



# CITY OF BELLAIRE TEXAS

## MAYOR AND COUNCIL

AUGUST 17, 2015

Council Chamber

Public Hearing and Regular Session

6:00 PM

7008 S. RICE AVENUE  
BELLAIRE, TX 77401

### I. SPECIAL SESSION (PUBLIC HEARINGS) - 6:00 P.M.

#### A. Proposed Budget for the City of Bellaire, Texas, for Fiscal Year 2016:

##### 1. Call to Order and Announcement of a Quorum - Dr. Philip L. Nauert, Mayor.

**Dr. Philip L. Nauert, Mayor**, called the Special Session (Public Hearing) of the City Council of the City of Bellaire, Texas, to order at 6:04 p.m. on Monday, August 17, 2015. He announced that a quorum was present consisting of the following members of City Council:

Attendee Name	Title	Status	Arrival
Philip L. Nauert	Mayor	Present	
David B. Nathan	Mayor Pro Tem	Absent	
John F. Reed	Councilman	Present	
James P. Avioli Sr.	Councilman	Absent	
Ed Pappas	Councilman	Present	
John McLaughlan	Councilman	Present	
Andrew S. Friedberg	Councilman	Present	
Paul A. Hofmann	City Manager	Present	
Diane K. White	Asst. City Manager	Present	
Tracy L. Dutton	City Clerk	Present	

##### 2. Reading of the Notice of Public Hearing - Tracy L. Dutton, City Clerk.

**Tracy L. Dutton, City Clerk**, read the "Notice of Public Hearing" regarding the proposed budget for the City of Bellaire, Texas, for the fiscal year commencing October 1, 2015, and ending September 30, 2016, into the record.

##### 3. Summary of Public Hearing Procedures - Paul A. Hofmann, City Manager.

**Paul A. Hofmann, City Manager**, summarized the public hearing procedures for the evening.

##### 4. Presentation:

Public hearing regarding the proposed budget for the City of Bellaire, Texas, for the fiscal year beginning October 1, 2015, and ending September 30, 2016 (FY2016 Budget) - Presented by Paul A. Hofmann, City Manager.

**Diane K. White, Assistant City Manager** (ACM), provided a quick overview of the City of Bellaire proposed budget for the fiscal year commencing on October 1, 2015, and ending on September 30, 2016 (FY 2016).

##### General Fund

With respect to the General Fund, ACM White noted that the main source for revenue in the General Fund was property taxes. She noted further that resources for revenues had increased approximately 9% from the 2015 budget to the 2016 proposed budget.

With respect to expenditures, it was noted that the General Fund was heavily expended with salaries and benefits totaling almost 74% of the General Fund budget.

### **Enterprise Fund**

ACM White advised that the largest source of revenue for the Enterprise Fund was water sales. The primary functions of the Enterprise Fund were noted to consist of water, wastewater, and solid waste operations. The City's purchase of water from the City of Houston, which was one-half of the water budget, totaled approximately \$1.82 million. The next largest expenditure in the Enterprise Fund was noted to be salaries and benefits.

### **Budget Highlights**

The three main highlights for the FY 2016 proposed budget were:

- Significant investment in street maintenance and appearance of rights-of-way;
- Significant investment in a long-term vehicle and equipment replacement program; and
- Implementation of a full-cycle recruitment effort.

## **5. Recognition of Citizens and/or Other Interested Parties - Dr. Philip L. Nauert, Mayor.**

### **Keith Bowers:**

Mr. Bowers addressed City Council and thanked ACM White for her very comprehensive preparation of the proposed FY 2016 budget for the City.

The overall budget plan in Mr. Bowers' opinion was biased to substantial growth in compensation (i.e., number of people, hiring of outside consultants and services, inflation in job titles, and too many supervisors with few employees). He continued and advised that the omission of paid time off in the City's salary evaluations against commercial businesses was disturbing. In his opinion, the City was overpaying for the work tasks required of its employees. He urged City Council to conduct another salary evaluation and include paid time off in that evaluation.

Secondly, Mr. Bowers advised that the high cost of consultants was not included in the City's personnel costs. He referenced the hiring of outside expertise to augment employees and stated that he believed that this process disguised or understated the City's compensation costs.

Mr. Bowers continued and expressed concern that very little money was slated to be spent on rebuilding streets and subsurface infrastructure. He indicated that the City's potholes could not be fixed with the expensive pothole machine purchased by the City as it took all day to heat the asphalt in the machine. He advised that the City was better off with a backhoe and hot mix in his opinion.

With respect to the City's vehicle replacement program, Mr. Bowers urged City Council to take a hard look at the plans for vehicle replacement. He felt that the City was automatically giving up useful life of the City's patrol vehicles by replacing them every three years. He inquired as to how the analysis was formed and indicated that the overall cost included more than the just the purchase price of a new vehicle. He estimated that the cost to renew the technology in the patrol vehicles was approximately \$20,000.

Reference was made to the City's plan to accumulate money in a reserve fund for vehicles and other technology items. Mr. Bowers advised that he disagreed with that process as the City was not a commercial business.

{The speaker's allotted time ended at this point in the meeting.}

**John Monday:**

Mr. Monday began his comments with a reference to an earlier appearance he had made before City Council (i.e., on July 20<sup>th</sup>) regarding the City's need to step up its game on street, landscaping, and image maintenance. During his previous appearance, Mr. Monday presented a list of items in the specific categories he had mentioned and suggested to City Council that they ensure that the 2016 budget included those items as line item detail and allocate funds to bring the City up to standard quickly.

He continued and advised that he was encouraged that a few things on the list had already been completed. He thanked City Manager Hofmann and his staff for attending to those items so quickly. Mr. Monday noted further that he had received a detailed report from the City Manager itemizing maintenance expenditures for the current year and items planned for 2016.

It was noted that several of the members of the informal group of residents interested in the City's appearance were present this evening to provide the next level of specifics to aid the City Council's budget review. Mr. Monday stated that subsequent speakers would address specifics across the three categories of street, landscaping, and image maintenance that were not fully addressed in the budget in their opinion.

Mr. Monday stated further that the group wanted to signal their interest in participating with City Staff in meaningful ways to help identify other projects that would improve the aesthetics of the City. The suggestion that the group do so was made last Friday in a meeting with City Staff.

In the coming months, the referenced group of residents planned to prepare a more encompassing report that described their thought processes, methodologies, and recommendations to help get the sparkle back in Bellaire. Mr. Monday advised that he had been informed that the budget for maintenance was increased from \$120,000 to \$150,000 or \$160,000. Tonight, ACM White showed that the total budget was \$1.8 million. In any event, Mr. Monday advised that the group felt that the amount allocated for the specific items mentioned and for the aesthetics and appearance of Bellaire was underfunded. The group felt that at least \$300,000, and possibly \$500,000, would be needed in 2016 for the maintenance items the group would identify to City Council.

In closing, Mr. Monday urged City Council to consider making an excellent

investment in the aesthetics of the community. With City Council's support, the referenced group of residents could be thought of as a pipeline of input directly from the community that supplemented City Staff's recommendations.

