



CITY OF BELLAIRE TEXAS
BUILDING AND STANDARDS COMMISSION
SEPTEMBER 24, 2014

Council Chamber

Regular Session

7:00 PM

**7008 S. RICE AVENUE
BELLAIRE, TX 77401**

I. REGULAR SESSION

A. Call to Order

Chairman Thurmond called the meeting to order at 7:01 PM.

B. Announcement of Quorum

Chairman Thurmond announced that a quorum was present, consisting of the following members:

Attendee Name	Title	Status	Arrived
Laura Thurmond	Chairman	Present	
Paul Katz	Commissioner	Absent	
Burt Martin	Commissioner	Absent	
Mike Baker	Commissioner	Absent	
Danny Spencer	Vice Chairman	Present	
Lee Hampton	Commissioner	Present	
Charles Formica	Commissioner	Present	
Shawn Cox	Assistant to the City Manager	Present	
Ashley Parcus	Secretary	Present	
Alan P. Petrov	City Attorney	Present	

C. Rules for Public Comment

Chairman Thurmond mentioned that the Rules for Public Comment are listed on the agenda.

- 1. Sign up forms will be available at all Regular and Special meetings for registering the names of members of the Public who wish to either: i) speak on an agenda item, provided such items have not been the subject of a prior public hearing; or ii) make a general comment related to the Commission business. These forms will be given to the Secretary prior to the start of the meeting so that the person's name can be called to address the Commission at the appropriate time.**
- 2. Public Comments on agenda items will be made at the time an agenda item appears in the Order of Business and before the Commission's consideration of that item.**
- 3. Public Comments of a general nature shall be made at the time designated by the Order of Business.**

4. **All public comments shall be limited to six (6) minutes per speaker with extensions of two (2) minute increments as approved by a majority vote of Commission members present.**
5. **Public Comment at Workshop meetings will be allowed at the discretion of the Chair. Any comments will be limited as described in Article IV Sec 8.**

D. Approval or Correction of the Minutes

1. Building and Standards Commission - Regular Session - Jul 23, 2014 7:00 PM

Chairman Thurmond asked that it be explained on page 2 of the minutes that the new building code requirements will result in tighter homes. She also asked that page 5 of the minutes reflect the comments made regarding the fact that the actions taken by the Commission are not precedence setting.

RESULT:	APPROVED AS AMENDED [UNANIMOUS]
MOVER:	Danny Spencer, Vice Chairman
SECONDER:	Charles Formica, Commissioner
AYES:	Thurmond, Spencer, Hampton, Formica
ABSENT:	Katz, Martin, Baker

E. Public Comment

There were no public comments.

F. Report from Building Official

i. Update on the status of proposed amendments to the City of Bellaire Code of Ordinances, Chapter 9, Buildings.

Mr. Cox informed the Commission that the proposed amendments to Chapter 9 would be going before the City Council on October 6th. He explained that these proposed changes include the language for moisture control within residential crawlspaces, the requirements for perimeter fencing with silt fence protection at construction sites, and metal roll-off containers at job sites.

Chairman Thurmond asked when a final form of those ordinances will be available for review.

Mr. Cox explained that it will be included in the agenda that will be posted by Friday, October 3rd.

G. Reports of Committees and Communications

1. Communications to Commission members outside of posted meetings

Chairman Thurmond informed the Commission that she and Vice Chairman Spencer met with the City Manager regarding the Commission's goals and objectives moving forward.

2. Committee Reports

There were no committee reports.

3. Reports from Staff other than the Building Official

There were no reports from Staff other than the Building Official.

H. Old Business

There was no old business.

I. New Business

1. Presentation and discussion of the Building and Standards Commission's authorities, responsibilities, and procedures led by City Attorney, Alan P. Petrov.

