



# CITY OF BELLAIRE TEXAS

## MAYOR AND COUNCIL

JULY 7, 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 called the City Council of the City of Bellaire, Texas, to order at 7:02 p.m. on Monday, July 7, 2014. He announced that a quorum was present consisting of the following members of City Council and City Staff:

<b>e Name</b>	<b>Title</b>	<b>Status</b>	<b>Arrive</b>
Nauert	Mayor	Present	
B. Nathan	Mayor Pro Tem	Present	
. Reed	Councilman	Present	
Avioli Sr.	Councilman	Present	
appas	Councilman	Absent	
McLaughlan	Councilman	Present	
S. Friedberg	Councilman	Present	
lofmann	City Manager	Present	
etrov	City Attorney	Present	
Dutton	City Clerk	Present	

#### **B. Inspirational Reading and/or Invocation - Pat B. McLaughlan, Councilman - Position No. 4.**

Pat B. McLaughlan, Councilman - Position No. 4, provided the inspirational reading for the evening.

#### **C. Pledges to The Flags - Pat B. McLaughlan, Councilman - Position No. 4.**

Pat B. McLaughlan, Councilman - Position No. 4, led members of City Council and the audience in the U.S. Pledge of Allegiance and the Pledge to the Texas Flag.

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

##### **1. Special Session (Public Hearing) - Monday, June 9, 2014:**

Consideration of and possible action on the adoption of the minutes of the Special Session (Public Hearing) of the City Council of the City of Bellaire, Texas, held on Monday, June 9, 2014.

Mayor and Council - Public Hearing - Jun 9, 2014 6:00 PM

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

## **2. Special Session (Interviews) - Monday, June 16, 2014:**

Consideration of and possible action on the adoption of the minutes of the Special Session (Interviews) of the City Council of the City of Bellaire, Texas, held on Monday, June 16, 2014.

Mayor and Council - Special Session - Jun 16, 2014 6:00 PM

<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., McLaughlan, Friedberg
<b>ABSENT:</b>	Pappas

## **3. Regular Session - Monday, June 16, 2014:**

Consideration of and possible action on the adoption of the minutes of the Regular Session of the City Council of the City of Bellaire, Texas, held on Monday, June 16, 2014.

Mayor and Council - Regular Session - Jun 16, 2014 7:00 PM

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

The following three changes were requested to be made to the City Council Regular Session minutes for June 16, 2014:

(1) To insert the following language on page 37 of the agenda packet (page 11 of the minutes) after the "vote results" box showing a 5-1-1 vote and before the sentence beginning with the phrase "The following amendment to the motion . . .":

*"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."*

(2) To insert the following language on page 37 of the agenda packet (page 11 of the minutes) in lieu of the note following the [3-4] "vote results" box:

*"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."*

(3) To amend the "vote results" box to show a vote of 4-1-2 rather than 4-1 to reflect the two abstentions.\*

Following discussion among members of City Council regarding the suggested amendments to the June 16, 2014, Regular Session minutes, Councilman James P. Avioli, Sr., suggested that City Council accept the changes and move on.

<b>RESULT:</b>	<b>UNANIMOUS [6-0]</b>
<b>MOVER:</b>	Andrew S. Friedberg, Councilman - Position No. 5
<b>SECONDER:</b>	Amanda B. Nathan, Mayor Pro Tem
<b>AYES:</b>	Nauert, Nathan, Reed, Avioli Sr., McLaughlan, Friedberg
<b>ABSENT:</b>	Pappas

Following the vote on Amendment No. (1) to the Main Motion and the vote on the Main Motion, as amended, City Clerk Dutton advised that the City's agenda and minute management program did not record abstentions in the final vote tally. The final vote tallies that showed abstentions in the minutes were created by the City Clerk rather than the program. She indicated that she would make every effort to see if she could override the system to include the tally requested by Councilman Friedberg and seconded by Mayor Pro Tem Nathan.

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

#### **4. Special Session (Interviews) - Monday, June 23, 2014:**

Consideration of and possible action on the adoption of the minutes of the Special Session (Interviews) of the City Council of the City of Bellaire, Texas, held on Monday, June 23, 2014.

Mayor and Council - Special Session - Jun 23, 2014 6:00 PM

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

#### **5. Special Session (Board Appointments - Monday, June 23, 2014:**

Consideration and possible action on the adoption of the minutes of the Special Session (Board Appointments) of the City Council of the City of Bellaire, Texas, held on Monday, June 23, 2014.

Mayor and Council - Special Session - Jun 23, 2014 8:00 PM

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

**E. Personal/Audience Comments.****Debbie Lapin:**

Ms. Lapin addressed City Council regarding Evelyn's Park. She indicated that she served as Events Chair and had been able to raise money and awareness for the Park in that capacity. Ms. Lapin advised that she felt a deep connection to the community in which she lived as a result of her work with the Park.

She referred to several unsolicited items that had been donated by Bellaire residents in support of the Park (tee shirt and baseball cap) and noted that there were hundreds of examples of unwavering support for the Park. Reference was made to unsolicited letters and donations of funds that had been made to help support the Park, some of which represented funds earned from area children's lemonade stands.

Ms. Lapin indicated that the City was at a critical juncture now. She indicated that support of the Phase 1 construction and issuance of bonds would not only enhance future fundraising efforts, but respect the fundraising efforts that have been made thus far.

In closing, Ms. Lapin urged City Council to vote in favor of issuing bonds for Phase 1 of the Park.

**Julia Minkowitz:**

Miss Minkowitz addressed City Council and advised that she served as a teen ambassador for Evelyn's Park and indicated that she had participated in almost all of the events held in support of the Park. Reference was made to the tremendous attendance at the Park events.

Miss Minkowitz advised that she was passionate about planting trees and making Bellaire a cleaner and greener city. In closing, she referenced the positive impact that the Park would make on everyone's lives for the better.

**Emily Doctor:**

Miss Doctor addressed City Council and advised that she was a teen ambassador for Evelyn's Park. She indicated that her mother had told her about an opportunity to talk this evening to City Council regarding the Park.

Evelyn's Park was a dream for children, teens, adults, and families. It was the dream of a safe place to hang out with friends or just have lunch. Miss Doctor advised that she personally saw Evelyn's Park as amazing and urged City Council to make Evelyn's Park happen.

**Dr. Johnnie Frazier:**

Dr. Frazier addressed City Council and indicated her support of Evelyn's Park. She indicated that the people of Bellaire had spoken loud and clear by passing a bond election for \$5 million for Evelyn's Park. In addition, Dr. Frazier urged City Council to proceed with the vote of the people and work diligently to bring the project to an acceptable and favorable disposition.

Dr. Frazier advised that she hoped City Council would continue to vote "yes" as the people of Bellaire, as its populace, supported another exemplary park for all to enjoy.

