



CITY OF BELLAIRE TEXAS

MAYOR AND COUNCIL

SEPTEMBER 21, 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 7:02 p.m. on Monday, September 21, 2015. He announced that a quorum of the members of City Council was present as set forth in the table below.

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

B. Inspirational Reading and/or Invocation - Andrew S. Friedberg, Councilman - Position No. 5.

Andrew S. Friedberg, Councilman - Position No. 5, Provided the inspirational reading for the evening.

C. Pledges to The Flags - Andrew S. Friedberg, Councilman - Position No. 5.

Andrew S. Friedberg, Councilman - Position No. 5, Led the City Council and members of the audience in the U.S. Pledge of Allegiance and the Pledge to the Texas Flag.

D. Approval or Correction of Minutes:

Minutes of the Public Hearing and Regular Session dated August 17, 2015

Consideration of and possible action on the approval of the minutes of the Public Hearing and Regular Session of the City Council of the City of Bellaire, Texas, held on Monday, August 17, 2015.

Mayor and Council - Public Hearing and Regular Session - Aug 17, 2015 6:00 PM

Motion:

To approve the minutes of the Special Session (Public Hearing) of the City Council of the City of Bellaire, Texas, held on Monday, August 17, 2015.

RESULT:	APPROVED [6 TO 0]
MOVER:	Roman F. Reed, Councilman
SECONDER:	Amanda B. Nathan, Mayor Pro Tem
AYES:	Nauert, Nathan, Reed, Pappas, McLaughlan, Friedberg
NAYS:	None
ABSTAIN:	Avioli Sr.*

*Councilman James P. Avioli, Sr., abstained from voting on the August 17, 2015, Special Session (Public Hearing) minutes due to his absence from that meeting.

Motion:

To approve the minutes of the Regular Session of the City Council of the City of Bellaire, Texas, held on Monday, August 17, 2015.

RESULT:	APPROVED [6 TO 0]
MOVER:	Amanda B. Nathan, Mayor Pro Tem
SECONDER:	Gus E. Pappas, Councilman
AYES:	Nauert, Nathan, Reed, Pappas, McLaughlan, Friedberg
NAYS:	None
ABSTAIN:	Avioli Sr.*

*Councilman James P. Avioli, Sr., abstained from voting on the August 17, 2015, Regular Session minutes due to his absence from that meeting.

E. Personal/Audience Comments.**Robert Riquelmy:**

Mr. Riquelmy addressed City Council and advised that he wished to continue on a topic he had raised at the last City Council Regular Session, which was the topic of openness and transparency.

Reference was made to the term "lobbyist." Mr. Riquelmy advised that the term "lobbyist" was derived from the act of approaching a legislator in the "lobby" to plead a case. He indicated that this did not happen in Bellaire because the legislators were hidden in the back room prior to the meeting. If elected Mayor, Mr. Riquelmy stated that the corrals, fences, and gates would be adjusted so that the legislators were forced to be in the lobby before the meetings so that they would be available to the citizens to "lobby," as they should be, in his opinion.

Lynn McBee:

Ms. McBee referenced City Council and announced that the Bellaire Election Candidates Forum ("Forum") would be held in the Civic Center (auditorium) on Thursday, October 15, 2015, at 6:30 p.m. Ms. McBee advised that the entire community was invited to attend and hear all candidates. She noted that the Forum would not be televised "live," but would be replayed after the event occurred.

Secondly, Ms. McBee urged City Council not to create booze in the park (Evelyn's Park). She believed that it would be the forerunner of many other abuses that all of the community was paying the price for, such as overmedication, DUIs (driving under the influence), chaotic driving, and chaotic acts of violence. Once the precedent of "no alcohol in the parks" was violated, the City would pay a price in her opinion. She urged City Council not to tap into a restaurant providing beer and wine for more profits for the Evelyn's Park Conservancy ("Conservancy") to use to pay the bills.

Reference was made to the Conservancy, which was created with the promise that private funds, grants, and foundation funds, would fund the park. Ms. McBee advised that this was not significantly true. The City now had restaurants to make money and alcohol to pay the way.

