



CITY OF BELLAIRE TEXAS

MAYOR AND COUNCIL

JUNE 16, 2014

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. Philip 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 7:06 p.m. on Monday, June 16, 2014. He announced that all members of City Council were present as follows:

Attendee Name	Title	Status	Arrived
Philip L. Nauert	Mayor	Present	
Amanda B. Nathan	Mayor Pro Tem	Present	
Roman F. Reed	Councilman	Present	
James P. Avioli Sr.	Councilman	Present	
Gus E. Pappas	Councilman	Present	
Pat B. McLaughlan	Councilman	Present	
Andrew S. Friedberg	Councilman	Present	
Paul A. Hofmann	City Manager	Present	
Alan P. Petrov	City Attorney	Present	
Tracy L. Dutton	City Clerk	Present	

B. Inspirational Reading and/or Invocation - Dr. Philip L. Nauert, Mayor.

Dr. Philip L. Nauert, Mayor, provided the inspirational reading for the evening.

C. Pledges to The Flags - Dr. Philip L. Nauert, Mayor.

Dr. Philip L. Nauert, Mayor, led the audience and members of City Council in the U.S. Pledge of Allegiance and the Pledge to the Texas Flag.

D. Recognition of Proclamations:

Issuance of a proclamation by Dr. Philip L. Nauert, Mayor, proclaiming the month of July 2014, as "Park and Recreation Month" in the City of Bellaire, Texas, in recognition of the benefits derived from parks and recreation resources.

Dr. Philip L. Nauert, Mayor, read the proclamation he had issued proclaiming the month of July 2014 as "Park and Recreation Month" in the City of Bellaire, Texas, in its entirety.

Director of Parks and Recreation Jane L. Dembski accepted the proclamation issued by Mayor Nauert on behalf of the Parks and Recreation Department.

(Requested by Jane Dembski, Parks and Recreation)

E. Approval or Correction of Minutes.

Consideration of and possible action on the adoption of the minutes of the City Council of the City of Bellaire, Texas:

- a. Mayor and Council - Special Session - May 27, 2014 6:30 PM

Motion: Approve the minutes of the Special Session of the City Council of the City of Bellaire, Texas, held on Monday, May 27, 2014.

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

- b. Mayor and Council - Special Session - Jun 2, 2014 6:00 PM

Motion: Approve the minutes of the Special Session (Interviews) of the City Council of the City of Bellaire, Texas, held on Monday, June 2, 2014.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	James P. Avioli Sr., Councilman
SECONDER:	Roman F. Reed, Councilman
AYES:	Nauert, Nathan, Reed, Avioli Sr., Pappas, McLaughlan, Friedberg

- c. Mayor and Council - Regular Session - Jun 2, 2014 7:00 PM

Motion: Approve the minutes of the Regular Session of the City Council of the City of Bellaire, Texas, held on Monday, June 2, 2014.

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

F. Personal/Audience Comments.**Keith Bowers:**

Mr. Bowers addressed City Council and indicated his support for the agenda item related to the acceptance of a gift by the City Manager, on behalf of the City of Bellaire, Texas, valued in an amount up to \$25,000.

Reference was made to the issue of mowing grass on rights-of-way and easements. Mr. Bowers indicated that a property located near his home was in violation of the City's Code and had been for some time. The property owner mowed the property once this year in response to a letter from the City's Community Development Department. The property was in violation again. Mr. Bowers urged City Council to ensure that the City's

Code was enforced with respect to this issue.

Secondly, Mr. Bowers addressed the Condit Elementary School specific use permit.

[City Attorney Alan P. Petrov advised the Mayor that a public hearing had been held on the issue and was closed. Dr. Philip L. Nauert, Mayor, asked Mr. Bowers to refrain from commenting on the Condit Elementary School specific use permit.]

With respect the legal documents on the City Council's agenda related to Evelyn's Park, Mr. Bowers advised that the documents were very comprehensive and complex and unfair to Bellaire in his opinion. The City had to put up \$5 million for the park, but seemed to have no rights. The right of rescission belonged to The Jerry and Maury Rubenstein Foundation forever. He urged City Council to table the agenda item and engage a good real estate attorney to represent the City. He advised that the Evelyn's Park Conservancy Board seemed to have no commitment or obligation to do anything except operate the park.

Robert Riquelmy:

Mr. Riquelmy addressed City Council and indicated that a "deal" was sold to City Council in the form of a gift of a park to be operated by the City, with all funding to be provided by the Evelyn's Park Conservancy Board. Things had now changed and the City would be funding a large portion of the park. Mr. Riquelmy urged City Council to buy out The Jerry and Maury Rubenstein Foundation and develop the park on its own or develop the park jointly with Harris County.

