



# CITY OF BELLAIRE TEXAS

## MAYOR AND COUNCIL

MARCH 23, 2015

Council Chamber

Regular Session

7:00 PM

7008 S. RICE AVENUE  
BELLAIRE, TX 77401

### REGULAR SESSION - 7:00 P.M.

#### A. Call to Order and Announcement of a Quorum - Dr. Philp L. Nauert, Mayor.

Dr. Philip L. Nauert, Mayor, called the Regular Session of the City Council of the City of Bellaire, Texas, to order at 7:46 p.m.\* on Monday, March 23, 2015. He announced that a quorum of all members of the City Council were present as set forth in the table below.

\*The Regular Session started late due to a Workshop Session held earlier on the same evening that lasted longer than anticipated.

Full Name	Title	Status	Arrived
Dr. Philip L. Nauert	Mayor	Present	
Dr. B. Nathan	Mayor Pro Tem	Present	
Dr. Roman F. Reed	Councilman	Present	
Dr. Avioli Sr.	Councilman	Present	
Dr. Appas	Councilman	Present	
Dr. McLaughlan	Councilman	Present	
Dr. S. Friedberg	Councilman	Present	
Dr. Hofmann	City Manager	Present	
Dr. Petrov	City Attorney	Present	
Dr. Dutton	City Clerk	Present	

#### B. Inspirational Reading and/or Invocation - Roman F. Reed, Councilman.

Roman F. Reed, Councilman, provided the inspirational reading for the evening.

#### C. Pledges to the Flags - Roman F. Reed, Councilman.

Roman F. Reed, Councilman, led the audience and members of the City Council in the U.S. Pledge of Allegiance and the Pledge to the Texas Flag.

#### D. Approval or Correction of Minutes:

##### Minutes of the Special, Regular, and Executive Sessions dated February 16, 2015:

Consideration of and possible action on the approval of the minutes of the Special Session, Regular Session, and Executive Session of the City Council of the City of Bellaire, Texas, held on Monday, February 16, 2015.

Mayor and Council - Special, Regular, and Executive Sessions - Feb 16, 2015  
6:00 PM

**Motion:**

**To approve the minutes of the Special, Regular, and Executive Sessions of the City Council of the City of Bellaire, Texas, dated February 16, 2015.**

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Amanda B. Nathan, Mayor Pro Tem
<b>SECONDER:</b>	Roman F. Reed, Councilman
<b>AYES:</b>	Nauert, Nathan, Reed, Avioli Sr., Pappas, McLaughlan, Friedberg

**E. Personal/Audience Comments:****Charlene O'Shea:**

Ms. O'Shea addressed City Council by complimenting and thanking them for allocating funds to improve the Holly Street Trail, as well as finding money in the budget for improvements to Lafayette Park.

With respect to lighting, Ms. O'Shea indicated that she had a copy of a plan prepared by Holly Street residents in the early 1990s that was given to her when she first moved to Holly Street in the early 2000s. The residents had intended to request the type of lighting similar to that currently existing through Paseo Park from CenterPoint Energy (formerly Houston Lighting & Power Company).

With respect to material to be used for the Holly Street Trail, Ms. O'Shea agreed with a comment made by Councilman McLaughlan regarding decomposed crushed granite and indicated that it was not the first choice of many residents. However, due to budget constraints, decomposed crushed granite had been agreed upon.

In closing, Ms. O'Shea urged City Council to allocate funding to ensure that any improvements made to Holly Street would be maintained.

**Annette Botas:**

Ms. Botas addressed City Council and thanked them for approving funding for Holly Street improvements. She felt that within a one-year period of time, Holly Street would be a clear point of visual impact in Bellaire's beautification plans.

She agreed that Lafayette Park needed to be taken care of as well and was happy to learn that City Council had provided funding for improvements to the park.

In closing, Ms. Botas mentioned the Patrons for Bellaire Parks' Wine & Tapas Fundraising Event to be held on the City's Great Lawn, the proceeds of which would benefit Bellaire parks.

**F. Report(s) and Presentation(s):**

1. Presentation by Paul A. Hofmann, City Manager, of the City Manager's Report dated March 23, 2015, regarding an update to the City's Strategic Calendar.

Paul A. Hofmann, City Manager, provided a brief update to City Council regarding the City's Strategic Calendar. The focus of the update was on dates that related to the City's Comprehensive Plan, the Parks Master Plan, and the Capital Improvement Program Plan.

