CITY COUNCIL MEETING MINUTES
MONDAY, DECEMBER 2, 2013

The City Council of the City of Bellaire, Texas, met in Regular Session on Monday, December 2, 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 – Dr. Philip L. Nauert, Mayor.

Dr. Philip L. Nauert, Mayor, called the City Council of the City of Bellaire, Texas, to order at 7:00 p.m. on Monday, December 2, 2013.

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

Dr. Philip L. Nauert, Mayor, announced that a quorum was present consisting of himself and all members of City Council as follows:

Amanda B. Nathan, Mayor Pro Tem;
Roman F. Reed, Councilman – Position No. 1;
James P. Avioli, Sr., Councilman – Position No. 2;
Corbett Daniel Parker, Councilman – Position No. 3;
Pat B. McLaughlan, Councilman – Position No. 4; and
Andrew S. Friedberg, Councilman – Position No. 5.

Also present were: Bernard M. Satterwhite, Jr., City Manager;
Diane K. White, Assistant City Manager;
Alan P. Petrov, City Attorney; and
Tracy L. Dutton, City Clerk.

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

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

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

1. U.S. PLEDGE OF ALLEGIANCE.
2. PLEDGE TO THE TEXAS FLAG.

Councilman Andrew S. Friedberg led the audience and members of 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 and adoption of the minutes of the Special Session (Official Canvass) of the City Council of the City of Bellaire, Texas, held on Monday, November 18, 2013 – Item submitted by Tracy L. Dutton, City Clerk.

CITY COUNCIL MAIN MOTION/ACTION:

Mayor Pro Tem Amanda B. Nathan moved to approve and adopt the minutes of the Special Session (Official Canvass) of the City Council of the City of Bellaire, Texas, held on Monday, November 18, 2013. Councilman Pat B. McLaughlan seconded the main motion.

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

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

OPPOSED: None

ABSENT: None

ABSTAIN: Corbett Daniel Parker, Councilman*

*Councilman Parker abstained from voting on the minutes of the Special Session (Official Canvass) held on Monday, November 18, 2013, due to his absence from that meeting.

2. CONSIDERATION of and possible action on the approval and adoption of the minutes of the Special Session (Executive Session) of the City Council of the City of Bellaire, Texas, held on Monday, November 18, 2013 – Item submitted by Tracy L. Dutton, City Clerk.
CITY COUNCIL MAIN MOTION/ACTION:

Councilman Pat B. McLaughlan moved to approve and adopt the minutes of the Special Session (Executive Session) of the City Council of the City of Bellaire, Texas, held on Monday, November 18, 2013. Councilman James P. Avioli, Sr., seconded the main motion.

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

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

OPPOSED: None

ABSENT: None

ABSTAIN: Corbett Daniel Parker, Councilman*

*Councilman Parker abstained from voting on the minutes of the Special Session (Executive Session) held on Monday, November 18, 2013, due to his absence from that meeting.

3. CONSIDERATION of and possible action on the approval and adoption of the minutes of the Regular Session of the City Council of the City of Bellaire, Texas, held on Monday, November 18, 2013 – Item submitted by Tracy L. Dutton, City Clerk.

CITY COUNCIL MAIN MOTION/ACTION:

Councilman Roman F. Reed moved to approve and adopt the minutes of the Special Session (Executive Session) of the City Council of the City of Bellaire, Texas, held on Monday, November 18, 2013. Councilman Pat B. McLaughlan seconded the main motion.

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

FOR: Dr. Philip L. Nauert, Mayor
Amanda B. Nathan, Mayor Pro Tem
Roman F. Reed, Councilman
James P. Avioli, Sr., Councilman
Pat B. McLaughlan, Councilman
FOR (cont.): Andrew S. Friedberg, Councilman

OPPOSED: None

ABSENT: None

ABSTAIN: Corbett Daniel Parker, Councilman*

*Councilman Parker abstained from voting on the minutes of the Special Session (Executive Session) held on Monday, November 18, 2013, due to his absence from that meeting.