**David Montague:**

Mr. Montague addressed City Council and asked them to consider two points going forward. One point related to parking and the second point related to the overall park plan. He commended City Council for their thoughtful improvements to the Conservancy's proposed agreements. He suggested that City Council add a new provision requiring that the Conservancy have in place a binding legal agreement for the provision of some to be determined number of parking spaces at the Bellaire United Methodist Church or under the Reliant Energy right-of-way prior to the start of construction. Reference was made to concerns by neighbors living near Evelyn's Park regarding parking.

Secondly, Mr. Montague recommended that City Council not give a "yes" vote for Phase 1 of the Park. He did not believe City Council had sufficient information. He advised that he had been a project engineer most of his life and when one was presented a project, one received the entire project--name and location, objective and justification, cost and source of funds, project timeline (including major milestones and decision points), project expenditures, success factors and improvement opportunities. Mr. Montague referenced that the initial plans and final vision had been outlined; however, the City did not have the steps in place to get there or the shares that each would contribute for funding the Park going forward.

In closing, Mr. Montague advised that he was asking for a full definition as to how the City was going to go forward.

**Keith Bowers:**

Mr. Bowers addressed City Council and stated that he had read the agreements regarding Evelyn's Park that were before City Council this evening. He advised that he did not find the definition of terms anywhere to identify the acronyms used in the agreements. He indicated that Bellaire should not waive any of its rights under state law or make it easy for someone to sue the City, in his opinion.

Additionally, Mr. Bowers suggested that the reversion deed be destroyed before the City signed a construction contract for Evelyn's Park. He questioned whether Bellaire could legally sign such a contract on something the City did not own.

With respect to environmental costs, Mr. Bowers urged City Council not to expend more than \$10,000 on remediation and urged that any costs for remediation be borne by the Conservancy. With respect to the annual cost of maintenance and operations, Mr. Bowers suggesting limiting those costs to \$250,000. If such costs exceed \$250,000, then the Conservancy should pay the costs over and above \$250,000.

Mr. Bowers urged City Council to require the Conservancy to provide the City with a copy of its annual budget, including any contracts that had been issued, any employees hired, and all forms of compensation, as well as a monthly financial report.

[Mr. Bowers' allotted speaker time ended at this point in the meeting.]

**Pat Hughes:**

Mr. Hughes addressed City Council and echoed all the comments that preceded him. He advised that he was very happy that the citizens were interested and reading the contracts related to Evelyn's Park. He stated that he was very much in favor of passing the ordinance approving the documents related to Evelyn's Park.

**Lou Waters:**

Mr. Waters addressed City Council and advised that he was present as a resident and member of the Evelyn's Park Conservancy Board. He thanked everyone for all of the support that had been given to Evelyn's Park so far. He indicated that it was impossible to capture and deliver the excitement and enthusiasm for Evelyn's Park. The community support had been overwhelmingly.

With respect to fundraising on the Conservancy side, Mr. Waters advised that the Conservancy had raised over \$3 million separate and apart from the \$5 million bonds. The Conservancy had a little over \$2 million in the bank and \$360,000 in pledges receivable over the next one to three years. He noted that almost \$600,000 had been spent on architects, landscape designers, project management services, food service experts, etc.

In closing, Mr. Waters advised that Evelyn's Park had the weight of world-renowned experts behind it. He noted that Board Members did take the comments seriously regarding parking and respecting residents in the area.

**Lynn McBee:**

Ms. McBee addressed City Council and indicated that her interest was the fact that the City was subject to the laws of the state and must abide by the "Texas Open Meetings Act." Under the Act, citizens were entitled to know what government decided and to observe how and why every decision was reached.

The agreements that Ms. McBee had reviewed indicated to her that the Conservancy was an entity separate and apart from the City of Bellaire subject to the federal regulations that controlled 501c3 corporations. The Conservancy was not subject to the "Texas Open Meetings Act," but had lined up to receive \$5 million from Bellaire taxpayers.

Ms. McBee asked City Council to direct the City Attorney to pose the question to the State of Texas Attorney General regarding how this partnership would work.

Reference was made by Ms. McBee to various sections within the agreements, such as the length of time it would take to complete the Master Plan, reviews and approvals by the City Manager or his delegate rather than the City Council, as well as unspecified operations and maintenance costs. She urged City Council not to delegate its authority with respect to the project.

**Peta Rubenstein:**

Ms. Rubenstein indicated that she was attached to Evelyn's Park on many levels--as a Rubenstein, as a Board Member, and as a volunteer. The Rubenstein family has had, did have, and would always have only the best intentions for the City and park in mind

when it came to Evelyn's Park.

The Rubenstein family had donated time, money, and assistance to the City over the last 30 years of their residency in the city, including the parking lot for the Nature Discovery Center.

The City of Bellaire and the Rubensteins shared the same vision for Evelyn's Park--a beautiful and safe green space for all to enjoy. The support of the City was critical at this time for the future of fundraising. The opportunity to have green space instead of homes or a business was why everyone was present this evening. Collaboration, respect, communication, and faith were needed to build the Park.

Support from the community was unwavering and while some had concerns, none of the concerns were insurmountable. Most of the great public space in the community lacked all of the parking that was needed, including the ball parks, Nature Discovery Center, and Evergreen Pool. The benefit of these spaces far outweighed any of the concerns.

In closing, Ms. Rubenstein urged City Council to make the Park happen for the greater good of the City and the community.

**Kenneth Corey:**

Mr. Corey addressed City Council and noted that when Evelyn's Park was first discussed, the City was going to put up zero dollars and the Conservancy was going to raise \$16.5 million. The City was never going to spend a penny. As time went on, things changed. The City was now going to ultimately be responsible for the greater portion of the park. The Conservancy apparently was unable to raise the money that they promised.

Mr. Corey urged City Council to rethink and delay any action on Evelyn's Park.

**Gene Reyes:**

Mr. Reyes addressed City Council and noted that Evelyn's Park had already enhanced the value of his life by introducing him to Bellaire residents that he would not have otherwise met, by growing his business, and by giving him the ability to give Bellaire residents jobs.

He urged City Council to move forward on the Park.

**Michael Fife:**

Ms. Fife addressed City Council and indicated that she was present to represent herself and the other 20 homeowners residing in Town Oaks Place. The homeowners expressed their gratitude to the Rubenstein family for a very generous gift honoring their special devotion to their mother.

Although the Town Oaks Place residents were thrilled to have a park nearby, there were a few remaining concerns. Ms. Fife indicated that we needed to be aware of who we were and where we were. Bellaire was a warm and wonderful small town surrounded by a big city. One of the things that was so special about Bellaire was the ability for residents to address their public officials in a meeting, such as the one being held this evening. Bellaire was not Discovery Green, Downtown Houston, or Uptown Houston with high rises and the Galleria. She urged City Council not to make the park an event venue. Ms. Fife indicated that she hoped Evelyn's Park would be a park to be enjoyed

by Bellaire citizens.