**March 25, 2015:**

The Parks and Recreation Advisory Board of the City of Bellaire, Texas, was scheduled to review a draft Capital Improvement Plan at their Wednesday meeting.

**April 14, 2015:**

The Planning and Zoning Commission of the City of Bellaire, Texas (the "PZC") was expected to finalize the Comprehensive Plan Update.

**May 12, 2015:**

The PZC was expected to hold a required public hearing on the Comprehensive Plan Update (i.e., the Parks Master Plan would be an element of the Comprehensive Plan).

**June 1, 2015:**

A presentation was scheduled to be given to City Council regarding the status of the Comprehensive Plan and the Parks Master Plan.

**June 8, 2015:**

An all day Pre-Budget Planning Retreat was scheduled for City Council. During said retreat, City Council would be presented with a five-year capital plan, a fiscal forecast, share City Staff's thoughts related to feasibility and affordability.

**June 9, 2015:**

Action scheduled to be taken by the PZC on the Comprehensive Plan Update.

**July 6, 2015:**

Public Hearing before City Council on the Comprehensive Plan.

**July 20, 2015:**

A presentation of the FY 2016 Budget and updated Capital Plan would be given to City Council. City Council was expected to call a public hearing on the FY 2016 Budget on August 17, 2015.

**August 3, 2015:**

Action scheduled to be taken by the City Council on the Comprehensive Plan.

**August 17, 2015:**

Budget Public Hearing before the City Council.

**August 18, 2015:**

First of two Budget Workshop Sessions.

**August 24, 2015:**

Second of two Budget Workshop Sessions.

**September 14, 2015:**

Adoption of FY 2016 Budget by City Council.

Employee announcements were made by City Manager Hofmann regarding Library Director Mary Cohrs' recent surgery, which was successful, as well as an introduction of the City's Parks Project Manager, Michelle Jordan.

Following questions of City Manager Hofmann by members of City Council regarding his City Manager's Report, a motion was made and action taken to accept the report into the record.

**Motion:**

**To accept the City Manager's Report dated March 23, 2015, as presented by City Manager Paul A. Hofmann, into the record.**

(Requested by Paul A. Hofmann, City Manager)

<b>RESULT:</b>	<b>ACCEPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Roman F. Reed, Councilman
<b>SECONDER:</b>	James P. Avioli Sr., Councilman
<b>AYES:</b>	Nauert, Nathan, Reed, Avioli Sr., Pappas, McLaughlan, Friedberg

2. Presentation by Brant Gary, Director of Public Works, regarding a revised capital equipment acquisition plan for the Public Works Department.

Brant Gary, Director of Public Works, presented a revised capital equipment acquisition plan for the Public Works Department to members of City Council. He indicated that the purpose of his presentation this evening was to provide a proposed plan that would reallocate a portion of the capital outlay funds in the Streets and Drainage Division to better align the needs of the Public Works Department. Director Gary's proposal would take \$195,000 originally budgeted for the replacement of a pothole patching machine and reallocate the funding to provide for several operational enhancements as follows:

- Purchase of Asphalt Recycler/Distribution Machine:

This four-ton trailer-mounted unit would allow the Public Works Department to continue its normal street maintenance operations without any loss of capabilities and without the added concern of vehicle maintenance. This unit was also referred to as the "primary unit." Estimated Cost: \$50,000.

- Purchase of Backup Skid-Mounted Asphalt Machine:

This one-half ton backup skid-mounted asphalt machine would provide a backup unit for the Public Works Department in the event that the primary unit was down for repairs and/or maintenance. The unit could also be used to repair smaller potholes if the primary unit was in use on a larger job. Estimated Cost: \$9,000.

- Purchase of Asphalt Planer:

This unit, attached to a Bobcat®, would allow the Public Works Department to remove/mill off old asphalt to perform more durable repairs, as well as to reshape areas being repaired so as to avoid large humps in the road. Estimated Cost: \$30,000.

- Purchase of Traffic Striping Machine and Supplies:

This unit, consisting of a small walk-behind traffic marking machine, would provide the capability of replacing faded or nonexistent stop bars, crosswalks, etc., internally and much more quickly. The Public Works Department would still utilize a contractor for larger jobs such as lane markings. Estimated Cost: \$10,000.