Attorney Petrov explained that this is a continuation of the normal, annual training that is called for by the Board and Commission Handbook. He pointed out that as a Statutory Board, the Building and Standards Commission has different guidelines that have to be followed from time to time. He stated that the Commission has two different functions: legislative, which involves reviewing regulations and making recommendations to City Council, and quasi-judicial functions, which include public hearings and making decisions on variance applications and orders on substandard structures. Attorney Petrov added that the Commission's actions are governed by state and case law. He then mentioned that Chapter 9 of the City Code is the Commission's bailiwick, and within that code are provisions that allow the Commission to hear variance applications for different matters. He added that the normal application process includes notification and public hearing requirements, as well as opportunities for the applicant to make their case and the Commission to make a decision. Attorney Petrov pointed out that the Commission must determine if there is a hardship that justifies a variance, if the request is in compliance with the code, and if the request is violating the intent of the code. He explained that the request may be different than the code, but it must achieve the same protection that the code is seeking to accomplish. He then elaborated on the fact that decisions made by the Commission, with respect to variances, are not precedent setting. Attorney Petrov stated that seldom is there a situation that is identical to another, each application has unique characteristics involved with it. That being said, the Commission must still proceed with caution on those types of issues. He mentioned that while every case is considered based on its own facts, a court hearing an appeal will also take into consideration whether the board acted capriciously or arbitrarily. Attorney Petrov then touched on the fact that there are special regulations and extra standards that must be met when dealing with floodplain variances, because floodplains are regulated by FEMA. He added that substandard structures are another big task that the Commission has in protecting the Community, and that the local government code provides a procedure where municipalities can deal with substandard structures should they become a nuisance within a community. Attorney Petrov stated that issues regarding substandard structures are very much quasi-judicial and very much dependant on process. He informed the Commission that in 2012 the Supreme Court came across some issues with due process during a substandard structure hearing in Dallas, in which it was determined that the city had taken the person's property without giving the homeowner ample opportunity to appeal the order. Attorney Petrov explained that the process for hearing a substandard complaint is still the same, but if an appeal is filed then orders are put on hold. He added that if no appeal is filed then the property owner has waived their rights, and the process continues as usual. Attorney Petrov mentioned that issues with substandard structures have decreased now that the building industry is booming again. He then reviewed the process with regards to substandard structures: The Building Official will bring a case before the Commission, the City gives notice to all parties involved, and a public hearing is held. If it is found that the structure is in fact substandard, the Commission can then order the structure

repaired, moved, or demolished. Once action has been taken by the Commission, the city must ensure that the property owner has enough time to appeal the decision.

Chairman Thurmond mentioned that the Commission has no road map to follow with regard to recommending changes to City Council, and would like to look into that.

Attorney Petrov stated that he would be happy to help.

Vice Chairman Spencer added that standards and expectations need to be set so that the Commission can see their projects through to the end.

Attorney Petrov stated that he is not aware of a road map within the City Code that gives a set process for sending recommendations to City Council.

Chairman Thurmond mentioned that she would rather not re-invent the wheel, and would prefer to use something that is already in place for the City of Bellaire or other cities.

2. The Chair shall recognize any Commissioner who wishes to bring New Business to the attention of the Commission. Consideration of New Business shall be for the limited purpose of determining whether the matter is appropriate for inclusion on a future agenda of the Commission or referral to Staff for investigation.

Chairman Thurmond asked that an item be added to the next agenda to discuss the procedures for sending recommendations to City Council, and that the Commission get an update on floodplain management within the City of Bellaire and the actions being taken to mitigate the changes in insurance rates.

J. Public Hearings

There were no public hearings.

K. Announcements & Comments by Commissioners

Chairman Thurmond explained to the new members that each year the Environmental and Sustainability Board holds a Bellaire Recycles Fest, and that for the past couple of years the Building and Standards Commission has been involved in the event. She added that she would like for the Commission to participate again this year and stated that it will be held on Saturday, November 1st, from 10am-2pm, in Loftin Park. Chairman Thurmond mentioned that the Commission normally has a sign in sheet allowing the Commissioners to sign up for their desired time slot.

L. Adjournment

Motion: A motion was made by Vice Chairman Spencer and seconded by Commissioner Formica to adjourn the Regular Meeting.

Vote: The motion carried on a unanimous vote of 4-0.

The meeting was adjourned at 7:41 PM.