If the Park required the revenue from frequent rentals from special events, it was possible that the Bellaire residents would be discouraged, not to mention that all of the onsite parking might be utilized. While she appreciated the reluctance to utilize more of the valuable green space for parking, Ms. Fife asked everyone to be aware of where Bellaire was.

Evelyn's Park was a park surrounded by homes--homes that were actually there first and homes on streets that also faced parking challenges. Special events were the easiest to address as rental contracts could require valet or offsite parking. However, the day-to-day operations of a small cafe or restaurant could present a greater challenge.

Ms. Fife expressed her appreciation to Mayor Pro Tem Nathan, Councilman Friedberg, and the City Council for their diligent and thoughtful review and revision of the legal documents. Ms. Fife further indicated that she understood that City Council would review and approve all plans for the restaurant and cafe, as well as special events contracts. She hoped that any significant changes or additions to the current Park plans would also be reviewed by the City Council, with a possible opportunity for community input.

In closing, Ms. Fife indicated that she supported the park with enthusiasm.

**Written Comments:**

The written comments set forth below were read into the record by Dr. Philip L. Nauert, Mayor.

***Cheney Chang:***

*I will not be able to attend the meeting on Monday July 7<sup>th</sup>, however I would like to give my full support towards making Evelyn's park a place everyone can enjoy. This is a great opportunity for Bellaire residents to have a first class park to call our own. There are many facets of the park that people of all ages will be able to make use of for years to come. The overwhelming bond referendum passing and all the support people have shown at the park events, point towards the majority of Bellaire wanting it to become a reality. The phase 1 plans look great, with future amenities as more money is raised. Please vote yes for starting construction of our new park that everyone will appreciate.*

*I request my written comments be read into the record.*

***Stephanie Goldfield:***

*TO BELLAIRE CITY COUNCIL:*

*I am strongly in favor of Evelyn's Park and as a City, we must come together to make this happen!*

*I say YES to passing the bonds. I say YES to building Phase 1 of the Park. We now need YOU to vote unanimously say YES.*

*Weekly, citizens complain of the ways in which our City is lacking in progress. You hear it too. Evelyn's Park will change this! The Park is critical to further enhancing our community ties, will provide fiscal opportunities and attract businesses and undoubtedly*

*enhance our beauty and pride.*

*Thank you for your dedication and for representing us properly.*

**Ben Raymond:**

*Please let City Council know that my family and I are very much in favor of approving the bonds that will secure the funds necessary to ensure that Phase I of Evelyn's Park be built. The Park will certainly be an incredible asset to the community for decades to come and I look forward to spending time there with family and friends.*

*Best regards.*

**Stacy Doctor:**

*I would like to express my support in passing Phase One and issuing the \$5 million bonds to help pay for the construction of Evelyn's Park. Please add my comment to be read into the record.*

*Thank you.*

**Scott Aronstein:**

*City of Bellaire,*

*I would like to express my support for the use of the approved bonds and the phase 1 construction. Thank you for your attention.*

*Thank you!*

**Jennifer Moren Cross:**

*Dear Mayor Nauert and City Councilmembers,*

*I ask that you vote in favor of approving Phase One and issuing the voter-approved bonds to build Evelyn's Park. We should take full advantage of this precious gift of land and create a park that will be a gem in our city.*

*Sincerely.*

**Lindsay Aronstein:**

*City of Bellaire,*

*I would like to express my support for the use of the approved bonds and the phase 1 construction. Thank you for your attention.*

*Thank you!*

**Jennifer and Allen Deutsch:**

*Dear Esteemed Members of the Bellaire City Council,*

*The City of Bellaire has been given a precious gift in the form of valuable green space at the northeast corner of Bellaire Boulevard and Newcastle. The vision proposed by*

*Evelyn's Park Conservancy will be a crowning jewel in the landscape that makes the City of Bellaire so unique to the greater community. It will surely be an integral part of our quality of life, where we will relax with friends and family, exercise, enjoy art and music, and appreciate our neighborhood's beauty.*

*We encourage you all to vote yes and approve the phase one proposal and issue the bonds needed to bring Evelyn's Park to reality.*

*Respectfully yours.*

**Steven Karpas:**

*I am once again writing in my support for moving forward with development of Phase One of Evelyn's Park. I appreciate both the Conservancy for meticulously managing the design process and City Council for making sure the City will be fiscally protected. Having said this, it's time to turn dirt!*

*Sincerely.*

**Hedley Karpas:**

*I cannot attend the meeting tonight but I felt it was very important that I send an email and ask that it be entered into the record. I have lived in Bellaire for 23 years. I am an active residential Realtor who does a lot of work in Bellaire. There is no doubt in my mind that the creation of Evelyn's Park would only be an asset to the City of Bellaire and its residents. The creation of more green space and a place for families to go and bond is priceless. I urge you to please pass this bond.*

*Thank you for your time and consideration.*

**Ashley Doctor:**

*Hi. I wish I could be at the meeting today, but I am at camp. I am a senior teen ambassador for Evelyn's Park and it has meant a lot to me to be able to volunteer. I want to be part of building something that is going to be around for generations and that even my kids can enjoy. Already, I have seen our community enjoying Family Fitness Day and Pop Up in the Park. It is obvious how much our community wants it and how willing people are to make it happen. Personally, my family is very excited to have such an amazing place in our neighborhood that will have so many different things going on. It is a park that can be for everyone, and will add so much to our neighborhood. I can't wait to have a safe place to meet up with my friends and enjoy being outdoors! I am so grateful to the Rubensteins for donating the park in memory of Evelyn Rubenstein and making this a possibility. So many people are working so hard to make this a reality. Please help us make this dream come true.*

*Thank you.*

**Peggy McCall, RN MSN**  
**Owner and Director of Com For Care, Inc.:**

*My family and I have lived in Bellaire for over 40 years. Currently I own 4 homes in Bellaire. Two homes are part of my business, Com For Care--these are licensed small assisted living homes for the frail elderly on Spruce Street. Also a rental on Acacia Street, and my home on Holt Street. Evelyn's Park is a wonderful addition to Bellaire. It*

*will provide the families and residents of Bellaire an opportunity to relax and enjoy our city. Recently my Mother died at the age of 104. Instead of donating a bench in her honor to the cemetery where she was buried, I was able to donate monies to Evelyn's Park in her memory. Also friends and family have been able to do the same thing. So one day, hopefully soon, we will be able to enjoy the Park and also remember my wonderful Mother.*

*Please accept this letter in support of moving forward immediately with this great addition to our city.*

