

**THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 18<sup>TH</sup> DAY OF MAY 2020, IN THE FLOWER MOUND TOWN HALL, LOCATED AT 2121 CROSS TIMBERS ROAD IN THE TOWN OF FLOWER MOUND, COUNTY OF DENTON, TEXAS AT 6:00 P.M.**

[Click here](#) for meeting video link (subject to change)

The Town Council met in a regular meeting with the following members present:

Steve Dixon	Mayor
Sandeep Sharma	Mayor Pro Tem
Claudio Forest	Deputy Mayor Pro Tem
Jim Pierson	Councilmember Place 1
Jim Engel	Councilmember Place 4

with the following member absent:

Ben Bumgarner	Councilmember Place 3
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constituting a quorum with the following members of the Town Staff participating:

Anne Carnes	Executive Assistant
Theresa Scott	Town Secretary (participating remotely solely for the purpose of transcribing the minutes)
Bryn Meredith	Town Attorney
Jimmy Stathatos	Town Manager
Debra Wallace	Deputy Town Manager/CFO
Tommy Dalton	Assistant Town Manager
Lexin Murphy	Director of Planning Services
Brandon Barth	Emergency Manement Officer
James Hoefert	Environmental Review Analyst

**A. CALL MEETING TO ORDER**

Mayor Dixon called the regular meeting to order at 6:00 p.m.

**B./C. INVOCATION/PLEDGE OF ALLEGIANCE TO THE AMERICAN FLAG AND THE TEXAS FLAG**

Chaplain Will Langstaff gave the invocation and Mayor Dixon led the pledges.

**D. PUBLIC COMMENT**

*Names listed below don't necessarily reflect the order in which each person spoke and all addresses are located in Flower Mound unless otherwise indicated.*

	<b>Speaker names and address</b>	<b>Subject (as written on the form)</b>
1.	Paul Stone, 4100 Broadway	Tom Webb

**E. ANNOUNCEMENTS**

Councilmember Pierson mentioned that Councilmember Bumgarner is not present in the meeting and pointed out that the Town doesn't have the technology to have both a live and remote meeting simultaneously and he would like to see that change in the future.

Several members of Council commented about:

- Appreciation for having a live meeting
- Some of the positive things happening in the community during the pandemic
- Importance of shopping local to support businesses in Town because many of them are struggling
- Appreciation for Town staff and all the work being done during the pandemic

**F. TOWN MANAGER'S REPORT**

There was an update and/or discussion on the following topics:

1. Financial update

Ms. Wallace provided an update on the Town's financial position due to the impact of COVID 19

and she responded to the following questions from Council:

- Is sales tax received quarterly and is there a reporting delay

2. Capital Improvement projects

Mr. Stathatos provided an update on the following projects:

- Morriss Road improvements
- Hwy. 377 improvements

3. Economic Development projects

Mr. Stathatos reported on various new business openings and announced a grant opportunity for certain businesses impacted by COVID 19

Mr. Barth provided a statement of fact regarding Government Abbott's new executive order.

**G. FUTURE AGENDA ITEMS**

1. There were no request for future agenda items.

**H. COORDINATION OF CALENDARS**

Mayor Dixon announced the following upcoming meetings:

1. A regular meeting & work session is scheduled for Thursday, May 21.
2. A regular meeting is scheduled for Monday, June 1.

**I. CONSENT ITEMS**

1. Consider approval of the minutes from a regular meeting of the Town Council held on April 20, 2020.
2. Consider approval of a resolution nominating a candidate for appointment to the Denco Area 9-1-1 District Board of Managers.

**RESOLUTION NO. 06-20**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, NOMINATING ONE CANDIDATE TO A SLATE OF NOMINEES FOR THE BOARD OF MANAGERS OF THE DENCO AREA 9-1-1 DISTRICT.**

3. Consider approval of a resolution supporting Lewisville Mayor Rudy Durham as the region's primary member and Highland Village Mayor Charlotte Wilcox as the region's alternate member to the North Central Texas Council of Governments Regional Transportation Council (RTC).

**RESOLUTION NO. 07-20**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, APPOINTING A PRIMARY MEMBER AND AN ALTERNATE MEMBER TO THE REGIONAL TRANSPORTATION COUNCIL.**

4. Consider approval of a resolution authorizing the Town to join with the Steering Committee of Cities Served by Oncor to deny Oncor Electric Delivery Company LLC's application for approval to amend its distribution cost recovery factor.