4. CONSIDERATION of and possible action on the approval and adoption of the minutes of the Special Session (Executive Session) held on Sunday, November 24, 2013 – Item submitted by Tracy L. Dutton, City Clerk.

CITY COUNCIL MAIN MOTION/ACTION:

Councilman Pat B. McLaughlan moved to approve and adopt the minutes of the Special Session (Executive Session) of the City Council of the City of Bellaire, Texas, held on Sunday, November 24, 2013. Councilman James P. Avioli, Sr., seconded the main motion.

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

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

OPPOSED: None

ABSENT: None

5. CONSIDERATION of and possible action on the approval and adoption of the minutes of the Special Session (Executive Session) of the City Council of the City of Bellaire, Texas, held on Monday, November 25, 2013 – Item submitted by Tracy L. Dutton, City Clerk.
CITY COUNCIL MAIN MOTION/ACTION:

Councilman Pat B. McLaughlan moved to approve and adopt the minutes of the Special Session (Executive Session) of the City Council of the City of Bellaire, Texas, held on Monday, November 25, 2013. Mayor Pro Tem Amanda B. Nathan seconded the main motion.

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

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

OPPOSED: None

ABSENT: None

F. PERSONAL/AUDIENCE COMMENTS.

Sharon Copper addressed City Council regarding a property located at 5403 Braeburn Drive, Bellaire, Texas. She advised that the City was allowing the operation of a church on that property without a specific use permit. Ms. Copper advised further that the church, the Bellaire Jewish Center ("BJC"), gave every appearance of operating as a religious organization or church given the property’s tax-exempt status and their advertisements for BJC events to grow their congregation.

Ms. Copper continued and advised that the City’s Zoning Code required a specific use permit for a church to operate in the R-1 Residential Zoning District. Such a permit would reasonably regulate traffic and parking in the neighborhood. She expressed concern that the City was picking and choosing when to enforce its Zoning Code, thereby allowing exceptions that set a precedent and compromised the City’s ability to enforce the Zoning Code going forward.

Ms. Copper also cited a Hanukkah event hosted by the BJC on Sunday, December 1, 2013. It was noted that the event was an organized event advertised on the BJC website and through such publicity as the distribution of flyers (placed in a local Starbucks). By 5:00 p.m. that day, there were 77 cars parked up and down Braeburn Drive and Alder Street, which caused Braeburn Drive to become a very difficult “one-lane” street. Ms. Copper indicated that if every car represented a family of three, there were 231 people in attendance at that point in time.
In closing, Ms. Copper urged City Council to accept their charge as elected officials and oversee and enforce the City’s Codes.

Doug Beatty addressed City Council and indicated that he had participated in the Bellaire Candidates’ Forum in October of 2013 by submitting the following question: “Are you in favor of strict, lax, or selective enforcement of City ordinances?” As best he could recall, every person at the forum who was a candidate stated that they were in favor of strict enforcement of City ordinances.

Mr. Beatty continued and advised that Bellaire had a reputation of being strict on enforcement of traffic laws and zoning ordinances. While this might be the common perception of Bellaire, it was far from the reality of enforcement today, in his opinion.

Mr. Beatty advised further that he had sent each member of City Council, as well as the City Manager, an email with six examples of ordinances that were not strictly enforced. He had included suggestions as to how those “violations” could be solved.

In closing, Mr. Beatty encouraged the strict enforcement of City ordinances by City Council and City management and urged City Council to modify those ordinances that were not enforced or unenforceable.

John James addressed City Council and commented initially on the agenda. He suggested that City Council place the “reports” section before audience comments or, at least, make the reports available beforehand. He stated that since he was not able to view the City Attorney’s Report before the meeting, some of his comments or concerns might be addressed in the report.

Mr. James continued and stated that his primary concern related to the property previously mentioned and addressed as 5403 Braeburn Drive. His concern related to the lack of an issuance of a special use permit. Mr. James indicted that he felt that there was a safety issue on December 1, 2013, due to the large number of cars parked on both sides of the street. He advised that if a fire had occurred, the Fire Department would not have been able to get to the fire. In addition, he stated that there were many violations of vehicles parked closer than ten feet from area fire hydrants.

