyclists coming north on the walking path—something that was not true of alternate location three.

On balance, therefore, the NDC believed that given the design of the sign and the particular circumstances at the preferred location, that the intent of the visibility triangle provision was met and visibility was not materially impaired.
The final concern that the NDC had heard raised was aesthetics. In other words, would residents object to the sign or its design? Several possible designs were evaluated to find one that fit in with and enhanced the neighborhood rather than standing out. The NDC’s sign had a distinctive design rather than being an ugly slab or monument. Its messaging capabilities were cleverly designed to avoid the use of cheap looking changeable lettering which, of course, was prohibited or a garish electronic display. The NDC could state with confidence that the community at large and the immediately adjacent residents, in particular, supported the sign. The NDC provided City Council with petitions signed by over 200 Bellaire residents, including most of the homes along the 4400 blocks of Lula, Betty and Jim West Streets immediately opposite the NDC.

Vice President Cowan noted that the design and proposed location of the sign were explained to residents as signatures for the petitions were obtained. The NDC felt that this was conclusive evidence that the community not only did not object to their proposal but, in fact, wanted the NDC to have the sign. Residents recognized the need for the sign and the NDC hoped that City Council would as well.

Having addressed potential concerns with the sign in the NDC’s preferred location, Vice President Cowan pointed out the many benefits of the location. For example, placing the sign between the street and the walking path made it highly visible to motorists, as well as pedestrians. This was extremely important to accomplish the NDC’s objective of informing the community about their ever-changing activities and events.

The NDC also believed that the sign enhanced traffic safety by giving motorists plenty of notice about the location of the NDC and their entrance. The park was more than two football fields in length, with just one small entrance off of Newcastle Drive. If cars could not see the sign until they were right on top of it, they might either brake suddenly, possibly causing rear-end collisions, turn at high speeds into the entrance, possibly striking pedestrians on the path, or miss the entrance entirely and need to back up or turnaround, increasing congestion. All of this could be easily avoided if the sign was simply placed in a highly visible location. Location one was the only location that was both highly visible from a distance and alerted drivers of the location of the parking entrance rather than the pedestrian entrance.
Vice President Cowan presented pictures to members of City Council illustrating the points he had made during his presentation, as well as illustrating some of the problems with the alternative locations.

In summary, Vice President Cowan stated that a new sign was essential to the future viability of the NDC. They needed to be able to communicate their existence and their location to the community. Messaging capabilities for the sign were essential. Conveying information about the NDC’s programs, activities and events would benefit both the NDC and the community. The NDC currently had no means of regular communication with members of the community who were not members of the NDC. Area residents supported the sign overwhelmingly and the proposed location as indicated by the petitions presented to City Council. The preferred location, location one, was the only location that was sufficiently visible to achieve all of the NDC’s objectives. Location one did not materially impair visibility exiting the parking lot, while the locations on the park side of the walking path would hide the sign such that it would not be visible to motorists or pedestrians from a distance, significantly reducing its utility.

Vice President Cowan closed by stating that City Council had the power to approve the NDC’s request for a sign in the preferred location and to help ensure the future of the NDC. City Council’s favorable approval was respectfully requested.

CITY COUNCIL MAIN MOTION:

Councilman James P. Avioli, Sr., moved to approve a request from The Nature Discovery Center to install a sign in the City right-of-way on the west side of Newcastle Drive between the curb and the walking trail (preferred location one) as presented to City Council this evening by Vice President Ben Cowan and Executive Director Sarah Fournay of The Nature Discovery Center. Councilman Roman F. Reed seconded the motion.

Following discussion among members of City Council and questions by City Council of City Staff and the City Attorney regarding the request, the visibility triangle, and the extent of the authority City Council had to render a judgment on The Nature Discovery Center’s request, Mayor Philip L. Nauert called for action on the motion.
CITY COUNCIL ACTION ON MAIN MOTION:

The main motion carried on a majority vote of 5-0-1 as follows:

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

OPPOSED: None

ABSENT: Councilman Corbett Daniel Parker

ABSTAIN: Councilman Andrew S. Friedberg*

*Councilman Andrew S. Friedberg indicated that he was not opposed to the request from The Nature Discovery Center, but stated that his abstention was based on his opinion that the matter was not properly before the City Council in that Section 24-1006(K) of the City’s sign ordinance (Chapter 24, Planning and Zoning, Article X, Signs) provided neither for this proceeding nor any authority for City Council to take action on it.

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

Possible items for future agendas under consideration by City boards included an ordinance change on whole house recycling to be presented to City Council in the near future by the Building and Standards Commission (Friedberg) and a possibility of contacting and/or tagging along with the City of Houston on their plans to expand biking paths in the area (Parks and Recreation Advisory Board) (Avioli).

Community interest items noted by members of City Council included reminders of the Patrons for Bellaire Parks’ Wine and Tapas fundraising event for Bellaire Town Square improvements to be held on Saturday, October 6, and The Nature Discovery Center’s annual fundraising gala to be held on Friday, November 16, 2012; and a recap of the Mayor’s participation in the Bellaire Police Officers’ Firearms Simulation Training and his attendance at a seminar related to helping the community recover from disasters.

J. ADJOURNMENT.

CITY COUNCIL MOTION TO ADJOURN/ACTION:

Councilman Roman F. Reed moved to adjourn the Regular Session of the City Council of the City of Bellaire, Texas, at 8:54 p.m. on Monday,
October 1, 2012. Mayor Pro Tem Amanda B. Nathan seconded the motion.

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

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

OPPOSED: None

ABSENT: Councilman Corbett Daniel Parker

Respectfully submitted,

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

Approved:

Philip L. Nauert, Mayor
City of Bellaire, Texas