**RESOLUTION NO. 08-20**

**A RESOLUTION OF THE TOWN OF FLOWER MOUND, TEXAS FINDING THAT ONCOR ELECTRIC DELIVERY COMPANY LLC'S APPLICATION FOR APPROVAL TO AMEND ITS DISTRIBUTION COST RECOVERY FACTOR TO INCREASE DISTRIBUTION RATES WITHIN THE TOWN SHOULD BE DENIED; AUTHORIZING PARTICIPATION WITH ONCOR CITIES STEERING COMMITTEE; AUTHORIZING THE HIRING OF LEGAL COUNSEL AND CONSULTING SERVICES; FINDING THAT THE TOWN'S REASONABLE RATE CASE EXPENSES SHALL BE REIMBURSED BY THE COMPANY; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND LEGAL COUNSEL.**

5. Consider approval of an increase to the annual purchase contract for Utility Cut Repairs from Apex Concrete Construction, Inc., from \$65,000.00 to a new total of \$120,000.00.
6. Consider Approval of a Farm Lease Agreement between the Town of Flower Mound and the Wayne Haynes Estate for the lease of Town Property located at 10300 Dunham Road; and authorize the Mayor to execute same on behalf of the Town.
7. Consider approval of a Professional Services Agreement with Plummer Associates, Inc., Inc. for development of a Utility Services Risk and Resiliency Assessment in the amount of \$44,935.00; and authorization for the Mayor to execute same on behalf of the Town.
8. Consider approval of the furnishing and installation of Phoenix G2 - Automated Fire Station Alerting System for Fire Station No. 7 in the amount of \$53,742.06; and authorization for the Mayor to execute same on behalf of the Town.

9. Consider approval of an amendment to the agreement with LexisNexis for the Desk Officer Reporting System authorized by the Mayor on August 21, 2017, which will reduce the future cost charged to citizens for subsequent reports of previously purchase reports, and which will automatically extend the original contract set to expire on August 21, 2022, by a continuous extension of 12 months, unless terminated; and authorization for the Mayor to execute same on behalf of the Town.
10. Consider approval of a resolution authorizing the submission of a grant application with the Office of the Governor for the 2020 Coronavirus Emergency Supplemental Funding (CESF) Program; authorizing the Town Manager to act on behalf of the Town of Flower Mound in all matters related to the application; authorizing acceptance of funds if awarded; and pledging that if funding for this project is received, the Town will comply with all project requirements of the Office of the Governor.

**RESOLUTION NO. 09-20**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION FOR THE CORONAVIRUS EMERGENCY SUPPLEMENTAL FUNDING (CESF) PROGRAM FOR THE BENEFIT OF THE TOWN OF FLOWER MOUND FOR FISCAL YEAR 2020; ACCEPTING GRANT FUNDS IF AWARDED; AUTHORIZING THE TOWN MANAGER TO ACT ON BEHALF OF THE TOWN OF FLOWER MOUND AS THE GRANTEE'S OFFICIAL; AND PLEDGING THAT IF FUNDING IS AWARDED THE TOWN OF FLOWER MOUND WILL COMPLY WITH ALL GRANT REQUIREMENTS INCLUDING THE RETURN OF ALL FUNDING RECEIVED IN THE EVENT OF LOSS OR MISUSE OF THE FUNDS.**

Deputy Mayor Pro Tem Forest moved to approve by consent Items 1 – 10, as presented in the agenda caption. Mayor Pro Tem Sharma seconded the motion. Each item, as approved by consent, is restated above, and if applicable, the Ordinance or Resolution caption for each, for the record.

**VOTE ON MOTION:**

**AYES: SHARMA, FOREST, ENGEL, PIERSON**

**NAYS: NONE**

**ABSENT: BUMGARNER**

*Motion passed*

**J. REGULAR ITEMS**

11. Consider approval of a resolution to further extend the Town disaster declaration beyond May 18, 2020, and discussion regarding disaster mitigation measures associated therewith.

