CITY COUNCIL MEETING MINUTES
MONDAY, JANUARY 28, 2013

The City Council of the City of Bellaire, Texas, met in Special Session (Public Hearing) on Monday, January 28, 2013, 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 6:02 p.m. on Monday, January 28, 2013.

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

Mayor Philip L. Nauert announced that a quorum was present consisting of himself, Mayor Pro Tem Amanda B. Nathan, Councilmen James P. Avioli, Sr., Corbett Daniel Parker, Pat B. McLaughlan, and Andrew S. Friedberg. Councilman Roman F. Reed arrived shortly after the meeting was called to order at 6:03 p.m. Also present were City Manager Bernard M. Satterwhite, Jr., City Attorney Alan P. Petrov and City Clerk Tracy L. Dutton.

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

City Clerk Tracy L. Dutton read the “Notice of Public Hearing” into the record and advised that notices were prepared and mailed to individual property owners of record whose property was located within 200 feet of the site of the requested specific use amendment by Ashley Parcus, Planning and Zoning Secretary, on behalf of City Council.

Secretary Parcus also published the “Notice of Public Hearing” in the legal notices section of the Southwest News on Tuesday, January 8, 2013.

Prior to the summary of the public hearing procedure, Mayor Nauert welcomed Will Davidson of Boy Scout Troop 505. It was noted that Will was working on his Citizenship in the Community badge (an Eagle Scout required badge).
D. SUMMARY OF PUBLIC HEARING PROCEDURE – City Manager Bernard M. Satterwhite, Jr.

City Manager Bernard M. Satterwhite, Jr., summarized the public hearing procedure for the evening.

E. PRESENTATION regarding an application filed by The Post Oak School, as applicant, in accordance with Chapter 24, Planning and Zoning, Article VI, Amendatory Procedures, of the Code of Ordinances of the City of Bellaire, Texas, to amend Specific Use Permit S-55 for the purpose of renovating an existing building and constructing approximately 13,000 square feet of new space at 4600 Bissonnet Street, Bellaire, Texas 77401, located in the Loop 610 Zoning District (L-610) – Item submitted by Director of Community Development John McDonald; Presentation by representative(s) of The Post Oak School.

John Long, Head of School, The Post Oak School, 5303 Nett Street, Houston, Texas, addressed the Bellaire City Council by noting that The Post Oak School ("Post Oak") was getting ready to celebrate its 50th anniversary this year. Mr. Long advised that Post Oak moved into their current building in Bellaire in 1985.

Over the years, Post Oak had renovated its building on several different occasions. In order to enhance the facilities, Post Oak was considering an additional renovation and construction of new space.

The renovation and construction project would include a separation of the current science/math room to allow for a separate science lab for the middle school, the addition of a music room, and a separate designated space for parenting classes.

John C. Clements, AIA, Jackson & Ryan Architects, 2370 Rice Boulevard, Houston, Texas, indicated that he would provide a short presentation to City Council in order to show them the scope of the project, as well as drawings of the proposed renovation and construction.

As mentioned, the main purpose of the expansion and renovation of Post Oak was to enhance their existing programs. The project involved 13,000 gross square feet of addition (mostly on the second floor over the existing building) and 24,500 gross square feet of renovation. Much of the ground floor and part of the second floor would be renovated, and the project would be completed in a phased manner. The project would also involve teacher support space (i.e., work rooms and copy rooms) and yield a net increase of two classrooms (science lab and music room).

Mr. Clements indicated that the number of classrooms determined the number of parking spaces required under the Code of Ordinances of the City
of Bellaire, Texas ("Code"). Post Oak exceeded the number of parking spaces required by Code.

Mr. Clements indicated further that there would be no change required in the plan with respect to utilities, drainage and storm water detention, as most of the work was within an existing building or on top of an existing building.

In an effort to ensure that the surrounding neighborhood knew about the planned project, to answer questions, and to alleviate any concerns that the neighborhood had, Post Oak volunteered to have a meeting and invited the neighborhood.

The scope of the project was next shown in slide format to members of City Council. During the slide presentation, Mr. Clements showed his calculation of lot coverage, noting that the current lot coverage for Post Oak was 60%. After construction, the lot coverage would be essentially the same at 59.95%.

F. RECOGNITION OF CITIZENS AND/OR OTHER INTERESTED PARTIES – Mayor Philip L. Nauert.

Richard E. Franke, 1104 Howard Lane, Bellaire, Texas 77401, addressed City Council and indicated that he had attended the public hearing held before the Planning and Zoning Commission ("PZC") on this same matter. He stated that the school, itself, was a fantastic institution; however that was not the issue. The issue was use of the space.