Thirdly, Mr. James indicated that the City had $100,000 in the 2014 and 2013 budgets that could be used to defend the City’s property rights in the event of a lawsuit. Also of concern to Mr. James was a possible decrease in the value of homes in the R-1 Residential Zoning District as a result of the lack of enforcement of the City’s Zoning Code. He noted that the largest investment most residents had was their home and for that to be devalued because of lack of enforcement of the City’s Zoning Code was a travesty.
Lastly, Mr. James advised that he agreed with the comment made by Mr. Beatty in that if the laws were unenforceable, then the laws needed to be changed. He urged City Council to make the necessary changes and to enforce the laws.

Agnes Chen addressed City Council and indicated that she lived with her parents on Braeburn Drive. Their home was recently placed on the market for sale right before the Bellaire Jewish Center ("BJC") was opened. She and her parents had a serious bidder who was urging them to close immediately. Then the bidder found out about BJC and withdrew his bid and indicated that he was not going to buy until everyone figured out the situation. The bidder indicated that he did not wish to live with the traffic.

Ms. Chen indicated that the house was subsequently taken off the market because her parents wanted to see what kind of resolution would occur before putting it back on the market. If this happened to her family, then it would almost certainly happen to other homes on the street or even on other streets close to Braeburn Drive.

In closing, Ms. Chen advised that she believed the parking situation mentioned previously by other speakers was hazardous.

G. REPORT(S):

1. CITY MANAGER’S REPORT regarding residential safety (Police Activity Report and Fire Activity Report), public infrastructure/utilities (Major Projects Report), and upcoming City Council meetings/events – Item submitted and presented by Bernard M. Satterwhite, Jr., City Manager.

City Manager Bernard M. Satterwhite, Jr., presented the City Manager’s Report dated December 2, 2013, to members of City Council. Following questions from members of City Council regarding his report, a motion was made and action taken to accept the report into the record.

CITY COUNCIL MAIN MOTION TO ACCEPT REPORT/ACTION:

Councilman Andrew S. Friedberg moved to accept the City Manager’s Report dated December 2, 2013, as presented by City Manager Bernard M. Satterwhite, Jr., into the record. Councilman James P. Avioli, Sr., seconded the main motion.

The main motion to accept the City Manager’s Report into the record carried unanimously on a 7-0 vote as follows:

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

OPPOSED: None

ABSENT: None

2. STAFF BEAUTIFICATION TASK FORCE UPDATE — Item submitted and presented by Diane K. White, Assistant City Manager.

Assistant City Manager Diane K. White presented a Staff Beautification Task Force Update to members of City Council. Members of the Staff Beautification Task Force ("Task Force") were identified and noted as follows: Diane K. White, Assistant City Manager ("ACM"); Jeff Cotton, Police Lieutenant; Joe Keene, Director of Public Works; Jane Dembski, Director of Parks and Recreation; Brooks Smith, Park Superintendent; Linda Johnson, Deputy Director of Public Works; Yolanda Williams, Director of Human Resources; John McDonald, Director of Community Development; and Karl Miller, Director of Facilities.

ACM White reviewed steps the Task Force had taken to date with respect to defining “beautification.” Steps were also taken by the Task Force to identify City-owned properties, facilities, signage, and lighting that needed to be addressed, as well as projects that were currently completed or underway that had and/or would improve the visual elements of the Cityscape.

ACM White indicated that a beautification plan needed to be developed with defined, measurable, achievable and effective goals and expectations. Funding also needed to be identified and incorporated into the City’s budget.

In closing, ACM White advised that the Task Force would return to City Council at mid-year with a proposed plan for beautification.

Following questions of ACM White regarding the Task Force update, a motion was made and action taken to accept the report into the record.

CITY COUNCIL MAIN MOTION TO ACCEPT REPORT/ACTION:

Mayor Pro Tem Amanda B. Nathan moved to accept the Staff Beautification Task Force Update, as presented by Assistant City
Manager Diane K. White, into the record. Councilman Pat B. McLaughlan seconded the main motion.