**Staff Presentation**

Mr. Meredith provided background information regarding the declaration and he, or Mr. Stathatos responded to the following questions from Council:

- Clarification regarding the reason why the declaration should be continued
- Does the Town have a number as to what funds would be received from FEMA or the state

### **Council Discussion**

There was Council discussion regarding:

- Let the citizens decide for themselves what they determine is safe
- Let the Governor continue to be the driving force behind what is best for Texas
- If the declaration is not needed to be reimbursed then there is no need to have an additional document and to simply let it expire

*No action taken by Council since there was consensus to let the declaration expire.*

12. Consider approval of a Professional Services Agreement with Mesa Design Associates, Inc., for the design services associated with the Peters Colony Memorial Park project, in the amount of \$194,730.00; and authorization for the Mayor to execute same on behalf of the Town.

### **Staff Presentation**

Ms. Wallace provided background information regarding the item and she, or Mr. Meredith responded to the following questions from Council:

- Does staff have any concerns regarding funding the rest of the park and the associated maintenance given the timing of next year
- If \$200k is approved for the design what is the actual park going to cost
- Will there be an impact to other future projects planned
- Clarification regarding the use of 4B funds
- When will the Town have the sales tax numbers
- How long would the design process take to complete
- Clarification regarding the calculations for the project

### **Council Discussion**

There was Council discussion regarding:

- Concerns regarding spending money on a plan for a park that we don't know if we'll have the funds for
- How the funds might be needed elsewhere (if the state suspends statutes as it relates to how 4B dollars can be spent)
- How the parks is an important amenity for the community; however, without knowing the real impact of the sales tax, it's difficult to move forward with spending two million dollars for a park that doesn't exist

Deputy Mayor Pro Tem Forest moved to postpone item 12 to June 15, 2020. Councilmember Pierson seconded the motion.

### **VOTE ON MOTION:**

**AYES: FOREST, SHARMA, ENGEL, PIERSON**

**NAYS: NONE**

**ABSENT: BUMGARNER**

*Motion passed (to postpone)*

13. Consider approval of the purchase and installation of eleven LED scoreboards for the Bakersfield Park baseball fields, from Nevco Sports LLC, through the Texas Local Government Purchasing Cooperative, in the amount of \$77,968.40.

**Staff Presentation**

Ms. Wallace provided background information regarding this item.

**Council Discussion**

There was Council discussion regarding:

- Importance of having working scoreboards

Mayor Pro Tem Sharma moved to approve as presented. Councilmember Engel seconded the motion.

**VOTE ON MOTION:**

**AYES: PIERSON, ENGEL, SHARMA, FOREST**

**NAYS: NONE**

**ABSENT: BUMGARNER**

*Motion passed*

14. Public Hearing to consider an ordinance amending the zoning (Z19-0007- Smith Tract) from Agricultural District (A) uses to Single Family District-10 (SF-10) uses. The property is generally located north of Spinks Road and west of Gerault Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its April 13, 2020, meeting) (The Town Council moved on April 20, 2020, to postpone until the May 18, 2020, meeting.)
15. Consider a request for a Development Plan (DP19-0007 – Smith Tract) to develop a residential subdivision with an exception to the access management policy and criteria, regarding driveway spacing, contained in the Town's Engineering Design Criteria and Construction Standards adopted through Chapter 32 of the Code of Ordinances, and subject to the terms and conditions in the attached Development Agreement and authorization for Mayor to execute same on behalf of the Town. The property is generally located north of Spinks Road and west of Gerault Road. (The Planning and Zoning Commission recommended approval by a vote of 5 to 1 at its April 13, 2020, meeting) (The Town Council moved on April 20, 2020, to postpone until the May 18, 2020, meeting.)

Mayor Dixon opened items 14 and 15 at the same time.

**Staff Presentation**

Ms. Murphy gave a presentation for items 14 and 15 identifying or noting:

- General and detailed location
- Land use and zoning
- Exception request
- Site photos
- Zoning exhibit
- Development plan
- Landscape details

- Park request

and she, Ms. Wallace, or Mr. Meredith responded to the following questions from Council:

- Where is the board on board fence
- General traffic concerns and clarification regarding the future use of Avionics Road
- Possibility of moving the Avionics median cut (extend the turn lane and remove the median)
- Financial expenditure for adjusting the turn lane
- Legalities associated with straight zoning and how no conditions can be added

**Applicant Presentation**

Mike Boswell, Toll Brothers, 2665 Virginia Parkway, Flower Mound  
Casey Ross, Kimley-Horn, 6100 Warren Parkway, Frisco

Mr. Boswell and Mr. Ross gave a presentation identifying or noting:

- Communication plan
- Today: What the plan looks like
- Questions along the way
- Fencing
- Variance request/variance added (traffic)
- Park adjacencies
- Giving back
- Trees
- Proposed product

and they responded to the following questions from Council:

- Clarification regarding traffic through Shadowridge and the possibility that traffic will cut through this neighborhood
- What are the concerns regarding the creation of the median cut

Mayor Dixon opened the Public Hearing for item 14 at 7:48 p.m.