In closing, Mr. Riquelmy advised that the residents expected City Council to be good stewards of the resources of the City.

Millie Hast:

Ms. Hast addressed City Council and requested their approval of Phase 1 of the development of the park. Among the many vital reasons to approve the proposal, Ms. Hast cited three as follows: 1) the voters of Bellaire gave their support to Evelyn's Park through the approval of a bond issue. In addition, the Rubenstein Family, residents, and hard-working volunteers had very generously donated an additional \$2 million for the project. By attending several events held on the undeveloped land, people had shown that they would visit and use Evelyn's Park; 2) the benefit to the City and the community. Green space in an urban environment was always an asset. Many communities did not have a way of adding natural space, but Bellaire had a wonderful opportunity to do so with Evelyn's Park. Space for community events would help the residents connect with each other and build neighborly spirit. Being in nature reduced stress and gave families and friends a place to gather and enjoy each other's company outdoors. Trees, shrubs, flowers, and other plants helped to cleanse and cool the air and provide a habitat for birds and other wildlife; and 3) the great plan that the Evelyn's Park Conservancy Board had created. Resident input was sought and welcomed. Consideration was given to a wide variety of community needs, such as green space, a restaurant, and gathering places.

The Evelyn's Park project was a carefully considered, well-planned, and high quality proposal. City Council's vote was needed so that Phase 1 could begin. Ms. Hast respectfully urged and encouraged City Council to vote in favor of Phase 1.

Tom Flaherty:

Mr. Flaherty addressed City Council and advised that he was in support of Phase 1 of Evelyn's Park and the issuance of bonds toward that park. He urged City Council to help make the completion of the park, which had received tremendous support from the citizens, a reality now. He echoed all of the comments made by Ms. Hast.

Lynn McBee:

Ms. McBee addressed City Council and noted that this evening the City would, perhaps, welcome another public school just weeks following the 100th Anniversary of the first graduating class of the Bellaire School (renamed the Condit Elementary School in 1927).

While listening to City Council board and commission interviews, Ms. McBee overheard some discussion that the City Manager had hired a new person to serve as either an employee or consultant. Ms. McBee asked the City Manager to cover the new hire in his City Manager's Report. Since the item was not on the agenda, Ms. McBee was told by the City Manager that it would not be covered.

Ms. McBee felt that it was unusual for the City Manager to hire someone not fitting an employee or appointee status without City Council or public direction. She strongly objected to the lack of announcement regarding the new hire.

With respect to the legal documents related to Evelyn's Park, Ms. McBee stated that the documents were no clearer to her now than they were before. She could not believe that City Council would debate the documents so quickly after receipt. She hoped that the items related to Evelyn's Park would be postponed so that the rest of the community could read the text of the documents and decide for themselves whether this was a good deal or not.

Written Comments:

Dr. Philip L. Nauert, Mayor, read written comments that had been received into the record as set forth below.

Peta Rubenstein:

Mr. Mayor and City Council Members,

I would just like to thank you in advance for the bond money that you are hopefully going to approve tonight. Even before this park has been built, it and its events have already done so much to unite the Bellaire and surrounding communities together. At Pop-Up in the Park, at various Food Truck Picnics, and at Family Fit Day, it has been so amazing to be a part of a community coming together. I am so looking forward to the time this same community and even the greater one can come together at such a beautiful oasis in the middle of the big city.

Cassie and Spencer Neumann:

Please move ahead with the approval of Phase 1 and the issuance of the bonds. Our city needs this new park, as demonstrated by the attendance of park events and the amazing fundraising.

The community is thrilled for this new addition. Bellaire is filled with energy and excitement for this project. Let's keep the momentum going.

Eric and Stacey Geisler:

Dear Mayor and Councilmembers,

We would like to express our strong support for the council's approval of Phase 1 for Evelyn's Park and the issuance of \$5 million in bonds that were approved in November 2013 to help pay for the construction of the park. Specifically, we urge your approval of the following agenda items:

H.1(d) - the execution of the Agreement for Modification of Donation Documents Concerning Evelyn's Park;

H.1 (e) - the adoption of an ordinance of the City Council of the City of Bellaire, Texas, authorizing the City Manager of the City of Bellaire, Texas, to execute, for and on behalf of the City of Bellaire, Texas, a "Deed and Modification of Covenants" related to Evelyn's Park; and

H.1 (f) - the adoption of an ordinance of the City Council of the City of Bellaire, Texas, authorizing the City Manager of the City of Bellaire, Texas, to execute, for and on behalf of the City of Bellaire, Texas, a "Development and Operating Agreement for Evelyn's Park, Bellaire, Texas".