Mr. Franke advised that if all the neighbors were concerned about overflow parking in the streets, then he was unsure how the school could be compliant with respect to parking requirements based on its current enrollment. He advised further that he had yet to hear a commitment as to enrollment. The intent now might be to better serve the existing students; however, he was unsure that the intent would remain the same in the near future. Since Episcopal High School had offered to share some parking with The Post Oak School, that was an indication to Mr. Franke that the land space was inadequate for the enrollment.

Mr. Franke suggested that City Council first priority should be to look at taking care of the taxpayers who had made large investments in their homes. He referred to the consequences these taxpayers suffered as a result of the overflow parking, which affected their welfare, property values, safety, and quality of life. He urged City Council to consider this matter very seriously and to require a legally binding document from The Post Oak School as to their current enrollment and what their future enrollment might be. He also suggested that a study be performed as to parking and enrollment before the application and request by The Post Oak School was approved.

Bill Thorogood, 4507 Merrie Lane Drive, Bellaire, Texas 77401, addressed City Council and noted that Bellaire was fortunate to have a great
institution, such as The Post Oak School, within its boundaries. He advised that he lived nearby and had seen a great deal of traffic in the vicinity of the school.

Mr. Thorogood stated that he was present this evening to talk about sidewalks on Bissonnet Street. As past Chair and a member of the PZC for many years, he realized the importance of sidewalks to schools and believed that City Councils over the years had stated that sidewalks around schools were an absolute necessity.

Reference was made to the City’s policy for dual sidewalks on major thoroughfares. The area around Post Oak School, through no fault of the school, did not have a sidewalk. Mr. Thorogood referred to the Gordon Elementary School, now a Mandarin Chinese Language School, across the street from The Post Oak School, noting that the Houston Independent School District (HISD) had plans to enlarge the school in the near term. Taking Episcopal High School into account, there were three major schools in close proximity to the intersection of Avenue B and Bissonnet Street.

In closing, Mr. Thorogood urged City Council to work with The Post Oak School to ensure that sidewalks were constructed in the area, noting that the Episcopal High School was currently constructing a sidewalk down Bissonnet Street in front of their property.

Donna Rickenbacker, 912 Wildwood Lane, Bellaire, Texas 77401, passed out a petition to members of City Council prior to speaking. She indicated that the petition was from 75% of the property owners on Wedgewood Drive and Wildwood Lane, noting that their particular subdivision, Russell Place Subdivision, was located immediately adjacent to The Post Oak School.

Ms. Rickenbacker continued by reading into the record a cover letter from the Russell Place Subdivision as follows:

Dear Mayor Nauert and Council Members:

Attached please find a petition from residents of Wildwood Lane and Wedgewood Drive east of Avenue B, Bellaire, Texas, opposing the amendment to SUP S-55 by The Post Oak School for the purpose of renovating an existing building and constructing approximately 13,000 square feet of new space at 4600 Bissonnet Street. The Post Oak School is located immediately west of and adjacent to Russell Place Subdivision, a single-family residential neighborhood bounded by Fournace Place to the north, Avenue B to the west, Newcastle Drive to the east, and Bissonnet Street to the south.

Our neighborhood has experienced a significant increase in traffic congestion, cut-through traffic, and daily parking by the staff, teachers, and parents whose children attend The Post Oak School since its initial SUP was issued by
the City of Bellaire. We’ve watched the growth of the school expand over the years well beyond the capability of its campus to handle all of the school’s parking needs and certainly beyond that which was originally proposed when the SUP was approved and issued to the school by the City of Bellaire.

Their growth and intrusive use of the neighborhood streets of Wedgewood Drive and Wildwood Lane have and continue to negatively impact the neighborhood, quality of life for those who live there, and resulting property values. We all believe in good quality schools in Bellaire, both public and private, but not at the expense of the adjacent single-family neighborhoods.

Bellaire is a "City of Homes" where we pay taxes with the expectation of a better quality of life than what we are experiencing in our neighborhood. We respectfully request that Council deny the SUP amendment.

Ms. Rickenbacker indicated that she had attached an email to the letter she had read into the record from The Post Oak School that set forth the student population, the number of faculty and staff, the number of parking spaces that the school had, and the school’s access to additional parking spaces. She also attached a news article from the Bellaire Examiner that was written in 2010. The Bellaire Examiner did go out at the request of neighbors to look at the parking issues, all of which was memorialized in the article dating back to 2010.