**Terry Leavitt-Chavez:**

Ms. Leavitt-Chavez addressed City Council and advised that beautiful and welcoming public spaces reflected community pride, enhanced the urban environment, and promoted economic redevelopment. In her opinion, Bellaire needed an immediate image makeover. She noted that many Bellaire residents worked to maintain the curb appeal of their homes and she urged the City to do so as well.

City Council support was urged for the seasonal banners included in the Parks, Recreation and Facility Department's budget. Ms. Leavitt-Chavez advised that the banners would immediately upgrade Bellaire's image visually and help express Bellaire's core values.

Ms. Leavitt-Chavez noted that a Bellaire image upgrade could not realistically be done on every street in Bellaire within the next year. Ms. Leavitt-Chavez suggested earmarking \$500,000 as part of the FY 2016 budget to create an immediate image impact on high traffic areas in Bellaire, including Bellaire Boulevard, Bissonnet Street, and South Rice Avenue. As part of the budget request, Ms. Leavitt-Chavez encouraged City Council to bulk up the landscape to the entrance of Bellaire located across the railroad track on Bellaire Boulevard (City entry marker). She understood that City Council was waiting to decide on entry markers and signage for Bellaire until the City's municipal facilities' campus dictated the brand feel in Bellaire.

In the meantime, thousands of people came through Bellaire Boulevard everyday. Ms. Leavitt-Chavez advised that the image reflected a few flowers recently planted by an old entry marker. She urged City Council to consider planting extra flowering trees around the sign, as well as an infusion of Texas color in front of the sign in multiple layers. Bulking up the landscape presentation at the key entrance marker to the City would create a super welcoming image to everyone traveling through the City in her opinion.

Additionally, Ms. Leavitt-Chavez urged City Council to consider installing colorful native plants in the end caps of esplanades on the major streets for high impact rewards. Finally, new and existing landscape needed to be maintained; faded signs needed to be replaced; crooked signs righted; broken curbs repaired; and power washing opportunities be undertaken in the curb areas as well.

**Bill Cox:**

Mr. Cox addressed City Council and indicated that he had spoken to City Council approximately two years ago regarding the landscaping in Bellaire. He noted further that he had been in the commercial landscape business for 35 years and maintained properties all over the Houston area.

Mr. Cox complimented City Council on their hiring of a new landscape company for the City and indicated that the landscaping had improved. However, the landscape could be a great deal better in his opinion. Various slides were shown to members of City Council regarding areas in Bellaire that needed to be addressed, such as the ditch at Beechnut Street and Chimney Rock Road, the esplanade at Bellaire High School and Mimosa Street, an overgrown area behind the Bellaire Police Station, the entranceways into Bellaire, and the esplanade at South Rice Avenue and Bissonnet

Street.

In Mr. Cox's opinion, money needed to be added to the budget for enhancements and renovation projects to be undertaken in some of the cited areas. He indicated that Loop 610 and Bellaire Boulevard was very embarrassing.

Mr. Cox continued and advised that the focal points consisting of the end caps at South Rice Avenue and Bissonnet Street and South Rice Avenue and Bellaire Boulevard could be made beautiful for \$5,000 per year. Mr. Cox advised further that the color could be changed out three times per year for that price. For \$80,000 to \$90,000 all of the entryways into Bellaire could be made beautiful in Mr. Cox's estimation.

Mr. Cox closed by thanking City Council for what they were currently doing with respect to trees.

**Brenda Cauthen:**

Ms. Cauthen addressed City Council and stated that she had watched the visual image of Bellaire go from fair to completely unacceptable over the last few years. She referred to notes that she had from previous conversations with City Council regarding the lack of basic maintenance in the City and how, in the long run, that would cost taxpayers more money to get back up to speed. She, as one of the group of citizens referenced earlier, wished to see funding put into the budget so that the City could take care of maintenance that had been neglected in prior years.

In 2013, the City kicked off a Bellaire beautification effort, however, not a great deal was done. In the 2015 budget, \$120,000 was provided for beautification. Ms. Cauthen was provided with a list of items that the funding had been expended on. She was very glad to see that those things had been done, however, the City still looked pretty shabby in her opinion.

Ms. Cauthen continued and advised that the referenced citizen group had been formed because she and the other members of the group were basically fed up with how the City looked. She further referenced a meeting that she had on Friday with Brant Gary, Director of Public Works, and Cheryl Bright-West, Assistant Director of Parks, Recreation and Facilities, and noted that a wonderful plan was in place for a block improvement program that would be rolled out. However, Ms. Cauthen stated that it would be too long before citizens saw the improvements from that program. She urged City Council to catch the low hanging fruit in the high traffic areas of Bellaire.

Ms. Cauthen also advised that she had heard that some City employees had not addressed beautification because they did not know what it was. According to a definition she found, beautification was any type of visual improvement to a person, place, or thing. She noted that visual improvements could certainly be used in Bellaire.

With respect to streets, she stated that it was her understanding that the street maintenance budget had been raised by \$600,000 for the 2016 fiscal year. This would take care of many issues that would be identified in Director Gary's block improvement program. On the other hand, citizens wanted immediate results for the list of items that had already been provided to City Council. Ms. Cauthen stated that she would like to see at least an additional \$100,000 allocated to street maintenance (which was less than \$20 per household per year). She provided a few examples of

items that should be addressed as follows: restriping major thoroughfares, repairing broken curbs, spraying for weeds growing in and around curbs and sidewalks, painting the end caps and other appropriate curbs yellow (basic maintenance), getting the underpasses in the City cleaned up (i.e., mold and mildew growing on concrete and brick), and repainting crosswalks.

Finally, with respect to tree and landscape debris, Ms. Cauthen advised that she had received a notice from public works asking residents not to let their landscape debris get into the street. Yet, landscape debris was all over the City's own streets.

**Christopher Butler:**

Mr. Butler addressed City Council and indicated that he was present to support the items and requests brought forth by his colleagues. He advised that he also wanted to assure City Council that the items mentioned and to be mentioned were not just items that personally annoyed the residents. The resident group wanted to come to City Council with budget and action requests with a much broader voice and a much larger group of people supporting them. The resident group wished to get a mandate for how Bellaire wanted to look so that City Council had something to go by.

Mr. Butler urged City Council to provide feedback and to support the resident group in order to get a consensus.

**Stephanie Goldfield:**

Ms. Goldfield addressed City Council and advised that the resident group was dedicated to truly visually enhancing Bellaire. She stated that the beauty had to extend beyond residents' yards.

Reference was made to the slides Bill Cox had provided to City Council. Ms. Goldfield advised that many of the items were simple and inexpensive and could be accomplished with the staff the City already had.

Ms. Goldfield read a statement that Mayor Nauert had made several years ago indicating that she really believed in the statement: "You're not just painting things and straightening things and putting signs up. You're talking about a change of thinking, a change of perception, and I think that nothing less than that is where we need to be."

In closing, Ms. Goldfield asked the members of the resident group to stand and be recognized. She also urged all residents to consider joining and/or contacting the group with their ideas.