Barbara Jerige:

Ms. Jerige addressed City Council and indicated that she had a prepared statement to read into the record. The statement has been transcribed in its entirety as follows:

- *We bought in Bellaire because it was advertised as a "City of Homes," where we wouldn't be around businesses, so that we could protect the financial investment we were making in our home.*
- *We chose our particular home because of the beauty and peacefulness of the neighborhood.*
- *The lots where Evelyn's Park is located were zoned as Residential.*
- *Before we bought our home, we were told that Evelyn's Park would be a tranquil, peaceful and beautiful sanctuary with walking paths and water.*
- *There **was** peace and tranquility in our neighborhood until Evelyn's Park events and construction began.*
- *Evelyn's Park events have been anything **BUT** peaceful and tranquil.*
- *The latest event for groundbreaking sounded like people were playing Bingo with a megaphone right outside our bedroom window while we were trying to sleep.*
- *Before we bought our home, we were told that the café would be open for Park events only.*
- *After we bought our home, we found out that the café is now going to be a full-time restaurant that will be open for breakfast, lunch, and dinner 7 days a week.*

- *Now the Bellarie City Council is being asked to vote on approving a BAR right behind our home that will be open 7 days a week until 11:00 p.m.*
- *What happened to the promise that Bellaire is the City of Homes?*
- *We are not in Mid-Town, the Heights, the Theater District, the Museum District, or downtown Houston.*
- *We are in Bellaire, the City of Homes.*
- *If this were your home and your neighborhood, would you want a Bar that is open 7 days a week until 11:00 p.m. right behind your home?*
- *Why did the Evelyn's Park Conservancy promise to be a good neighbor and then turn around and request a full-time Bar on a blanket basis for the restaurant and events?*
- *How is this being a good neighbor? This feels more like a bait and switch.*
- *Would the members of the Conservancy have the same opinion if they lived in my home and in my neighborhood that backs extremely disruptive Evelyn's Park events and now potentially a BAR?*
- *What opinion would you as the City Council and the Mayor have if you lived in my home and in my neighborhood that backs extremely disruptive Evelyn's Park events and now potentially a BAR?*
- *I am requesting that as you vote on this, that you do so with your own moral conscience and convictions and not with politics in mind.*
- *I ask that you vote the same way that you would vote if you lived in my home and in my neighborhood that directly backs Evelyn's Park.*
- *If there is a number of Bellaire residents who want a full-time Restaurant and Bar in Bellaire, then that Restaurant and Bar should be built on a lot that is already zoned for business, not on a lot that was zoned residential that is in the middle of a beautiful and otherwise peaceful and tranquil neighborhood.*
- *Again, I respectfully ask, "What happened to Bellaire, the City of Homes?"*
- *We are already extremely concerned about the negative impact that Evelyn's Park Events and the Restaurant may have on both our property value and the quality of life in our home and in our neighborhood.*

- *We are horrified at the Conservancy's request to now add a BAR right behind our home.*
- *We are respectfully asking that you please vote NO to the Conservancy's request.*
- *Please know that we are committed to protecting our neighborhood's beauty and peacefulness, as well as our large financial investment in our home and property.*

Andrew Jerige:

Mr. Jerige addressed City Council and echoed his concerns about Evelyn's Park becoming what was looking like "Evelyn's Bar and Grill." He did not believe that Evelyn would want a park named after her to be a late night bar in the middle of Bellaire. Mr. Jerige advised that he did not want a bar at Evelyn's Park serving alcoholic beverages to the general public until 11:00 p.m.

He continued and advised that he did not wish to see intoxicated people driving up and down the streets of Bellaire and in our neighborhoods. Almost all of the parks Mr. Jerige had visited in Texas did not allow alcoholic beverages in the parks. He expressed concern related to alcohol and accidents, children observing intoxicated persons, and the possibility of litigation related to injuries that could occur as a result of alcohol use.

In closing, he asked City Council for the status of the construction of a wall between Evelyn's Park and the residents living on the south side of Camellia Lane.

Michael Fife:

Ms. Fife addressed City Council and complimented the Rubenstein family for their generosity of giving the property for Evelyn's Park to the City of Bellaire in honor of their mother, a very special person. She stated that she was not completely opposed to having beer and wine at the little bistro in Evelyn's Park.

Ms. Fife indicated that she wished for the restaurant hours to be appropriate for the neighborhood. She agreed with the Jeriges in that this was not Mid-Town, the Galleria, or Downtown. Most of the neighborhood restaurants in Bellaire and West University Place closed at 9:00 p.m., which was an appropriate time for a residential neighborhood restaurant. A special event on a Tuesday or Thursday night, for example, lasting until 11:00 p.m. was too loud and too much.

In closing, Ms. Fife stated that she hoped that the appropriateness of the neighborhood where Evelyn's Park was living would be under consideration.

Brian Laviage:

Mr. Laviage addressed City Council and advised that he sympathized with the residents that were opposed to alcohol in Evelyn's Park. He indicated that he supported the request for alcohol in Evelyn's Park as he believed that the service of wine and beer would drive the success of the park.

Additionally, Mr. Laviage believed that most of the traffic to/from Evelyn's Park would be walking traffic. For that reason, he was not terribly worried about drunk drivers.