*Respectfully submitted to the City Council of Bellaire. Please read this into the record of the City Council Meeting.*

***Kali Lang:***

*I would like to show my support for Evelyn's Park Conservancy (EPC) by urging you to approve the \$5 million bonds for Phase One of its construction.*

*The City of Bellaire is in need of a recreational and sustainable green space as the city becomes more industrialized. Evelyn's Park Conservancy will provide Bellaire residents of all ages an opportunity to escape from the hustle and bustle of daily life.*

*As a previous EPC intern, I am continuously impressed by the community's willingness to volunteer and participate in all aspects of bringing this park to life. I can assure you that Evelyn's Park Conservancy will surpass all expectations through meaningful and innovative programming. Pop-Up in the Park and Family Fit Day (two overwhelmingly successful events) are only the tip of the iceberg in the quality activities EPC can provide to Bellaire residents in years to come.*

*Please support Phase One for the initial construction of Evelyn's Park Conservancy. We are dependent on your help for our success!*

*Best.*

***Allison Kozdron:***

*In lieu of my attendance at the July 7<sup>th</sup> City Council meeting, I request that the following written comments be read into the record:*

*I urge City Council to move forward with the approval of Phase One and the issuance of bonds for the development of Evelyn's Park. Such a park would be an incredible amenity for a city like Bellaire. Green space is a valued resource, and can be a draw for new and old residents and tourists and a variety of events, all of which will benefit Bellaire and its surrounding neighborhoods. The site is large which can be hard to come by today, and the City must not let this opportunity slide away!*

***Eric and Stacey Geisler:***

*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 of 2013 to help pay for the construction of the park. Specifically, we urge your approval of the following agenda items: G.1. (a), (b), and (c). Please read this letter and our comments into the city council record.*

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

*Sincerely.*

**Noah Pintar:**

*My name is Noah Pintar and I care about making Bellaire a better place. I have been a Bellaire resident since 2005, and I love Bellaire. One way I have been helping to improve the quality of life for Bellaire residents is by applying to be an Evelyn's Park teen ambassador. After being accepted into the program, I have been a very active volunteer, and have been managing social media for the park. I urge the Bellaire City Council to approve Phase One and issue the \$5 million bonds that will help make Bellaire and the Houston Area an even better place to live.*

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

**Sarah Flourney:**

*Dear Mayor Nauert,*

*Unfortunately I am out of town and cannot be at the meeting tonight. I hope it goes well! Will you please read the following comment tonight?*

*As executive director of the Nature Discovery Center, I have been carefully following the progress of Evelyn's Park for the last couple of years. I am very familiar with the challenges of fundraising and stakeholder alignment, and I feel confident that the City will enjoy great benefits from this Park in the long term. The Nature Discovery Center looks forward to partnership and collaboration with Evelyn's Park.*

*Thank you, members of City Council, for your service.*

**Kathleen F. Higgins:**

*Hi!*

*I am unable to attend the city council meeting tonight, but I wanted you to know that I am in favor of funding Phase 1 of the Evelyn's Park Development. I feel that it is very important for the residents to see progress otherwise I am concerned about future fundraising efforts!*

*Thank you!*

**Cindy Lundberg:**

*Please read these comments into the record.*

*If Evelyn's park is to be a city park it should comply with park guidelines (master plan, whatever the correct wording is). That means it should have play structures (climbing wall/slides/swings, etc.). This is a minimum. For safety (especially if there will be a water feature) it should be fenced. A 5 acre park surely has enough room to not exclude children. Please remember the letter the Bellaire Young Mothers (BYM) group sent and that BYM donated \$5,000 to Evelyn's park and yearly donates to Bellaire parks. BYM represents approximately 1,000 mothers living in Bellaire and surrounding areas.*

*If it is to be someone's private event venue, then taxpayer money should not be spent on Evelyn's park. Either way, if public money will be spent on it all meetings and*

*proceedings should be public. I hope Bellaire can avoid the perception of impropriety/cronyism, as well as impropriety/cronyism itself.*

*I am sorry I could not deliver my comments in person, but with 2 small children a 7 pm meeting is difficult.*

*Thank you.*

**Mark L. Newman:**

*Please register this e-mail as a show of support for Evelyn's Park, and my desire for the city to approve the Phase 1 plan being discussed at tonight's meeting. I am a Bellaire resident and look forward to this wonderful new park right in the heart of Bellaire.*

*Thank you very much.*

**Karl Poirot:**

*Council,*

*Please take the steps necessary to approve any remaining documents, to issue the \$5 million of voter approved bonds and to endorse Phase One construction of Evelyn's Park. The efforts taken to date by Council, the Conservancy and the people of Bellaire warrant all of these actions. The community is ready for this project to start so that the public can begin enjoying this great green space. I have attended a number of 'Pop Ups in the Park' and a Houston Livestock Show and Rodeo Trail Ride watch party. All have been very well attended and are indicative of the support the residents of Bellaire have for the development of this park.*

*Regards.*

**Suzy and Jack Schaffer:**

*We are very eager to get phase 1 of the park started. You have our support.*

**Aubrey and Janet Karr:**

*We are in support of Bellaire City Council approving Phase One for Evelyn's Park and issuing the \$5 million bonds that were approved in the November 2013 election. Please read these comments into the record and thank you for your consideration.*

**Deepak and Jana Bedi:**

*Honorable Mayor and Councilmembers,*

*One of the big advantages of living in Bellaire is the green space the city has increased in the last 15 years that my family has lived here. We especially love watching families enjoy the new pool and the park around it. It gives Bellaire its heart!*

*Please read and record my comments. Evelyn's park is a once in a life gift/opportunity to increase the green space even more. My husband and I fully support the Evelyn's park conservancy.*

*Thanks.*

**Hannah Lapin:**

To whom it may concern,

*I am writing with deep support for passing Phase 1 of Evelyn's Park. I have seen firsthand the difference the park has already made in the Bellaire community. Evelyn's Park Conservancy has brought the community together with incredible events such as Pop-Up in the Park and Family Fit Day. Pop-Up in the Park has not only served as a community building event, but it also supports local vendors and artists. Family Fit Day brought together a wide group of people from young children to senior citizens for a great day of family fun, fitness education, and well-being. Only more good can come from Evelyn's Park, and I truly believe that our community will thrive from extra green space. Please read my comments and support into the record.*

Warmest regards.