**Joan Gee:**

Ms. Gee addressed City Council and indicated that she was joining with her neighbors in requesting City Council to review the needs and concerns that had been spoken about this evening. She advised that she had been involved with commercial real estate for the last 30 years. One of the main principles in any real estate transaction was curb appeal.

She continued and advised that the neighbors were asking simply for City Council to pay attention to the maintenance of the City and to direct City Staff to give more time and concern to the areas of the City that needed to be beautified.

**David Montague:**

Mr. Montague addressed City Council and indicated that he had just joined the resident group during the previous week. Although he could not add much, he could see that the residents were committed and he was glad to be associated with them and looked forward to working with them.

Mr. Montague referred to the Town Oaks Place subdivision and the work done there by Michael Fife as a good example of a beautifully landscaped area of Bellaire.

With respect to other areas of the proposed budget, Mr. Montague indicated that he had experience as an asset manager and often looked into the repair and maintenance of vehicles. He referenced a very detailed outline that had been prepared by City Staff and noted that one thing that was missing was mileage and type of service as possible criteria to evaluate vehicles on.

In closing, he commented on the amount of money the City had to pay the City of Houston for surface water, indicating that the cost had increased by at least 8%. He stated that he looked forward to hearing the City's plan for reducing that cost.

**Lynn McBee:**

Ms. McBee thanked the resident group for taking on the task of cleaning and beautifying Bellaire. She continued and provided her comments with respect to the budget. She referenced the City departments and noted that she had reordered them in descending order. The highest budgets were noted to be in the Police, Parks, and Fire Departments, as well as in the City Manager's Office.

With respect to revenues in the General Fund, Ms. McBee advised that those revenues were scheduled to increase almost 9%. She noted that the City would be collecting more and wanted to know what the City would be giving back to the residents. Reference was made to residents over 60 years of age with limited incomes. She did not see any mention of exemptions in the budget and urged City Council to review the exemptions for sufficiency.

The various projects proposed by the City Manager and linked to City Council goals were a mixed bag in her opinion. The proposed citizen survey was an excellent idea as long as the City did not perform the survey in her opinion. She urged City Council to find a top rate professional to perform the survey to ensure neutrality.

Projects that were of no interest to Ms. McBee included a right-of-way analysis and leveling of the Trolley Pavilion. With respect to rate changes, she noted that she agreed with the solid waste and garbage collection rate increases. She did not agree with adding an additional employee to the Human Resources Department to do a full-scale recruitment to solve the issues in the Police Department.

{The speaker's allotted time ended at this point in the meeting.}

**Linda Mazzagatti:**

Ms. Mazzagatti addressed City Council and advised that she was present to report an environmental pollution that had been overlooked by the City of Bellaire even though the Bellaire Police Department had been called regarding the incident and a report was made by them. Ms. Mazzagatti advised that the Bellaire Police Department had

not reported the incident to the Harris County District Attorney's Office which should have been done in her opinion.

It was noted that the incident occurred on July 2, 2015. Ms. Mazzagatti stated that nothing had been done by the City and indicated that she had spoken with the Chief of the Division of Environmental Pollution for Harris County, as well as the Harris County Constable's Sergeant in the Environmental Crimes Division.

Ms. Mazzagatti outlined the incident for City Council. She advised that Platinum Pools and Aztec Contractors were pouring a pool at 4903 Wedgewood on or about July 2, 2015. At approximately 5:53 p.m., after pumping for over 16-24 hours over a period of two days, workers for Platinum Pools and their contractor, Aztec Gunitite, poured their surplus gunitite out of their truck into the City of Bellaire sewer system in the storm drain at the corner of Wedgewood Drive and Anderson Street because they were too lazy to dispose of the gunitite properly in her opinion. She indicated that the gunitite flowing into the sewer system looked like a river and was at least six feet in width.

Ms. Mazzagatti expressed concern that the residents in the area could face flooding because a pool had been poured into the City's sewer system. The residents did not know the extent of the damages and that the incident was a felony criminal offense of environmental pollution that affected the residents of the City of Bellaire.

She encouraged City Council to hold Platinum Pools and Aztec Gunitite liable and responsible for restitution and encouraged the City Council to perform an independent investigation into the matter.

**Written Comment:**

**Richard Franke:**

*The draft budget highlights serious deficiencies in the priorities set by the City of Bellaire.*

*For example, the City contractually committed to maintenance of Evelyn's Park at an approximate cost of \$250,000 annually. Yet, there are critical capital improvement (not refurbishing) projects needed. For example, deficient street lighting throughout the City of Bellaire presents a serious public safety issue. Yet there is no reference to improving street lighting. The City of Houston has contracted with CenterPoint to replace much of its street lighting with LED lighting or other lighting which consumes less energy but provides more light. Council should instruct the City Manager to contact the City of Houston and Centerpoint to engage in that project and have 2016 funds available to evaluate upgrading street lighting throughout the City commencing 2016.*

*Another Capital Improvement deficiency area is water lines. Page 85 lists Water and Water Lines but page 85 has no budget for water lines. Elected officials are aware that the City Engineer "evaluated" water line replacement earlier this year. This taxpayer considers the technique to evaluate water line replacement priorities as incompetent. Our expansive soil can disrupt service in new and old lines. However, the study was based solely on the number and frequency of line breakage. The age of the water lines and the material used to construct older lines was ignored. Further, there was no testing of older lines to gauge the strength of the lines and areas of weakness. Does that impress you as competent engineering analysis. The strength of housing and construction industry has increased construction costs. That is a free market in action. Be reminded that when the economy contracted a few*



years ago the Engineer reported that infrastructure contractors were willing to work at break even rates but City Council refused to expand efforts to reconstruct the well known failing of all elements of infrastructure to take advantage of the reduced rates.

Rebuild Bellaire bond funds are said to be insufficient to replace all aging water lines, including the circa 1942 lines, now 73 years old, servicing the 1000 and 1100 blocks of Howard LN. Further, the Engineer and Public Works claim that line will not be considered for replacement until 2020 when it will be 78 years old. The big news is that the City does not have funds committed for that replacement. So on two blocks of one of the wealthiest communities in the USA, families with infants and children are at risk for extended loss of water service. A local engineer, a former HESS Engineer of the Year, advised that the average life of water lines is 45 years. Another new neighbor, an electrical engineer, noted how well known the effects of corrosion are on cast iron pipe and how a sudden break would release water that would undermine the new concrete surface planned for 2016.

Concerning Community Development, please justify the elimination of one of the two building inspector positions. The cost savings are low and not justified by the risk of inadequately inspected new and remodeled construction. The City has the legal right to inspect all residential foundations but it is my understanding that few are inspected. Our neighborhood in northeast Bellaire has had several foundation failures resulting in extensive repairs and some legal action. Shallow piers and deleted piers were common issues. The small homes permitted for the Howard LN/Newcastle lot should be thoroughly inspected. During an extended wait at a HCAD hearing, I spoke with a lady from Spring Branch. When I told her I lived in Bellaire she responded, "I would never buy a home in Bellaire because of the expansive soil. Four of my friends bought homes there in recent years (1999-2004 and later) and all had foundation failures."