We appreciate your consideration and look forward to any questions you may have.

Allen Deutsch:

I am writing in strong support of the bond measure for Evelyn's Park. Our family has lived in Bellaire since 2001. We have enjoyed our community in so many meaningful ways. Without a doubt, the greatest asset of our City and what sets its tone and spirit are the Community Parks. It allows us all--young and old--to enjoy Bellaire in the great outdoors!

So please pass the bond measure for our community. It will bring great joy for all the families that call Bellaire home and the best place in Texas!

Lisa Shapiro Strauss:

Dear City Council,

As a resident of Bellaire, I am fully supporting the funding of the Phase 1 part of Evelyn's Park. The Park will add tremendous value to our community as a focal point of gathering. The events held to date at the Park have been highly successful and well received.

My family and I support the efforts made thus far and commit to helping see this Park through to completion.

Please vote to begin this first phase of Evelyn's Park.

Susan Schmaeling:

I am a resident of West University Place who resides in walking distance to Evelyn's Park. I hope the Bellaire City Council will fairly review the Phase 1 plans for the proposed park. This will be a spectacular addition to our beautiful area.

If it all checks out, please issue the bonds.

Ronnie and Laurie Karkowsky:

Please proceed with Phase 1 of Evelyn's park. The park will be such an asset to the community and bring additional beauty to the City of Bellaire.

Carolyn Rubenstein:

I am sending my email to show my support for moving ahead with the construction of Phase 1 of Evelyn's Park. Please be sure my comments are read into the record at tonight's City Council meeting.

Robert D. Leisten, DPM, DABPS:

I am in favor of moving forward with Phase 1 of Evelyn's Park.

Please read this into the record at tonight's meeting.

Deborah and Brad Sondock:

My husband, Brad and I want to express our strong recommendation that you vote for the approval of Phase 1 for Evelyn's Park and issuing the \$5 million of bonds that were approved in November 2013 to help pay for the construction of Evelyn's Park. This park is going to make a huge improvement in the City of Bellaire, and we have been active supporters since learning of the plan. Please read our comments into the record at tonight's meeting.

Steven Karpas:

As a resident owner of a Town Oaks Place townhome adjacent to Evelyn's Park, I am excited for Phase 1 to begin. I support the Conservancy's vision of Evelyn's Park and urge approval of Phase 1 and issuance of the bonds.

Sam Robbins:

City Council,

Please have these comments read into the record at tonight's meeting:

Me and my family are very much in favor of moving forward with Phase 1 of Evelyn's Park. We live in Bellaire and feel this will be a great asset to our community.

Thanks.

Ron Brounes:

Attn: Bellaire City Council Members

First if all, I would like to thank you for the roles you have assumed and for all of your ongoing hard work on behalf of our City of Bellaire. We moved to Bellaire six years ago and welcomed the small town, neighborhood feel (within the large city) and the tremendous sense of community and civic pride shared by its residents. We understand the time demanded and the commitment that our council representatives make and appreciate all that you do for the betterment of Bellaire.

I am writing today to offer my staunch support for Evelyn's Park and the critical funding (bond issuance) needed to complete Phase 1 of this exciting project. We were so excited when we first learned about this wonderful opportunity for enhancing the beauty and green space of our fair city. We have two young children and cannot wait to enjoy Evelyn's Park with them and our neighbors and have already attended a few of the park events. We generally walk from our home and encounter friends and neighbors along the way, equally eager to share this community building experience and enjoy the new entertainment venue in Bellaire together. Rarely do folks get out and just walk in Houston (Bellaire), but on days and evenings of Evelyn's Park events, the streets are crowded with townspeople ready to spend time together. We cannot wait until the initial phase is completed and we will be able to enjoy more days and nights at this wonderful park and entertainment venue.

Our neighbors and the Bellaire community has shown their support, not only through attendance at these introductory functions, but also through generous personal contributions. Evelyn's Park will bring tremendous opportunities to Bellaire residents in terms of recreation, entertainment, and community building and we look forward to the day that it officially opens to the public. Please share my comments at the Board meeting this evening.

Thank you again for your service to Bellaire.

Joseph Robertson:

A very nearby neighbor to the new park. I am in full support of getting this park completed. It seems anyone and everyone I talk to is aware of where "that new park" is coming. It has already become a destination landmark associated with that part of Bellaire.

Unable to attend the meeting, just wanted to express my support.