Julie Malin:

Ms. Malin addressed City Council regarding wine and beer in Evelyn's Park from three

angles. She indicated that first she was the mother of a tween. The idea of a park where she could meet friends and watch her daughter play was wonderful. As part of a bunch of boards and different leadership in Bellaire, Ms. Malin saw the common sense and the responsibility that Bellaire, as a community, had.

In closing, Ms. Malin stated that she believed a restaurant that offered wine and beer was a recipe for success in Bellaire.

George Perkins:

Mr. Perkins addressed City Council and referenced the construction project that was currently ongoing on Evergreen Street by Total Contracting as a component of Phase Four improvements in Bellaire.

Initially at the beginning of the summer the residents of Evergreen Street received notification that they would have construction beginning at the start of summer and ending in August. Mr. Perkins advised that it was now the 21st of September, and the construction was nowhere near completion.

Within the past two weeks, he advised that there had been the necessary demolition of the northern side of the street in order to complete drainage, as well as replace drainage. However, none of the residents in that block of Evergreen Street had received timely notification of that process. Specifically, on the 8th of September, there was supposed to have been a notification delivered stating that on the 10th of September demolition would begin on the sidewalk and driveways, therefore, residents would not have access to their homes. On the 10th of September at approximately 1:00 p.m., at least two residents indicated that notifications were slipped retrospectively through their door with a date of September 8th.

The end result was that at least two residents had cars trapped on their driveways and could not exit at the time that they would normally leave to pick up children from school. Mr. Perkins advised that he had a brief conversation with some of the people on the site and telephoned the 24-hour notification service. The following day only Mr. Perkins' driveway was given a temporary bridge with a steel metal plate in order to allow access.

This week, Mr. Perkins prospectively received notification that the driveway access that had been formed would not be available, but the notice also stated that a temporary driveway would be in place by the end of the day. This was at a time when most of Texas was forecasting rain. A portion of the work was completed; however, from 5101 to 5108 Evergreen Street, there was no access and there had been no further construction.

Mr. Perkins' added that at least two of the Evergreen Street residents had asked for additional temporary driveways. The response they received was that it was not possible because if one person asked for one, everyone would ask for one.

Mr. Perkins' expressed concern that the City was undergoing a project that was well behind schedule and he hoped that there were negotiated penalties within the contract and, if present, fully executed. Residents were told they would have no access to their driveways for 14 to 21 days. For the last eight days, there had been no progress on the project. Further, the handicapped access had been removed and those with disabilities had to travel over rubble to get to their vehicles.

At present, construction had commenced on Fifth Street, which was the temporary parking for most of the residents on Evergreen Street. Evergreen Street residents had

to walk a minimum of a 1/4-mile to park along four-lane South Rice Avenue of which many people were uncomfortable due to traffic volumes.

Mr. Perkins' stated that this was unacceptable and that the City should hold the contractors and everyone else accountable.

Written Comments:

Dr. Philip L. Nauert, Mayor, read written comments received by the City Council into the record as set forth below.

Angela Stancil:

I'm in support of beer and wine sales at Evelyn's Park.

Brenda Cauthen:

Mr. Mayor and Council Members,

I am in support of the new restaurant to be located in Evelyn's Park serving beer and wine. I look forward to being able to have a glass of wine while relaxing in the beautiful park. Thank you for supporting the proposed ordinance.

Claudia Miller:

Vote YES to lifting the ordinance that prohibits alcohol in Evelyn's Park.

Elyse Kalmans:

Dear Council Members,

As a 15-year resident of Bellaire, I am completely comfortable and supportive of beer and wine served in the restaurant area of Evelyn's Park. Many other area parks, like Discovery Green and Memorial Park, are doing this successfully. I think it will increase attendance and revenues as well. Please vote YES for beer and wine in the restaurant area of Evelyn's Park.

Thank you for your consideration.

Hannah, Philip, Lesley and Allen Robbins:

To Whom It May Concern,

As a long-time Bellaire resident and avid supporter of Bellaire Parks, I believe that I speak for most when I say that we have been looking forward to Evelyn's Park for a long time. As you know, one of the highlights of the park is the cafe which will draw visitors from Bellaire and all surrounding neighborhoods. Part of the success of the cafe (and the park) will be allowing visitors to enjoy beer and wine. We have seen the success of many other local parks who do so, and should learn from what they are doing.

My family and I have attended many of the events that have been held in Evelyn's Park thus far, and have seen neighbors walking over to the park with beer and wine in hand. It has not been a burden to the park or to the visitors by any means; in fact, this is part of the culture and the dining experience that we are looking forward to.

Please consider lifting the ordinance that prohibits alcohol in Evelyn's Park.