- Crack Sealing Tools and Supplies:

These tools would all the Public Works Department to perform crack sealing along areas where the pavement was beginning to crack and separate and would help to prevent the situation from getting worse. Estimated Cost: \$8,000.

- Preservative Seal Contract:

Preservative seals were noted to be relatively non-evasive and would provide for minimal traffic disruptions. Such seals also posed no threat to people or property. The seals would be used on overlays that were still in good shape or at the beginning of deterioration for the purpose of extending the life of the overlays for several additional years. Estimated Cost: Not to exceed \$50,000.

The total estimated cost of the items under consideration, if City Council were to approve the request for reallocation, would be \$157,000 (as compared to the original budget of \$195,000).

In closing, Director Gary advised that the proposed use of the reallocated funds would allow for the Public Works Department to be more responsive to citizens' expectations and the needs of the City's street infrastructure.

Following questions of Director Gary regarding his presentation and request for the reallocation of capital funds in the Streets and Drainage Division of the Public Works Department, a motion was made and action taken to accept Director Gary's presentation into the record.

**Motion:**

**To accept the presentation of a revised capital acquisition plan for the Public Works Department, as presented by Director of Public Works Brant Gary, into the record.**

<b>RESULT:</b>	<b>UNANIMOUS</b>
<b>MOVER:</b>	Andrew S. Friedberg, Councilman
<b>SECONDER:</b>	James P. Avioli, Sr., Councilman
<b>AYES:</b>	Nauert, Nathan, Reed, Avioli Sr., Pappas, McLaughlan, Friedberg

(Requested by Brant Gary, Public Works)

**G. New Business:****1. Consent Agenda:**

Dr. Philip L. Nauert, Mayor, read the captions of the Consent Agenda items into the record and asked if any members of City Council wished to remove any of the items for individual consideration.

Pat B. McLaughlan, Councilman, requested separate consideration of Consent Agenda item e which consisted of a request from the Evelyn's Park Conservancy Board to temporarily suspend the application of Chapter 6, Animals and Fowl, Article II, Keeping Dogs and Cats, Section 6-43, Dogs and cats prohibited on parks and playgrounds, of the Code of Ordinances of the City of Bellaire, Texas, for the purpose of allowing the Evelyn's Park Conservancy Board to hold a "Dog Day Afternoon" event in Evelyn's Park, 4400 Bellaire Boulevard, Bellaire, Texas, on Saturday, April 18, 2015, said suspension to commence at 10:00 a.m. and end at 4:00 p.m. on said date.

Andrew S. Friedberg, Councilman, requested separate consideration of Consent Agenda item f which consisted of a request from The Nature Discovery Center, Inc., for an amendment to Chapter 3, Alcoholic Beverages, Article I, In General, of the Code of Ordinances of the City of Bellaire, Texas, by amending Section 3-4, Exceptions to General Prohibition - Special Permit Required to Sell, Possess, or Consume Alcoholic Beverages in City-Owned Public Places, for the purpose of allowing The Nature Discovery Center, Inc., to apply for a Special Use Permit in accordance with the requirements of Section 3-5, Special Permit Procedures, of the Code.

- a. Consideration of and possible action 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 Engagement Letter with Belt Harris Pechacek, Certified Public Accountants, for purposes of providing independent financial audit services for the City of Bellaire, Texas, for the fiscal year ended September 30, 2015.

(Requested by Linda Symank, Finance Administration)

- b. Consideration of and possible action on a recommendation from the Bellaire Public Works Department to make the final payment on the Rebuild Bellaire Phase Four Paving and Drainage Project ("Project") to Total Contracting Limited in the amount of \$262,605.20 and on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, authorizing the Director of Public Works of the City of Bellaire, Texas, to execute, for and on behalf of the City of Bellaire, Texas, an "Application for Payment - Final (No. 18)" with Total Contracting Limited in the amount of \$262,605.20 and authorization for the City of Bellaire, Texas, to make the final payment to Total Contracting Limited on said Project in the amount of \$262,605.20. This final payment results in a final contract amount of \$5,252,104.03 compared to the original contract amount of \$5,702,990.00.