Kim Reichert:

Dear Bellaire City Council,

My family and I live close to Evelyn's Park and we are looking forward to the day when we can walk over to visit Evelyn's Park. Please vote to approve Phase 1 of the construction.

Thank you.

Rabbi Brian Strauss, Congregation Beth Yeshurun:

I am writing in support of the City of Bellaire giving the \$5 million in bonds to Evelyn's Park. Like many of my Bellaire neighbors, we all agree that this would be a wonderful addition to our community.

Thank you!

Dan Braun:

We are Bellaire residents and supporters of Evelyn's Park. We are in favor of moving ahead to construct Phase 1 of the park and look forward to seeing it complete.

Thank you.

G. Reports:

1. City Manager's Report:

City Manager's Report dated June 16, 2014, to include an introduction of Brant Gary, Director of Public Works, and Fourth of July planning.

City Manager Paul A. Hofmann presented the City Manager's Report dated June 16, 2014, to members of City Council. The report included an introduction of the City's new Public Works Director, Brant Gary, and discussion regarding the City's upcoming Fourth of July celebration.

Following questions of City Manager Hofmann regarding his report, a motion was made and action taken to accept the report into the record.

(Requested by Paul A. Hofmann, City Manager)

Motion: Accept the City Manager's Report dated June 16, 2014, as presented by City Manager Paul A. Hofmann, into the record.

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Andrew S. Friedberg, Councilman
SECONDER:	Amanda B. Nathan, Mayor Pro Tem
AYES:	Nauert, Nathan, Reed, Avioli Sr., Pappas, McLaughlan, Friedberg

2. Finance Report:

Finance Report for the City of Bellaire, Texas, covering the eight month period ended May 31, 2014, including presentation and/or discussion of financial data as presented in the financial reports for the General Fund, Enterprise Fund, Debt Service Fund, VET (Vehicle, Equipment and Technology) Fund and Capital Improvement Program Fund.

Chief Financial Officer Linda Symank presented the Finance Report for the City of Bellaire, Texas, for the period ended May 31, 2014, to members of City Council.

Following questions of Chief Financial Officer Symank regarding her report, a motion was made and action taken to accept the report into the record.

(Requested by Linda Symank, Finance Administration)

Motion: Accept the Finance Report for the City of Bellaire, Texas, for the period ended May 31, 2014, as presented by Chief Financial Officer Linda Symank, into the record.

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

H. New Business:

1. 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-82 to the Houston Independent School District (HISD) to construct and operate a two-story replacement school for Condit Elementary School on the northern portion of a tract of land owned by HISD and more commonly known as 7000 South Third Street, Bellaire, Texas 77401, in the R-4 Residential Zoning District.

Community Development Director John McDonald introduced the agenda item related to the granting of a specific use permit to the Houston Independent School District (HISD) to construct and operate a two-story replacement school for Condit Elementary School (7000 South Third Street, Bellaire) to members of City Council. Director McDonald advised that Staff ultimately concurred with the recommendation of the Planning and Zoning Commission of the City of Bellaire, Texas ("Commission"), to grant a specific use permit (SUP) to HISD with the conditions included in their report.

The Commission's recommended conditions were stated as follows:

1. As part of the permit process, HISD must submit to the city a detailed parking plan for construction workers and school faculty during the construction process; and
2. A four (4) foot high, continuous landscape barrier must be installed to screen parking from neighboring residential properties (i.e., along the South Third Street side).

Director McDonald indicated that the Commission made a recommendation to City Council with regard to traffic patterns, specifically looking at the restriction of a left turn onto Willow Street. Since the recommendation dealt with City services, it was not included as a condition for the specific use permit.

The following motion was made by Mayor Pro Tem Amanda B. Nathan and seconded by Councilman Andrew S. Friedberg:

Motion:

To adopt an ordinance of the City Council of the City of Bellaire, Texas, granting Specific Use Permit S-82 to the Houston Independent School District (HISD) to construct and operate a two-story replacement school for Condit Elementary School on the northern portion of a tract of land owned by HISD and more commonly known as 7000 South Third Street, Bellaire, Texas, 77401, in the R-4 Residential Zoning District subject to the conditions

imposed by Planning and Zoning Commission of the City of Bellaire, Texas.