Gisela and Igor Cherches:

Ladies and Gentlemen of the Bellaire City Council,

We write to request that you lift the ordinance that would prohibit the sale and consumption of beer and wine at Evelyn's Park. As long-time Bellaire residents, my husband and I are very excited about this new park concept that is in the process of being developed and implemented, and we are in favor of making beer and wine available at the restaurant and event venues on the site. Many similar parks in Houston have done so with no negative repercussions. Lifting this ordinance will enhance the use of those spaces and will certainly make them a desirable destination for Bellaire (and Houston) families.

We think it would be so lovely to be able to walk a few blocks to the park, enjoy a nice dinner with a glass of wine, overlooking the beautiful park scenery. We understand that the revenue from the café and event space will be instrumental in maintaining the park, which will lessen the burden on Bellaire families for this maintenance! We believe making beer and wine available in these spaces can be done responsibly, and we trust the restaurant providers, Zelko Concepts, to do just that. I would encourage you all to give this due consideration and approve this use in those specific areas.

I am sending this to the attention of the Bellaire City Clerk and request that you provide a copy of my comments to the Councilmembers.

Thank you.

Karl Poirot:

Bellaire City Council,

This message is offered as a request to Council for its support in lifting or suspending the ordinance prohibiting the sale and consumption of alcohol in select areas of Evelyn's Park. Doing so would complement the dining experience in the park, as well as, enhance social and/or charitable events held there. This format has been effectively managed at other area parks such as Discovery Green, Hermann Park, and Memorial Park and the same can be done in Evelyn's Park. Please support this effort.

Mary Goodman:

Dear City Council,

I want you to know that I support a permit to allow beer and wine sales at Evelyn's Park. I see no harm in this action and I think it will make the restaurant a more attractive place to dine. I have seen no ill effects of beer and wine sales at other parks, such as Discovery Green, Memorial Park and Hermann Park. Also, I have seen no negative effects from the sale of beer and wine at Tiny Boxwoods, which is very close to West U Elementary.

I went to Zelko's restaurant in the Heights over the weekend to check it out. It was a wonderful restaurant, the kind of restaurant I would like to see at Evelyn's Park. I enjoyed the atmosphere and the food. Though I didn't drink an alcoholic beverage while dining there, it was available and I'm glad I had the option. Please lift the ordinance that prohibits alcohol at Evelyn's Park and let beer and wine be served at the restaurant.

Please put my comments in the record and see that they are seen by city council.

Brigitte Minkowitz:

Dear City Council representative,

Please include my letter in tonight's meeting.

I know that there is a vote tonight to lift the ban on alcohol at Evelyn's Park. As a citizen of Bellaire I encourage you to please consider lifting this ban for the sake of Evelyn's Park being a great part of our town in which to host events and have responsible meals and events under the control of the new restaurant and caterer that will be there.

Serving beer and wine under a controlled environment will make the venue popular and in line with what other cafes and event centers offer in the Houston area.

Bringing alcohol into the park should still be banned, but allowing the restaurant to serve it should be allowed please.

Please vote yes!

Thanks for your consideration.

Penne and Casey Weidig:

We SUPPORT serving alcohol in Evelyn's Park. Please consider our position on this matter when voting.

Marybeth Flaherty:

On your agenda tonight, item G.2.a. asks for your approval of an ordinance allowing the sale and consumption of beer and wine in Evelyn's Park. I am writing this letter and requesting that it be read into the record for this evening's meeting.

As you know, I was on the original board of Evelyn's Park Conservancy and was on the board through the planning and design phase of the Master Plan and Phase 1. From the very beginning of discussions about the park, there has always been a desire to offer the community a place to gather and enjoy not only the outdoors and nature, but also to offer a cafe/event venue where food and beverages could be enjoyed in the beautiful setting of the park.

At previous Council meetings when discussion of the cafe took place, many of you currently on City Council acknowledged that sitting under the trees outside the cafe with a meal and glass of wine would be quite nice. I hope that you will tonight vote to approve the adoption of an ordinance that will allow adult visitors to Evelyn's Park the opportunity and the choice to consume beer and wine on the property in the designated area.

Thank you for your time and for your service to our community.

Phebe Chen:

Yes to allowing alcohol in Evelyn's Park.

Cynthia Siegel:

Dear Mayor Nauert and Bellaire City Councilmen:

I am writing to request your approval of amending Chapter 3, Alcoholic Beverages, in the Bellaire Code of Ordinances to allow for the consumption of wine and beer at the new restaurant being built in Evelyn's Park.

