

CITY OF BELLAIRE TEXAS

BOARD OF ADJUSTMENT

SEPTEMBER 15, 2016

| | | |
|-----------------|-----------------|---------|
| Council Chamber | Regular Session | 7:00 PM |
|-----------------|-----------------|---------|

7008 S. RICE AVENUE
BELLAIRE, TX 77401



Chairman

James P. Avioli Sr.

Board Member

Amar Raval

Board Member

Debbie Karakowsky

Board Member

Samir Sinha

Board Member

Jed Mandel

Vice Chairman

Jill Almaguer

Board Member

William Stone

Mission Statement:

The City of Bellaire is dedicated to outstanding quality service and facilities to ensure an open, progressive, and secure community.

1. CALL TO ORDER**2. PLEDGE TO THE FLAG (US AND TEXAS)**

Texas Pledge: (Honor the Texas Flag: I pledge allegiance to thee, Texas one state under God, one and indivisible).

3. CERTIFICATION OF A QUORUM**4. APPROVAL OF MINUTES**

1. Board of Adjustment - Regular Session - Aug 18, 2016 7:00 PM

5. REPORTS FROM OFFICERS, COMMITTEES, SUB-COMMITTEES AND COMMUNICATIONS BOARD MEMBERS HAVE HAD OUTSIDE THE MEETING**6. UNFINISHED BUSINESS**

1. Discussion, consideration, and possible action on proposed amendments to the Board of Adjustment's 2016-2017 Rules of Procedure.

7. READING OF THE STANDARDS FROM SECTION 24-704, BELLAIRE CODE OF ORDINANCES**8. NEW BUSINESS**

1. Presentation and discussion on the November 8, 2016 Bond Election.

2. Board Training

- i. **Presentation by the City Attorney on the differences between a special exception and a variance, and the standards required for the granting of each.**

9. GENERAL COMMENTS

(Limitations: Six (6) minutes per speaker with extensions in two (2) minute increments as approved by a majority vote of the Board Members present).

10. GENERAL COMMENTS FROM BOARD MEMBERS**11. ANNOUNCEMENTS****12. ADJOURNMENT**



CITY OF BELLAIRE TEXAS

BOARD OF ADJUSTMENT

AUGUST 18, 2016

Council Chamber

Regular Session

7:00 PM

7008 S. RICE AVENUE
BELLAIRE, TX 77401

1. CALL TO ORDER

Chairman Avioli called the meeting to order at 7:00 PM.

2. PLEDGE TO THE FLAG (US AND TEXAS)

Vice Chairman Almaguer led the Board and the public in the pledge to both flags.

Texas Pledge: (Honor the Texas Flag: I pledge allegiance to thee, Texas one state under God, one and indivisible).

3. CERTIFICATION OF A QUORUM

Chairman Avioli certified that a quorum was present, consisting of the following members:

| Attendee Name | Title | Status | Arrived |
|---------------------|------------------------------|---------|---------|
| James P. Avioli Sr. | Chairman | Present | |
| Amar Raval | Board Member | Present | |
| Debbie Karakowsky | Board Member | Absent | |
| Samir Sinha | Board Member | Present | |
| Jed Mandel | Board Member | Present | |
| Jill Almaguer | Vice Chairman | Present | |
| William Stone | Board Member | Present | |
| ChaVonne Sampson | Development Services Manager | Present | |
| Ashley Parcus | Secretary | Present | |
| Alan P. Petrov | City Attorney | Present | |
| Zachary Petrov | Assistant City Attorney | Present | |

4. APPROVAL OF MINUTES

- Board of Adjustment - Regular Session - Jul 21, 2016 7:00 PM

RESULT: APPROVED [UNANIMOUS]
MOVER: William Stone, Board Member
SECONDER: Amar Raval, Board Member
AYES: Avioli Sr., Raval, Sinha, Mandel, Almaguer, Stone
ABSENT: Karakowsky

5. REPORTS FROM OFFICERS, COMMITTEES, SUB-COMMITTEES AND COMMUNICATIONS BOARD MEMBERS HAVE HAD OUTSIDE THE MEETING

There were no reports.

6. UNFINISHED BUSINESS

There was no unfinished business.

Minutes Acceptance: Minutes of Aug 18, 2016 7:00 PM (Approval of Minutes)

7. READING OF THE STANDARDS FROM SECTION 24-704, BELLAIRE CODE OF ORDINANCES

Assistant City Attorney Zach Petrov read the standards from Section 24-718, which deal with the granting of a special exception, rather than Section 24-704, which are the standards for granting a variance.

8. NEW BUSINESS

1. Public Hearings

- A. Docket #BOA-2016-01-Request for a special exception by VLK Architects, on behalf of Houston Independent School District and Condit Elementary School, to allow for the construction of an electronic message board/monument sign in accordance with the provisions set forth in Section 24-1014 of the City of Bellaire Code of Ordinances. The property is addressed as 7000 S 3rd Street, and is located within the R-4 Residential District.

Presentation by the Applicant

Tim Kunz, VLK Artchitects-Mr. Kunz informed the Board that this is an application for a digital marquee display sign to be located by the main entrance of Condit Elementary School, at the end of Laurel Street. He mentioned that from the very beginning, the project advisory team wanted the school to have a presence on the residential side, and that is why they are proposing that the sign be at this location. He added that the proposed location is not within 100 feet of the residences, and is 6 feet inside of the property line, as required. Mr. Kunz also mentioned that the position of the sign is perpendicular to Third Street so that the sign is not directly facing the residences. He stated that there are many additional regulations that the sign must meet in order to be in compliance with the code. He then showed a rendering of the proposed sign, which will match the materials of the school, and will be a total of 47.2 square feet, with the electronic message display section being 12.5 square feet. Mr. Kunz explained that those dimensions have been reduced down due to its proximity in location to residential properties. He added that it is proposed to be a red LED sign, and that there are other provisions with regard to the electronic message that will be programmed in. Mr. Kunz stated that they are asking for approval of hours of operation for the sign, and that Horn Elementary School and one other school within Bellaire run their sign from 6:00am-9:00pm. He added that they are open to suggestions from both the Board and the residents on the times that the signage would be allowed to run.