The following amendment to the motion was offered by Gus E. Pappas and seconded by Councilman Roman F. Reed:

Amendment (No. 1) to the Main Motion:

To add the following conditions to the specific use permit (S-82) to be granted to HISD:

1. On school property parking on South Third Street shall be open to the public during all non-school hours;
2. Horizontal street parking will be allowed on South Third Street, save and except for bus drop zone and queue drop-off line;
3. Eliminate teacher parking on South Third Street and begin circle drop entrance just north of Laurel Street and South Third Street intersection. Alternatively, locate circle drop-off further north, circle drive to have double-wide lane;
4. No parent park/drop-off of students in rectangular parking lot on South Third Street; with parking lot to be exclusively for early (before 7:15 a.m.) teacher parking, handicap persons, and visitors to school after 8:00 a.m.;
5. All parent/student walk-ins to be from parking lot on Jessamine Street and South Rice Avenue, which will also be the parking for the balance of the teachers, which lot shall remain open to the public at all non-school hours;
6. All parking lots to be lighted;
7. Alternative to all teacher parking being in parking lot on Jessamine Street and South Rice Avenue, and/or to the elimination of teacher parking on South Third Street is to leave in place South Rice Avenue street side row of parking in Linden Street and South Rice Avenue lot, which lot would also be lighted and open to public during non-school hours.

Following discussion among members of City Council regarding the amendments to the main motion, **Councilman Andrew S. Friedberg offered friendly amendments to the amendments proposed by Councilman Gus E. Pappas as follows:**

1. ~~Onsite~~ property parking on ~~adjacent to~~ South Third Street shall be open to the public during all non-school hours;
2. ~~Horizontal street parking will be allowed on South Third Street, save and except for bus drop zone and queue drop-off line;~~
- 3 2. Eliminate teacher parking on South Third Street and begin circle drop entrance just north of Laurel Street and South Third Street intersection. Alternatively, locate circle drop-off further north, circle drive to have double-wide lane;
- 4 3. No parent ~~parking~~/drop-off of students in rectangular parking lot on the South Third Street side; with parking lot to be exclusively for early (before 7:15

a.m.) teacher parking, handicap persons, and visitors to school after 8:00 a.m.;

- 5 4. All parent/student walk-ins to be from parking lot on Jessamine Street and South Rice Avenue, which will also be the parking lot for the balance of the teachers, which lot shall remain open to the public at all non-school hours;
- 6 5. All parking lots to be lighted pursuant to standards adopted by the City;
- 7 6. Alternative to all teacher parking being in parking lot on Jessamine Street and South Rice Avenue, and/or to the elimination of teacher parking on South Third Street is to leave in place South Rice Avenue street side row of parking in Linden Street and South Rice Avenue lot, which lot would also be lighted and open to public during non-school hours.

Councilman Gus E. Pappas, mover of the amendments, and Councilman Roman F. Reed, seconder of the amendments, accepted the friendly amendments offered by Councilman Andrew S. Friedberg.

Following further discussion among members of City Council regarding the friendly amendments to the amendments, action was taken as set forth below:

RESULT:	ADOPTED [5-1-1]
MOVER:	Gus E. Pappas, Councilman - Position No. 3
SECONDER:	Roman F. Reed, Councilman - Position No. 1
AYES:	Nauert, Reed, Avioli Sr., Pappas, and McLaughlan
NAYS:	Nathan
ABSTENTIONS:	Friedberg*

*Councilman Friedberg offered these friendly amendments with the intention of improving upon the original amendments, but ultimately did not vote for the amendments, as amended, as he felt they were presented too hastily and not properly vetted.

The following amendment to the motion, as amended, was offered by Councilman Andrew S. Friedberg and seconded by Mayor Pro Tem Amanda B. Nathan:

Amendment (No. 2) to the Main Motion, as Amended:

To take the motion, as amended, and send it to the Planning and Zoning Commission for further review.

Councilman Andrew S. Friedberg offered the following comments as the basis for his amendment: he was hesitant to take a plan that had been months in the making and rewrite it on the fly without the benefit of input from the Planning and Zoning Commission and the public. He also believed that HISD should be afforded the opportunity to comment on and respond to the revised plan.

Following discussion among members of City Council, action was taken on Amendment (No. 2) to the Main Motion, as Amended.

RESULT:	FAILED [3-4]
MOVER:	Andrew S. Friedberg, Councilman - Position No. 5
SECONDER:	Amanda B. Nathan, Mayor Pro Tem
AYES:	Nauert, Nathan, and Friedberg
NAYS:	Reed, Avioli Sr., Pappas, and McLaughlan

Following further discussion among members of City Council, action was taken on the Main Motion, as Amended.

****Note****

Mayor Philip L. Nauert voted against the main motion, as amended, and Mayor Pro Tem Amanda B. Nathan and Councilman Andrew S. Friedberg abstained, because although they supported granting a specific use permit (SUP) for a new Condit, they believed that the amendment package as a whole was too last minute and imposed too many substantive changes for Council to adopt tonight without any additional input from HISD, the public, or the Planning and Zoning Commission.