(Requested by Brant Gary, Public Works)

- c. Consideration of and possible action on a recommendation from the Bellaire Public Works Department to make the final payment on the Central Plant Water Well and Plugging of Wells at Central and Evergreen Project ("Project") to Alsay Incorporated in the amount of \$86,901.10 and on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, authorizing the Director of Public Works of the City of Bellaire, Texas, to execute, for and on behalf of the City of Bellaire, Texas, an "Application for Payment - Final (No. 10)" with Alsay Incorporated in the amount of \$86,901.10 for said Project and authorizing the City of Bellaire to make the final payment to Alsay Incorporated on said project in the amount of \$86,901.10. This final payment results in a final contract amount of \$1,738,022.00 compared to the original contract amount of \$1,781,400.00.

(Requested by Brant Gary, Public Works)

- d. Consideration of and possible action on a request from the Bellaire Public Works Department for City Council approval to purchase the following FY 2015 capital equipment: one (1) 4-ton asphalt patcher and one (1) 1/2-ton mini asphalt recycler in the amount of \$57,899.67.

**Motion Regarding Consent Agenda Items a-d:**

**Approval of the Consent Agenda of the City of Bellaire, Texas (the "City"), dated March 23, 2015, as follows:**

- **To adopt an ordinance of the City Council of the City of Bellaire, Texas (the "City Council"), authorizing the Mayor of the City to execute, for and on behalf of the City, an Engagement Letter with Belt Harris Pechacek, Certified Public Accountants, for purposes of providing independent financial audit services for the City, for the fiscal year ended September 30, 2015;**
- **To approve a recommendation from the Bellaire Public Works Department (the "Public Works") to make the final payment on the Rebuild Bellaire Phase Four Paving and Drainage Project (the "Project") to Total Contracting Limited in the amount of \$262,605.20 and to adopt an ordinance of the City Council authorizing the Director of Public Works of the City of Bellaire, Texas (the "City"), to execute, for and on behalf of the City, an "Application for Payment - Final (No. 18)" with Total Contracting Limited in the amount of \$262,605.20 and to authorize the City to make the final payment to Total Contracting Limited on said Project in the amount of \$262,605.20\*;**

**\*This final payment results in a final contract amount of \$5,252,104.03 compared to the original contract amount of \$5,702,990.00.**

- **To approve a recommendation from Public Works to make the final payment on the Central Plant Water Well and Plugging of Wells at Central and Evergreen Project (the "Project") to Alsay Incorporated in the amount of \$86,901.10 and to adopt an ordinance of the City Council authorizing the Director of Public Works of the City to execute, for and on behalf of the City, an "Application for Payment - Final (No. 10)" with Alsay Incorporated in the amount of \$86,901.10 for said Project and to authorize the City to make the final payment to Alsay Incorporated on said Project in the amount of \$86,901.10.\*;**

**\*This final payment results in a final contract amount of \$1,738,022.00 compared to the original contract amount of \$1,781,400.00; and**

- **To approve a request from Public Works for City Council approval to purchase the following FY 2015 capital equipment: one (1) 4-ton asphalt patcher and one (1) ½-ton mini asphalt recycler in the amount of \$57,899.67.**

(Requested by Brant Gary, Public Works)

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Roman F. Reed, Councilman
<b>SECONDER:</b>	Gus E. Pappas, Councilman
<b>AYES:</b>	Nauert, Nathan, Reed, Avioli Sr., Pappas, McLaughlan, Friedberg

**e. 1526 pulled from Consent (see item 2. a.)**

**f. 1485 pulled from Consent (see item 2. b.)**

**2. Item(s) for Individual Consideration:**

- a. Consideration of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, temporarily suspending the application of Chapter 6, Animals and Fowl, Article II, Keeping Dogs and Cats, Section 6-43, Dogs and cats prohibited on parks and playgrounds, of the Code of Ordinances of the City of Bellaire, Texas, for the purpose of allowing the Evelyn's Park Conservancy Board to hold a "Dog Day Afternoon" event, in Evelyn's Park, 4400 Bellaire Boulevard, Bellaire, Texas, said suspension to commence at 10:00 a.m. and terminate at 4:00 p.m. on Saturday, April 18, 2015.

At the request of Pat B. McLaughlan, Councilman, this agenda item (originally numbered 1. e.) was removed from the Consent Agenda for individual consideration.

Councilman McLaughlan indicated that he had requested the removal of this item from the Consent Agenda in order to discuss the City's current ordinance prohibiting dogs in the City's parks. He felt that City Council needed to define whether or not dogs should be allowed in parks and, if so, take action to remove the ordinance prohibiting dogs in parks.