**Stephen Lapin, MD**

To Whom It May Concern,

*As a long time Bellaire resident (BHS Class of '78), I am thrilled about the prospect of the old Teas Nursery being turned into a beautiful park. Many thanks to the Rubenstein family for their extreme generosity that will benefit the entire community. I sincerely hope the City can run with this and not squander the opportunity of a lifetime.*

**Patricia King-Ritter:**

Dear City Council,

*My name is Patricia Ritter and I have been a resident of Bellaire for over 15 years. I have been an active volunteer in our community and was excited to learn that The Teas Nursery Property was purchased and donated to be turned into a state-of-the-art park as opposed to additional housing.*

*It reminds me of this quote: "Man shapes himself through decisions that shape his environment."*

*There is so much to say, but since I am limited to time, tonight I would like to emphasize two important points, timing and value.*

*First, Timing: As you all know - Timing is everything! And the TIME TO ACT IS NOW!*

*WHY NOW?*

*We have already received over one million dollars in donations from the citizens of Bellaire, showing how invested financially they are to see this park built.*

*We have received over 70 percent of voters using their vote to speak for what they want, using the 5 million dollar bond money to help build the park.*

*We have worked diligently for a long time to do the studies, conduct due diligence. To make the plans, have events to raise awareness and raise the money. All of these efforts have built an enormous amount of momentum, with personal donations, business donations, events and publicity. If we delay the momentum that we have worked so hard to build, it will fade.*

*There is great anticipation from the community who asks us constantly, When is Phase One going to start? Moving forward will show the community our good faith in putting their donations to use quickly and responsibly.*

*Acting now and seeing progress on the park will encourage further investment in the park and its future.*

*I understand that there are some concerns, and each concern should be and will be addressed, HOWEVER, this should not stop us from our mutual goal of building a park to better our city and community and to spend the money our citizens voted to spend.*

*This leads me to the second item I would like to discuss which is value.*

*The timing of the park will bring value to our neighborhood and increase our donations and property values, which in turn will bring more money to the city.*

*Time is money and money is value. Costs will only increase as times go by, it is best to begin as soon as possible and not to delay.*

*Values: We have the opportunity to show our citizens that we respect and value their opinions and support for this park.*

*This park is invaluable and Priceless. This Park means so much to this community. It is a gathering spot for neighbors to enjoy Green Space, to enjoy a walk in the park with their family, to enjoy a quiet respite from the hustle and bustle. The community will benefit by having more green space, emotionally and physically. Parks reduce stress, and obesity while increasing the invaluable sense of community and neighborhood.*

*I support Evelyn's Park phase 1 construction and hope that City Council will do the same.*

*I like to close with a quote as well: "We abuse the land because we regard it as a commodity belonging to us. When we see land as a community to which we belong, we may begin to use it with love and respect."*

**Nancy Stiles:**

*Please ask City Council to approve Phase I construction for Evelyn's Park. As a resident of Bellaire since 1985, I am excited about the park and am anxious to see it finally approved and started.*

**Carolyn Rubenstein:**

*I support passing Phase One for Evelyn's Park. Please be sure to have my comments read into the record.*

*Thanks.*

**Greg Lerner:**

*I support passing Phase One for Evelyn's Park. Please be sure to have my comments read into the record.*

**Jessica and Brian Laviage:**

*(Please read aloud for the record) Hello! Writing to please fund Evelyn's Park phase 1 using all donations and bond money. This park is all about community--a beautiful place for us to gather and meet regularly with friends and family. I cannot think of a more perfect and exciting addition to our city!*

**Andrea [Last Name Not Known]**

*Please approve Phase 1 construction for Evelyn's Park.*

*It will be a gift to the city of Bellaire!*

**Gisselle Matta:**

*I'm writing to request that Phase 1 construction for Evelyn's Park be approved. I also request that my comment be read into the record.*

**Bonnie Suchart:**

*Dear Bellaire City Council,*

*I want to share my support of Evelyn's Park with you, and would like for my comments to be read into the record, since I am not able to attend the meeting tonight. Evelyn's Park is a necessity for the Bellaire area. Every event that they have had, has had so many Bellaire residents, as well as other nearby families and friends.*

*Please allow Phase 1 Construction to be approved and funded by all the donations that have been made.*

*My daughter is an Evelyn's Park Senior Teen Ambassador, and has enjoyed her volunteer experiences with Evelyn's Park. I have seen so many Bellaire friends at the different events that we have attended. The Family Fit Day was a huge event, as well as the Pop Up in the Park events have been a great success.*

*The Rubenstein family, as well as the numerous other people involved. Debbie Lapin is also very involved. The community seems to really support Evelyn's Park by supporting their events. Businesses such as Magpie's, Zadok's Jewelers, St. Luke's, HEB, and Whole Foods, have shown their support of Evelyn's Park-among many other businesses.*

*I hope to see Evelyn's Park continue in their building, and be a fun place for families to go to. As a teacher, I see the many opportunities that children will have there, from reading outdoors on the tree stumps, to learning from the nature around the park. I proudly have my Evelyn's Park yard sign in my yard in support of Evelyn's Park.*

*Thank you.*

**Jan Pappert:**

*Please approve phase 1 construction and funded by the board with the money voted for! Evelyn's Park is great for the community in which we live and work. Please have these comments read into the record.*

**Lauren Kaufman Blachman:**

*I am writing as a resident of Bellaire who cannot attend tonight's meeting but who is in*

*strong favor of investing in the beautification of our community by completing the building of Evelyn's Park.*

*The bond issue was voted in by a majority of residents in the last election and is the council's duty to follow through on our vote's wishes and invest in the future by voting to move the project forward.*

*Our property values will be enhanced and we will begin to compete with our neighbors in West U who have no problem investing in their futures.*

*Vote for Evelyn's Park tonight!*

*Thank you.*

**Vikki Evans:**

*Hello,*

*I am a realtor with Martha Turner Sotheby's and the potential wonderland our community has with Evelyn's Park has become a big selling point for the entire surrounding area. When I talk about the park and all that it will be, living nearby becomes even more alluring. I think it will be such an asset to our community, even for those that don't live within walking distance of it. Please approve!!!*

*Please share my feelings with others and make it part of your records.*

**Garrett Johnston:**

*As a resident of Bellaire unable to attend this evening's city council meeting, I wish to express my support for the approval of the Conservancy's Phase 1 design for Evelyn's Park and to move forward with the plans for construction through the use of bond funds approved last November. After following the developments in the local news, attending the events at the park in the spring and fall, and reviewing the plans online, it is clear that Evelyn's Park will be a remarkable addition to the city.*

*Please feel free to read these comments into the record.*

*Kind regards.*

**Kristi Coffey:**

*Dear Bellaire City Council,*

*I am unable to attend this evening's city council meeting, but wanted to communicate my view on the topic of the construction of Evelyn's Park. I am in favor of funding Phase 1 construction of Evelyn's Park. I believe that the proposed park will be a benefit to the City residents, allowing them to experience nature and a sense of community. I believe that it would increase the residents' sense of community ownership while providing a unique gathering place for neighborhood activities. Please note I would like my comments being read into the meeting record.*