(Requested by John McDonald, Community Development)

RESULT:	ADOPTED AS AMENDED [4 TO 1]
MOVER:	Amanda B. Nathan, Mayor Pro Tem
SECONDER:	Andrew S. Friedberg, Councilman
AYES:	Reed, Avioli Sr., Pappas, McLaughlan
NAYS:	Nauert
ABSTAIN:	Nathan, Friedberg

- b. Consideration of and possible action on the adoption of a resolution of the City Council of the City of Bellaire, Texas, amending Resolution No. 01-22 for the purpose of authorizing the City Manager of the City of Bellaire, Texas, to accept, for and on behalf of the City of Bellaire, Texas, any and all donations, after consideration of certain factors, valued at less than \$25,000.00.

Cheryl Bright-West, Recreation Superintendent, provided a brief overview of the reasoning behind the revisions that had been proposed for the City's Donation Policy. She indicated that the revisions were developed as a result of an initiative of the Cultural Arts Board to achieve one of their objectives, which was to investigate and recommend to the City Council possible funding mechanisms for ongoing public art programs.

The Cultural Arts Board ("Board") introduced the idea of an Art Fund in an effort to expand the Bellaire public art and cultural program to benefit the entire community. The point of the Art Fund was to broaden its base of financial support through tax-deductible contributions from public and private sources.

The Art Fund, from the Board's perspective, would be utilized to aid in art acquisition, cultural event execution, conservation and restoration of current Bellaire artwork, public education, and the development of a Bellaire artistic resource center. The Board, along with Staff, researched several different mechanisms that cities were using and discovered that the successful mechanisms were actually established as 501c3 organizations or other non-

profit designations.

After working closely with Staff and the City Attorney, a decision was made to utilize current policies that were already in place as they related to donations. Staff had been tasked with creating a Donation Policy that would address the concerns of the Board, as well as to broaden the scope of the current Donation Policy to address the acceptance of all donations citywide.

The purpose of the Donation Policy was to facilitate the desires of citizens, groups of citizens, organizations and businesses, to donate funds, property, and/or in-kind contributions to the City of Bellaire for a specific purpose. The draft Donation Policy was presented to the Board on June 11, 2014, and was accepted.

Key elements of the revisions made to the City's existing Donation Policy were noted as follows:

1. To broaden the scope of the language to include all types of donations as opposed to only monuments, memorials, and exhibits. The intent was to broaden the definition so as not to restrict any type of donation that was presented to the City of Bellaire.
2. Allowing the City Manager to consider donations of less than \$25,000. The original donation threshold was previously set at \$1,000. The intent was to update the dollar amount which was more in line with how the City defined a capital improvement project.
3. Timing and recognition language was added to the resolution. If for any reason a donation was not utilized within an intended specific time frame, the Donor had the option to request that the donation be refunded or returned.
4. Transparency of reporting through the Special Revenue Fund. It was noted that a report regarding donations accepted would be given on a monthly basis through the Financial Report.
5. Removal of the burden of the donor to provide 10% of the donation to a maintenance fund. If a donation was accepted, as revised, it would be the responsibility of the City, after proper consideration, to determine if the donation would be a true benefit to the community. If so, the ongoing maintenance of the donation would become part of the City's base service level.

Superintendent Bright-West advised that if the resolution before City Council was adopted this evening, a change should be made to Section 4 of the proposed resolution before City Council to read as follows:

That the policies and procedures regarding donations, ~~monuments,~~
~~memorials,~~ and ~~exhibits~~ as set forth in this Resolution shall be effective immediately upon passage and adoption.

****Note****

Councilman Andrew S. Friedberg indicated that the proposal, as presented, was a very general policy to achieve a very specific aim. He stated that he would not make changes to the general broader policy, but instead, with

changes geared toward the goal the Cultural Arts Board was trying to achieve. Councilman Friedberg also wanted an opportunity to thank donors in public on behalf of the citizens for their donation(s). For those reasons, Councilman Friedberg opposed the motion.

(Requested by Diane K White, Organizational Services)

RESULT:	ADOPTED [6 TO 1]
MOVER:	Gus E. Pappas, Councilman
SECONDER:	Amanda B. Nathan, Mayor Pro Tem
AYES:	Nauert, Nathan, Reed, Avioli Sr., Pappas, McLaughlan
NAYS:	Friedberg

- c. Presentation regarding proposed modifications to certain documents related to Evelyn's Park (the "Park"), 4400 Bellaire Boulevard, Bellaire, Texas, including (1) the Master Plan for the Park; (2) estimated construction budget; (3) allocation of costs for development, construction, and operations; and (4) Business Plan - Presentation by Cindy Siegel, Member of the Evelyn's Park Conservancy Board.