The main motion to accept the Staff Beautification Task Force Update into the record carried unanimously on a 7-0 vote as follows:

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

OPPOSED: None

ABSENT: None

Note: Councilman Parker left the City Council meeting at this point in time (7:58 p.m.) and was not present to vote on the remainder of the action items addressed in this Regular Session.

3. CITY ATTORNEY’S REPORT regarding concerns related to lot coverage, traffic, and on-street parking congestion associated with the property located at 5403 Braeburn Drive, Bellaire, Texas 77401, said property of which is owned and utilized by the Bellaire Jewish Center ("BJC") – Item submitted and presented by Alan P. Petrov, City Attorney.

City Attorney Alan P. Petrov advised the City Council and the audience that the City, as well as himself, was very concerned about the impact the property at 5403 Braeburn Drive was having on the neighborhood and wished to make some assurances to citizens that the City was working to resolve the issues cited by several of the speakers earlier this evening.

City Attorney Petrov indicated that the issue was likely to lead to litigation; however, he did not wish to discuss legal strategy and legal theory in a public meeting where such information could be telegraphed to the other side.

City Attorney Petrov stated that the City had issued a citation to the Bellaire Jewish Center ("BJC") and subsequently withdrew or pulled the citation. The citation was only issued because City Attorney Petrov had directed the Director of Community Development to issue the
citation largely out of the frustration the City was having in getting the Rabbi and other representatives of the BJC to meet with the City, in a non-confrontational way.

The issuance of the citation worked in that the City was able to get a meeting with the BJC to discuss what was going on with the property and to try to work with the property owner to resolve the issue in a non-confrontational way. Even taking the BJC’s side at face value, City Attorney Petrov stated that it did seem that the BJC were operating a religious facility in a home and would need a specific use permit to do so.

The citation was subsequently withdrawn not out of a fear of litigation, but because the City had not developed a case to go forward in Municipal Court. For that reason, City Attorney Petrov asked that the citation be pulled so that the City could ensure its case was ready and that the City was in a position to win a lawsuit.

In the meantime, City Staff had been continuing to build the City’s case by gathering additional evidence, such as site visits and counting cars parked on the street. City Attorney Petrov noted that it did not help matters that a press release issued by the Liberty Institute claimed they had achieved some victory in Bellaire. Although an attorney with the Liberty Institute was present in the meeting between the City and the BJC, that attorney said very few words and did not really participate in the meeting.

City Attorney Petrov indicated that the City could use the citizens’ help in documenting its case. If the case were to come to trial, the City would need residents to testify. It would also be helpful if nearby residents would keep track of dates and times when activities were going, especially those that created an impact, such as cars on the street.

In summary, the issue was complicated and there were first amendment issues related to religious services and worship activities. Reference was made to the Texas Religious Freedom Restoration Act, Religious Land Use and Institutionalized Persons Act, and the City’s Zoning Code, all of which had to be balanced. The court would look to the City’s case to ensure a pattern and persistency of a certain type of activity.

Following questions of City Attorney Petrov from the City Council regarding his report, a motion was made and action taken to accept the report into the record.
CITY COUNCIL MAIN MOTION TO ACCEPT REPORT/ACTION:

Councilman Pat B. McLaughlan moved to accept the City Attorney’s Report, as presented by City Attorney Alan P. Petrov, into the record. Councilman Roman F. Reed seconded the motion.

The main motion to accept the City Attorney’s Report into the record carried unanimously on a 6-0 vote as follows:

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

OPPOSED:  
None

ABSENT:  
Corbett Daniel Parker, Councilman*

*Councilman Parker left the Regular Session at 7:58 p.m. and was not present to vote on this agenda item.

H. NEW BUSINESS:

1. ADOPTION OF ORDINANCE(S)/RESOLUTION(S):

CONSIDERATION of and possible action on the adoption of a budget amendment amending the budget for the City of Bellaire, Texas, for the fiscal year beginning October 1, 2012, and ending September 30, 2013 – Item submitted by Diane K. White, Assistant City Manager.