Ms. Rickenbacker emphasized that the problems her subdivision faced had grown over the years. The issue was not really about the minimal expansion that The Post Oak School was proposing to City Council, but rather about the growth of the school that had already occurred. The Post Oak School was well outside of their ability to handle all of their parking needs in Ms. Rickenbacker’s opinion. Addressing City Council during this public hearing was the only mechanism the neighbors had to constrain the growth of the school, as institutional uses were permitted and amended by City Council through the specific use permitting process. Ms. Rickenbacker respectfully requested City Council’s support in denying the amendment.

Lynn McBee, 5314 Evergreen Street, Bellaire, Texas 77401, addressed City Council and indicated that she had been present for all of the hearings regarding The Post Oak School from its very origin through today. She had no problem with the school. The question was not whether The Post Oak School was a great school—it was a question of the community impact(s).

Ms. McBee advised that she did not live near the school and had no experience with the impacts expressed earlier this evening; however, she was impacted with the desire for the City to meet its own responsibility in the near downtown for the provision of sidewalks, which it had an obligation to do and did not do when Bissonnet Street was improved on the basis of limited right-of-way.
Ms. McBe advised that before City Council granted land use changes, the City had an obligation to provide public ways. Therefore, before the permit was considered, there should be a condition that the City would pay for the construction of a sidewalk on the north side of Bissonnet Street.

Secondly, Ms. McBe advised that she had a question related to the petition that had just been received by City Council. She asked the City Attorney what the effect of a petition would be on a City Council approval vote, if any. There were some instances she was aware of that a petition of a certain sizable number of properties within a certain distance from a rezoned area could impose a higher than simple majority requirement. She advised City Council that she would appreciate it if someone would raise that question to the City Attorney on the record.

Finally, the most impactful circumstance of the school on those who did not live near it was the fact that he City also had not imposed traffic safety requirements on traffic movement from the school. It had allowed, through all of the hearings, an exit from the school by turning right or left onto Bissonnet across traffic, which was unsafe and foolish in Ms. McBe’s opinion. In order to alleviate the safety concern, Ms. McBe suggested that one condition to the amendment for the SUP could be a condition that all traffic exiting onto Bissonnet Street should be required to turn right.

Robert Riquelmy, 506 Winslow Lane, Bellaire, Texas 77401, addressed City Council and associated himself with the remarks made by Ms. Rickenbacker and Mr. Thorogood. The remarks were on point in his opinion. Mr. Riquelmy’s recommendation to City Council was to table a decision on the matter until the school made a firm commitment to take care of the parking and, particularly, the sidewalk.

Jackie Georgiou, 4537 Wedgewood Drive, Bellaire, Texas 77401, addressed City Council and indicated that her comments were related to overflow parking and that fact that her mother, who was 77 years old, as well as her nanny, were not able to park in front of her home due to parking congestion.

In addition, police officers, who were paid by the school to direct traffic, would not allow her to turn left out of her neighborhood to access Loop 610 so that she could go to work. Instead, she had been directed to go around the corner of her own neighborhood. In fairness, Ms. Georgiou indicated that her daughter also deserved to be able to get to school on time.

Michael Waldman, 917 Wildwood Lane, Bellaire, Texas 77401, addressed City Council and indicated that he was present to oppose the specific use permit amendment. He agreed with Donna Rickenbacker, noting that the parking problem in the neighborhood was huge, and that the problem was largely caused by The Post Oak School in his opinion.
He urged City Council to look into the matter for the neighborhood.

David Yarborough, 4307 Lamont Circle, Bellaire, Texas 77401, addressed City Council, indicating that he had grown up in the neighborhood around The Post Oak School and had seen the school grow.

Mr. Yarborough indicated that an offer had not been made by The Post Oak School to increase the number of parking spaces they would provide as a result of an increase in the size of their building.

Michael Yarborough, 914 and 915 Wildwood Lane, Bellaire, Texas 77401, addressed City Council and indicated that The Post Oak School had outgrown itself. He stated that he too, had lived in the neighborhood, all of his life.

He referred to a home that he had owned on 4545 Wedgewood Drive. He received an offer for that home and sold it. The new property owner indicated to Mr. Yarborough that he wanted to turn the property into a parking lot. He indicated that his purpose in sharing this information was to show that The Post Oak School did have a parking problem.

In closing, Mr. Yarborough advised that he could not see how the traffic situation would remain the same or lessen with the addition of more square footage to the school. He advised that he believed that The Post Oak School should consider selling their property to Episcopal High School and moving to another more suitable location.

G. QUESTIONS FROM THE MAYOR AND CITY COUNCIL – Mayor Philip L. Nauert.

Questions from the Mayor and City Council of the applicant, The Post Oak School, were related to enrollment or student population, offsite parking, and traffic issues. Questions and responses have been summarized herein.