Sidewalks are another mismanaged capital item. The City of Bellaire's 2016 budget should be supported by an ordinance assuming responsibility for sidewalks and funding to repair or replace all residential sidewalks in disrepair regardless of age. Most are poorly inspected and poorly constructed.

Other areas in need are obviously replacing the Public Works Facility and reassessment of the City's HR policies. Pension funding (14% City, 7% employee) by the City appears very costly. Is that justified by below market salaries relative to the business world? Outside of the oil patch, few companies continue lucrative pension plans and the oil patch is obviously cutting back. The City of West University acknowledged it made serious errors in the termination benefits and salary of senior employees. Keep Bellaire out of that situation.

Over, the next 30 years, the City will have paid almost \$8 million to maintain Evelyn's Park at a 3% inflation rate. The City loses approximately \$3 million in revenues annually from a 20% homestead exemption and . . . .

{The speaker's allotted time ended at this point in the meeting.}

## **6. Questions from the Mayor and City Council - Dr. Philip L. Nauert, Mayor.**

Following a question from Dr. Philip L. Nauert, Mayor, regarding the presentation and after noting no further questions from members of City Council, Mayor Nauert called for a motion to close the public hearing.

## **7. Close of Public Hearing - Dr. Philip L. Nauert, Mayor.**

### **Motion:**

**To close the public hearing regarding the proposed City of Bellaire fiscal year 2016 budget at 7:02 p.m. on Monday, August 17, 2015.**

<b>RESULT:</b>	<b>UNANIMOUS [5 to 0]</b>
<b>MOVER:</b>	Roman F. Reed, Councilman
<b>SECONDER:</b>	Pat B. McLaughlan, Councilman
<b>AYES:</b>	Nauert, Reed, Pappas, McLaughlan, Friedberg
<b>NAYS:</b>	None
<b>ABSENT:</b>	Nathan, Avioli Sr.

**B. Petition for Abandonment of Easements Encumbering the Site Currently Addressed as 5106 Bissonnet Street:**

**1. Call to Order and Announcement of a Quorum - Dr. Philip L. Nauert, Mayor.**

**Dr. Philip L. Nauert, Mayor,** called the Special Session (Public Hearing) of the City Council of the City of Bellaire, Texas, regarding a petition for the abandonment of easements encumbering the site currently addressed as 5106 Bissonnet Street, Bellaire, Texas, to order at 7:02 p.m. on Monday, August 17, 2015.

He announced that a quorum was present consisting of the following members of City Council:

<b>Name</b>	<b>Title</b>	<b>Status</b>
Dr. Philip L. Nauert	Mayor	Present
Amanda B. Nathan	Mayor Pro Tem	Absent
Roman F. Reed	Councilman	Present
James P. Avioli, Sr.	Councilman	Absent
Gus E. Pappas	Councilman	Present
Pat B. McLaughlan	Councilman	Present
Andrew S. Friedberg	Councilman	Present
Paul A. Hofmann	City Manager	Present
Scott Eidman	Assistant City Attorney	Present
John McDonald	Director	Present
Tracy L. Dutton	City Clerk	Present

**2. Reading of the Notice of Public Hearing - Tracy L. Dutton, City Clerk.**

**Tracy L. Dutton, City Clerk,** read the "Notice of Public Hearing" regarding a petition for the abandonment of rights-of-way and easements encumbering the site currently addressed as 5106 Bissonnet Street into the record.

**3. Summary of Public Hearing Procedures - Paul A. Hofmann, City Manager.**

**Paul A. Hofmann, City Manager,** summarized the public hearing procedures for the evening.

**4. Presentation:**

Presentation regarding a petition submitted by Brown & Gay Engineers, Inc., on behalf of Centro NP Holdings 12 SPE LLC, Owner, and HEB Grocery Company, LP, as leaseholder, for the abandonment by the City of Bellaire, Texas, of rights-of-way and easements encumbering the property currently addressed as 5106 Bissonnet Street, Bellaire, Texas, in the Urban Village Downtown Zoning District (UVD) to Centro NP Holdings 12 SPE LLC - Presented by John McDonald, Director of Development Services.

**John McDonald, Director of Development Services**, addressed City Council and advised that an application for a planned development had been received by the City in February of 2015 for the construction of a two-story grocery store filed by the HEB Grocery Company to replace their existing grocery store located at 5106 Bissonnet Street, Bellaire, Texas. The planned development (numbered PD-25) was previously approved by the City Council. The current site for the planned development was made up of numerous lots, as well as rights-of-way and easements, which needed to be resolved before the applicant could prepare the documentation needed to create a single lot and replat.

Director McDonald referenced a Quitclaim Deed that the City of Bellaire, Texas, filed in 1995 that relinquished or quitclaimed all east-west alleys in the original "Town of Bellaire" plat. There were some remnants of those alleys included on the referenced site and those were removed from the ordinance and consideration.

Director McDonald turned the floor over to Lisa Helfman of the HEB Grocery Company for a presentation related to the request before City Council for the abandonment of existing easements and/or rights-of-way encumbering the planned development site, PD-25.

**Lisa Helfman, Director of Real Estate for the Houston Division of the HEB Grocery Company** ("HEB"), addressed City Council and referenced HEB's excitement regarding the potential development of a new HEB Grocery Store in Bellaire. Ms. Helfman noted that the easements and rights-of-way requested to be abandoned were currently not in use.

A store similar to the one proposed for Bellaire was shown by Ms. Helfman to members of City Council. It was noted that the store was located in San Antonio, Texas. She noted further that HEB's plans for Bellaire were to construct a store almost three times the size of the existing store.

Reference was made to HEB's sensitivity to the surrounding neighborhood. Ms. Helfman advised that the company desired to bring a store to Bellaire that fit the culture of the neighborhood. HEB also hoped to be a catalyst for additional development in the area. She estimated that there would be a need for approximately 300 employees in the new store (versus the 60 employed in the existing store).

## **5. Recognition of Citizens and/or Other Interested Parties - Dr. Philip L. Nauert, Mayor.**

### **Lynn McBee:**

Ms. McBee addressed City Council and stated that she had been supporting the new HEB store coming to Bellaire since the first public meeting in which discussions had been held. The question this evening had nothing to do with welcoming HEB. The

question for the public hearing was whether to give existing City easements and rights-of-way away or not.

On July 24, 2015, when the legal notice was published and printed, there were eight parcels at stake. She noticed it because the calculations did not add up to the total shown in the legal notice. In August, the public was told that John McDonald discovered that three of the easements and/or rights-of-way had already been abandoned by the City. As a result, all of the publications showing eight pieces were incorrect. The appraisal also referenced eight pieces, but there were really only five pieces under consideration.

