CITY COUNCIL MEETING MINUTES  
MONDAY, FEBRUARY 11, 2013

The City Council of the City of Bellaire, Texas, met in Special Session (Public Hearing) on Monday, February 11, 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 7:01 p.m. on Monday, February 11, 2013.

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

Mayor Philip L. Nauert announced that a quorum was present consisting of himself and all members of City Council as follows: Mayor Pro Tem Amanda B. Nathan, 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., Assistant City Attorney Elliot Barner, Director of Community Development John McDonald, 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 on January 24, 2013, to individual property owners of record whose property was located within 200 feet of the site of the requested specific use permit by Ashley Parcus, Planning and Zoning Secretary, on behalf of City Council.

Secretary Parcus also published the “Notice of Public Hearing” in the Daily  

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 Bellaire Child Care  
LLC d/b/a Let Us Play, as applicant, in accordance with Chapter 24,  
Planning and Zoning, Article VI, Amendatory Procedures, Section 24-
605, Specific Use Amendment, of the Code of Ordinances of the City of Bellaire, Texas, for a Specific Use Permit to allow for the use of 1,460 square feet of an existing building as a kindergarten, nursery and/or day care center on a property addressed as 5202 Bissonnet Street, Bellaire, Texas 77401, and located in the zoning district known as the CCD-2 City Center District – Item submitted by Director of Community Development John McDonald; Presentation by representative(s) of Bellaire Child Care LLC d/b/a Let Us Play.

Rhonda Hernandez, Owner and Director, Bellaire Child Care LLC d/b/a Let Us Play, addressed City Council and advised that Let Us Play was established in 2004 and originated in the Meyerland area. The business was relocated within 13 months of establishment to 4813 Bissonnet Street (i.e., Bissonnet Street and First Street), where the business resided for five years. Ms. Hernandez advised that she had to relocate again due to the expansion of the First Street Surgical Hospital. She did not have much time to relocate and was forced to go to the City of Houston, where she had resided for three years. She indicated that she wished to return back to the City of Bellaire because most of her clientele was from Bellaire and because she felt most comfortable in Bellaire.

Ms. Hernandez advised that her business was classified as a “day care/nursery,” but was actually an hourly “play care” where children came to have free play and stay for a very short period of time (i.e., for up to four hours). Let Us Play provided a service to moms and dads in the community who needed spontaneous or noncommittal child care. Ms. Hernandez indicated that she was licensed by the State of Texas as a day care. She noted further that Let Us Play served as an alternative to in-home babysitters, day care services, and mothers’ day out programs.

Ms. Hernandez closed with a note that her staff consisted of caregivers that were CPR (cardiopulmonary resuscitation) certified and trained in childhood development. She, herself, was all of the above as well as the Director.

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

Mayor Philip L. Nauert moved to the next item on the agenda after noting that no one had signed the City’s speaker list to address City Council on Bellaire Child Care LLC’s application and after ascertaining that there was no one present that wished to address City Council.

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

Questions from the Mayor and City Council, as well as responses from the applicant and/or City Staff, have been summarized herein.
Legend: Q – Question; R – Response; and C - Concern.

Q: A statement was made to the effect that the application before City Council this evening appeared to be noncontroversial, and a question raised as to why the City’s Code would require a specific use permit for a facility such as the one proposed. (Councilman Friedberg)

R: It was noted that Let Us Play fell under the definition of “day care” in the City’s Code. Reference was made to the potential ramifications of having multiple children in one place, as well as having drop off and pick up. By including the business as one requiring a specific use permit, an additional level of review was provided for. (Director McDonald)

Q: A question was raised as to the hours of operation for the facility. (Councilman Avioli)

R: It was noted that the hours of operation for Let Us Play were as follows: Monday through Thursday from 9:00 a.m. until 8:00 p.m.; Friday from 9:00 a.m. until 10:00 p.m.; and Saturday from 10:00 a.m. until 10:00 p.m. (Ms. Hernandez)

Q: A question was raised as to the location of the drop off and pick up entrance. (Councilman McLaughlan)

R: It was advised that the entrance for drop off and pick up would be the side of the business facing Bissonnet Street. (Ms. Hernandez)

Q: A question was raised as to whether the facility felt that there was adequate parking for the business. (Councilman McLaughlan)

R: City Council was advised that parents dropping off their children were only at the facility for a very short period of time (i.e., two to three minutes). The situation was the same for pick up (i.e., a very short period of time). Two parking spaces would be assigned to the facility, which was the number the business had always had (i.e., when located in Meyerland, previously in Bellaire, and in Houston). (Ms. Hernandez)

Q: A question was raised as to the effect of a day care center on nearby businesses serving alcohol. (Councilman McLaughlan).