*Sincerely.*

**Peter Rockrise and Debra Baker:**

*A unique set of circumstances exist to make Evelyn's Park a spectacular opportunity which few urbanized communities could ever hope for at this stage in their development.*

*Evelyn's Park located at the right place.*

*Located at the crossing of Bellaire Boulevard and the busy Newcastle hike/bike path (and also at the Eastern boundary of the City of Bellaire) it will serve both as a community plaza and a civic icon. Inasmuch as the City of Bellaire is bifurcated by the West 610 Loop, this location provides a major civic destination that does not require a vehicular trip across town, under a freeway, to fully enjoy. For the eastern half of Bellaire, this large central location works seamlessly with established facilities at Evergreen Pool, the Nature Discovery Center, and the Mulberry Tennis Courts and Softball fields.*

*Evelyn's Park is happening at the right time.*

*Because of its high quality of life and involved citizenry, Bellaire is constantly renewing itself. The city is already well served by park infrastructure that is programmed for specific uses and large special events. As a new generation of our families seeks out opportunities for daily outdoor enjoyment (in addition to its school, church, organized sport and fitness based activities), Evelyn's Park provides casual opportunities to share in Bellaire garden and open space traditions. The imaginative design of The Park brings to Bellaire a spontaneous interactive event space which will benefit the perspectives and creativity of its adults and growing children. The exceptional grassroots energy of the Evelyn's Park Conservancy is only the beginning of a new tradition of enthusiastic civic life in Bellaire.*

*My wife and I live one block from the Newcastle trail, have raised our family in Bellaire and are soon to be empty nesters. We are very hopeful that the subsequent families living here will benefit from the fortuitous circumstance and the dedicated vision of Bellaire.*

*Thank you.*

## **F. Reports:**

### **1. City Manager's Report:**

City Manager's Report dated July 7, 2014, regarding upcoming City Council meeting schedule and topics, and efforts to improve project coordination.

Paul A. Hofmann, City Manager, presented the City Manager's Report dated July 7, 2014, regarding upcoming City Council meeting schedule and topics, and efforts to improve project coordination, to members of City Council

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:** To accept the City Manager's Report dated July 7, 2014, as presented by City Manager Paul A. Hofmann, into the record.

<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., McLaughlan, Friedberg
<b>ABSENT:</b>	Pappas

## 2. Capital Funding and Fiscal Forecast Report:

Presentation and discussion on past and future funding mechanisms, draft capital plan, and updated fiscal forecast.

City Manager Paul A. Hofmann introduced the agenda item before City Council, and advised that Chief Financial Officer Linda Symank would provide a presentation of capital funding decisions made over the last several years (i.e., Fiscal Year 2006 - Fiscal Year 2014), as well as an overview of all funding mechanisms the City had utilized over that period and the status of those mechanisms. City Manager Hofmann indicated further that Assistant City Manager Diane K. White would provide a presentation and overview of the five-year draft capital improvement plan and an updated fiscal forecast.

Chief Financial Officer Linda Symank began her presentation by providing a summary of past and future funding mechanisms utilized for capital improvements, such as improvements to infrastructure (streets and drainage), parks (Bellaire Town Square), and City facilities, over the period beginning with fiscal year 2006 and ending with fiscal year 2014. Also discussed were remaining bond authority for Rebuild Bellaire Infrastructure and Rebuild Bellaire Facilities, as well as Evelyn's Park Improvements and Nature Discovery Center Improvements.

Assistant City Manager Diane K. White provided an updated draft capital improvement plan for fiscal years 2015-2019, building upon the City Manager's prior April 21 presentation of the concept of a capital improvement plan that would provide a link between the City's comprehensive plan, parks master plan, annual budget, and five-year fiscal forecast.

The focus of planning efforts was stated as follows: Rebuild Bellaire, Bellaire Town Square Facilities, Evelyn's Park Phase 1, Nature Discovery Center, pedestrian and mobility safety, and critical infrastructure needs.

With respect to an updated fiscal forecast, Assistant City Manager White provided an overview of changes that had occurred since the City Manager's April 21 presentation as follows:

- City's assessed value assumptions went up 13% in fiscal year 2015;
- Interest rates for the fiscal year 2015 bonds were changed to reflect an updated rate of 3.51% as opposed to 4.25%;
- Capital outlay criteria were created for operating funds and consistent need for funding items with a value of \$10,000 and a useful life of more than four years; and
- An increase on all other future year assumptions from 2% to 3% to match more closely with indicators.

Following questions of City Council regarding the presentations, action was taken to accept the presentations into the record.

**Motion:**

To accept the presentations made by City Staff on past and future funding mechanisms, draft capital plan, and updated fiscal forecast, into the record.  
(Requested by Diane K White, Organizational Services)

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

**G. Business Items:****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, authorizing the Mayor and 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 Jerry and Maury Rubenstein Foundation and the City of Bellaire, Texas (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 providing for the termination of the Agreement Concerning Evelyn's Park by and among the Parties effective as of February 25, 2011, as well as any and all agreements heretofore previously adopted that are in conflict with this Agreement.

**Motion:**

To adopt an ordinance of the City Council of the City of Bellaire, Texas, authorizing the Mayor and 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 Jerry and Maury Rubenstein Foundation and the City of Bellaire, Texas (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 providing for the termination of the Agreement Concerning Evelyn's Park by and among the Parties effective as of February 25, 2011, as well as any and all agreements heretofore previously adopted that are in conflict with this Agreement.

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

To allow City Council discussion of the agreement (and related agreements--agenda item G.1.b. and G.1.c.); to make recommended changes, but not issue final approval until the suggested changes have been incorporated and subject to review by the full City Council, with all members present.

<b>RESULT:</b>	<b>FAILED [2-4]</b>
<b>MOVER:</b>	James P. Avioli, Sr., Councilman
<b>SECONDER:</b>	Pat B. McLaughlan, Councilman
<b>AYES:</b>	Avioli and McLaughlan
<b>NAYS:</b>	Nauert, Nathan, Reed, and Friedberg
<b>ABSENT:</b>	Pappas

Following discussion among members of City Council regarding the agreement, as well as an opportunity to ask questions of the City Attorney regarding recommendations to the agreement (and agreements included in agenda items G.1.b. and G.1.a.), action was taken on the main motion. (Requested by Tracy L. Dutton, City Clerk)

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</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., McLaughlan, Friedberg
<b>ABSENT:</b>	Pappas

- b. Consideration of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, authorizing the Mayor and the City Manager of the City of Bellaire, Texas, to execute, for and on behalf of the City of Bellaire, Texas, an "Amended and Restated Deed" related to Evelyn's Park, by and between The Jerry and Maury Rubenstein Foundation and the City of Bellaire, Texas (the "Parties"), for the purpose of superseding the original "Deed" by and between the Parties related to the conveyance of property and covenants as to development.