Motion:

To table action on agenda items H. 1. c., d., e., and f., until City Council could meet in Executive Session to discuss the items.

Friendly Amendment to the Motion:

To postpone action on agenda items H. 1. c., d., e., and f., until a future date, but hear the presentation, ask questions, and share comments on the agenda items this evening.

{Friendly amendment offered by Mayor Pro Tem Amanda B. Nathan and accepted by Councilmen James P. Avioli, Sr., and Pat B. McLaughlan.}

RESULT:	APPROVED, AS AMENDED [UNANIMOUS]
MOVER:	James P. Avioli, Sr., Councilman - Position No. 2
SECONDER:	Pat B. McLaughlan, Councilman - Position No. 4
AMENDED BY:	Amanda B. Nathan, Mayor Pro Tem
AYES:	Nauert, Nathan, Reed, Avioli Sr., Pappas, McLaughlan, and Friedberg
NAYS:	None

Presentation:

Cindy Siegel, Treasurer, Evelyn's Park Conservancy Board, provided a brief overview of the steps that had taken place to date with respect to Evelyn's Park. She advised that the City, with the Rubenstein Foundation, formed and set up a 501c3 charity in 2011 (Evelyn's Park Conservancy or the "Conservancy"). The City appointed four persons to the Conservancy: Cindy Siegel, Marybeth Flaherty, Kim Padgett, and Lou Waters. The Rubenstein Foundation also appointed four persons to the Conservancy: Keith Rubenstein, Linda Rubenstein, Rusty Rubenstein, and Peta Rubenstein.

The City and the Rubenstein Foundation each put up \$100,000 for seed money. Together, monies would be raised to build a first-class park for future generations.

After a portion of the funding was available, the Conservancy hired a landscape architect to assist them through a process for the development of a conceptual plan for the five acres gifted to the City by the Rubenstein Foundation known as "Evelyn's Park." In August of 2012, the City Council unanimously approved the Preliminary Master Plan for the development of Evelyn's Park.

From the Preliminary Master Plan, a Master Plan was developed. Taking into account the funding currently in place, a first phase of Evelyn's Park was developed from the Master Plan. Treasurer Siegel advised that Phase 1 would provide a complete and usable park with sufficient parking onsite for daily activities, lighting, landscaping, trails, benches, an event pavilion, and a restaurant/cafe. It was noted that the restaurant/cafe could serve as a revenue source for programming and operations.

Sources of funding to be used to construct Phase 1 were the \$5 million bond referendum that 71% of the voters that voted on the bond referendum approved, and a \$500,000 contribution by the Rubenstein Foundation for a one-half acre memorial dedicated to Evelyn Rubenstein. Additionally, the Conservancy would pay for consultants to complete the schematic design and construction documents for Phase 1.

Treasurer Siegel turned the presentation over to Scott McCready, SWA Consultants. Mr. McCready provided an overview of the Master Plan in general, as well as Phase 1. It was noted that Phase 1 would consist of a main lawn, a restaurant/cafe, an event pavilion adjacent to the restaurant/cafe (i.e., for parties or weddings), a community garden, butterfly garden, wildflower meadow, restroom facilities, and onsite parking.

Following Mr. McCready's overview, Treasurer Siegel focused on the estimated construction budget, maintenance reserve, other potential revenue sources, and future fundraising efforts.

In closing, Treasurer Siegel advised that the park land known as Evelyn's Park was worth between \$10-\$11 million today, which was two to two and one-half times more than the City's investment of \$5 million.

Comments from the City Council:

Councilman James P. Avioli, Sr., advised that he did not believe the agreements, as proposed, represented the intentions of the Rubenstein Family. The agreements, as proposed, were not favorable to the City and did not treat the City as a "partner." Councilman Avioli stated that he wanted the City to be heard in the process.

Mayor Pro Tem Amanda B. Nathan advised that she would like to see an agreement in place with Bellaire United Methodist Church for the shared use of their parking lot for overflow event parking prior to spending any funds to construct the park.

Other comments by Mayor Pro Tem Nathan included specific revisions to the Agreement for Modification of Donation Documents Concerning Evelyn's Park,

City of Bellaire, the Modification Deed, and the Development and Operating Agreement related to possible inconsistencies and/or possible omissions of conditions previously adopted by City Council, as well as changes related to remedies, funding, and proprietary and confidential information.