Presentation by the City

ChaVonne Sampson, Development Services Manager-Ms. Sampson reiterated that this is an application for a special exception, submitted by VLK Architects, on behalf of HISD and Condit Elementary School for the installation of a double sided electronic message board sign on 7000 South Third Street, in accordance with the provisions set in Section 24-1014 of the Code of Ordinances. She stated that the zoning for this property is R-4, with a specific use permit for the operation of the school. Ms. Sampson informed the Board that the application was filed on July 18, 2016, and mail outs were sent to properties within 200 feet of the school on August 2, 2016. She added that the legal notice was published in the Southwest News on August 2, 2016. Ms. Sampson explained that the school previously had a non-electronic, internally lit message board sign located on

Third Street, between Willow and Laurel. She informed the Board that Section 24-718 states that approval of the installation of a double sided electronic message board sign requires that the following guidelines, set forth in Section 10105, are present:

(A) An electronic message display sign may only be integrated into a permitted monument sign as regulated under Section 24-1011. The total area of the changeable copy message is limited to twenty (20) square feet and shall be limited to no more than fifty percent (50%) of the area of the total sign face allowed.

(B) No more than one electronic message display sign is permitted per development site, limited to two sides of copy.

(C) An electronic message display sign may be no closer than 100 feet to a residence. The minimum spacing between changeable message signs is 200 feet irrespective of property lines.

(D) The minimum display time for a message is fifteen (15) minutes. The transition time between messages shall appear instantaneous without the illusion of flashing, scrolling, animation or movement of any kind.

(E) The following display features are prohibited: continuous scrolling and/or travelling, flashing, spinning, fade, dissolve, rotating, and similar moving effects, and all dynamic frame effects or patterns of illusionary movement or simulating movement.

(F) All electronic message display signs shall come equipped with automatic dimming technology, which automatically adjusts the sign's brightness level based on ambient light conditions.

(G) No electronic message display sign shall exceed a brightness level of 0.3 foot-candles above ambient light as measured using a foot-candle (Lux) meter at a distance based on sign area, measured as follows:

(1) Measurement Distance = $\sqrt{\text{Area of Sign Square Footage} \times 100}$

(H) Only monochrome electronic message display signs are permitted with black backgrounds and message colors limited to red or amber

(I) An electronic message display sign is not permitted on a site with an existing changeable copy sign or a pole sign, unless the electronic message display sign is replacing either of these signs in conformance with the provisions of this section.

Ms. Sampson explained that in addition to approval, the Board should include hours of operation and any other conditions that the Board deems appropriate. She added that if this application is approved, the City's Code Compliance Officer, working with the Zoning Official, will ensure that the sign is in compliance with all necessary code requirements before a permit is issued. Ms. Sampson informed the Board that Horn Elementary is the only other location in Bellaire with an electronic message board sign with hours of operation that are less than 24 hours a day. She stated that the sign at Horn may only operate between 6:00am and 9:00 pm daily. Ms. Sampson added that the Development Services Department has not received any complaints regarding any of the signs that have been previously approved by the Board, and that the Development Services Director

finds that the request is in compliance with the requirements of Section 24-718. She stated that staff offers no objections to the approval of the application.

Public Comments

The following members of the public spoke against the application:

Allen Jones
Gaylon Guilquist
Tom Schexnayder
Jan Sreen
Judy Thrasher
Molly McGee

All six residents were concerned with the proposed location of the sign. They felt as though it was not appropriate for the sign to be located within a residential neighborhood, and that it should be installed on South Rice instead. Several residents mentioned that other signs at HISD schools are located on busy streets/intersections and didn't understand why this was being proposed differently. A few residents felt that the school has operated just fine without an electronic sign and that it is not needed, as there are other methods of communication that the school uses. There was also some confusion as to whether the applicant applied for the correct thing as the application mentioned a "variance" in several places.

The following members of the public spoke in favor of the application:

Lynn McBee
Dan Greenberg (Condit Principal)

Ms. McBee mentioned that a lot of things have changed in recent years and that digital signs are a very popular avenue of communication. She added that in today's day and age instant communication is very important. Ms. McBee stated that it is obvious by the application that efforts have been made in addressing the fact that they are proposing the sign within a residential neighborhood. She pointed out that the proposed sign is in compliance with the City's sign ordinance and informed the Board that she is in favor of the application with the appropriate conditions applied, as well as possibly a trial period of one year to evaluate the impact that it has on the surrounding neighborhood.

Principal Greenberg stated that he feels as though the marquee needs to be located by the front door where there is the most foot traffic, and that he is absolutely comfortable with limited hours. He added that he does recognize that there are drop off and pick up areas on South Rice, but explained that those are designated for the older kids who have a much better capacity to remember what is going on and to explain those events to their parents. Principal Greenberg mentioned that it is a fantastic opportunity to communicate with the families that the school has never had, and that the previous signs were very inadequate.

The following members of the public made points for and against the application:

Linda Hester

Ms. Hester stated that while she does not agree with the proposed location of the sign, and would like to see it installed on South Rice Avenue instead, she does understand the need for the sign and that it will be regulated by the City and the Board. She asked the Board to simply take all comments and concerns into consideration prior to granting the special exception.

The following members of the public submitted written comments regarding the application:

Tracy Hester
Linda Hester
Amy & Jim Vanderhill
David & Leslie Little
Molly McGee
Nicholas & Stephanie Blair
Tom & Susan Schexnayder
Ann Battle
Pat & Stan McHugh

Rebuttal by the Applicant

Mr. Kunz stated that they are very sensitive and respectful of the fact that they are proposing the sign within a residential neighborhood, and have taken whatever measures they could to make the sign a feasible solution given its size and proximity to the residences.

Questions by the Board

Chairman Avioli asked for clarification on whether the applicant applied for a special exception or a variance.

Ms. Sampson and Attorney Petrov explained that the applicant did apply for a special exception, however, the application is the same one used for both special exceptions and variances. Attorney Petrov agreed that it is somewhat confusing and that it will be revised to appropriately reflect what is being applied for.