I understand that some residents might be concerned that the sale of alcohol may lead to drinking in other parts of the park outside of the restaurant facility and designated outdoor restaurant space. First, I know how strict restaurants are in general and careful about keeping people from taking drinks outside of their facilities in fear that they would lose their liquor license. There is no reason to believe that this restaurant operator would be any different and risk their license after the significant investment they will make to get the restaurant up and running in the park by not taking steps to ensure that alcoholic beverages aren't taken outside of the designated space. Additionally, besides the strictness of the State and City statutes, Bellaire police can be called if there are any problems--alcohol related or other, when the Conservancy can't be reached.

*To my knowledge there has not been any problems with other restaurants that serve wine and beer in Bellaire where people take the alcoholic beverages outside of the facility. The success of this restaurant and its revenue payments to the Conservancy are critical to providing quality maintenance/improvements (above what the City will provide) and programs within the park. To not allow the sale of wine and beer within the restaurant, adjacent indoor event space and designated restaurant outdoor space during **reasonable** business hours would increase the chances dramatically that the restaurant would have a hard time being successful.*

I believe that the Conservancy and Bellaire City Council can work together to put in place safeguards that would address the neighbors' concerns related to the sale/use of wine and beer at restaurant event space. I encourage you to pass this amendment to the ordinance.

Thank you for your consideration.

Tom Flaherty:

Dear Mayor Nauert and City Councilmen:

On your agenda tonight, item G.2.a. asks for your approval of an ordinance allowing the sale and consumption of beer and wine in Evelyn's Park. I am writing this message and requesting that it be read into the record for this evening's meeting.

I approve of the agenda item relating to sale and consumption of beer and wine in Evelyn's Park and am ok with it being allowed until 11 pm.

F. Reports:

City Manager's Report dated September 21, 2015, regarding the condition and planned assessment of the Public Works Service Center - Submitted and presented by Paul A. Hofmann, City Manager.

Paul A. Hofmann, City Manager, presented the City Manager's Report dated September 21, 2015, to members of City Council. The report consisted of a condition and planned assessment of the Public Works Administration Facility

("Facility") located at Baldwin and Edith Streets.

Reference was made to the Memorial Day flood event, which caused damage to the Facility. During a recent Facility update provided by City Staff, it was noted that the City's plan was to fix the Facility back to its existing condition using insurance proceeds. Also during the update, City Council was told that City Staff would return and ask for a construction contract to be awarded.

After continuing to assess the situation and after obtaining more information, the plan had changed. City Manager Hofmann suggested that the City take a step back and more fully think through all of our options.

At this time, the City had not identified a feasible plan for dealing with the chronic flooding issues at the Facility. The City was still in discussions with the Federal Emergency Management Agency ("FEMA") regarding one particular approach to mitigating the flooding for the Facility and the area around the Facility. The cost of that particular approach was prohibitive.

Also of note were Americans with Disabilities Act ("ADA") issues that needed to be addressed in the repair of the Facility. At this point, the City believed that some expert analysis was needed to address the issues.

City Manager Hofmann advised that funds were budgeted in the next fiscal year's budget to perform some public works administration assessment work. The City might add to the scope a bit to more fully look at the ADA issues. The City would also continue working with FEMA. The City was not sure, at this point, that the best long-term plan was to repair the Facility at its current location.

In closing, City Manager Hofmann stated that he did not think it would take long to come back to City Council with some well thought out options for consideration.

Although the current working conditions were not optimal, but City Staff was making do. It was noted that some of the staff were utilizing the Fire Station and others were still at the Facility.

Dr. Philip L. Nauert, Mayor, opened the floor for questions of City Manager Hofmann regarding his report.

Following questions, Mayor Nauert called for a motion to accept the City Manager's Report into the record.

Motion:

To accept the City Manager's Report dated September 21, 2015, as presented by City Manager Paul A. Hofmann, into the record.

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Roman F. Reed, Councilman
SECONDER:	Gus E. Pappas, Councilman
AYES:	Nauert, Nathan, Reed, Avioli Sr., Pappas, McLaughlan, Friedberg
NAYS:	None
ABSENT:	None

G. New Business:**1. Consent Agenda:****Motion:**

To approve and adopt the Consent Agenda dated September 21, 2015, consisting of two items set forth below (1.a. and 1.b.) regarding a curfew suspension for a special event and a Joint Election Agreement with Harris County for the City's November 3, 2015, General Election and Special Election.

