



# CITY OF BELLAIRE TEXAS

## MAYOR AND COUNCIL

JUNE 15, 2015

Council Chamber

Regular Session

7:00 PM

7008 S. RICE AVENUE  
BELLAIRE, TX 77401

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

#### A. Call to Order and Announcement of a Quorum - Dr. 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 7:39 p.m. on Monday, June 15, 2015. The Regular Session was held in the Council Chamber, First Floor of City Hall, 7008 South Rice Avenue, Bellaire, Texas 77401.

Mayor Nauert announced that a quorum was present consisting of all members of the City Council as set forth in the table below.

Full Name	Title	Status	Arrived
Dr. Philip L. Nauert	Mayor	Present	
Amanda B. Nathan	Mayor Pro Tem	Present	
Tracy L. Reed	Councilman	Present	
John J. Aviola Sr.	Councilman	Present	
David J. Appas	Councilman	Present	
Michael Laughlan	Councilman	Present	
David S. Friedberg	Councilman	Present	
Thomas J. Hofmann	City Manager	Present	
Gregory Petrov	City Attorney	Present	
Tracy L. Dutton	City Clerk	Present	

#### B. Inspirational Reading and/or Invocation - Amanda B. Nathan, Mayor Pro Tem.

**Amanda B. Nathan, Mayor Pro Tem**, provided the inspirational reading for the evening.

#### C. Pledges to The Flags - Amanda B. Nathan, Mayor Pro Tem.

**Amanda B. Nathan, Mayor Pro Tem**, led the audience and members of the City Council in the U.S. Pledge of Allegiance and the Pledge to the Texas Flag.

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

##### Minutes of the City Council:

Consideration of and possible approval of the minutes of the Special Session (Interviews) of the City Council of the City of Bellaire, Texas, held on Monday, June 1, 2015. (Requested by City Clerk Tracy L. Dutton)

##### Motion:

**To approve the minutes of the Special Session (Interviews) of the City Council of the City of Bellaire, Texas, held on Monday, June 1, 2015.**

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

**E. Personal/Audience Comments.**

**Damian LaCroix:**

Mr. LaCroix addressed City Council and stated that his home was located along the Loop 610 Service Road south of Lehigh Street. He indicated that he wished to discuss the Texas Department of Transportation (TxDOT) project for the Highway 59 and Loop 610 interchange and how that project affected residents along the service road.

Mr. LaCroix advised that he and his neighbors were asking TxDOT to build a sound wall along the service road on the west side from Saxon Street to Mayfair Street. He advised further that he had made a point of copying everyone on City Council on correspondence between him and TxDOT. Mr. LaCroix stated that he felt it was important for City Council to assist the residents in getting the sound wall built.

Reference was made to the sound walls TxDOT built for Spring Valley Village and Hilshire Village along I-10. Mr. LaCroix noted that TxDOT had also built sound walls for those residents that were not adjacent to or adjoining the feeder road, but were divided by a commercial property.

Mr. LaCroix referenced noise next, noting that it had been a problem for Bellaire residents and expressed concern that TxDOT planned to move the interchange even closer to his home. He indicated further that he had been dealing with TxDOT since 2012 and had asked them to build a sound wall so that the residents along his stretch of Bellaire could have peaceable enjoyment of their property.

In closing, Mr. LaCroix urged City Council to assist him and his neighbors in getting TxDOT to construct sound walls for his stretch of Bellaire like those constructed for Spring Valley Village and Hilshire Village.

**Keith Bowers:**

Mr. Bowers addressed City Council and advised that he had spoken with the sound engineer and the structural engineer for TxDOT at a recent meeting. Mr. Bowers indicated that utilities were located within the right-of-way and the right-of-ways were narrow, so the construction of sound walls would be difficult. Noise could be attributed to the ribbed concrete used in state road projects that left a rough surface for vehicles to travel over. In Mr. Bowers' opinion, the sound walls were justified and Bellaire's citizens deserved peace and quiet.

Secondly, Mr. Bowers thanked Councilman Avioli for asking for clarification in writing on the costs for Evelyn's Park Phase One. Reference was made to right-of-way that HEB wanted the City to give them. Mr. Bowers indicated that he was opposed to giving

taxpayer property away.

With respect to non-religious activities in residential areas, Mr. Bowers stated that he was opposed to religious properties that were really commercial endeavors being excluded from the tax base.

As for the City's long-term capital plan, Mr. Bowers asked City Council to look out ten years. He noted that infrastructure was falling apart, and the Wastewater Treatment Plant needed to be addressed. He urged Bellaire to consider connecting to the City of Houston's large wastewater treatment plant located nearby.