Board Member Mandel asked for clarification on whether the code says that the sign is not permitted within 100 feet of a residential property, or the structure. He also mentioned that the amount of public comments that the Board heard, when the notices only went out to properties within 200 feet, is very compelling.

Ms. Sampson stated that it is not permitted within 100 feet of the structure.

Board Member Sinha asked if installation of the sign on South Rice was even explored as an option.

Mr. Kunz explained that it was not, simply because the project advisory team wanted it to be installed at the front of the school. He added that that's not to say that it can't be relocated if need be.

Board Member Sinha asked what types of messages would be displayed on the proposed sign.

Principal Greenberg stated that it would be used for any number of things, from family and student events, to urgent messages that the school needs to communicate immediately.

Board Member Sinha asked Mr. Greenberg if he felt as though this was a need or a want.

Principal Greenberg stated that he felt as though it would be disingenuous to say that it was not a want. He added that it would be a very effective way of communicating, but obviously the school could function without it.

Board Member Raval asked the applicant and the principal what time limitations they would be comfortable with.

Principal Greenberg explained that he felt as though 7:00am-6:00pm would be an appropriate time frame.

Board Member Stone mentioned Mr. Kunz's comment within the application that the proposal was not in compliance with HISD's district standards and asked what he meant by that.

Mr. Kunz explained that at any new school, as long as it meets the city's requirements, HISD has a district standard for a 4 foot tall by 8 feet wide LED marquee board. He stated that he added that simply to say that the proposed size of the sign for Condit has been significantly decreased from what is normally installed in an effort to be respectful of the surrounding residential properties.

Board Member Stone asked for clarification that HISD's standard is not a hard rule, it is just a standard.

Mr. Kunz explained that his firm is dictated to follow the school district's guidelines.

Board Member Stone asked if there was a difference in how the City handles applications for schools versus applications for commercial businesses.

Attorney Petrov explained that although schools don't have an automatic by right, the City does give higher regard to institutional developments versus commercial developments.

Vice Chairman Almaguer mentioned that Horn Elementary's sign does in fact have scrolling messages, which are said to be prohibited by the code. She mentioned that it also faces residences, but that the location of the school did not allow for any other options. Vice Chairman Almaguer felt as though Condit does have a better option with the installation of the sign on South Rice Avenue instead of Third Street. She then asked if the sign will have any illumination other than the LED message.

Mr. Kunz stated that the only illumination will be with the LED message. He also mentioned that the school would rather the location of the sign change than to not have a sign at all. Mr. Kunz said that if the Board felt it more appropriate that the sign be installed on South Rice Avenue then it can be done and is worth the conversation.

Vice Chairman Almaguer asked Mr. Greenberg if there are other avenues of communication that the school uses to get in touch with parents, and if the relocation of the sign, along with the usage of other avenues would be satisfactory.

Principal Greenberg confirmed that there are other avenues, and that he would be a lot more comfortable changing the location of the sign than losing it all together.

Chairman Avioli asked if there is any sound associated with the sign.

Mr. Kunz stated that there is no sound.

Chairman Avioli asked Mr. Greenberg what the downside of installing the sign on South Rice would be, and stated that he would be prone to make the argument that it would be just as effective, if not more effective, located on South Rice Avenue.

Principal Greenberg explained that a lot of families live in close proximity to the school and might not see the sign if it is installed on South Rice Avenue. He also mentioned that it is illegal to make a right off of Jessamine onto South Rice during certain hours, meaning that they will not be able to drive by the sign after dropping off or picking up their children.

Mr. Kunz also pointed out that if the sign is located in front of the school on South Third Street it will be right outside of Mr. Greenberg's office, meaning that he will be able to see it at all times.

Chairman Avioli asked the City Attorney how the Board should move forward procedurally since the proposal is for the installation of the sign on South Third and not on South Rice.

Attorney Petrov explained that legally, the Board, the City, and the applicant have satisfied all of the necessary requirements, and if the Board feels that it is prepared to take action on the request with the sign being relocated to South Rice Avenue then it is free to do so.

Consideration of, deliberation by, and action on the docket item

Vice Chairman Almaguer mentioned that the ordinance already contains all of the restrictions that she felt would be necessary.

Ms. Sampson mentioned that without any restrictions added, the sign could operate 24 hours a day.

The Board felt comfortable with 24 hour operation if it was located on South Rice.

Chairman Avioli reminded the Board and the applicant that approval of the special exception would require 75% of the Board to vote in favor. He added that one member was not in attendance, meaning that the vote must be unanimous.

The special exception was granted with the condition that the sign can only be installed on South Rice Avenue. No time limitations were added, meaning that the sign is allowed to operate 24 hours a day/7 days a week.

| | |
|------------------|---|
| RESULT: | APPROVED WITH CONDITIONS [UNANIMOUS] |
| MOVER: | Amar Raval, Board Member |
| SECONDER: | Jed Mandel, Board Member |
| AYES: | Avioli Sr., Raval, Sinha, Mandel, Almaguer, Stone |
| ABSENT: | Karakowsky |

2. Discussion on possible revisions to the Board of Adjustment's 2016-2017 Rules of Procedure.

Board Member Stone pointed out that there are three different parking terms used within the Rules of Procedure and asked if they could be condensed down. He also mentioned that they are used to explain things that the applicant is required to submit to the City/Board and not how the meetings are supposed to be run. Board Member Stone felt that they were not a necessary part of the Rules of Procedure.

Ms. Sampson then explained the difference between the three terms and stated that several years ago the Board voted to add that language to the Rules of Procedure due to the fact that those requirements are not listed anywhere in the code. She added, however, that staff did agree that they may not be listed under the appropriate section of the rules.

Board Member Raval stated that although Board Member Stone made a relevant point, action taken by the Board does not go to City Council and can only be appealed to the District Court. He felt that having it in the Board's Rules of Procedure covers all of the bases.

Vice Chairman Almaguer suggested leaving the section and terms in the rules, but possibly including definitions of the terms to limit the confusion.