R: It was noted that a similar question arose before the Planning and Zoning Commission of the City of Bellaire, Texas (PZC), which was whether a day care center would affect the ability of an establishment in the area of Let Us Play to obtain an alcoholic beverage license from the Texas Alcoholic Beverage Commission (TABC). It was noted further that there was a possibility that a restaurant currently in the area or a new restaurant could have difficulty getting a permit from the TABC to sell alcohol based on their location. (Director McDonald)
Q: Reference was made to a nearby banquet hall and an inquiry was made as to whether the banquet hall could serve alcohol. (Councilman McLaughlan)

R: It was noted that if the banquet hall already had an alcoholic beverage license, then the license would remain in place because it would predate the operation of Let Us Play. (Director McDonald)

Q: A question was raised as to whether any new business establishment that wished to sell alcohol on their premises would be limited. (Councilman McLaughlan)

R: City Council was advised that a new business could potentially be limited—such a determination would be made by the state. It was noted that the owner of the building also owned the two convention centers located near Let Us Play. It was assumed that if the owner was willing to enter into a lease with a child care facility, then he did not have issues with the location of the child care facility as it affected his businesses currently. (Director McDonald)

C: Reference was made to another nearby restaurant, Casa Dominguez, which was owned by someone else. (Councilman McLaughlan)

R: It was noted that Casa Dominguez currently had a license from the TABC. (Director McDonald)

Q: A question was raised as to whether a new business owner purchasing an existing business could operate under the existing TABC permit or if the new business owner would be required to obtain a new permit. It was understood that the TABC permit was issued to an owner. A question was also raised as to whether the value of an existing business would be affected if a new owner could not serve alcohol. (Councilman Parker)

R: It was noted that the City Attorney’s Office would need to investigate the rules the TABC had in place for such situations. (Assistant City Attorney Barner)

Q: A question was raised as to the current restrictions on the banquet hall known as “The Meridian” and why there were no reservations with respect to the proposed day care center. (Councilman Parker)

R: It was stated that when The Meridian was established, it was located in the second one-half of an existing building that had another meeting/special event location at the other end of the building. It was City Staff’s position at the time that there might not be enough parking if both special event rooms were in use. The owner of the building applied for a special exception from the Board of Adjustment of the City of Bellaire, Texas (“Board of Adjustment”). The Board of Adjustment approved a special
exception based on a valet parking plan that would be in place for events, as well as limits on the use of the facility from Friday evenings through Sunday night. (Director McDonald)

Q: A question was raised as to whether that same concern could be applied to the day care center (i.e., lack of parking for the day care center if both special event rooms were in use). (Councilman Parker)

R: It was stated that the Let Us Play facility would be replacing a currently existing business and would not increase the parking demand based on the City’s Code. Additionally, the City’s Code allowed for a new use to replace an existing use as long as its parking demands did not exceed the current use’s parking demands. The existing use and new use had the same parking demands. (Director McDonald)

Q: The City Attorney’s Office was asked to include in their analysis whether there were any TABC rules that would affect the sale of corporate interests. In other words, would the license go with the corporation? (Councilman Friedberg)

R: The City Attorney’s Office advised that they would include the sale of corporate interests in their analysis. (Assistant City Attorney Barner)

Q: A question was raised as to whether there were any other business interests that would be regulated to the extent that such business could not be located near the day care facility. (Mayor Nauert)

R: It was noted that a sexually-oriented business might be prohibited from operating within 1,000 feet of a day care facility. (Director McDonald)

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 7:20 p.m. on Monday, February 11, 2013.

I. ADJOURNMENT.

Upon a motion duly made and seconded, Mayor Philip L. Nauert announced that the Special Session (Public Hearing – Bellaire Child Care LLC) of the City Council of the City of Bellaire, Texas, was adjourned at 7:20 p.m. on Monday, February 11, 2013.
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. McLaughian and Andrew S. Friedberg

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