**Robert Riquelmy:**

Mr. Riquelmy addressed City Council regarding flooding. He noted that in the two-three years after Tropical Storm Allison in 2001, there were a series of City workshops and meetings dealing with the flooding issue and the selling of bonds to address flooding. The most expensive item in the bond program to address flooding, Rebuild Bellaire, was the Baldwin Street extreme event storm sewer. The price tag on that item varied between \$4 and \$14 million.

Mr. Riquelmy advised that he would like to know how the City's investment in drainage and related-engineering services performed in light of the recent flooding.

Dr. Philip L. Nauert, Mayor, read the following written comment into the record:

**Joe Henry:**

*Mr. Mayor, council members, I address the Texas Department of Transportation's proposal to revise the Highway 59/Loop 610 interchange and the City's involvement in that process.*

*Thank you for your work to date to improve the TxDOT proposal. I have seen the original proposal for the direct connect from 59 northbound to 610 southbound, and it was ill-conceived. You were right to oppose it for many reasons.*

*However, the current proposal remains seriously flawed in that it does not allow 610 southbound traffic to exit Fournace/Bissonnet, making Bellaire a one-exit town.*

*Forcing all Bellaire-bound 610 south traffic to exit Bellaire Boulevard is inconvenient, unsafe, causes more traffic problems than it solves and will result in significant economic damage to the City, residential property values and surrounding businesses.*

*Under the current proposal, Bellaire residents who live in the northern half of the city will be required to exit Bellaire Boulevard onto a relatively short ramp, navigate a 2-lane u-turn and continue through multiple extra traffic lights to reach their houses from 610 southbound. The same is true for traffic headed to the Chevron building, Episcopal High School, The Post Oak School, Pin Oak Middle School, businesses along Bissonnet (including, with respect your Honor, a certain dental practice at 4562 Bissonnet), Home Depot, Houston Garden Center, Houston Community College, the Chase building, the Worley Parsons building and many other destinations currently served by the Fournace/Bissonnet exit.*

*Not only is the proposal inconvenient for the traffic described above, but all of that traffic will be added to the southern half of the city when it exits Bellaire Boulevard to*

*make the u-turn and then joins the traffic congestion on the northbound feeder. So the proposal adversely impacts nearly all residents of and visitors to Bellaire.*

*This additional traffic congestion will inhibit property values in Bellaire and place an economic burden on businesses in the area, lowering tax revenues to the City. The cumulative number of people negatively impacted, considering the number of cars per day who currently use this exit, is staggering.*

*Further, I inquired at the June 4 public hearing if anyone thought a double u-turn was actually safe. I have never seen one and can't imagine that it would not result in additional accidents and injuries, which would further back up traffic on southbound 610. I did not receive a response to this concern from TxDOT or the City.*

*At the recent hearing, the proposal was very poorly received and strongly opposed by nearly every resident who spoke on the matter. Further, many interested parties haven't had an opportunity to speak on the matter yet, as many residents and businesses and schools who will be adversely impacted remain unaware of the proposal. We need time and additional hearings before TxDOT moves ahead.*

***To represent the best interests of Bellaire, Council should strongly oppose the TxDOT proposal as currently presented by adopting a formal resolution in opposition and requesting TxDOT to reconsider the proposal and hold further hearings.***

*Within a few hours of the public unveiling of the project June 4, I (as a non-engineer) was able to suggest several preliminary ideas for solutions, but in discussing them with TxDOT employees and engineers I received blank stares as though they had not considered them. (1) Continue the height of the 610SB main lanes so that they intersect the 59 direct connects earlier (farther north) to allow traffic to move to the Fournace/Bissonnet exit as it does now, and keeping the two-lane exit; (2) Create a single-lane Fournace/Bissonnet exit much earlier on 610SB (before the apex over 59) that joins the Richmond flyover or 59 direct connects, similar to the current 610NB Westheimer exit; (3) add a Bissonnet exit to 610SB to mitigate some of these concerns; or (4) save millions of taxpayer dollars by not altering 610, 59 or any of the direct connects other than the dangerous 610NB to 59SB direct connect. Other residents with good ideas also proposed possible solutions.*

*TxDOT needs to spend more time working on solutions. However, at the conclusion of the hearing, we were told they would be moving directly into detailed engineering. It felt as if TxDOT were saying, "Thank you all for coming out, we're glad you all got that off your chests, now we're going ahead with the project anyway." They listened, but they didn't seem to hear.*

*Mr. Mayor, members of counsel, please don't let TxDOT steamroll our City.*

*Thank you for your time and for your service to Bellaire and its residents.*

## **F. Report(s):**

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

City Manager's Report dated June 15, 2015, regarding Fourth of July Activities and Storm Debris Collection Status. (Requested and Presented by Paul A. Hofmann, City Manager)

**Paul A. Hofmann, City Manager**, presented the City Manager's Report dated

June 15, 2015, to members of City Council. The report included a briefing on the Fourth of July activities and storm debris collection status.