The following individuals either spoke in support or opposition, or had questions / comments related to the item: *Names listed below don't necessarily reflect the order in which each person spoke and all addresses are located in Flower Mound unless otherwise indicated.*

<b>Support: Comments/Questions</b>	<b>Opposition: Comments/Questions</b>	<b>Question(s)/Comments Only</b>
Reggie Smith, 1500 Spinks Rd	None	None

Mayor Dixon closed the Public Hearing for item 14 at 7:51 p.m

**Council Discussion**

How the 100 ft opening in the median might create more problems than it would solve.

Item 14:

Councilmember Pierson moved to approve as presented. Deputy Mayor Pro Tem Forest seconded the motion.

**ORDINANCE NO. 09-20**

**AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE OFFICIAL ZONING MAP, EXHIBIT "A" OF SUBPART B, LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY CHANGING THE ZONING ON APPROXIMATELY 12.699 ACRES OF LAND SITUATED IN THE W. H. GIBSON SURVEY, ABSTRACT NUMBER 464, FROM AGRICULTURAL DISTRICT (A) USES TO SINGLE FAMILY RESIDENTIAL DISTRICT-10 (SF-10) USES IN ACCORDANCE WITH THE TOWN'S MASTER PLAN AND SPECIFIC REQUIREMENTS AND EXHIBITS INCORPORATED HEREIN; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF IN ACCORDANCE WITH SECTION 1-13 OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

**VOTE ON MOTION:**

*Motion passed*

**AYES: FOREST, SHARMA, ENGEL, PIERSON**

**NAYS: NONE**

**ABSENT: BUMGARNER**

Item 15:

Councilmember Engel moved to approve as presented. Deputy Mayor Pro Tem Forest seconded the motion.

**VOTE ON MOTION:**

*Motion passed*

**AYES: PIERSON, ENGEL, SHARMA, FOREST**

**NAYS: NONE**

**ABSENT: BUMGARNER**

16. Public Hearing to consider a request for a Master Plan Amendment (MPA19-0004 – Mustang Creek Assisted Living) to amend Section 1.0, Land Use Plan, of the Master Plan to change the current land use designation from Flood Plain to Low Density Residential uses, and consider adopting an ordinance providing for said amendment. The property is generally located north of College Parkway, east of Timberland Parkway and south of Locke Drive. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its February 24, 2020, meeting.)
17. Public Hearing to consider a request for rezoning (ZPD19-0012 – Mustang Creek Assisted Living) from Planned Development District-49 (PD-49) with Single Family Detached (Medium Density) (SFDM) uses to Planned Development District-176 (PD-176) with Single Family Estate (SF-E) uses and a nursing or congregate care facility, with a request for an exception to Section 82-302, Compatibility buffer, of the Code of Ordinances, and with certain waivers, exceptions and modifications to the Code of Ordinances, and consider adopting an ordinance providing for said amendment. The property is generally located north of College Parkway, east of Timberland Parkway and south of Locke Drive. (The



Planning and Zoning Commission recommended approval by a vote of 5 to 1 at its February 24, 2020, meeting.)

18. Public Hearing to consider an application for a tree removal permit for five (5) specimen trees on property proposed for development as Mustang Creek Assisted Living. The property is generally located north of College Parkway, east of Timberland Parkway and south of Locke Drive. (The Environmental Conservation Commission recommended approval to remove four (4) of the eight (8) specimen trees requested for removal by a vote of 5-1-0 at its February 4, 2020, meeting).

Mayor Dixon opened items 16 – 18 at the same time.