Following a brief presentation by Assistant City Manager Diane K. White regarding the budget amendment for the 2013 fiscal year, a motion was made and action taken to adopt the recommended ordinance to amend the budget.

CITY COUNCIL MAIN MOTION TO ADOPT ORDINANCE/ACTION:

Councilman Andrew S. Friedberg moved to adopt an ordinance of the City Council of the City of Bellaire, Texas, amending the budget for the City of Bellaire, Texas, for the fiscal year beginning October 1, 2012, and ending September 30, 2013. Councilman Pat B. McLaughlan seconded the main motion.
The main motion carried unanimously on a 6-0 vote as follows:

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

OPPOSED: None

ABSENT: Corbett Daniel Parker, Councilman*

*Councilman Parker left the Regular Session at 7:58 p.m. and was not present to vote on this agenda item.

2. ITEM FOR INDIVIDUAL CONSIDERATION:

CONSIDERATION of and possible action on a recommendation to create and implement a Capital Improvement Project (CIP) for improvements to The Nature Discovery Center building and grounds at Russ Pitman Park in the amount of $500,000, thereby eliminating the cost to the City for the issuance of general obligation bonds for said improvements.

SUMMARY:

Councilman James P. Avioli, Sr., referred to a presentation made to City Council by the staff of The Nature Discovery Center (“NDC”) a few months ago regarding some maintenance items, modifications, and improvements that could be made to the NDC in the amount of $500,000. City Council approved the project and a bond referendum was placed on the November 2013 election as to whether or not the project would be approved by the citizens of Bellaire. Councilman Avioli noted that the project received very good support from the citizens in Bellaire.

With the close of the 2013 budget, it appeared that there was a surplus of funds that possibly could be used to support the maintenance items and improvements at the NDC as a capital improvement project rather than going through the cost of issuing bonds.

CITY COUNCIL MAIN MOTION:

Councilman James P. Avioli, Sr., moved to create to create and implement a Capital Improvement Project (CIP) for improvements to The Nature Discovery Center building and
grounds at Russ Pitman Park in the amount of $500,000. Mayor Philip L. Nauert seconded the main motion.

Following discussion among members of City Council regarding the recommendation to address and fund maintenance items, modifications, and improvements to The Nature Discovery Center building and grounds at Russ Pitman Park as a Capital Improvement Project rather than issuing general obligation bonds, action was taken on the main motion.

**CITY COUNCIL ACTION ON MAIN MOTION:**

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

**FOR:** Roman F. Reed, Councilman  
James P. Avioli, Sr., Councilman  
Pat B. McLaughlan, Councilman

**OPPOSED:** Dr. Philip L. Nauert, Mayor  
Amanda B. Nathan, Mayor Pro Tem  
Andrew S. Friedberg, Councilman

**ABSENT:** Corbett Daniel Parker, Councilman*

*Councilman Parker left the Regular Session at 7:58 p.m. and was not present to vote on 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 participate in the City’s Annual Holiday in the Park on December 5, 2013, and to participate in the Bellaire City Library’s Wassail Open House on December 16, 2013; expressions of thanks were given to the residents of Braeburn Drive for taking the time to visit with City Council regarding their concerns; and expressions of condolences were given to the family and friends of long-time resident Evelyn Vecera who recently passed away.

J. **ADJOURNMENT.**

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

Councilman Pat B. McLaughlan moved to adjourn the Regular Session of the City Council of the City of Bellaire, Texas, at 8:45 p.m. on Monday, December 2, 2013. Mayor Pro Tem Amanda B. Nathan seconded the motion to adjourn.
The **motion to adjourn carried unanimously on a 6-0 vote** as follows:

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

**OPPOSED:**
- None

**ABSENT:**
- Corbett Daniel **Parker**, Councilman*

*Councilman Parker left the Regular Session at 7:58 p.m. and was not present to vote on the adjournment.

Respectfully submitted,

[Signature]

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

Approved:

[Signature]

Dr. Philip L. Nauert, Mayor
City of Bellaire, Texas