Ms. Sampson explained to the Board that their rules prohibit them from discussing and voting on changes to the Rules of Procedure on the same night. She added that staff would provide a redline of the suggested changes for the Board's next meeting.

9. GENERAL COMMENTS

(Limitations: Six (6) minutes per speaker with extensions in two (2) minute increments as approved by a majority vote of the Board Members present).

Lynn McBee-Ms. McBee stated that she was pleased with the Board's decision to leave the language regarding the requirement of parking studies in their Rules of Procedure. She added that with the frequency of turnover that the Board has it is very important to have access to as much information as possible in order to help improve the decision making process. Ms. McBee congratulated the Board on the action that was taken in the meeting.

10. GENERAL COMMENTS FROM BOARD MEMBERS

There were no comments from the Board Members.

11. ANNOUNCEMENTS

There were no announcements made.

12. ADJOURNMENT

Motion: a motion was made by Vice Chairman Almaguer and seconded by Board

Member Raval to adjourn the Regular Meeting.

Vote: the motion passed with a vote of 6-0.

The meeting was adjourned at 8:45 PM.

Minutes Acceptance: Minutes of Aug 18, 2016 7:00 PM (Approval of Minutes)

Board of Adjustment

Council Chambers, First Floor of City
Hall
Bellaire, TX 77401



Meeting: 09/15/16 07:00 PM
Department: Development Services
Category: Policy
Department Head: John McDonald
DOC ID: 2027

**SCHEDULED
ACTION ITEM (ID # 2027)**

Item Title:

Discussion, consideration, and possible action on proposed amendments to the Board of Adjustment's 2016-2017 Rules of Procedure.

Background/Summary:

A redline of the proposed changes to the Board's Rules of Procedure is attached.

ATTACHMENTS:

- Rules of Procedure 2016 (DOCX)

RULES
OF
PROCEDURE
FOR THE
BOARD OF
ADJUSTMENT
CITY OF BELLAIRE, TEXAS

Adopted
July 2016

Attachment: Rules of Procedure 2016 (2027 : Rules of Procedure)

RULES OF PROCEDURE FOR THE BOARD OF ADJUSTMENT

CITY OF BELLAIRE, TEXAS

Adopted – July 2016

City of Bellaire
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Tel - 713/662-8222
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Board of Adjustment July 2016 - June 2017

Jim Avioli Sr., Chairman
Jill Almaguer, Vice Chairman
Debbie Karakowsky
Jed Mandel
Amar Raval
Samir Sinha
Bill Stone

Staff

ChaVonne Sampson - Staff Liaison
Ashley Parcus - Secretary

City Council Liaison
Gus Pappas

Attachment: Rules of Procedure 2016 (2027 : Rules of Procedure)

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ARTICLE I Name and Authority

The name of this body is the Board of Adjustment pursuant to state and local law. The Board is authorized within the statutory guidelines contained in Sections 211.008 - 211.011, of the Texas Local Government Code and Chapter 2, Administration, of the City of Bellaire Code of Ordinances.

ARTICLE II Membership

Membership to the Board of Adjustment is by appointment made by the Mayor and the City Council of the City of Bellaire, Texas pursuant to Section 24-303 Planning and Zoning Regulations of the City of Bellaire, Texas as amended. The membership of the Board of Adjustment is seven (7) members, each with a two year term alternatively, such that four (4) members are appointed to a two (2) year term in one year and three (3) members are appointed to a two (2) year term in the following year. Vacancies shall be filled by the Mayor and City Council as necessary.

ARTICLE III Officers

Section A. Officers Named: The officers shall be Chairman and Vice-Chairman. The Board shall elect the Chairman and Vice-Chairman at the first meeting of a newly appointed Board pursuant to Section 24-303(d) of the Code of Ordinances of the City of Bellaire.

Section B. Chairman's Duties: The Chairman is the Presiding Officer and Spokesperson for the Board. The Chairman may delegate Board business from time to time.

Section C. Vice-Chairman's Duties: The Vice- Chairman shall serve as Chairman in the absence of the Chairman.

ARTICLE IV Meetings

Section A. Quorum Requirement: A quorum of the Board shall be a majority of the Board [or four (4) members of a seven member Board] provided however, that if docket items and/or cases before the Board are heard, the quorum for such item shall be not less than 75% [or six (6) members of a seven (7) member Board] of the Board pursuant to Section 211.008 (d) of the Texas Local Government Code.

Section B. First Meeting of a New Board: The first meeting of a new Board shall be a joint meeting of the outgoing (old) Board and the incoming (new) Board. The outgoing Chairman shall call the meeting to order and shall preside until the new chairman is elected. There shall be no Docket Items for any variance, appeal, or exception on the agenda for this meeting. The outgoing Board shall approve the minutes of all previous meetings. The incoming Board shall adopt temporary or permanent Rules of Procedure and such rules shall take effect immediately and remain in effect until amended as outlined in **Article VIII - Amendments to Rules of Procedure**. Said Rules may be adopted "As Is" or adopted "As Amended" by a majority vote [that's four (4) or more votes] of the Board. All other amendments shall be adopted pursuant to **Article VIII - Amendments to Rules of Procedure**. The Agenda for the meeting shall be as follows:

1. Call to Order [by outgoing Chairman]
2. Pledge to the Flag [US and Texas]
3. Certification of a Quorum [outgoing and incoming Board]
4. Approval of minutes [outgoing Board only]
5. Communications and Reports [outgoing Board only]
6. Unfinished Business [outgoing Board only]
7. Swearing In of New Board Members [incoming Board assumes duties and outgoing Board retires]

8. Introduction of incoming Board members
9. Election of Chairman and Vice-Chairman [incoming Board only]
10. Adoption of Rules of Procedure [incoming Board only]
11. Communications and Reports [incoming Board only]
12. General Comments from the Public [**Limitations:** Six (6) minutes per speaker with extensions in two (2) minute increments as approved by a majority vote of the Board members present].
13. General Comments from Board members [incoming Boards]
14. Announcements (if any)
15. Adjournment

Section C. Regular Meetings: Regular meetings of the Board of Adjustment shall be held at 7:00 P.M. on the third Thursday of each month in the Council Chambers of the City of Bellaire, 7008 South Rice Avenue, Bellaire Texas.