**Motion:**

**To adopt an ordinance of the City Council of the City of Bellaire, Texas, temporarily suspending the application of Chapter 6, Animals and Fowl, Article II, Keeping Dogs and Cats, Section 6-43, Dogs and cats prohibited on parks and playgrounds, of the Code of Ordinances of the City of Bellaire, Texas, for the purpose of allowing the Evelyn's Park Conservancy Board to hold a "Dog Day Afternoon" event in Evelyn's Park, 4400 Bellaire Boulevard, Bellaire, Texas, said suspension to commence at 10:00 a.m. and end at 4:00 p.m. on Saturday, April 18, 2015.**



(Requested by Karl Miller, Parks, Recreation and Facilities)

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Andrew S. Friedberg, Councilman
<b>SECONDER:</b>	Roman F. Reed, Councilman
<b>AYES:</b>	Nauert, Nathan, Reed, Avioli Sr., Pappas, McLaughlan, Friedberg

- b. Consideration of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, amending Chapter 3, Alcoholic Beverages, Article I, In General, of the Code of Ordinances of the City of Bellaire, Texas, by amending Section 3-4, Exceptions to General Prohibition - Special Permit Required to Sell, Possess, or Consume Alcoholic Beverages in City-Owned Public Places, for the purpose of allowing The Nature Discovery Center to apply for a Special Use Permit in accordance with the requirements of Section 3-5, Special Permit Procedures, of the Code.

At the request of Andrew S. Friedberg, Councilman, this agenda item (originally numbered 1. f.) was removed from the Consent Agenda for individual consideration.

**Motion:**

**To adopt an ordinance of the City Council of the City of Bellaire, Texas, amending Chapter 3, Alcoholic Beverages, Article I, In General, of the Code of Ordinances of the City of Bellaire, Texas (the "Code"), by amending Section 3-4, Exceptions to General Prohibition - Special Permit Required to Sell, Possess, or Consume Alcoholic Beverages in City-Owned Public Places, for the purpose of allowing The Nature Discovery Center to apply for a Special Use Permit in accordance with the requirements of Section 3-5, Special Permit Procedures, of the Code with the amendments that Andrew S. Friedberg, Councilman, distributed in advance of the meeting.\***

\*For the record, the language set forth below incorporates the amendments distributed by Councilman Friedberg to members of City Council regarding Sections 3-4 and 3-5 of the Code.

**Appendix A**

Sec. 3-4. - Exceptions to general prohibition-Special permit required to sell, possess, or consume alcoholic beverages in certain city-owned public places.

- (a) A person or organization may sell, possess, or consume an alcoholic beverage in a public place, as designated in Chapter 12, Community Center, of this code, if a special use permit is first obtained from the city manager or his designee in accordance with the procedures set forth in Section 3-5, below, and
- (b) The Nature Discovery Center may sell, possess or consume alcoholic beverages at its facilities located in Russ Pitman Park if a special use permit is first obtained from the city manager or his designee in accordance with the procedures set forth in Section 3-5, below.

Sec. 3-5. - Special use permit procedures.

(a) *Permit required.* It is unlawful for:

- i. any person to sponsor, hold, or conduct a special use or activity involving the sale, possession, and/or consumption of alcoholic beverages in city-owned public places, as designated in Chapter 12, Community Center, of this code, or
- ii. The Nature Discovery Center to sponsor, hold, or conduct a special use or activity involving the sale, possession, and/or consumption of alcoholic beverages at its facilities located in Russ Pitman Park,

without first receiving a permit from the city in accordance with this Section 3-5.

(b) *Applicability.* This Section 3-5 shall apply only to requests for a special use permit for any person to sponsor, hold, or conduct a special use or activity involving the sale, possession, and/or consumption of alcoholic beverages in city-owned public places, as designated in Chapter 12, Community Center, of this code, or for The Nature Discovery Center to sponsor, hold, or conduct such a special use or activity at its facilities located in Russ Pitman Park. This Section 3-5 shall not apply to any other person or activity.