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

a. Curfew Suspension for Special Event:

Consideration of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, temporarily suspending the application of Chapter 27, Streets, Sidewalks and Public Places, Article V, Public Parks, Section 27-95(a), Curfew Imposed, of the Code of Ordinances of the City of Bellaire, Texas, for the purpose of allowing the Patrons for Bellaire Parks to hold a special event, Tents in Town, in Bellaire Zindler Park located in Bellaire Town Square, 7008 South Rice Avenue, Bellaire, Texas, on Saturday, October 24, 2015, said suspension to commence at 11:00 p.m. on Saturday, October 24, 2015, and to terminate at 5:00 a.m. on Sunday, October 25, 2015 - Submitted by Cheryl Bright-West, Assistant Director of Parks, Recreation and Facilities.

b. Joint Election Agreement with Harris County:

Consideration of and possible action on the adoption of 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, and the Chief Financial Officer and City Attorney to countersign and approve as to form, respectively, for and on behalf of the City of Bellaire, Texas, an Agreement between Harris County and the City of Bellaire Relating to Joint Elections to be held November 3, 2015 - Submitted by Tracy L. Dutton, City Clerk.

2. Adoption of Ordinance(s)/Resolution(s):

- a. Consideration of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, amending Chapter 3, Alcoholic Beverages, Article I, In General, of the Code of Ordinances of the City of Bellaire, Texas, by amending Section 3-3 , Use prohibited in public parks and other places, authorizing the Mayor of the City of Bellaire, Texas, to execute, for and on behalf of the City of Bellaire, Texas an ordinance allowing the sale and consumption of beer and wine in Evelyn's Park for the purpose of allowing Evelyn's Park Conservancy to manage the sale, service and consumption of beer and wine - Submitted by Karl Miller, Director of Parks, Recreation and Facilities.

Karl Miller, Director of Parks, Recreation and Facilities, summarized the agenda item before City Council. The agenda item consisted of a request

from the Evelyn's Park Conservancy requesting City Council support for the sale, service, and consumption of beer and wine in the designated area in Evelyn's Park.

It was noted that the Development Agreement between the Evelyn's Park Conservancy ("Conservancy") and the City identified that City Council would need to amend Chapter 3, Article I, by revising Section 3-3, of the Code of Ordinances of the City of Bellaire, Texas. Such amendment would allow the consumption and sale of beer and wine without requiring the Conservancy to come to City Council seeking a special use permit each time an event was held, for example.

Director Miller advised that City Staff had measured from the location of the cafe door to the closest door at the Bellaire Methodist Church across the street. That distance did exceed the required 300 feet identified in Chapter 3, Article I, Section 3-2, of the Code of Ordinances of the City of Bellaire, Texas.

The Conservancy was in the final stages of contract negotiations with a food service company for the cafe and the ability to sell or not to sell beer and wine would impact the terms of the contract. The Conservancy was requesting the ability to sell and consume alcohol until 11:00 p.m. The proposed amendment did not have anything to do with the hours of operation for the cafe, but would impact the terms of their agreement with the potential cafe operator, as well as potential functions in the Event Center.

Director Miller advised further that the food service provider would be responsible for securing a permit from the Texas Alcoholic Beverage Commission, ensuring that the Conservancy and the City were properly insured, and that they complied with all laws and ordinances. He recommended that City Council support the Conservancy's request by amending Chapter 3, Article I, Section 3-3, of the Code of Ordinances of the City of Bellaire, Texas.

Dr. Philip L. Nauert, Mayor, offered an opportunity for members of the Conservancy to make comments. Patricia King-Ritter, President, and Lou Waters, Vice President, added comments regarding Evelyn's Park amenities and programming.

Motion:

To adopt an ordinance of the City Council of the City of Bellaire, Texas, amending Chapter 3, Alcoholic Beverages, Article I, In General, of the Code of Ordinances of the City of Bellaire, Texas, by amending Section 3-3, Use prohibited in public parks and other places, to allow for the sale and consumption of beer and wine in Evelyn's Park until 11:00 p.m.

{Moved by Pat B. McLaughlan, Councilman, and seconded by Roman F. Reed, Councilman}

Following discussion by members of City Council regarding the motion on the floor, an amendment to the main motion was offered.

Amendment (No. 1) to the Main Motion: {Withdrawn}

To restate subsection (b) of Section 3-3, Use prohibited in public parks and other public places, to read as follows:

"(b) Evelyn's Park. Within that portion of Evelyn's Park designated by Ordinance No. _____, the sale and service of beer and wine shall be permitted until 9:00 p.m. in the cafe and until 11:00 p.m. in the event center and the consumption of beer and wine shall be permitted until 10:00 p.m. in the cafe and until 11:00 p.m. in the event center provided that the vendor has:"

{Moved by Andrew S. Friedberg, Councilman, and seconded by Dr. Philip L. Nauert, Mayor}

Discussion continued among members of City Council and the Conservancy regarding the amendment on the floor.