Section D. Special Meetings: Special meetings may be called by the Chairman or any two members of the Board, of which notice shall be given in conformity with the Texas Open Meetings Act and procedures of the City of Bellaire, Texas.

Section E. Open Meetings Act: All meetings shall comply with the Texas Open Meetings Act pursuant to Chapter 551, Texas Government Code.

Section F. Adding Agenda Items: Agenda items may be added by the Staff Liaison, the Chairman or any two members of the Board not later than 12:00 noon on the seventh (7th) calendar day prior to a meeting.

Section G. Sign-Up Form for Speakers: There shall be Sign-Up Forms for the purpose of permitting members of the public to address agenda items. Such forms shall be available to the public and forwarded to the Secretary and to the Chairman so that such person's names may be called to address the Board at the appropriate time. All testimony shall be given under oath.

Section H. The Agenda: Except as provided in Section B of this Article, the Agenda at all regular and special meetings of the Board shall be as follows:

1. Call to Order
2. Pledge to the Flag (US and Texas)
3. Certification of a Quorum
4. Approval of Minutes
5. Reports from Officers, Committees, Sub-committees and Communications Board Members have had outside the meeting
6. Unfinished Business
7. Reading of the Standards from Section 24-704 or 24-718 of the Bellaire Code of Ordinances, as it pertains to the Board's current agenda items.
8. New Business - Public Hearings on Docket Item for a Variance, Appeal or Exception [**Repeated and sequentially numbered for each Docket Item considered at each meeting.**
 - a) Presentation by Applicant, Appellant, Property Owner, Counsel or other Agent [**Limitations:** Fifteen (15) minutes with extensions in five (5) minute increments as approved by a majority vote of the Board members present].
 - b) Presentation by the City [**Limitations:** Fifteen (15) minutes with extensions in five (5) minute increments as approved by a majority vote of the Board members present].
 - c) Public comments on Docket Item [**Limitations:** Names of those desiring to comment shall come from sign-up list and shall be limited to six (6) minutes per speaker with extensions in two (2) minute increments as approved by a majority vote of the Board members present].
 - d) Rebuttal by Applicant, Appellant, Property Owner, Counsel or other Agent. [**Limitations:** Six (6) minutes per speaker with extensions in two (2) minute increments as approved by a majority vote of the Board members present].
 - e) Questions by Board [**Limitations:** The Board may ask germane questions of the Applicant, Appellant, Property Owner, Counsel or other Agent, and/or City Staff].
 - f) Consideration of, deliberation by and action on Docket Item by the Board [**Requires** 75% or six (6)

affirmative votes for approval pursuant to Section 211.009(c), Texas Local Government Code].

9. General Comments from the Public [**Limitations:** Six (6) minutes per speaker with extensions in two (2) minute increments as approved by a majority vote of the Board members present].
10. General Comments from Board members
11. Announcements (if any)
12. Adjournment

Section I. Motions in the Affirmative: All motions on final disposition of a Docket Item shall be in the affirmative.

Section J. Previous Question: A motion to move the Previous Question (close debate) shall be in order following a reasonable time for deliberation. Such motion shall require a second and a two-thirds (2/3) vote for passing.

Section K. Revising the Order of the Agenda During a Meeting: The order of the Agenda may be amended following Item three (3), by a simple majority vote of the Board.

~~**Section L. Withdrawal of Application:** Any appellant or applicant may request that his or her appeal or application be withdrawn at any time prior to a final vote or disposition by the Board. Such request shall be granted by the Board.~~

~~**Section M. Parking Study Required:** Any applicants that request a Variance or Special Exception from Chapter 24, Section 514 and/or 514a of the City of Bellaire Code of Ordinances must submit with their application a "parking demand analysis". This analysis along with the complete parking plan that is to be presented to the board must be given to the City of Bellaire ten days in advance of the board meeting for their review. In the event the Board of Adjustment or the applicant wishes to revise the proposal at or before the hearing, the City of Bellaire may request and receive the right to delay the process until the next board meeting to review the changes.~~

ARTICLE V Docket Items

Section A. Numbering Docket Items: Each appeal or application for variation or modification filed in proper form with the required data and fees, shall be numbered serially, docketed, and shall be placed upon the calendar of the Board by the Secretary thereof. The docket numbers shall begin anew on January 1 of each year, and shall be hyphenated with the number of the year in which the said appeal or application is filed pursuant to Section 24-303 of the Bellaire Code of Ordinances.

Section B. Timing of Docket Items: All cases docketed more than fifteen (15) days next preceding a regular meeting day, and which the Texas Open Meeting Act requirement has been complied with, shall be automatically set for hearing on the succeeding regular meeting day. Cases docketed within fifteen (15) or fewer days of the regular meeting day shall be set for hearing on the second regular meeting day after docketing of the appeal or application.

Section C. Method of Appeal: Each appeal to the Board from an order, decision or determination of the City Building Official or designee or application for variation or modification of any of the provisions of the Zoning Regulations and all other applicable communication concerning Board business shall be made in writing to the Secretary of the Board.

Section D. Time Limitations of Order or Relief Granted: Unless otherwise modified by the Board, if any application for variation or modification is granted by the Board, the variance order shall include a requirement that all permits necessary for the prosecution of the work shall be obtained within one (1) year and construction begun within two (2) years of the order by the Board. The application form shall contain a notice of this section. The Board may modify this requirement.

Section E. Notification: The Order notifying the appellant or applicant shall also notify same of their appeal right to State District Court pursuant to Section 211.011, Texas Local Government Code, within ten (10) days of the date of the order is filed in the Board office.

Section F. Precedents: No action of the Board of Adjustment shall set a precedent. Each case shall be decided upon its merits and upon the circumstances attendant thereto.

Section G. Advice and Moot Questions: No formal requests for advice, or moot questions will be considered by the Board. Any advice, opinion or information given by any Board member or the Secretary or any other official or employee of the City of Bellaire shall not be binding on the Board.