Following questions from the Mayor and City Council regarding the City Manager's Report, action was taken to accept the report into the record.

**Motion:**

**To accept the City Manager's Report dated June 15, 2015, as presented by Paul A. Hofmann, City Manager, into the record.**

<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., Pappas, McLaughlan, Friedberg

**G. New Business:**

**1. Adoption of Ordinance(s)/Resolution(s):**

Consideration of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, granting a planned development permit PD-25-UVD to HEB Grocery Company, LP, for the construction of a retail development consisting of a grocery store with attached parking facility to be known as "HEB Bellaire" on a 3.055 acre site located on the northern side of the intersection between Bissonnet Street and Cedar Street in the City of Bellaire, Harris County, Texas, and currently addressed as 5106 Bissonnet Street, Bellaire, Texas, in the Urban Village-Downtown Zoning District (UVD). (Requested and Presented by John McDonald, Director of Development Services)

**Motion:**

**To adopt an ordinance of the City Council of the City of Bellaire, Texas, granting a planned development permit PD-25-UVD\* to HEB Grocery Company, LP, for the construction of a retail development consisting of a grocery store with attached parking facility to be known as "HEB Bellaire" on a 3.055 acre site located on the northern side of the intersection between Bissonnet Street and Cedar Street in the City of Bellaire, Harris County, Texas, and currently addressed as 5106 Bissonnet Street, Bellaire, Texas, in the Urban Village Downtown Zoning District (UVD).**

\*Director of Development Services John McDonald requested a change in the number assigned to the planned development from PD-25-UVD to PD-25, the request of which was granted by the City Council.

Discussion ensued among members of City Council regarding the motion on the floor. Following discussion and questions of the Director of Development Services, action was taken to adopt the ordinance granting the referenced planned development numbered PD-25.

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

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

Consideration of and possible action on a request from Councilman James P. Avioli, Sr., for City Council direction to the City Attorney of the City of Bellaire, Texas, to prepare a Letter Agreement by and between the City of Bellaire, Texas, and the Evelyn's Park Conservancy Board (the "Parties"), for the purpose of clarifying the Parties' financial responsibilities for the exclusions and the three items specified as owner responsibility set forth in Exhibit B - Assumptions and Clarifications, to Addendum 2, GMP Amendment to Agreement between Owner and Construction Manager, to Exhibit 1 to Ordinance No. 14-071, AIA Document A133--2009 Standard Form of Agreement between Owner and Construction Manager as Constructor, by and between the City of Bellaire, Texas, as Owner, and Linbeck Group, LLC, as Construction Manager, regarding Phase One of the Evelyn's Park Project, 4400 Bellaire Boulevard, Bellaire, Texas 77401. (Requested and Presented by James P. Avioli, Sr., Councilman)

### Motion:

**To request the City Attorney of the City of Bellaire, Texas, to draft a Letter Agreement between the City and the Evelyn's Park Conservancy specifying financial responsibility for exclusions and references to "Owner" in Exhibit B, Addendum 2, of the Linbeck operating agreement, the Letter Agreement to be executed and signed by the Mayor and the President of the Evelyn's Park Conservancy Board.**

**James P. Avioli, Sr., Councilman**, provided a brief overview of the agenda item before City Council. He noted that before City Council approved the Linbeck agreement for construction phase services for Evelyn's Park, there was a considerable amount of discussion regarding provisions and exclusions in Exhibit B, Assumptions and Clarifications, to Addendum 2. The Evelyn's Park Conservancy ("Conservancy") assured City Council that the Conservancy was financially responsible for the items listed as exclusions and/or "by owner."

In order to clarify the Conservancy's position and who was responsible for which financial activity, it was Councilman Avioli's intent to ask City Council to request the City Attorney to prepare a Letter Agreement between the City and the Conservancy setting forth who accepts financial responsibility for said exclusions and statements "by owner." His only intent was to clarify and memorialize what had already been stated by the Conservancy. It appeared that the construction project might be lengthy and was a high dollar cost project. For that reason, Councilman Avioli wished to clarify financial responsibilities.

Discussion ensued among members of City Council regarding the motion on the floor. At the conclusion of the discussion, action was taken on the

motion.

**\*\*Roman F. Reed, Councilman, opposed the motion as he felt the terms were already outlined in the Development and Operating Agreement between the City and the Conservancy.\*\***

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

#### **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 congratulations to the Evelyn's Park Conservancy Board on their upcoming groundbreaking event.

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

##### **Motion:**

**To adjourn the Regular Session of the City Council of the City of Bellaire, Texas, at 9:20 p.m. on Monday, June 15, 2015.**

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