



# CITY OF BELLAIRE TEXAS

## MAYOR AND COUNCIL

JUNE 30, 2014

Council Conference Room

Special Session

6:00 PM

7008 S. RICE AVENUE  
BELLAIRE, TX 77401

### SPECIAL SESSION (EXECUTIVE SESSION) - 6:00 P.M.

#### A. Call to Order and Announcement of a Quorum - Amanda B. Nathan, Mayor Pro Tem.

Mayor Pro Tem Amanda B. Nathan called the City Council of the City of Bellaire, Texas, to order at 6:00 p.m. She noted that a quorum was present consisting of the following members of City Council and City Staff:

Full Name	Title	Status	Arrived
Nauert	Mayor	Absent	
B. Nathan	Mayor Pro Tem	Present	
. Reed	Councilman	Present	
Avioli Sr.	Councilman	Present	
appas	Councilman	Absent	
Laughlan	Councilman	Present	
S. Friedberg	Councilman	Present	
lofmann	City Manager	Present	
etrov	City Attorney	Present	
Dutton	City Clerk	Present	

#### B. Convene in Executive Session:

**Convene in Executive Session** (Closed Session to be held in the Council Conference Room) under *Chapter 551, Open Meetings Act, of the Texas Government Code, Section 551.071, Consultation with Attorney*, to seek legal advice which falls under the purview of the Attorney-Client Privilege regarding the negotiation/re-negotiation of contractual agreements with The Jerry and Maury Rubenstein Foundation and the Evelyn's Park Conservancy Board related to the development, operations, and maintenance of Evelyn's Park located at 4400 Bellaire Boulevard, Bellaire, Texas 77401.

**Motion:** Convene in Executive Session (Closed Session in the Council Conference Room)

The action by members of City Council to convene in Executive Session (Closed Session) as allowed under *Chapter 551, Open Meetings Act, of the Texas Government Code, Section 551.071, Consultation with Attorney*, to seek legal advice under the purview of the Attorney-Client Privilege regarding contractual agreements with The Jerry and Maury Rubenstein Foundation and the Evelyn's Park Conservancy Board related to Evelyn's Park located at 4400 Bellaire Boulevard, Bellaire, Texas 77401, was taken at 6:00 p.m. on Monday, June 30, 2014. City Clerk Tracy L. Dutton and a member of the press, Robin Foster of The Bellaire Examiner, departed from the Council Conference Room. Resident Robert Riquelmy stated his objection to the closed session and refused to leave unless

escorted out by a Bellaire Police Officer.

The Bellaire Police Department was contacted by City Manager Paul A. Hofmann and City Clerk Tracy L. Dutton. Bellaire Police Officer Karen Kramer arrived within approximately five minutes from the initial contact by City Hall and escorted Mr. Riquelmy from the Council Conference Room without further incident.

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

### **C. Reconvene:**

**Reconvene** (Open Session to be held in the Council Conference Room) and discuss or take action, if any, on item(s) discussed in **Executive Session**.

Members of City Council reconvened in Open Session at 8:17 p.m. in the Council Chamber, First Floor of City Hall, 7008 South Rice Avenue, Bellaire, Texas 77401, on Monday, June 30, 2014.

Mayor Pro Tem Amanda B. Nathan indicated that action would not be taken this evening regarding the negotiation/re-negotiation of contractual agreements with The Jerry and Maury Rubenstein Foundation and the Evelyn's Park Conservancy Board who were present for the Open Session.

She provided a summary of City Council's comments as follows:

### **City Council Comments:**

#### **Page 1, first recitals paragraph:**

The first recitals paragraph referred to the Original Deed having been "modified" and "amended and modified" by the Deed and Modification of Covenants (which needs to be changed to its new name, the Amended and Restated Deed), and the Original Donation Document as having been "modified" and "amended and modified" by the Modification Agreement, but in fact the new documents have superseded those original documents, not merely modified and amended them, so we would like the language to be changed to reflect that.

#### **Page 2, paragraph 1a:**

We would like the first sentence to be deleted, and the second sentence to be replaced with: "The Conservancy has developed the Master Plan and hereby donates and delivers it to the City, and the City hereby accepts and adopts the Master Plan, subject to the limitations on acceptance of the Master Plan adopted by the City Council at its August 20, 2012 meeting (the "City's 8/20/2012 Limitations on Acceptance"), a copy of which is attached as Exhibit C hereto, all on the terms and conditions of this Agreement."

#### **On Page 2, paragraph 1d:**

We would like the third sentence to read: "The City shall also have the right to review and approve the restaurant and the restaurant parking as set forth in the City's 8/20/2012 Limitations on Acceptance."

**On Page 3, paragraph 3d:**

Specific language was not provided by City Council for section 3, subsection d; however, Mayor Pro Tem Nathan advised that City Council wished to address the issue of what would occur if the bid (and rebid, if applicable) exceeded \$5 million. If City Council were to approve Phase 1 of Evelyn's Park, then the expectation was that Phase 1 of Evelyn's Park would be constructed. Since the City's limitation would be its \$5 million contribution, then the Conservancy should have the opportunity to ensure construction of Phase 1 by agreeing to pay any overage above \$5 million.

**On Page 3, also paragraph 3d, line 8:**

We would like to change "shall" at the end of the line to "may."

**On page 4, paragraph 4a:**

Specific language was not provided by City Council for section 4, subsection a; however, City Council wished to address what happened at the end of the final M&O term. It was suggested that the Conservancy and City enter into good faith negotiations to enter into a new mutually agreed upon M&O term.

**On page 4, also paragraph 4a:**

We would like to add the phrase "City or the" to the beginning of the line.

**On page 4, paragraph 4c:**

We would like the first sentence to be changed to: "The Conservancy shall, subject to the right of the City to adopt and enforce ordinances, rules and guidelines relating to park and facility usage and City Council's rights as set forth in the City's 8/20/2012 Limitations on Acceptance, have the right, at its expense . . . ."

**On page 5, paragraph 4c, final bullet point:**

We would like to remove section (iv) from this bullet point and add it to a new final bullet point, which would begin "Continue to raise funds to ..."

**On page 5, paragraph 6a:**

We would like to change the first sentence to "The Conservancy shall permit a City liaison to attend its Board of Directors meetings and submit to the City the following reporting:"

**On page 5, also paragraph 6a, second bullet point:**

We would like to change the bullet point to read "No less than quarterly present an update on the operations of the Park and the Conservancy's fundraising efforts."

**On page 6, paragraph 6b, second sentence:**

We would like the "to the extent permitted by law" language to be earlier in the sentence, so that it reads, ""The conservancy shall, to the extent permitted by law, have the right to designate . . . ."

**On page 6, also paragraph 6b:**

We would like to remove the last sentence.

**On page 6, paragraph 7b, line 2:**

We would like to remove everything after "goods and services."

**On page 6, paragraph 7c, line 3:**

We would like this to say "negotiations between the parties" instead of designating that the negotiators will be the Mayor and Chairman of the Conservancy.

**On page 8:**

We would like the City's signature block to include both the mayor and city manager as signatories.

**In Section 3, new subsection:**

We would like to add a new subsection stating that the City may conduct an environmental assessment on the Park property, and that the cost of that assessment and any necessary remediation shall be applied against the City's \$5 million cap on construction expenses.

**D. Adjournment.**

**Motion:** To adjourn the Special Session (Executive Session) of the City Council of the City of Bellaire, Texas, at 8:30 p.m. on Monday, June 30, 2014.

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