Section H. Fees: All Applicants and Appellants shall pay a non-refundable application fee set by the City of Bellaire to the Secretary of the Board.

Section I. Application for Re-Hearings: No application or appeal to the Board shall be permitted on substantially the same subject matter in reference to the same property prior to the expiration of twelve (12) months from an order of the Board. No application or appeal shall be allowed on substantially the same subject matter in reference to the same piece of property during litigation against the City of Bellaire and/or the Board of Adjustment on said property.

Section J. Withdrawal of Application: Any appellant or applicant may request that his or her appeal or application be withdrawn at any time prior to a final vote or disposition by the Board. Such request shall be granted by the Board.

Section ~~J~~ K. Disposition: In the final disposition of any appeal or application for variation or modification, the decision shall affirm, modify or reverse the refusal of a permit by, or any order or decision of the City Building Official. In case of an application for variation or modification the decision shall set forth that the application is denied or that it is granted with or without conditions. The vote of each member present on each decision shall be by record vote.

Section ~~K~~ L. The Lack of a Quorum for a Variance Hearing: In the event that the Appellant, Applicant, Property Owner, Counsel, or other Agent is present at the scheduled hearing, but the Board of Adjustment is lacking a quorum for the hearing, the hearing shall be rescheduled without any penalties for the appellant or applicant and no additional application fee shall be imposed.

Section M. ~~Parking Study Required~~ Special Exception or Variance Parking Requirement: Any applicants that seeking request a Variance or Special Exception from Chapter 24, Section 514 and/or 514a of the City of Bellaire Code of Ordinances must submit include with their application a "parking demand analysis". This analysis, along with the complete parking plan that is to be presented to the Board, must be given to the City of Bellaire ten days in advance of the board meeting for their review- scheduled board meeting. In the event the Board of Adjustment or the applicant wishes to revise the proposal at or before the hearing, the City of Bellaire may request and receive the right to delay the process until the next board meeting to review the changes. The Zoning Official may request a waiver of this requirement.

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ARTICLE VI Definitions

Appeal: A process to permit a request for relief through application by a person aggrieved by a decision of the City Building Official pursuant to Bellaire's Planning and Zoning Regulations.

Appellant: A person aggrieved by a decision made by the City Building Official affected by the decision, who appeals in person or through his designated representative for relief to the Board of Adjustment.

Applicant: A person who requests in person or through his designated representative, either a special exception to the terms of Bellaire's Planning and Zoning Regulations or a request for a variance from the terms of Bellaire's Planning and Zoning Regulations.

Application: An appeal or a request for a variance or a special exception in writing specifying the grounds for an appeal contained in a standardized form issued by the City Building Official.

Board of Adjustment: A public and quasi-judicial body charged with the duty to hear and determine zoning appeals, special exceptions and variances pursuant to Section 211.009 of the Texas Local Government Code and Section 24-303 of the Bellaire Code of Ordinances.

City Building Official: The person duly appointed by the City Manager of the City of Bellaire, as provided by Chapter 24 of the Bellaire Code of Ordinances, charged with the duty and obligation of issuing permits and certificates of occupancy and with the responsibility for enforcing the provisions of the Building Code and Zoning Regulations for the City of Bellaire.

Error: Refer to Section 211.009(a)(1), Texas Local Government Code.

Hardship: A determination to be made by a Board of Adjustment or, in the event of its Appeal to a District Court. It is defined in Black's Law Dictionary as a condition, which may be unreasonable, unduly oppressive, arbitrary or confiscatory which, if, found to be true in the opinion of a Board of Adjustment, is grounds for the granting of a variance. The burden of proof of such hardship lies with an applicant.

Parking Demand Analysis: A survey or report that provides details of parking demand/supply for a proposed project. The means of data collection and calculations to determine parking requirements must be designed in accordance with Institute of Transportation Engineers Parking Generation.

Parking Plan: A site plan that identifies all parking space locations for a proposed project whether onsite or offsite.

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Special Exception: Refer to Section 211.009(a)(2), Texas Local Government Code.

Staff Liaison: The city staff member appointed by the City Manager of the City of Bellaire to assist the Board of Adjustment.

Variance: Refer to Section 211.009(a)(3), Texas Local Government Code.

Zoning: A power over land use granted to a city pursuant to Chapter 211, Texas Local Government Code, for the purpose of promoting the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural importance and significance.

ARTICLE VII Civil and Parliamentary Authority

Section A. Construction of Authority: The construction of authority in all matters associated with the Board of Adjustment, including the Agenda, shall be: **1)** the Constitution and statutes of the United States of America; **2)** the Constitution and statutes of the State of Texas; **3)** the Charter of the City of Bellaire; **4)** the Code of Ordinances of the City of Bellaire; **5)** these Rules of Procedure; and **6)** Robert's Rules of Order, Newly Revised.

Section B. Reference to State and Local Statutes: The conduct and scope of activity of the Board of Adjustment is governed by and subject to State and local laws including, but not limited to, Chapters 211, 213 and 216, Texas Local Government Code, Chapters 551 and 552, Texas Government Code, the Charter of the City of Bellaire, Texas, and Chapter 2, Administration of the City of Bellaire Code of Ordinances.

Section C. Parliamentary Authority: The Rules contained in the most recent edition of Robert's Rules of Order, Newly Revised shall govern the Board of Adjustment in all cases in which they are applicable and not inconsistent with a superior authority.

ARTICLE VIII

**Amendments to Rules
of Procedure**

Section A. Amendments by Existing Board: These Rules of Procedure may be amended by a majority vote of the entire Board of Adjustment provided previous notice is given at one meeting in advance of any such consideration, and further provided, that an amendment to bring these Rules of Procedure in compliance with a superior statute, rule, procedure or other authority may be considered without previous notice.

Section B. Annual Review: These Rules of Procedure shall be reviewed not less frequently than annually. The adoption of these Rules of Procedure by a New Board shall not constitute such review.