**Motion:**

To adopt an ordinance of the City Council of the City of Bellaire, Texas, authorizing the Mayor and the City Manager of the City of Bellaire, Texas, to execute, for and on behalf of the City of Bellaire, Texas, an "Amended and Restated Deed" related to Evelyn's Park, by and between The Jerry and Maury Rubenstein Foundation and the City of Bellaire, Texas (the "Parties"), for the purpose of superseding the original "Deed" by and between the Parties related to the conveyance of property and covenants as to development.

Discussion ensued among members of City Council regarding the "Amended and Restated Deed." Councilman James P. Avioli, Sr., indicated that all of his comments were not incorporated into the revised document. He continued by providing the changes that he wished to see made to the "Amended and Restated Deed" as follows:

Deletion of the last sentence in Section 2, entitled "Grantor's Rights of Enforcement," subsection (a), which read as follows: Notwithstanding the foregoing, and for purposes of clarity, Grantor shall have no right to enforce any of the Requirements by the remedy of reversion of title to the Property from Grantee to Grantor, or by the remedy of a suit for damages (where actual, consequential, punitive or otherwise) under any circumstances or by any means.

Deletion of Section 2, entitled "Grantor's Rights of Enforcement," subsection

(b), in its entirety. Under 2(b), the City was giving up its sovereignty for legal reasons.

With respect to Section 3, entitled "Disclaimer," Councilman Avioli indicated that he did not understand how both Parties could make a statement disclaiming the existence of any hazardous or toxic substances when both parties knew that there were hazardous substance(s) on the property.

**\*NOTE:** Councilman James P. Avioli, Sr., advised that he opposed the adoption of the "Revised and Amended Deed" until such time as his concerns and issues could be addressed. Councilman Pat B. McLaughlan indicated that although he supported the entire intent, he would abstain until he, too, received answers to the issues that Councilman James P. Avioli, Sr., had raised.

(Requested by Tracy L. Dutton, City Clerk)

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

- c. Consideration of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, authorizing the Mayor and 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 operation 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.

**Motion:**

To adopt an ordinance of the City Council of the City of Bellaire, Texas, authorizing the Mayor and 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 operation 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.

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

That the Evelyn's Park Conservancy meetings shall be open to public attendance with open minutes and routine open financial data.

Discussion ensued among members of City Council regarding the amendment on the table. City Attorney Alan P. Petrov was asked to provide an opinion as to whether the Evelyn's Park Conservancy Board legally had to comply with the *Texas Public Information Act* and/or the *Texas Open Meetings Act*. City

Attorney Petrov indicated that the Evelyn's Park Conservancy Board ("Conservancy") did not legally have to comply with the *Texas Public Information Act* and/or the *Texas Open Meetings Act* because the Conservancy was a 501c3 non-profit corporation and not a governmental entity.

**\*\*Note\*\***

Councilman James P. Avioli, Sr., asked that the record reflect the fact that he attended all of the sessions (including the closed sessions) held on this matter and his concerns and comments had not been included in the Development and Operating Agreement before City Council this evening.

Following further discussion among members of City Council, action was taken on Amendment (No. 1) to the Main Motion.

<b>RESULT:</b>	<b>FAILED [2-4]</b>
<b>MOVER:</b>	Pat B. McLaughlan, Councilman
<b>SECONDER:</b>	James P. Avioli, Sr., Councilman
<b>AYES:</b>	McLaughlan, Avioli Sr.
<b>NAYS:</b>	Nauert, Nathan, Reed, Friedberg
<b>ABSENT:</b>	Pappas

**\*\*Note\*\***

Councilman James P. Avioli, Sr., asked that the record reflect the fact that he attended all of the sessions (including the closed sessions) held on this matter and his concerns and comments had not been included in the Development and Operating Agreement before City Council this evening.

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

Agreements for adequate parking shall be in place prior to any construction funding being issued by the City.

Following discussion among members of City Council regarding the amendment to the main motion, an amendment was offered to Amendment No. 2 as follows:

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

Councilman Andrew S. Friedberg offered a friendly amendment to incorporate the sentiment expressed by Councilman Pat B. McLaughlan in his amendment (no. 2) to the main motion by placing the sentiment in 3.c. of the Development and Operating Agreement with the instruction that the attorneys figure out the best language to achieve the sentiment.

The friendly amendment was accepted by Councilmen Pat B. McLaughlan (mover) and James P. Avioli, Sr. (Seconder).

Action was taken on Amendment (No. 2) to the main motion, as amended further by a friendly amendment (as set forth in the table below).

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

**Amendment (No. 3) to Main Motion, as amended:**

That an environmental assessment of the property be completed to ensure no residual contaminants existed that would affect the safe use of the park prior to funding of construction.

City Attorney Petrov indicated that the environmental issue and any associated costs were addressed in 3. d. (1) and 3. d. (2) of the Development and Operating Agreement (pages 3-4).

**Friendly Amendment to Amendment (No. 3) to Main Motion, as amended:**

Mayor Pro Tem Amanda B. Nathan made a friendly amendment to amendment (no. 3) to the main motion, as amended, to include the following language in 3. d. (1): "As part of construction of the Phase 1 improvements (although not necessarily as part of the same construction contract), the City shall have the right to undertake an environmental assessment . . ."

Councilmen Pat B. McLaughlan (mover) and James P. Avioli, Sr. (Second), accepted the friendly amendment. Action was taken on Amendment (No. 3) to the main motion, as amended further by a friendly amendment (as set forth below).

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

**Amendment (No. 4) to the Main Motion, as amended (WITHDRAWN):**

The Evelyn's Park Conservancy shall continue to seek major donations to develop the park to its original master planned completion of \$17 million in value.

Statements from the Development and Operating Agreement were read indicating that Councilman Pat B. McLaughlan's concern regarding donations had been addressed. Councilman McLaughlan subsequently withdrew his amendment.

**Amendment (No. 5) to the Main Motion, as amended:**

To insert the phrase "this section of" before the word "Agreement" in the first

sentence of section 3, subsection b, such that the sentence would read as follows: "The City's designated representatives for review and approvals required or permitted under this "section of the" Agreement shall be the City Manager and the City Manager's designated delegate (the "City Representatives"), without further action by the City Council, except as provided below.

<b>RESULT:</b>	<b>UNANIMOUS</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., McLaughlan, Friedberg
<b>ABSENT:</b>	Pappas

**Amendment (No. 6) to the Main Motion, as amended:**

To insert "(ii)" after the phrase "Conservancy; or" and before the phrase "may be kept in the City's segregated account for future improvements in the Park" in section 3, subsection d (4), second to last sentence on page 4.