Following discussion, Councilman Andrew S. Friedberg, the mover of the amendment, asked for City Council consent to withdraw the amendment. Mayor Philip L. Nauert advised that he had no objection as the seconder of the amendment.

Amendment (No. 1) to the Main Motion was withdrawn.

Councilman Friedberg offered a second amendment.

Amendment (No. 2) to the Main Motion:

To amend Chapter 3, Article I, Section 3-3, Use prohibited in public parks and other public places, by underlining subsection (a) in its entirety, placing a period at the end of subsection (b), and restating subsection (b)(3) to read as follows:

"3. License issued by City of Bellaire pursuant to Chapter 3, Article II, of the Code."

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Andrew S. Friedberg, Councilman
SECONDER:	Dr. Philip L. Nauert, Mayor
AYES:	Nauert, Nathan, Reed, Avioli Sr., Pappas, McLaughlan, Friedberg
NAYS:	None
ABSENT:	None

Discussion continued among members of City Council and the Conservancy regarding the main motion, as amended.

Following discussion, Mayor Nauert called for a vote on the main motion, as amended.

RESULT:	ADOPTED AS AMENDED [UNANIMOUS]
MOVER:	Pat B. McLaughlan, Councilman
SECONDER:	Roman F. Reed, Councilman
AYES:	Nauert, Nathan, Reed, Avioli Sr., Pappas, McLaughlan, Friedberg

- b. Consideration of and possible action on the adoption of an ordinance authorizing the Mayor and the City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, a Contract and Agreement for City Engineer Services with ARKK Engineers, LLC, for the provision of professional city engineer services in an amount of \$90,000.00 for a one-year period commencing on October 16, 2015, and ending on October 15, 2016 - Submitted by Brant Gary, Director of Public Works.

Brant Gary, Director of Public Works, summarized the agenda item before City Council related to professional city engineer services. Director Gary advised that the item requested City Council authorization to enter into a Contract and Agreement for City Engineer Services with ARKK Engineers, LLC, for the provision of professional city engineer services in an amount of \$90,000.00 for a one-year period commencing on October 16, 2015, and ending on October 15, 2016.

Director Gary indicated that the Public Works Department recommended a slight increase in the base services due to basic inflationary costs. With that increase, the base services would total \$75,000 (as opposed to \$70,000 in the previous year). Additionally, an enhancement had been budgeted and added to the contract and agreement for traffic engineering services. Such services entailed performing studies relative to the request for various traffic situations the City might want to examine, such as signage, signals, speed limits, etc. The amount added for traffic engineering services was noted to be \$15,000. The total contract and agreement cost for the referenced services was \$90,000.

Director Gary recommended approval of the contract and agreement.

Motion:

To adopt an ordinance authorizing the Mayor and the City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, a Contract and Agreement for City Engineer Services with ARKK Engineers, LLC, for the provision of professional city engineer services in an amount of \$90,000 for a one-year period commencing on October 16, 2015, and ending on October 15, 2016.

Following discussion, questions, and comments from the City Council, action was taken on the motion and second.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	James P. Avioli Sr., Councilman
SECONDER:	Amanda B. Nathan, Mayor Pro Tem
AYES:	Nauert, Nathan, Reed, Avioli Sr., Pappas, McLaughlan, Friedberg

- c. Consideration of and possible action on an Ordinance of the City of Bellaire, Texas, authorizing the City Manager to execute for and on behalf of the City of Bellaire, Texas, a Standard Form of Agreement with Bureau Veritas North America, Inc., for services necessary for the enforcement of the city's building codes to include construction plan review and the provision of onsite inspection services in an estimated annual amount of \$163,000 - Submitted by John McDonald, Director of Development Services.

John McDonald, Director of Development Services, summarized the agenda item before City Council for approval of an agreement with Bureau Veritas North America, Inc., for enforcement, construction plan review, and onsite inspection services in an estimated annual amount of \$163,000. He noted that the amount for these services was included in the FY 2016 Budget.

Director McDonald noted further that the Development Services Department had one inspector on staff, as well as an opening for a Building Official. With the addition of a Building Official, the City would only have two inspectors. As building in the City continued to increase at a good pace and due to the City's current staffing levels, the Development Services Department was requesting approval of an agreement with Bureau Veritas North America, Inc., to provide the necessary services needed.

Motion:

To adopt an ordinance of the City Council of the City of Bellaire, Texas, authorizing the City Manager to execute, for and on behalf of the City of Bellaire, Texas, an agreement with Bureau Veritas North America, Inc., for services necessary for the enforcement of the city's building codes to include construction plan review and the provision of onsite inspection services in an estimated annual amount of \$163,000.

Discussion ensued among members of City Council and Director McDonald regarding the motion on the floor.

Following discussion, Mayor Nauert called for a vote on the main motion.