(c) *Permit process.* The applicant shall file an application with the city manager or his designee. A complete application must be filed not less than 30 [days] nor more than 180 days before the date of the proposed special use or activity. The application must be signed by the person or persons responsible for the special use or activity and must include the following information:

- (1) The name, address, and telephone number of the person and/or organization and its officers applying for the permit;
- (2) If the use or activity is to be conducted for, on behalf of, or by any person other than the applicant, the name, address, and telephone number of that person;
- (3) The exact nature of the special use or activity for which the permit is being sought, including the number and type of special uses or activities planned;
- (4) The date and hours for which the permit is desired;
- (5) The number and types of vendors that will be present.
- (6) The city-owned public facility desired to be used to carry out the proposed special use or activity;
- (7) An estimate of the anticipated number of people expected to attend;
- (8) The arrangements that will be made for traffic control, security, medical care, and other services or facilities to support the special use;
- (9) Whether there will be a charge for the special use and the basis upon which

persons may or may not be admitted to the event if other than a charge;

- (10) A description of any structures that will be used or erected to support the special use or activity;
  - (11) The circumstances under which alcoholic beverages will be sold, served, or possessed; and
  - (12) Any other information the city determines is necessary to evaluate the application and determine whether it meets the requirements of this chapter and other applicable chapters of this code.
- (d) *Fees and deposits.* The city may establish and collect fees, deposits, and bonds to pay for or ensure the payment of costs incurred by the city relating to the use of a city-owned public place for a special use or activity, including costs incurred for trash cleanup and removal, providing security, protection or medical care, for the administration of this chapter or any other applicable chapter of this code, and for any other necessary or related services that arise directly from the use of any city-owned public place. Additionally, the city will require the person or group to have liability insurance for the special use, event, or activity.
- (e) *Permit decision.* The city will make a decision on the special use permit application as promptly as possible after the applicant has provided all the information required by the application, but in no case later than ten business days after the date a complete application is submitted. A special use permit shall not be issued unless it is first found that:
- (1) The proposed sale, possession, and/or consumption of alcoholic beverages will not unreasonably interfere with or detract from the public health, safety, or welfare;
  - (2) The special use or activity for which the applicant is seeking the permit will not involve youth sports or other youth activities in which any of the participants will be under 18 years of age;
  - (3) The proposed sale, possession, and/or consumption of alcoholic beverages is not reasonably likely to result in or create a clear and present danger of violence by the application or by other persons or property resulting in serious harm to the public; and
  - (4) The public place where the applicant proposes its activity or function has not been reserved for another activity or use at the day and hour requested in the application, during which the sale, possession, and/or consumption of alcoholic beverages by the applicant and his or her guests would be incompatible.
- (f) *Conditions.* The city manager or his designee may impose reasonable conditions on special use permits issued to ensure compliance with city rules, regulations, and this chapter or other applicable chapters of this Code. If such conditions are imposed, the permit issued will contain in writing all the conditions and requirements that apply to the special use or activity.
- (g) *Denial of special use permits.* If the city manager or his designee refuses to issue a permit as authorized by this chapter, the city manager or his designee

will specify in writing the provisions of this chapter upon which the refusal was based as well as any factual information in support of the determination. Said provisions may include, but are not limited to, the following:

- (1) The application submitted is not sufficient or complete, provides false information, does not comply with this chapter or a regulation approved hereunder, or was not submitted with any required documents, fees, or deposits;
- (2) The time or location for the proposed special use or activity conflicts with the time or place of either a city-sponsored special use for which a permit has been issued or an application was already pending and there is insufficient space in the city-owned public place to accommodate both events;
- (3) The applicant has failed to arrange or provide for adequate parking, trash cleanup, security, or other arrangements to ensure that the special use or activity will be safe, secure, and healthful for the participants thereof;
- (4) The special use or activity does not comply with this chapter, state, or federal laws or regulations, or a reasonable condition imposed by the city manager or his designee for issuance of a permit;
- (5) The applicant has held a prior special use for which the applicant failed to comply with a requirement of this chapter, failed to pay any required fees, charges, or deposits, failed to comply with all of the conditions of the permit, failed to pay or remedy damage incurred to public property, created a dangerous condition or situation, or failed to comply with reasonable requests of the city manager or his designee, or otherwise violated the purpose or intent of this chapter;
- (6) The special use or activity is being held primarily for commercial purposes; and/or
- (7) The proposed special use or activity would present an unreasonable danger to the health or safety of the applicant, special use or activity attendees, or other users of the city-owned public place.
- (h) *Posting and exhibiting permits.* The special use permit issued under this chapter shall be posted in the area where the special use or activity is conducted and produced and exhibited upon the demand of any law enforcement officer or authorized parks and recreation employee.  
(Requested by Karl Miller, Parks, Recreation and Facilities)