### **Staff Presentation**

Ms. Murphy gave a presentation for items 16 – 18 identifying or noting:

- General and detailed location
- Land use and zoning
- Conceptual site plan
- Site photos
- Landscape plan
- Trees
- Proposed elevations

and she, Mr. Hoefert, Mr. Dalton, or Mr. Meredith responded to the following questions from Council:

- Why the two trees couldn't be saved
- Clarification that the slope exception waiver component of the case requires a unanimous vote of the Council members present
- Clarification regarding the zoning request (single family estate versus medium density)
- The legalities associated with precedent as it relates to land use
- Allowable uses currently in existence or in the vicinity

### **Applicant Presentation**

Joe Helmberger Kimley-Horn, 260 East Davis St, McKinney  
Renee Ramsey, CEO Mustang Creek Enterprises, 500 Legacy Drive, Plano  
Jennifer Alford, Cross Timbers Architects, 4315 Windsor Centre Trail, Flower Mound

Ms. Ramsey, Mr. Helmberger, or Ms. Alford gave a presentation identifying or noting:

- Background information about Mustang Creek
- FAQ's
- Housing types
- Animated video (travel path)
- Setbacks and adjacencies
- Tree removal request

and they responded to questions from Council regarding:

- Clarification regarding the slope exception request

Mayor Dixon informed the applicant that the project will need four (4) votes to pass given it is a Master Plan Amendment (MPA) and he offered them the option to postpone the item to a future date when all members of Council are present.

Ms. Ramsey pointed out the Master Plan seems obsolete and it needs to be changed since it doesn't apply anymore. For this reason she opted to have the item go forward; however, indicated she would like to reserve the right to change her mind later.

Mayor Dixon opened the Public Hearing for items 16 – 18 at 8:38 p.m.

The following individuals either spoke in support or opposition, or had questions / comments related to the item: *Names listed below don't necessarily reflect the order in which each person spoke and all addresses are located in Flower Mound unless otherwise indicated.*

<b>Support: Comments/Questions</b>	<b>Opposition: Comments/Questions</b>	<b>Question(s)/Comments Only</b>
Anne Scales, 3017 High Chapparral Dr	Bill Elton, 5228 Timber Park Dr	None
Doug Fulmer, 5313 Townsend Dr		
Cindy Neander, 3004 High Chapparral Dr		
Bill Jander, 5108 Timber Haven Ct		
Angie Cox, 7616 Emerson Ln		

Mayor Dixon closed the Public Hearing for items 16 – 18 at 8:51 p.m.

**Council Discussion**

There was Council discussion regarding:

- Concerns regarding a departure from the Master Plan to place a designation that is not consistent with the surrounding property

At 9:20 p.m. the applicant requested to have the MPA item postponed to June 1, 2020. There was Council consensus to do so.

Deputy Mayor Pro Tem Forest moved to postpone items 16, 17, and 18, to June 1, 2020. Councilmember Engel seconded the motion.

**VOTE ON MOTION:**  
**AYES: FOREST, SHARMA, ENGEL, PIERSON**  
**NAYS: NONE**  
**ABSENT: BUMGARNER**

*Motion passed (to postpone)*

**L./M. CLOSED/OPEN MEETING**

The Town Council convened into a closed meeting at 9:20 p.m. on May 18, 2020, pursuant to Texas Government Code Chapter 551, including, but not limited to, Sections 551.071, 551.072, and 551.087 for consultation with attorney, and to discuss matters relating to real property, and economic development negotiations, and reconvened into an open meeting at 9:57 p.m. on May 18, 2020, to take action on the items as follows:

a. Consultation with Attorney.

No action taken.

b. Discuss and consider purchase, exchange, lease or value of real property for parks, public rights-of-way, cultural arts center, and/or other municipal purposes and all matters incident and related thereto

Councilmember Pierson moved to approve the acquisition of the drainage easement as discussed in closed session. Deputy Mayor Pro Tem Sharma seconded the motion.

**VOTE ON MOTION:**

*Motion passed*

**AYES: PIERSON, ENGEL, SHARMA, FOREST**

**NAYS: NONE**

**ABSENT: BUMGARNER**

c. Discuss and consider economic development incentives, including retail centers, corporate relocation/expansion/retention, hospitality projects, and performance related to certain incentive agreements.

No action taken.

**N ADJOURN REGULAR MEETING**

Mayor Dixon adjourned the meeting at 9:58 p.m. on May 18, 2020, and all were in favor.

**TOWN OF FLOWER MOUND, TEXAS**

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**STEVE DIXON, MAYOR**

**ATTEST:**

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**THERESA SCOTT, TOWN SECRETARY**