RESULT:	ADOPTED [4 TO 3]
MOVER:	Amanda B. Nathan, Mayor Pro Tem
SECONDER:	Andrew S. Friedberg, Councilman
AYES:	Nauert, Nathan, Pappas, Friedberg
NAYS:	Reed, Avioli Sr., McLaughlan

- d. Consideration of and possible action on an ordinance of the City Council of the City of Bellaire, Texas, adopting an update to the 2009 Comprehensive Plan to include the Parks Master Plan as an appendix, as recommended by the Planning and Zoning Commission of the City of Bellaire, Texas - Submitted by John McDonald, Director of Development Services.

John McDonald, Director of Development Services, advised that the City's Comprehensive Plan, as originally drafted in 2009, called for an update or review every five (5) years to make sure the City was on the right track and to ensure that the direction outlined in the Comprehensive Plan was still the direction that the City wanted to go.

Over the last year, the Planning and Zoning Commission, working with City Staff and Gary Mitchell of Kendig Keast Collaborative, and have proposed the draft before City Council, which included some updated material. Comments provided by City Council at the last meeting, specifically with regard to Chapter 4, were incorporated in the update.

Director McDonald recommended adoption of the Comprehensive Plan Update.

Motion:

To adopt an ordinance of the City Council of the City of Bellaire, Texas, adopting an update to the 2009 Comprehensive Plan, to which the Parks Master Plan was appended, as recommended by the Planning and Zoning Commission of the City of Bellaire, Texas.

Following a few questions of Gary Mitchell of Kendig Keast Collaborative, Councilman Andrew S. Friedberg offered an amendment to the main motion.

Amendment (No. 1) to the Main Motion:

To amend the Comprehensive Plan Update by making a global change to replace the phrase "economic development" with "commercial redevelopment" except where the context clearly indicates that was not the intention.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Andrew S. Friedberg, Councilman
SECONDER:	Dr. Philip L. Nauert, Mayor
AYES:	Nauert, Nathan, Reed, Avioli Sr., Pappas, McLaughlan, Friedberg
NAYS:	None
ABSENT:	None

Discussion ensued among members of City Council and Mr. Mitchell regarding the main motion, as amended.

Amendment (No. 2) to the Main Motion:

To amend Chapter 4, Utility Infrastructure, Water, Capacity, to read as follows:

- ♦ **Capacity. The City's current maximum well capacity is approximately 7.0 million gallons per day (MGD). Average water demand is approximately 3.0 MGD. The 50-50 mix of ground and surface water is obtained by purchases of surface water from the City of Houston. The Chevron complex on Fournace is the City's largest water user.**

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Andrew S. Friedberg, Councilman
SECONDER:	Dr. Philip L. Nauert, Mayor
AYES:	Nauert, Nathan, Reed, Avioli Sr., Pappas, McLaughlan, Friedberg
NAYS:	None
ABSENT:	None

Following comments from Mayor Pro Tem Amanda B. Nathan regarding possible improvements to the update process for the future, she offered an amendment.

Amendment (No. 2) to the Main Motion:

To amend the Comprehensive Plan Update by changing the references to "Bellaire Transit Center" to "a transit center on Westpark."

Following discussion, action was taken on the amendment on the floor.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Amanda B. Nathan, Mayor Pro Tem
SECONDER:	Andrew S. Friedberg, Councilman
AYES:	Nauert, Nathan, Reed, Avioli Sr., Pappas, McLaughlan, Friedberg
NAYS:	None
ABSENT:	None

Following a question of City Manager Hofmann by Councilman Roman F. Reed, action was taken on the main motion, as amended.

RESULT:	ADOPTED AS AMENDED [UNANIMOUS]
MOVER:	Pat B. McLaughlan, Councilman
SECONDER:	Gus E. Pappas, Councilman
AYES:	Nauert, Nathan, Reed, Avioli Sr., Pappas, McLaughlan, Friedberg

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

There were no items for future agendas; however, Councilman Roman F. Reed encouraged the City Manager and City Staff to come up with a proper welcome gift to new residents.

Community interest items from the Mayor and City Council included encouragement to residents to view the online City calendar for events coming up in the City and expressions of thanks and congratulations to Building Official Lee Cabello on his retirement.

I. Adjourn.

Motion:

To adjourn the Regular Session of the City Council of the City of Bellaire, Texas, at 9:45 p.m. on Monday, September 21, 2015.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Gus E. Pappas, Councilman
SECONDER:	James P. Avioli, Sr., Councilman
AYES:	Nathan, Nauert, Reed, Avioli Sr., Pappas, McLaughlan, Friedberg
NAYS:	None
ABSENT:	None