Legend: Q – Question; R – Response; C - Concern

Q: A question was raised as to the current enrollment at The Post Oak School, as well as a history of enrollment to date, and the anticipated enrollment in future years. (Councilman Parker)

R: It was noted that the school currently had 401 students in attendance. School records in existence in 1993, a year in which City Council issued a specific use permit/amendment to The Post Oak School, indicated a school population of 350 students. In 1999, a year in which another specific use permit/amendment was issued by the City Council to The Post Oak School, there were 349 students in attendance. It was noted further that there were no plans to expand the student population. (Head of School Long)
Q: A question was raised as to whether students could be transferred from the Bellaire campus to The Post Oak School’s new high school located in Houston (Museum District property). (Councilman Parker)

R: The Post Oak School was not planning to transfer any students from the Bellaire campus to the Museum District property. That property was strictly for high school students. The Museum District property was being used for some meetings and events that had been and would otherwise have been held at the Bellaire campus. (Head of School Long)

Q: A question was raised as to how many current students enrolled in the Bellaire campus were Bellaire residents. (Councilman Parker)

R: Fifty-five of the current 292 families were Bellaire residents. It was estimated that the 55 families represented 75 children. The next largest group of families in the school resided in the City of West University Place. (Head of School Long)

Q: A question was raised as to the number of teachers and faculty on staff at the Bellaire campus that were residents of Bellaire. (Councilman Parker)

R: It was noted that one faculty member currently resided in Bellaire. Many of the school’s employees were not able to afford a home in Bellaire. (Head of School Long)

Q: A question was raised as to what arrangements the school had made with respect to parking to mitigate the effect on nearby neighbors. (Councilman Parker)

R: The school had set up a double parking system on the school lot which allowed ten additional cars to park on site. Thirteen spaces were leased across the street from a building addressed as 4545 Bissonnet Street. The school also had an arrangement with Episcopal High School to use parking on their site on a daily basis in their horseshoe drive. (Head of School Long)

With respect to traffic, The Post Oak School had hired off-duty Bellaire police officers to help to direct traffic in the morning and afternoon.

Q: A question was raised as to whether the school expected the leased parking spaces to continue. (Councilman Parker)

R: The school expected the leased parking spaces to continue for the foreseeable future. (Head of School Long)

Q: The school was asked what it would do if they lost the leased parking spaces. (Councilman Parker)
R: The school would look for other satellite parking. It was noted that the 13 leased parking spaces were currently utilized by faculty. (Head of School Long)

Q: A question was raised as to the date that the gym was constructed and whether that addition caused the loss of some onsite parking spaces. (Councilman Parker)

R: It was noted that the gym was constructed in 2000 and was part of the 1999 SUP issued by City Council. There were no parking spaces lost as a result of the construction. The gym displaced an outdoor, hard space playground, which was relocated to an interior courtyard of the school. (Head of School Long)

Q: A question was raised as to the project schedule and duration. (Mayor Pro Tem Nathan)

R: If approved, the school hoped to begin construction this summer. The project would be phased over a two-year period, with construction occurring during the summer and some that might take place during a school year. (Head of School Long)

Q: A question was raised as to the plan for the parking of construction crews. (Mayor Pro Tem Nathan)

R: The staging of the construction project would be similar to the staging for previous projects. Members of City Council were shown the staging for the project on a site plan. (Architect Clements)

Q: A question was raised as to the definition of "parenting classes" and use of the parenting classroom. (Mayor Pro Tem Nathan)

R: Parenting classes were noted to be taught by the faculty, administration, or the school counselor on various topics. (Head of School Long)

Q: The petition presented to City Council by neighbors opposing the amendment was referenced. It was understood that the neighbors were considering petitioning City Council for permitted parking for residents and their invitees, which, if approved, would only leave The Post Oak School with Avenue B for parking. A question was raised as to whether the school could do all that it needed to do if the only on-street parking availability was Avenue B. (Mayor Pro Tem Nathan)

R: In terms of parking on a daily basis, it appeared to the school that parking in the neighborhood was minimal. Problems appeared to occur when there were evening events at the school, such as parent-child night in the classroom. (Head of School Long)
Q: A reference was made to a suggestion made earlier in the evening by a resident to hold the granting of an amendment pending a response from the school that was satisfactory to Council. A question was raised as to how the school might respond if City Council withheld the amendment for a response from the school or denied it outright. (Councilman Friedberg)

R: It was noted that the school’s expectation would be that an analysis would be performed as to what the parking issues were, as well as the impact. (Head of Long)