<b>RESULT:</b>	<b>UNANIMOUS</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., McLaughlan, Friedberg
<b>ABSENT:</b>	Pappas

**Amendment (No. 7) to the Main Motion, as amended:**

To insert a period after the final bullet point under section 4, subsection c, and add a semicolon and the word "and" after the bullet point preceding the final bullet point.

<b>RESULT:UNANIMOUS</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., McLaughlan, Friedberg
<b>ABSENT:</b>	Pappas

**Amendment (No. 8) to the Main Motion, as amended:**

To insert the word "Council" after "City" in the third line of section 5 on page 6, said sentence to read as follows: "The Conservancy shall submit its proposal, conceptual designs and preliminary estimates for incremental operating and maintenance expenses for any Future Phase to the City "Council" for review and approval as part of the City's Master Park Plan.

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

**Amendment (No. 9) to the Main Motion, as amended:**

To add the phrase "to permit a City liaison to attend its board of directors meetings and" after the phrase "The Conservancy shall" in section 6, subsection a, on page 6, such sentence to read as follows: "The Conservancy shall permit a City liaison to attend its board of directors meetings and submit to the City the following reporting: . . . ."

**Friendly Amendment to Amendment (No. 9) to the Main Motion, as amended:**

Councilman Andrew S. Friedberg offered a friendly amendment to reuse the defined term "City Representatives" in lieu of "City liaison," such that the sentence would read: "The Conservancy shall permit City Representatives to attend its board of directors meetings and submit to the City the following reporting . . . ." The friendly amendment was accepted by Mayor Pro Tem Nathan (mover) and Mayor Nauert (seconder).

<b>RESULT:UNANIMOUS</b>	
<b>MOVER:</b>	Amanda B. Nathan, Mayor Pro Tem
<b>SECONDER:</b>	Dr. Philip L. Nauert, Mayor
<b>AYES:</b>	Nauert, Nathan, Reed, Avioli Sr., McLaughlan, Friedberg
<b>ABSENT:</b>	Pappas

**Amendment (No. 10) to the Main Motion, as amended:**

Councilman James P. Avioli, Sr., moved to remove the phrase "no later than August 31, 2014" from section 2, page 2, such that the sentence would read: "The City shall use its good faith best efforts to issue and sell the \$5,000,000 of Park Bonds ~~no later than August 31, 2014.~~"

The **amendment failed due to the lack of a second.**

**Amendment (No. 11) to the Main Motion, as amended:**

To delete the last sentence in section 7, subsection a, page 8, which read as follows: "All costs incurred in so curing the defaulting Party's obligations hereunder shall be due and payable on demand, together with interest thereon at the rate of the prime rate plus 1% per year, not to exceed 15% per year, from the date such cost was incurred until paid in full."

<b>RESULT:FAILED [3-3]</b>	
<b>MOVER:</b>	James P. Avioli, Sr., Councilman

<b>SECONDER:</b>	Pat B. McLaughlan, Councilman
<b>AYES:</b>	Reed, Avioli Sr., McLaughlan
<b>NAYS:</b>	Nauert, Nathan, Friedberg
<b>ABSENT:</b>	Pappas

**Amendment (No. 12) to Main Motion, as amended:**

To remove the phrase "provided, however, if a mutually acceptable and mutually binding resolution is not reached through such negotiations within 30 days from the date a Party initiates such negotiations, such Party shall have the right to proceed with such litigation."

<b>RESULT:FAILED [2-4]</b>	
<b>MOVER:</b>	James P. Avioli, Sr., Councilman
<b>SECONDER:</b>	Pat B. McLaughlan, Councilman
<b>AYES:</b>	Avioli Sr., McLaughlan
<b>NAYS:</b>	Nauert, Nathan, Reed, Friedberg
<b>ABSENT:</b>	Pappas

(Requested by Tracy L. Dutton, City Clerk)

<b>RESULT:</b>	<b>ADOPTED AS AMENDED [5 TO 1]</b>
<b>MOVER:</b>	Amanda B. Nathan, Mayor Pro Tem
<b>SECONDER:</b>	Andrew S. Friedberg, Councilman
<b>AYES:</b>	Nauert, Nathan, Reed, McLaughlan, Friedberg
<b>NAYS:</b>	Avioli Sr.
<b>ABSENT:</b>	Pappas

**2. Item for Individual Consideration:**

A brief presentation was made by Chief Financial Officer Linda Symank regarding a proposed sale of \$10,500,000 in General Obligation Bonds, Series 2014, for the following purposes:

\$5,000,000 for the Rebuild Bellaire Program Street and Drainage Improvements (seventh installment of bonds authorized by the voters at an election held on November 8, 2005); and

\$5,000,000 for Evelyn's Park Improvements and \$500,000 for Nature Discovery Center Improvements (first installment of bonds authorized by the voters at an election held on November 5, 2013).

It was noted that the bonds, if approved by City Council, would be sold in a competitive bidding process on August 4, 2014.

Following the presentation by Chief Financial Officer Symank, a **main motion** was offered to direct staff to proceed with the preparation for and the acceptance of a timetable for the sale of \$10,500,000 in General Obligation Bonds, Series 2014.

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

To direct staff to proceed with the preparation for and acceptance of a timetable for

the sale of \$10,000,000 in General Obligation Bonds, Series 2014, for the Rebuild Bellaire Program Street and Drainage Improvements (\$5,000,000) and for the Evelyn's Park Improvements (\$5,000,000), but to fund the Nature Discovery Center Improvements of \$500,000 out of existing capital funds.

Following discussion related to the funding of the Nature Discovery Center Improvements, action was taken on Amendment (No. 1) to the Main Motion.

<b>RESULT:</b>	<b>FAILED [0-6]</b>
<b>MOVER:</b>	James P. Avioli, Sr., Councilman - Position No. 2
<b>SECONDER:</b>	Pat B. McLaughlan, Councilman - Position No. 4
<b>AYES:</b>	None
<b>NAYS:</b>	Nauert, Nathan, Reed, Avioli Sr., McLaughlan, Friedberg
<b>ABSENT:</b>	Pappas

**Motion:** To direct staff to proceed with preparation for and the acceptance of a timetable for the sale of \$10,500,000 in General Obligation Bonds, Series 2014.

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

Discussion and possible direction to staff to proceed with preparation for and the acceptance of a timetable for the sale of \$10,500,000 in General Obligation Bonds, Series 2014.

(Requested by Linda Symank, Finance Administration)

#### **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 thanks and congratulations to the Bellaire Parks and Recreation Department and City Staff for a spectacular Fourth of July celebration and expressions of thanks and appreciation to citizens for their comments regarding Evelyn's Park.

#### **I. Adjournment.**

**Motion:** To adjourn the Regular Session of the City Council of the City of Bellaire, Texas, at 11:45 p.m. on Monday, July 7, 2014.

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