<b>RESULT:</b>	<b>ADOPTED AS AMENDED [UNANIMOUS]</b>
<b>MOVER:</b>	Andrew S. Friedberg, Councilman
<b>SECONDER:</b>	Amanda B. Nathan, Mayor Pro Tem
<b>AYES:</b>	Nauert, Nathan, Reed, Avioli Sr., Pappas, McLaughlan, Friedberg

- c. Consideration of and possible action on the implementation of a request from more than 80% of the property owners of record abutting Elm Street between South Rice Avenue and the IH-610 Service Road for the installation of up to four (4) bolt-down rubber speed humps along said area of Elm Street in specific locations identified by the Bellaire Public Works Department in consultation with a traffic engineer and authorization for the Public Works Department to accept payment from Elm Street residents for the installation costs related to said request. In accordance with the Neighborhood Traffic Improvement Program, said speed humps would be installed for a trial period of 180 days, at which time the request would be presented to City Council for possible re-evaluation and/or final installation.

**Motion:**

**To implement the project (installation of speed humps along Elm Street from South Rice Avenue to the IH-610 Service Road) consistent with the following terms:**

- **The installation of up to four (4) speed humps located along Elm Street, with specific locations identified by City Staff as a result of consultation with a traffic engineer for a trial period of 180 days;**
- **City Council accepts to install the bolt-down rubber speed humps with the understanding that they could be left in place after the evaluation period if City Council desires to make the speed humps permanent; and**
- **That City Staff is authorized to accept payment from Elm Street residents towards installation-only project costs (i.e., not costs associated with staff time or engineering).**

**{Motion was made by Mayor Pro Tem Amanda B. Nathan and seconded by Councilman Andrew S. Friedberg}**

Discussion ensued among members of City Council regarding the motion on the floor related to the installation of speed humps along Elm Street (from South Rice Avenue to the IH-610 Service Road). The floor was also opened for questions of Director of Public Works Brant Gary and Director of Development Services John McDonald regarding the project.

**Amendment (No. 1) to Main Motion:**

**During the period of temporary installation of speed humps along Elm Street, the City will re-investigate the installation of stop signs on said street.**

**{Amendment (No. 1) was made by Councilman James P. Avioli, Sr., and seconded by Councilman Roman F. Reed}**

Prior to discussion on Amendment (No. 1), Councilman Pat B. McLaughlan offered another amendment.

**Amendment (No. 2) to Main Motion:**

**To consider the installation of a radar speed display sign along Elm Street.**

Discussion ensued among members of City Council regarding Amendment Nos. 1 and 2. Following discussion, Mayor Nauert called for a vote on Amendment (No. 2) to the main motion, which failed as set forth in the table below.

<b>RESULT:</b>	<b>FAILED [1 TO 6]</b>
<b>MOVER:</b>	Pat B. McLaughlan, Councilman
<b>SECONDER:</b>	James P. Avioli, Sr., Councilman
<b>AYES:</b>	McLaughlan
<b>NAYS:</b>	Nauert, Nathan, Reed, Avioli Sr., Pappas, Friedberg

Mayor Nauert next called for a vote on Amendment (No. 1) to the main motion, which failed as set forth in the table below.

<b>RESULT:</b>	<b>FAILED [2 TO 5]</b>
<b>MOVER:</b>	James P. Avioli, Sr., Councilman
<b>SECONDER:</b>	Roman F. Reed, Councilman
<b>AYES:</b>	Avioli Sr., McLaughlan
<b>NAYS:</b>	Nauert, Nathan, Reed, Pappas, Friedberg

**Amendment (No. 3) to Main Motion:**

**Councilman Roman F. Reed moved to add a fifth speed hump along Elm Street (from South Rice Avenue to the IH-610 Service Road). The Amendment (No. 3) failed due to the lack of a second.**

\*\*Councilman Pat B. McLaughlan offered an explanation as to why he would be abstaining from a vote on the motion before City Council. He stated that he promoted safety, but had no data upon which to base a decision on, such as a current traffic study and findings that speed humps were truly effective at controlling speed. Councilman McLaughlan indicated that speed humps would negatively affect property values in his opinion. Additionally, speed humps impeded the passage of emergency vehicles in his opinion.\*\*

Following Councilman McLaughlan's explanation, action was taken on the motion on the table.