C: A concern was raised that there had not been enough proactive interaction between the school and the neighboring residents with respect to the parking and traffic issues. (Councilmen Reed and Friedberg)

A further concern was raised as to the safety of the residents (i.e., whether utility and public safety vehicles could access the neighborhood adjacent to the school). (Councilman Avioli)

Q: A reference was made to an earlier statement that The Post Oak School had an alternate campus outside of Bellaire, and a question was raised as to whether the school had considered any other alternate campus locations. (Councilman McLaughlan)

R: The school had looked at a larger piece of property; however the only available property was located at Beltway 8 and that was not where their school families lived. (Head of School Long)

C: A concern was raised that a solution had not been offered by The Post Oak School with respect to overcrowding, parking, and traffic. (Councilman McLaughlan)

R: It was noted that the situation had changed over the years. Dates referred to in emails and in the petition were dates that occurred prior to the Episcopal High School’s solution, which was a parking garage. It was believed that much of the parking that occurred in the neighborhood was due to the construction by Episcopal High School of their parking garage which displaced, temporarily, a number of parking spaces on their site. For that reason, a walkthrough would be important. (Architect Clements, who was also the architect for Episcopal High School)

The car pool, morning and afternoon traffic, was a different issue altogether. Both The Post Oak School and Episcopal High School had done everything they could to alleviate the off-site parking. A school had to have a car pool—managing the car pool, the timing of it, and the use of guards for a school was critical. (Architect Clements)
Q: A question was raised to the City Attorney as to whether City Council had authority to cap student enrollment as a condition for granting a specific use permit to a private school. (Councilman Parker)

R: It was noted that the City Council could do so with a private school. It could not do so with a public school, as a public school was a governmental entity that could not be prohibited from carrying out its government function. (City Attorney Petrov)

Q: A question was raised as to what authority the City Council would have if a cap were set and the school violated that cap. (Councilman Parker)

R: It was stated that the City’s enforcement authority would be the same as with any other zoning violation. A municipal citation would be issued, which was enforceable through the Municipal Court subject to a fine of up to $2,000 for each day that the violation continued. (City Attorney Petrov)

Q: Reference was made to a parking impact fee or parking detention fee, and a question raised as to whether City Council could set such a fee for schools and/or churches. (Councilman Parker)

R: There was no legal authority for a parking impact fee or parking detention fee. There was, however, some precedence for a traffic utility in Texas. In that instance, charges would be imposed on citizens as a whole. To target a specific entity, would be an unconstitutional tax. (City Attorney Petrov)

C/Q: A concern was expressed that the City’s parking formula might be inadequate. Since the school was presently meeting the City’s parking requirements, a question was raised as to whether the City had any grounds to deny the request for the specific use permit amendment. (Councilman Parker)

R: The request for an amendment could be denied or have conditions placed upon it based on any impact to the surrounding neighborhood. The City could not retroactively impose new requirements on the existing facilities. (City Attorney Petrov)

Q: Reference was made to the implementation of a cap on enrollment and the fact that exceeding that cap would be a Code violation, and a question raised as to the nature of the violation (i.e., violation of permit versus violation of the enrollment cap). (Councilman Friedberg)

R: If a condition of the SUP was that enrollment could not exceed 400 students and the school exceeded the enrollment “cap”, the resulting violation would be a violation of the permit. (City Attorney Petrov)
Q: A question was raised to the applicant as to the effect, in their opinion, of a cap on enrollment being a condition for the permit. (Councilman Parker)

R: The school did not wish to have their hands tied and felt uncomfortable with the City telling them how to run their own business. (Head of School Long)

H. CLOSE OF PUBLIC HEARING – Mayor Philip L. Nauert.

Mayor Philip L. Nauert closed the public hearing before the City Council of the City of Bellaire, Texas, at 7:21 p.m. on Monday, January 28, 2013. He indicated that no public comment would be received following the close of the public hearing; however, written comments could be submitted to the City Council until final deliberation on the matter. It was anticipated that final deliberation would occur on Monday, February 18, 2013. Written comments could be submitted to the City Council in care of the City Clerk until noon on Thursday, February 14, 2013, in order to be considered for the record.

I. ADJOURNMENT.

CITY COUNCIL MAIN MOTION TO ADJOURN/ACTION:

Councilman Corbett Daniel Parker moved to adjourn the Special Session (Public Hearing) of the City Council of the City of Bellaire, Texas, at 7:23 p.m. on Monday, January 28, 2013. Councilman Pat B. McLaughlan 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

Respectfully submitted,

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

[Signature]

Philip L. Nauert, Mayor
City of Bellaire, Texas