**ADOPTION OF RULES
OF PROCEDURE**

Adopted by the Board of Adjustment of the City of Bellaire on the 21st day of July, 2016.
Attest:

Signature of Chairman

Board of Adjustment

Council Chambers, First Floor of City
Hall
Bellaire, TX 77401



Meeting: 09/15/16 07:00 PM
Department: Development Services
Category: Discussion
Department Head: John McDonald
DOC ID: 2033

**SCHEDULED
INFORMATION ITEM (ID
2033)**

Item Title:

Presentation and discussion on the November 8, 2016 Bond Election.

Background/Summary:

The Director of Development Services will be in attendance to review the attached bond materials with the Board.

ATTACHMENTS:

- Bond Election 2016 Flyer FINAL (PDF)



Bond Election 2016

Bonds for Better Bellaire 2016

On November 8, 2016, the City of Bellaire will hold a bond election to allow residents to vote on the funding mechanism for three separate propositions.

Proposition 1 – Streets, Drainage and Sidewalks

\$24.00 million

- This program will continue the work of the Bellaire Millennium Renewal (2000) and Rebuild Bellaire (2005) bond programs to design and construct streets and drainage systems with sidewalks on at least one side of the street
- Projects will address replacement of streets and drainage systems in order to reduce the occurrence of flooding and improve street conditions
- Streets and drainage systems to be replaced are identified based upon relative priority as determined by condition

Proposition 2 - New Municipal Buildings

\$5.60 million

- Includes new city hall/civic center and police/municipal court building
- Maintains campus approach to Bellaire Town Square (Bellaire-Zindler Park)
- Allows for long range plans for a new library to be incorporated
- Supports desires expressed by citizens in multiple public meetings, including building locations and overall site planning
- Developed with guidance from two citizens' ad hoc advisory committees which address layout, adjacencies, and design aesthetics
- Allows larger and improved police work and training spaces and accommodates construction cost escalation

Proposition 3 - Water and Wastewater Improvements Program

\$24.38 million

- The advanced age and deterioration of water lines, meters, and facilities has led to a decrease in the overall efficiency of the system and rising maintenance costs
- Over 40% of utility lines are between 40 and 70 years old, 67% of water meters are over 15 years old, and the wastewater treatment plant is over 40 years old
- Water lines scheduled for upgrade are those identified as the most critically in need of replacement
- System and financial efficiency will be improved with upgrades to the wastewater treatment plant and the replacement of water meters and aging water and wastewater lines

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www.bellairetx.gov/bonds2016



Bond Election 2016

Proposition 1 - Streets, Drainage and Sidewalks

Program Background

Over the last century Bellaire residents have suffered from numerous severe storms. Recent major storms, such as the 2015 Memorial Day event and the 2016 Tax Day event, continue to highlight the need for proactive drainage improvements that go beyond a typical storm event (commonly referred to as a 2-year storm event). Additionally, the City must consider issues outside our city limits which negatively impact citizens when a flood event occurs, such as the limited capacity of Brays Bayou.

Ongoing engineering studies have identified streets in need of rehabilitation, and some are beyond maintenance and in need of reconstruction. The 2013 Pavement Assessment categorized approximately 70 lane miles (44% of the City's total roadways) of Bellaire streets as unacceptable.

A condition assessment and inventory of sidewalks was completed in 2013 to determine the location of gaps in the City's sidewalk network. Within block lengths that include portions of sidewalks, approximately 30,000 linear feet of sidewalk gaps were identified. This study did not include gaps on street block lengths without sidewalks.

Basis for Program

The program will continue the City's practice to design and construct streets and drainage concurrently in one project with sidewalks to be installed on at least one side of the street. Prioritization of streets will be based on adequacy of the existing drainage system, the pavement condition, the lots served by street reconstruction and drainage improvements, traffic, and open ditch systems.

Proposed Budget

The total budget for replacing streets, drainage and sidewalks is \$24.00 million. Over 3-4 years, \$24.00 million has been allocated to cover street replacement projects with drainage and sidewalk improvements included.

Proposed Schedule

Design of the first project will begin once funding is received and construction will follow thereafter. Approximately one street/drainage/sidewalk project for multiple locations can be anticipated. Affected residents will be notified prior to each project's commencement.

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Bond Election 2016

Proposition 2 - New Municipal Buildings

Project Background

The New Municipal Buildings Project maintains the City's long-standing campus approach to civic buildings. The construction of the new city hall/civic center and police/municipal court facilities are included in this project.

In November 2013, Bellaire residents voted to support an \$11.00 million General Obligation Bond to finance the design and construction of the new municipal buildings: city hall, civic center, police station, and municipal courts. Responding to continued input from Bellaire citizens, City Council adjusted the original site plan and reconfigured the location and compatibility of the buildings and services.

Basis for Project

The configuration of the new two-story facilities will improve Bellaire citizens' access to services while enhancing the overall appearance of the campus. The senior activities program will be provided new and improved facilities which will be available for numerous program offerings. Customers of Development Services and Utility Billing will conduct business in a new centralized area. The new facilities will include publicly accessible meeting rooms, including the City Council chambers and civic center. The new police station includes spaces for enhanced officer training, investigative capacity, evidence management, and many other components that will have a positive impact on the provision of police services. The municipal court facility will provide for orderly jury assembly, improved management of the prosecutorial process, and increased interaction regarding warrant files.

Proposed Budget

Total supplemental funding needed to complete this phase of the New Municipal Buildings Project is estimated to be approximately \$5.60 million, of which \$3.83 million is due to inflation, rising construction costs, and additional space requirements as a result of reconfiguring the building locations in response to public input. The other \$1.77 million is necessary to cover the additional space and security needs of the police station. This supplemental funding will add to already approved funds to create a total project budget:

| | |
|--------------------|--|
| \$11,000,000 | – authorized but unissued authority from November 2013 |
| \$1,560,000 | – authorized but unissued authority from November 2005 |
| <u>\$5,600,000</u> | <u>– proposed authority from November 2016</u> |
| \$18,160,000 | – total project budget |

Proposed Schedule

The construction design phase for the New Municipal Buildings Project is scheduled for completion by the end of 2016. Once permitting, bidding, and contract award is completed, construction will begin in early 2017. Construction is estimated to take 19 months with occupancy of both the city hall/civic center and the police/municipal court buildings slated for late 2018.