The applicant (HEB) was asking City Council to grant the abandonment of the five combined easements and rights-of-way at no cost to the applicant. Yet, the appraiser came up with a valuation for eight parcels of almost \$400,000. When the three easements and/or rights-of-way abandoned in 1995 were taken out (i.e., those three parcels were worth \$144,450), the net for the five parcels totaled \$250,000.

Ms. McBee stated that the process was unfortunately sloppily handled and City Council needed to know that at stake was the appraised value net of \$250,000 to the City versus giving it away to HEB. She clearly did not think it was a big problem for HEB to pay for the easements and/or rights-of-way. The proceeds that would be collected from this sale would go to parks. Bellaire was not that rich that they could afford to give away more land.

In closing, Ms. McBee asked the City's stakeholders to protect the City's assets by collecting the \$250,000 as appraised.

**Keith Bowers:**

Mr. Bowers addressed City Council and indicated that he wholeheartedly supported abandoning the useless rights-of-ways; however, he was opposed to giving them away. Mr. Bowers indicated that the referenced site was on the City's books at \$20 per square foot. The City had been short \$18,000 per year in property taxes from what was legally required of the property holder. He inquired as to how much of the remaining commercial property in Bellaire was assessed at 40% or less of its real market value.

Based on what was seen in the one piece of property before the City, Mr. Bowers stated that Bellaire could be losing millions of dollars each year in property taxes. He urged City Council to hire an appraiser and determine the values of all of the commercial properties in Bellaire. He believed that the City would find the other properties similarly grossly undervalued. He urged City Council to be fair to the residents and not give away the property.

**6. Questions from the Mayor and City Council - Dr. Philip L. Nauert, Mayor.**

**Dr. Philip L. Nauert, Mayor**, opened the floor for questions of the applicant and City Staff from the City Council. Following questions, Mayor Nauert closed the public hearing.

**7. Close of Public Hearing - Dr. Philip L. Nauert, Mayor.**

**Dr. Philip L. Nauert, Mayor**, closed the Public Hearing before the City Council of the City of Bellaire, Texas, regarding a petition for the abandonment of rights-of-way and easements encumbering the site addressed as 5106 Bissonnet Street, Bellaire, Texas, at 7:47 p.m. on Monday, August 17, 2015. It was noted that final deliberation would occur on this matter during the Regular Session to be held later

this evening.

**C. Adjourn.**

**Motion:**

**To adjourn the Special Session (Public Hearing) of the City Council of the City of Bellaire, Texas, at 7:47 p.m. on Monday, August 17, 2015.**

<b>RESULT:</b>	<b>UNANIMOUS [5 TO 0]</b>
<b>MOVER:</b>	Roman F. Reed, Councilman
<b>SECONDER:</b>	Pat B. McLaughlan, Councilman
<b>AYES:</b>	Nauert, Reed, Pappas, McLaughlan, Friedberg
<b>NAYS:</b>	None
<b>ABSENT:</b>	Nathan, Avioli Sr.

**II. 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 8:00 p.m. on Monday, August 17, 2015. Mayor Nauert announced that a quorum was present consisting of the following members of City Council:

<b>Name</b>	<b>Title</b>	<b>Status</b>
Dr. Philip L. Nauert	Mayor	Present
Amanda B. Nathan	Mayor Pro Tem	Absent
Roman F. Reed	Councilman	Present
James P. Avioli, Sr.	Councilman	Absent
Gus E. Pappas	Councilman	Present
Pat B. McLaughlan	Councilman	Present
Andrew S. Friedberg	Councilman	Present
Paul A. Hofmann	City Manager	Present
Scott Eidman	Assistant City Attorney	Present
Tracy L. Dutton	City Clerk	Present

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

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

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

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

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

Consideration of and possible action on the approval of the minutes of the Regular Session of the City Council of the City of Bellaire, Texas, held on Monday, July 20, 2015  
- Requested by Tracy L. Dutton, City Clerk.

Mayor and Council - Public Hearing and Regular Session - Aug 3, 2015 6:00 PM

**Motion:**

**To approve the minutes of the Regular Session of the City Council of the City of Bellaire, Texas, held on Monday, July 20, 2015.**

[**Note:** The minutes included in the agenda packet were for the Public Hearing and Regular Session of the City Council of the City of Bellaire, Texas, held on Monday, August 3, 2015. The agenda caption erroneously referred to the Regular Session held on Monday, July 20, 2015, and the subsequent motion was moved for that date. The City Clerk submitted the July 20, 2015, minutes and re-submitted the August 3, 2015, minutes to the City Council during their Regular Session held on September 15, 2015, and requested ratification of the August 3, 2015, minutes at that time.]

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

**E. Personal/Audience Comments.**

**Michael Fife:**

Ms. Fife addressed City Council with a compliment regarding the replacement of the jogging path along Newcastle Street in front of the Town Oaks Place subdivision ("Town Oaks Place"). She indicated that Director of Public Works Brant Gary and an urban forester met with residents of Town Oaks Place and assured them that the trees Ms. Fife Had planted would be taken care of. The trees were taken care of and landscaping that residents had planted along the trail was moved. Ms. Fife indicated that almost all of the landscaping had survived and that the residents were very pleased with the trail and how it was managed.

Subsequent to that project, the sidewalks and driveway approaches on Town Oaks Place were redone. Town Oaks Place was a one block long cul-de-sac with 20 driveways. The contractor was very gracious, working on one-half of the street at one time and then moved over to do the other one-half of the street. Reference was made to the employees of the contractor and the hard work that was done to ensure that the residents were kept informed of the progress. The residents were thrilled with the outcome and pleased with how the project was handled by the City Staff, engineering personnel, and contractor employees.

**Lynn McBee:**

Ms. McBee referenced discussion during the 1990s, promoted primarily by resident Russ Pitman, regarding how wasteful it was that the City owned a great deal of land in rights-of-way, easements, and alleys, and not collecting taxes on all of those properties. Ms. McBee urged all of the members of City Council to postpone the item on the evening's agenda related to the request for abandonment of the rights-of-way and easements for the HEB Grocery Store site. She urged members of City Council further to have a question and answer session at the next meeting with the City Attorney or to request a legal opinion from the City Attorney as to what was involved in the ordinance that City

Council adopted requiring appraisals and setting fees for the abandonment of rights-of-way, easements, and alleys.

Ms. McBee closed and advised that she believed that there was an uneven understanding amongst City Council as to what it meant when the City abandoned something and noted that the issue was very complicated. An alternative might be to ask former Mayor Chuck Jacobus, a real estate attorney and specialist, to address City Council regarding the abandonment of alleys, easements, and rights-of-way.

#### **F. Reports:**

Presentation of the City Manager's Report dated August 17, 2015, regarding the status of the Memorial Day storm-related reimbursements and anticipated expenses - Presented by Paul A. Hofmann, City Manager.

**Paul A. Hofmann, City Manager**, provided the City Manager's Report ("Report") dated August 17, 2015, to members of City Council. The Report included a status of the Memorial Day storm-related reimbursements and anticipated expenses.