(Requested by Brant Gary, Public Works)

<b>RESULT:</b>	<b>ADOPTED [6 TO 0]</b>
<b>MOVER:</b>	Amanda B. Nathan, Mayor Pro Tem
<b>SECONDER:</b>	Andrew S. Friedberg, Councilman
<b>AYES:</b>	Nauert, Nathan, Reed, Avioli Sr., Pappas, Friedberg
<b>ABSTAIN:</b>	McLaughlan

### 3. Adoption of Ordinance(s)/Resolution(s):

- a. Consideration of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, granting Specific Use Permit S-83 to Newcastle Bissonnet, LLC, to allow for the inclusion of a hospital, acute and/or chronic care facility (i.e., pediatric urgent care clinic) within the three-story medical office building to be located at 4440 Bissonnet Street, Bellaire, Harris County, Texas, in the Corridor Mixed-Use District. {Requirement of Chapter 24, Planning and Zoning, Article V, Zoning Regulations, Division 2, Zoning District Regulations, Section 24-536 B. (2) b) 2), Corridor Mixed-Use District}

**Motion:**

**To adopt an ordinance of the City Council of the City of Bellaire, Texas, granting Specific Use Permit S-83 to Newcastle Bissonnet, LLC, to operate a pediatric urgent care center on a tract of land commonly known as 4440 Bissonnet Street, Bellaire, Texas 77401, in the Corridor Mixed-Use Zoning District with three proposed conditions:**

- (1) **Hours of operation for the facility shall be Monday through Saturday from 7:00 a.m. until 9:00 p.m. and Sunday from 12:00 p.m. to 6:00 p.m.**
- (2) **A stop sign shall be installed at the exit located on Newcastle Street; and**
- (3) **A "no left turn" sign shall be installed at the exit onto Howard Lane.**  
(Requested by John McDonald, Development Services)

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Andrew S. Friedberg, Councilman
<b>SECONDER:</b>	Roman F. Reed, Councilman
<b>AYES:</b>	Nauert, Nathan, Reed, Avioli Sr., Pappas, McLaughlan, Friedberg

- b. Consideration of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas ("City Council"), amending Chapter 24, Planning and Zoning, Article IV, Amendatory Procedures, Section 24-610, Publication, Subsections A and B, of the Code of Ordinances of the City of Bellaire, Texas, for the purpose of approving a recommendation from the Planning and Zoning Commission of the City of Bellaire, Texas ("Planning and Zoning Commission") to increase the area for mailed notification of public hearings before the Planning and Zoning Commission and City Council from the current two hundred (200) feet to five hundred (500) feet.

**Motion:**

**To adopt an ordinance of the City Council of the City of Bellaire, Texas, amending the Code of Ordinances of the City of Bellaire, Texas ("Code"), Chapter 24, Planning and Zoning, Article VI, Amendatory Procedure, by repealing and replacing Section 24-610, Publication, to increase the notification ratio for public hearings before the Planning and Zoning Commission and the City Council from 200 feet to 500 feet.**

(Requested by John McDonald, Development Services)

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Gus E. Pappas, Councilman
<b>SECONDER:</b>	Roman F. Reed, Councilman
<b>AYES:</b>	Nauert, Nathan, Reed, Avioli Sr., Pappas, McLaughlan, Friedberg

#### **H. Items for Future Agendas; Community Interest Items from the Mayor and City Council.**

Community interest items from the Mayor and City Council included expressions of welcome to Bellaire's new Parks Project Manager Michelle Jordan; reminders to attend the Patrons for Bellaire Parks' Wine and Tapas Event in April and the City's municipal facilities community meeting on March 30th; and expression of thanks to the Mayor and City Manager for putting the evening's Consent Agenda together.

#### **I. Adjourn.**

##### **Motion:**

**To adjourn the Regular Session of the City Council of the City of Bellaire, Texas, at 9:17 p.m. on Monday, March 23, 2015.**

<b>RESULT:</b>	<b>UNANIMOUS</b>
<b>MOVER:</b>	Roman F. Reed, Councilman
<b>SECONDER:</b>	Gus E. Pappas, Councilman
<b>AYES:</b>	Nauert, Nathan, Reed, Avioli Sr., Pappas, McLaughlan, Friedberg