Councilman Andrew S. Friedberg echoed Mayor Pro Tem Nathan's request to see an agreement in place for overflow parking before the restaurant/cafe was constructed. He expressed concern over the possible inadequacy of parking.

Councilman Gus E. Pappas commented that City Council need to be comfortable that the park could be built, operated, and maintained on an ongoing basis. He expressed concern that a great deal of maintenance would be needed with the park.

Councilman Roman F. Reed advised that he was confident that the agreements could be negotiated and worked through by all parties.

(Requested by Jane Dembski, Parks and Recreation)

- d. Consideration of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, authorizing the City Manager of the City of Bellaire, Texas, to execute, for and on behalf of the City of Bellaire, Texas, an "Agreement for Modification of Donation Documents Concerning Evelyn's Park, City of Bellaire" ("Agreement") by and between the City of Bellaire, Texas, and The Jerry and Maury Rubenstein Foundation (the "Parties"), for the purpose of addressing the current status, circumstances, and modified agreements of the Parties relating to Evelyn's Park; and providing for the termination of the Memorandum of Understanding by and among the Parties and effective as of December 20, 2010, and the "Agreement Concerning Evelyn's Park, Bellaire, Texas" by and among the Parties and effective as of February 25, 2011, as well as any and all agreements heretofore adopted that are in conflict with this Agreement.

Action on this agenda item was postponed until a future date.

(Requested by Jane Dembski, Parks and Recreation)

- e. Consideration of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, authorizing the City Manager of the City of Bellaire, Texas, to execute, for and on behalf of the City of Bellaire, Texas, a "Deed and Modification of Covenants" related to Evelyn's Park, Bellaire, Texas, by and between The Jerry and Maury Rubenstein Foundation and the City of Bellaire, Texas (the "Parties"), for the purpose of modifying the original "Deed" by and between the Parties related to the conveyance of reversionary rights and certain covenants set forth therein.

Action on this agenda item was postponed until a future date.

(Requested by Jane Dembski, Parks and Recreation)

- f. Consideration of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, authorizing the City Manager of the City of Bellaire, Texas, to execute, for and on behalf of the City of Bellaire, Texas, a "Development and Operating Agreement for Evelyn's Park, Bellaire, Texas," by and between the City of Bellaire, Texas, and the Evelyn's Park Conservancy, related to the development and operations of Evelyn's Park, a 4.9511 acre tract of land in the J. Blessing Survey, Abstract 162, in the City of Bellaire, Texas, more commonly known as 4400 Bellaire Boulevard, Bellaire, Texas 77401.

Action on this agenda item was postponed until a future date.

(Requested by Jane Dembski, Parks and Recreation)

2. Item for Individual Consideration:

Consideration of and possible action on a request for City Council action to affirm the Goals and Guiding Principles listed under Chapter 5, Commercial Area Development & Enhancement, of the Comprehensive Plan of the City of Bellaire, Texas, as adopted in 2009, specifically: 1) Protect adjacent residential neighborhoods from incompatible non-residential development; and 2) Have the City take a more direct role in spurring commercial area revitalization.

Councilman Gus E. Pappas made the following motion, which was seconded by Councilman Roman F. Reed:

Motion:

To affirm the Goals and Guiding Principles listed under Chapter 5, Commercial Area Development & Enhancement, of the Comprehensive Plan of the City of Bellaire, Texas, as adopted in 2009, specifically: 1) Protect adjacent residential neighborhoods from incompatible non-residential development; and 2) Have the City take a more direct role in spurring commercial are revitalization.

Friendly Amendment to the Main Motion:

To reaffirm the Comprehensive Plan of 2009.

The friendly amendment to the main motion was offered by Councilman Andrew S. Friedberg. Councilman James P. Avioli, Sr., offered his support to the friendly amendment. The friendly amendment was accepted by Councilmen Roman F. Reed and Gus E. Pappas.

(Requested by Roman F. Reed, Mayor and Council)

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

I. Items for Future Agendas; Community Interest Items from the Mayor and City Council.

Due to the lateness of the hour, this item was not considered.

J. Adjournment.

Motion: To adjourn the Regular Session of the City Council of the City of Bellaire, Texas, at 11:21 p.m. on Monday, June 16, 2014.

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Pat B. McLaughlan, Councilman
SECONDER:	Amanda B. Nathan, Mayor Pro Tem
AYES:	Nauert, Nathan, Reed, Avioli Sr., Pappas, McLaughlan, Friedberg