Reference was made to a detailed, comprehensive written report compiled by Chief Financial Officer Linda Symank and Director of Public Works Brant Gary regarding the status of the City's assessment of the storm damage on public buildings and public property and the cost associated with the damage. Potential reimbursement sources included the City's flood insurer, property insurer, and the Federal Emergency Management Agency (FEMA).

City Manager Hofmann advised that a more detailed update would be provided to members of City Council as part of the City's fourth quarter report. The Public Works Service Center suffered a significant amount of damage. The City had been working closely with FEMA representatives and with the City's flood insurer to assess the damage in a very detailed way that generally fell into two categories: 1) the damage to the building itself; and 2) damage to contents (i.e., approximately \$100,000).

It was noted that the extent to which the City would pursue ultimate FEMA funding for mitigating either the building and/or the site around the building still needed to be resolved. The City had been told to expect a reimbursement of approximately \$305,000, net of the City's deductible and some amount of depreciation (i.e., approximately \$70,000).

In closing, City Manager Hofmann stated that a construction/repair contract would require bidding. City Staff planned to bring a contract back to City Council sometime in November. Floodproofing the building and/or site could result in the need for a grant and a matching obligation by the City.

**Dr. Philip L. Nauert, Mayor**, opened the floor for questions of City Manager Hofmann by members of City Council. Following questions, Mayor Nauert called for a motion to accept the Report into the record.

#### **Motion:**

**To accept the City Manager's Report dated August 17, 2015, as presented by Paul A. Hofmann, City Manager, into the record.**

<b>RESULT:</b>	<b>UNANIMOUS [5 TO 0]</b>
<b>MOVER:</b>	Pat B. McLaughlan, Councilman
<b>SECONDER:</b>	Gus E. Pappas, Councilman
<b>AYES:</b>	Nauert, Reed, Pappas, McLaughlan, Friedberg
<b>NAYS:</b>	None
<b>ABSENT:</b>	Nathan, Avioli Sr.

### G. Consent Agenda

#### Motion:

To approve the Consent Agenda dated August 17, 2015, consisting of the following two items:

- **Adoption of an ordinance of the City Council of the City of Bellaire, Texas, temporarily suspending application of Chapter 27, Streets, Sidewalks and Public Places, Section 27-95, Curfew Imposed, of the Code of Ordinances of the City of Bellaire, Texas, for the purpose of allowing the Bellaire High School Softball Boosters to host their 13th annual BBQ Fundraiser in the parking lot of Feld Park, 6406 Avenue B, Bellaire, Texas, from Thursday, September 3, 2015, through Saturday, September 5, 2015, said suspension to commence at 11:00 p.m. and terminate at 5:00 a.m. on the evenings and/or early mornings of Thursday, September 3, 2015, Friday, September 4, 2015, and Saturday, September 5, 2015.**
- **Adoption of an ordinance of the City Council of the City of Bellaire, Texas, authorizing a change in the date of the first Regular Session of the City Council of the City of Bellaire, Texas, in September of 2015 from Monday, September 14, 2015, to Tuesday, September 15, 2015.**

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

- a. Consideration of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, temporarily suspending application of Chapter 27, Streets, Sidewalks and Public Places, Section 27-95, Curfew Imposed, of the Code of Ordinances of the City of Bellaire, Texas, for the purpose of allowing the Bellaire High School Softball Boosters to host their 13th annual BBQ Fundraiser in the parking lot of Feld Park, 6406 Avenue B, Bellaire, Texas, from Thursday, September 3, 2015, through Saturday, September 5, 2015, said suspension to commence at 11:00 p.m. and terminate at 5:00 a.m. on the evenings and/or early mornings of Thursday, September 3, 2015, Friday, September 4, 2015, and Saturday, September 5, 2015 - Requested by Cheryl Bright-West, Assistant Director of Parks, Recreation and Facilities.



- b. Consideration of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, authorizing a change in the date of the first Regular Session of the City Council of the City of Bellaire, Texas, in September of 2015 from Monday, September 14, 2015, to Tuesday, September 15, 2015 - Requested by Tracy L. Dutton, City Clerk, on behalf of City Council.

#### **H. New Business:**

1. Consideration of and possible action on a recommendation from US Capital Advisors regarding the award of a bid for bonds and on the adoption of an ordinance authorizing the issuance of "\$7,910,000 City of Bellaire, Texas, General Obligation Bonds, Series 2015"; specifying the terms and features of said bonds; pledging the levy of a continuing annual ad valorem tax upon all taxable property within the City for the payment of the principal and interest on such bonds; enacting provisions incident and related to the issuance, delivery, payment of, and security for such bonds; approving and authorizing the distribution of an Official Statement; awarding the sale of such bonds and authorizing and approving a Paying Agent/Registrar Agreement - Requested by Linda Symank, Chief Financial Officer.

**Jim Gilley, Financial Advisor, US Capital Advisors**, provided a brief overview of the agenda item to members of City Council. He indicated that his firm had received six bids for the City of Bellaire's \$7,910,000 general obligation bonds. The lowest bid was 3.03% submitted by Piper Jaffray. The highest bid (or least competitive bid) was 3.15%. He noted that the bidding process was very competitive and aggressive.

Further, Mr. Gilley noted that the City of Bellaire received an affirmation of its AAA stable rating from Standard & Poor's. He recognized and commended the City Manager, Assistant City Manager, and Chief Financial Officer for doing a very good job.

Mr. Gilley advised that the final maturity of the bonds was 2040 (25-year bonds). The bonds had a call feature of par, with the first exercise available in 2024. At the beginning of the presentation, Mr. Gilley indicated that the bidding was for \$7,910,000, the remaining authorization for the Rebuild Bellaire Program. The City was going to receive a \$314,000 premium from the bidder. As a result, the par amount declined from \$7,910,000 to \$7,710,000. {The Attorney General adds any premium to the par amount as a deduction from the authorization.}

In closing, Mr. Gilley heartily endorsed and recommended the acceptance of the bid of Piper Jaffray at the 3.03% average interest rate and approve the ordinance authorizing the issuance. It was anticipated that the bonds would be delivered around September 17th.

#### **Motion:**

**To approve a recommendation from US Capital Advisors regarding the award of a bid for bonds to Piper Jaffray in the amount of 3.03% and to adopt an ordinance of the City Council of the City of Bellaire, Texas, authorizing the issuance of "\$7,910,000 City of Bellaire, Texas, General Obligation Bonds, Series 2015"; specifying the terms and features of said bonds; pledging the levy of a continuing annual ad valorem tax upon all taxable property within the City for the payment of, and security for such bonds; approving and authorizing the distribution of an Official Statement; awarding the sale of such bonds and authorizing and**

**approving a Paying Agent/Registrar Agreement.**

Following questions of Financial Advisor Gilley by members of City Council, action was taken on the motion on the floor.

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

2. Consideration of and possible action on a recommendation from the Bellaire Public Works Department to award Bid No. 15-005, 2015 Water Line Replacement Project, to A Absolute Plumbing, Inc., in an amount not to exceed \$382,960.00 and authorization for the City Manager and the City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, for and on behalf of the City of Bellaire, Texas, a Standard Form of Agreement with A Absolute Plumbing, Inc., for said project in an amount not to exceed \$382,960.00 - Requested by Brant Gary, Director of Public Works.