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Bond Election 2016

Proposition 3 - Water and Wastewater Improvements Program

Program Background

The City's water and wastewater systems include approximately 70 miles of underground water lines, 65 miles of wastewater lines, 7,600 water meters, and a wastewater treatment plant. Within this infrastructure, 38% of the water lines are 50 to 70 years old, 3% of the wastewater lines are over 40 years old, 67% of the water meters are over 15 years old, and the wastewater treatment plant is over 40 years old.

Basis for Program

The April 20, 2015, Wastewater Collection System and Water Distribution System Report stated, "approximately 52,000 feet (9-10 miles) of the older water lines have been identified as needing replacement in the near future." These water lines are critical due to the frequency of service interruptions and a disproportionate amount of maintenance required. In the same report, approximately 10,000 feet (1-2 miles) of wastewater lines for future improvements were identified.

Water meter age leads to a degradation of meter accuracy. Of the 7,600 meters, 67% are over 15 years old. The aging meter inventory has led to approximately 15% of current water usage not being billed.

The wastewater treatment plant was constructed over 40 years ago and various systems within the plant do not function as designed due to aging and non-functioning components. The proposed improvements will leverage new efficiencies and energy savings that will offset their cost.

Proposed Budget

The total budget for design and construction costs is \$24.38 million. An allocation of \$11.00 million is for water lines, and \$580,000 for wastewater lines. The budget for water meter installation and improvements to the wastewater treatment plant is \$12.8 million, which is a performance based project. A performance project is one in which the efficiencies and cost savings to be generated are guaranteed by a contract. Additionally, a reduction in operational and energy costs will create a return on investment over the life of the improvements. This project will be revenue neutral over time and the replacement of new water meters will create new revenues.

Proposed Schedule

Design will begin once funding is received and construction will follow thereafter. Approximately one project per year which will include multiple locations can be anticipated for water and wastewater lines over the next 3-4 years. Residents in affected areas will be notified prior to each project's commencement. The design for the improvements to the wastewater treatment plant has been completed. The project, including the installation of new water meters, is anticipated to be completed within 15 months once funding is received.

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Bond Election 2016

Financial Information

Total Bond Proposal

\$53.98 million broken down as follows:

Streets, Drainage and Sidewalks \$24.00 million.....*proposition #1*
 New Municipal Buildings \$5.60 million.....*proposition #2*
 Water and Wastewater Improvements Program \$24.38 million.....*proposition #3*

Current Debt Carried by the City

The City will have \$77.30 million in principal outstanding at the end of Fiscal Year 2016, of which it is estimated that less than \$5.70 million is being supported by transfers from the City's Enterprise Fund. It is also estimated that \$24.38 million of the proposed 2016 Bond Election will be supported by transfers from the City's Enterprise Fund.

Impact to the Residents

FY 2016 debt rate is \$0.1304 and the proposed debt rate for FY 2017 is \$0.1323, which equates to approximately a \$15 increase annually per household in debt related property taxes based on an average taxable value assessed at \$778,442. FY 2018 will increase approximately \$65 while FY 2019 will decrease around \$10 annually. FY 2020 will increase approximately \$16 and rounding out our five-year fiscal forecast, FY 2021 will decrease approximately \$26 per household.

Projected Outstanding City Debt

| | Existing Debt | | Proposed Debt | | Total Debt |
|---------|----------------------|-------------------|----------------------|-------------------|---------------|
| | <i>Tax Supported</i> | <i>Enterprise</i> | <i>Tax Supported</i> | <i>Enterprise</i> | |
| FY 2016 | \$71,540,266 | \$5,769,734 | | | \$77,310,000 |
| FY 2017 | \$67,667,083 | \$5,302,917 | \$27,160,000 | \$16,125,000 | \$116,255,000 |
| FY 2018 | \$64,041,616 | \$4,868,384 | \$33,589,158 | \$18,835,842 | \$121,335,000 |
| FY 2019 | \$60,591,806 | \$4,433,194 | \$40,793,334 | \$23,066,666 | \$128,885,000 |
| FY 2020 | \$57,009,450 | \$3,980,550 | \$39,782,873 | \$22,407,127 | \$123,180,000 |
| FY 2021 | \$53,310,417 | \$3,514,583 | \$38,526,270 | \$21,593,730 | \$116,945,000 |

Bonds for Water and Wastewater Improvement Debt Will Not Affect Tax Rates

Funding for the system improvements will come from water and wastewater revenues and identified efficiency savings which are included in the FY 2017 proposed budget. There will be no impact to Bellaire residents' tax rate as a result of funding for water and wastewater improvements.

Impact on the Debt Service Forecast

The maximum annual increase to debt service on the proposed \$66.54 million bond issuances (of which \$12.56 million is from the prior 2005 & 2013 bond elections, authorized but as-yet unissued) is approximately \$3.90 million and occurs in FY 2026. The debt rate associated with year 2026 is \$0.1219, which is lower than the current debt rate, and is a direct result of estimated annual growth in assessed valuations.



Bond Election 2016

Voter Resources

Learn More About These Projects

Visit www.bellairetx.gov/bonds2016 to learn more.

Questions can be emailed to bonds@bellairetx.gov

Voting Information

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|------------------|------------------------------|
| October 11, 2016 | Last Day to Register to Vote |
| October 24, 2016 | First Day of Early Voting |
| November 4, 2016 | Last Day of Early Voting |
| November 8, 2016 | Election Day |

To find out your precinct and voting location, please visit: www.harrisvotes.com

Attend a Public Presentation

(Dates are subject to change)

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| September 13, 2016 | Planning and Zoning Commission |
| September 14, 2016 | Cultural Arts Board Environmental and Sustainability Board |
| September 15, 2016 | Board of Adjustment |
| September 21, 2016 | Parks Advisory Board |
| September 22, 2016 | L.I.F.E. Advisory Board |
| September 28, 2016 | Building and Standards Commission |

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