**Motion:**

**To approve a recommendation from the Bellaire Public Works Department to award Bid No. 15-005, 2015 Water line Replacement Project, to A Absolute Plumbing, Inc., in an amount not to exceed \$382,960.00 and to adopt an ordinance of the City Council of the City of Bellaire, Texas, authorizing the City Manager and the City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, for and on behalf of the City of Bellaire, Texas, a Standard Form of Agreement with A Absolute Plumbing, Inc., for said project in an amount not to exceed \$382,960.00.**

Following questions of Brant Gary, Director of Public Works, and Darryl Anderson, Fire Chief, action was taken on the motion on the floor.

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

3. Consideration of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, calling a general election within the City of Bellaire, Texas, for the purpose of electing a Mayor, Councilman - Position No. 2, Councilman - Position No. 4, and Councilman - Position No. 6 for the City Council; establishing the date of the general election on the uniform election date designated by the State of Texas as the first Tuesday after the first Monday in November or November 3, 2015; establishing election precincts, polling places, and appointing election officials; and setting forth certain guidelines - Requested by Tracy L. Dutton, City Clerk.

**Motion:**

**To adopt an ordinance of the City Council of the City of Bellaire, Texas, calling a general election within the City of Bellaire, Texas, for the purpose of electing a Mayor, Councilman - Position No. 2, Councilman - Position No. 4, and Councilman - Position No. 6 for the City Council; establishing the date of the general election on the uniform election date designated by the State of Texas as the first Tuesday after the first Monday in November or November 3, 2015; establishing election precincts, polling places, and appointing election officials; and setting forth certain guidelines.**

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

4. Consideration of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, authorizing the abandonment of up to 0.2304 acres, being the existing rights-of-way and easements encumbering the property currently addressed as 5106 Bissonnet Street, Bellaire, Texas, in the Urban Village Downtown Zoning District; authorizing the abutting property owners to purchase said easements from the City of Bellaire, Texas; and authorizing the Mayor and the City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, an "Abandonment of Easements" document to Centro NP Holdings SPE LLC, as Owner, of the property addressed as 5106 Bissonnet Street - Requested by John McDonald, Director of Development Services.

**Motion:**

**To adopt an ordinance of the City Council of the City of Bellaire, Texas, authorizing the abandonment of up to 0.2304 acres, being the existing rights-of-way and easements encumbering the property currently addressed as 5106 Bissonnet Street, Bellaire, Texas, in the Urban Village Downtown Zoning District; authorizing the abutting property owners to purchase said easements from the City of Bellaire, Texas; and authorizing the Mayor and the City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, an "Abandonment of Easements" document to Centro NP Holdings SPE LLC, as Owner, of the property addressed as 5106 Bissonnet Street.**

{Motion by Andrew S. Friedberg, Councilman, and second by Roman F. Reed, Councilman. Councilman Friedberg advised that he made the motion in order to open the item for discussion.}

Discussion ensued among members of City Council regarding the request before City Council to abandon the rights-of-way and easements encumbering the site addressed at 5106 Bissonnet Street, Bellaire, Texas, at no cost to the property owner.

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

**To authorize the abutting property owners to purchase said easements from the City of Bellaire, Texas, for 50% of the appraised value of the easements.**

{Motion by Dr. Philip L. Nauert, Mayor, and second by Andrew S. Friedberg, Councilman}

Discussion ensued among members of City Council regarding the amendment to the main motion on the floor. Following discussion, action was taken on the amendment.

**Substitute Amendment:**

**Andrew S. Friedberg, Councilman, moved to direct the City Attorney of the City of Bellaire, Texas, to prepare an ordinance consistent with City Council's discussion this evening for adoption inclusive of the 50% sales price based on the appraised value.**

{It was noted that the ordinance would need to come back to City Council for approval at a subsequent City Council meeting.}

Discussion ensued among members of City Council prior to the receipt of a second on the substitute motion.

Following discussion, **Councilman Friedberg withdrew his substitute amendment.** Following further discussion, action was taken on Amendment (No. 1) to the Main Motion.

<b>RESULT:</b>	<b>FAILED [3 TO 2]</b>
<b>MOVER:</b>	Dr. Philip L. Nauert, Mayor
<b>SECONDER:</b>	Andrew S. Friedberg, Councilman
<b>AYES:</b>	Nauert, Reed, Friedberg
<b>NAYS:</b>	Pappas, McLaughlan
<b>ABSENT:</b>	Nathan, Avioli Sr.

Discussion continued among members of City Council regarding the main motion on the floor. Following discussion, a second amendment was offered.

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

**To authorize the abutting property owners to purchase said easements from the City of Bellaire, Texas, for 60% of the appraised value of the easements.**

<b>RESULT:</b>	<b>FAILED [3 TO 2]</b>
<b>MOVER:</b>	Andrew S. Friedberg, Councilman
<b>SECONDER:</b>	Roman F. Reed, Councilman
<b>AYES:</b>	Nauert, Reed, Friedberg
<b>NAYS:</b>	Pappas, McLaughlan
<b>ABSENT:</b>	Nathan, Avioli Sr.

Discussion ensued among members of City Council regarding a possible motion to postpone action until all members of City Council could be present. A third amendment to the main motion was offered in lieu of a motion to postpone.

**Amendment (No. 3) to the Main Motion:**

**To authorize the abutting property owners to purchase said easements from the City of Bellaire, Texas, for 75% of the appraised value of the easements.**

{Motion by Dr. Philip L. Nauert, Mayor, and second by Gus E. Pappas, Councilman}

Discussion ensued among members of City Council regarding the amendment on the floor.

<b>RESULT:APPROVED [4 TO 1]</b>	
<b>MOVER:</b>	Dr. Philip L. Nauert, Mayor
<b>SECONDER:</b>	Gus E. Pappas, Councilman
<b>AYES:</b>	Nauert, Reed, Pappas, Friedberg
<b>NAYS:</b>	McLaughlan
<b>ABSENT:</b>	Nathan, Avioli Sr.

Discussion ensued among members of City Council regarding the ordinance language and the possibility of directing the City Attorney to prepare an ordinance outlining City Council's discussion inclusive of the cost of 75% of the appraised value for the easements and/or rights-of-way.

**City Manager Paul A. Hofmann** commented on a time constraint that the applicant was working under with respect to this matter.

**Mayor Nauert** invited the applicant to the podium to advise City Council of any time constraints.

**Lisa Helfman, Real Estate Director of the Houston Division of HEB**, advised that HEB would be out of contract on the following day.

In light of Ms. Helfman's statement, **Andrew S. Friedberg, Councilman**, offered a substitute motion detailing amendments he recommended to the ordinance before City Council this evening, as amended by the sale at 75% of the appraised value.

**Substitute Motion:**

**To amend the preamble to the ordinance to read as follows:**

**"An ordinance of the City Council of the City of Bellaire, Texas, authorizing the abandonment of the City of Bellaire's interest in two (2) rights-of-way and three (3) easements, consisting of a total of .1598 acres of land within Lots 4-20, Block 36, Town of Bellaire, a subdivision in Harris County, Texas, also known as 5106 Bissonnet Street, Bellaire, Texas; authorizing Centro NP Holdings 12 SPE, LLC, to purchase the City of Bellaire's interest in the two (2) rights-of-way and three (3) easements located at 5106 Bissonnet Street from the City of Bellaire, Texas, for the development contemplated in PD-25, for the price of \$187,687.50, and authorizing the Mayor . . . ."**

To amend the second "whereas" clause located on page 1 of the ordinance to include a comma after the word "Petitioners," said clause to read as follows:

**"Whereas, Brown & Gay Engineers have submitted a Petition on behalf of Centro NP Holdings 12 SPE, LLC, owner, (hereinafter referred to as "Petitioners"), and HEB Grocery Company, LP, as leaseholder, (hereinafter referred to as "HEB"), in accordance with the *Code of Ordinances of the City of Bellaire, Texas, Chapter 27, Streets, Sidewalks and Public Places, Article VI, Sale and Abandonment of Public Property, Section 27-102, Petition Required*, requesting the abandonment by the City of Bellaire, Texas, and the subsequent purchase by Petitioners, of the City's interest . . . ."**

To amend the eighth "whereas" clause located on page 2 of the ordinance to include the phrase "Petitioners and/or" as follows:

**"Whereas, the City staff recommends as a condition of abandonment, Petitioners and/or HEB shall be required to perform a television inspection of the 8" sanitary sewer line shown to run north-south through the property, and upon receipt of the inspection results, Petitioner shall coordinate with the City of Bellaire, Public Works Department, to either, reroute and replace the line, if the results show the line is in service, or properly cap and abandon the line, if it is no longer in service, with all costs associated with this condition paid by the Petitioners and/or HEB; and"**

To amend the ninth "whereas" clause located on pages 2 and 3 of the ordinance to read as follows:

**"Whereas, the City of Bellaire agrees to relinquish all rights to the aforementioned right-of-way and easements ~~so long as HEB obtains effective as of the time (1) the parent tract and aforementioned right-of-way and easements shall have been replatted for the development contemplated in PD-25, and (2) HEB shall have applied for a building permit for the structure to be included in PD-25 within one (1) year from the date of the passage of this Ordinance; and~~**

To amend the tenth "whereas" clause located on page 3 of the ordinance to read as follows:

**"Whereas, the City Council of the City of Bellaire, Texas, finds that the City has no current need for or, expectation of, a future need for these rights-of-way or easements for public purposes and finds that the subject parcel of land can be better utilized by the private sector in the development and/or redevelopment of land within the City of Bellaire, Texas, Petitioners for the development contemplated in PD-25; NOW, THEREFORE,"**

To amend the first ordination located on page 3 of the ordinance to read as follows:

**"1. THAT the City Council of the City of Bellaire, Texas, based on a review of an appraisal dated July 14, 2015, performed by Edward B. Schulz & Co, finds that the sum of \$187,687.50 is an equitable**

settlement for the acquisition by Petitioners of the City of Bellaire's interest in the two (2) rights-of-way and three (3) easements, consisting of 0.1598 acres located within a 3.055 acre tract of land, being Lots 4-20, Block 36, Town of Bellaire, a subdivision in Harris County, Texas, also known as 5106 Bissonnet Street, Bellaire, Texas, ~~by Petitioners is deemed to be that HEB shall obtain a construction permit within twelve (12) months of the effective date of this Ordinance for the development contemplated in PD-25."~~

To amend the second ordination located on page 3 of the ordinance to read as follows:

**"2. THAT for the purchase price of \$187,687.50, the City Council of the City of Bellaire, Texas, hereby agrees to the sale and abandonment of its interest heretofore previously held in the two (2) rights-of-way and three (3) easements listed below: . . . ."**

To amend the fifth ordination located on page 4 of the ordinance to read as follows:

**"5. THAT ~~the City of Bellaire, Texas, shall declare~~the abandonment of ~~its~~the City of Bellaire's interest in the two (2) rights-of-way and three (3) easements to and in favor of Centro NP Holdings 12 SPE, LLC, shall be invalid if Petitioners and/or HEB fails to perform a television inspection of the 8" sanitary sewer line, or if HEB fails to obtain a construction permit, within twelve (12) months from the date of passage of this Ordinance.**

To add a sixth ordination to page 4 of the ordinance to read as follows:

**"6. THAT the foregoing sale, abandonment and authorizations shall be effective only as of the time (1) the parent tract and aforementioned right-of-way and easements shall have been replatted for the development contemplated in PD-25, and (2) HEB shall have applied for a building permit therefor."**

Following a brief discussion among members of City Council regarding the amendments and HEB's statement that the contract would be out the following day, action was taken on the substitute motion.

<b>RESULT:</b>	<b>APPROVED [4 TO 1]</b>
<b>MOVER:</b>	Andrew S. Friedberg, Councilman
<b>SECONDER:</b>	Roman F. Reed, Councilman
<b>AYES:</b>	Nauert, Reed, Pappas, Friedberg
<b>NAYS:</b>	McLaughlan
<b>ABSENT:</b>	Nathan, Avioli Sr.

\*Councilman Friedberg stated his observation that among the five Councilmembers present, at least three different positions had been expressed: 1) abandon the rights-of-way/easements at no cost; 2) sell the rights-of-way/easements for 100% of the appraised value; or 3) something in between. Councilman Friedberg noted further that if four Councilmembers could not agree on some compromise, then the measure would default, and with it, the entire project. Therefore, while he did not agree with the ultimate outcome, he felt he

had no choice but to vote for it to save the project.\*

<b>RESULT:</b>	<b>ADOPTED AS AMENDED [4 TO 1]</b>
<b>MOVER:</b>	Andrew S. Friedberg, Councilman
<b>SECONDER:</b>	Roman F. Reed, Councilman
<b>AYES:</b>	Nauert, Reed, Pappas, Friedberg
<b>NAYS:</b>	McLaughlan
<b>ABSENT:</b>	Nathan, Avioli Sr.

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

There were no items for future agendas.

Community interest items from the Mayor and City Council included expressions of congratulations to the Nature Discovery Center on their gateway groundbreaking event and expressions of thanks to citizens promoting beautification initiatives in Bellaire and to HEB for working with the City.

**J. Adjourn.**

**Motion:**

**To adjourn the Regular Session of the City Council of the City of Bellaire, Texas, at 9:51 p.m. on Monday, August 17, 2015.**

<b>RESULT:</b>	<b>UNANIMOUS [5 TO 0]</b>
<b>MOVER:</b>	Pat B. McLaughlan, Councilman
<b>SECONDER:</b>	Gus E. Pappas, Councilman
<b>AYES:</b>	Nauert, Reed, Pappas, McLaughlan, Friedberg
<b>NAYS:</b>	None
<b>ABSENT:</b>	Nathan, Avioli Sr.