

**THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 1ST DAY OF FEBRUARY 2021, VIA VIDEOCONFERENCE 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:

Jim Engel	Mayor Pro Tem
Ben Bumgarner	Deputy Mayor Pro Tem
Jim Pierson	Councilmember Place 1
Sandeep Sharma	Councilmember Place 2
Ann Martin	Councilmember Place 5

with the following member absent:

Steve Dixon	Mayor
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constituting a quorum with the following members of the Town Staff participating:

Theresa Scott	Town Secretary
Bryn Meredith	Town Attorney
Debra Wallace	Interim & Deputy Town Manager/CFO
Tommy Dalton	Assistant Town Manager
Lexin Murphy	Director of Planning Services
Tiffany Bruce	Executive Director of Public Works
Brian Waltenburg	Assistant Director of Engineering
Matt Woods	Director of Environmental Services
JP Walton	Interim Director of Economic Development

**A. CALL REGULAR MEETING TO ORDER**

Mayor Pro Tem Engel called the regular meeting to order at 6:00 p.m.

**B. INVOCATION**

Councilmember Pierson gave the invocation.

**C. GENERAL 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</b>
1.	Bobby Dollak; Jack Furst (address not provided)	Furst Ranch
2.	Buddy Bonner (address not provided)	Candidate, Place 1, LISD

**D. ANNOUNCEMENTS**

Councilmember Martin expressed thanks to those who worked to get the vaccine going, and she encouraged people to sign up to volunteer with the Denton County Medical Reserve Corps to help with the vaccine rollout.

Councilmember Pierson encouraged the public to be engaged in the upcoming election.

Mayor Pro Tem Engel announced that the Texas Motor Speedway will begin vaccinations starting Tuesday, February 2nd and encouraged the public to access the Town's website or Facebook page for more information. He also announced that he filed for reelection for his seat on Council, Place 4.

**E. TOWN MANAGER'S REPORT**

Ms. Wallace provided an update on the following items:

1. Capital improvement projects
  - Fire Station 7 (2777 Skillern Rd) grand opening
2. Economic Development projects
  - Now open or coming soon businesses
3. Financial update
  - Financial projections, including sales tax revenue for the last fiscal year
4. Furst Ranch

Mr. Dalton provided follow up information regarding the Furst Ranch.

**F. FUTURE AGENDA ITEMS**

There were no future agenda items requested.

**G. COORDINATION OF CALENDARS**

Mayor Pro Tem Engel announced the following February meeting dates:

1. A virtual regular meeting is scheduled for Monday, February 15.
2. A virtual work session is scheduled for Thursday, February 18.
3. Consider cancelling the March 15 regular meeting and March 18 work session.

There was Council consensus to cancel the above referenced March meetings given they coincide with LISD Spring break week.

**H. CONSENT ITEMS**

1. Consider approval of the minutes from a regular meeting of the Town Council, and Town of Flower Mound Crime Control and Prevention District Special meeting held on January 4, 2021; a regular meeting and work session of the Town Council held on January 14, 2021; and special meetings of the Town Council held on January 21, and 25, 2021.
2. Consider approval of a resolution calling for a general election to be held May 1, 2021, for the offices of Mayor and Town Council Place 4; establishing procedures for the election; and providing an effective date.

**RESOLUTION NO. 04-21**

**A RESOLUTION OF THE TOWN OF FLOWER MOUND, TEXAS CALLING FOR A GENERAL ELECTION TO BE HELD ON MAY 1, 2021, FOR THE OFFICES OF MAYOR, AND TOWN COUNCIL, PLACE 4, ESTABLISHING PROCEDURES FOR THOSE ELECTIONS; AND PROVIDING AN EFFECTIVE DATE.**

*Item #3 moved from consent to regular items.*

4. Consider approval of a Professional Services Agreement with Halff Associates, Inc., for the design services associated with the Trails and Bikeways Master Plan project, in the amount of \$247,500.00; and authorization for the Mayor to execute same on behalf of the Town.
5. Consider approval of a Professional Services Agreement with Alliance Geotechnical Group to provide construction materials engineering and testing, for the Morriss Road Water Lines Phase II (FM 1171 to Eaton) project, in the amount of \$22,187.50; and authorization for the Mayor to execute same on behalf of the Town.
6. Consider approval of Change Order No. 3 for the construction of the Forest Vista Drive Reconstruction Phase II (Morriss to Chancellor) project, amending the contract with Pavecon Public Works, LP, to provide for an increase to the contract in the amount of \$55,082.16; and authorization for the Mayor to execute same on behalf of the Town.

Councilmember Sharma moved to approve by consent Items 1, 2, 4 – 6, as presented in the agenda caption. Deputy Mayor Pro Tem Bumgarner 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:**

*Motion passed*

**AYES: SHARMA, BUMGARNER, ENGEL, MARTIN, PIERSON**

**NAYS: NONE**

**I. REGULAR ITEMS**

3. Consider approval for the purchase and roll out service of desktop and laptop computers, ruggedized laptop computers and peripherals from Dell, in the amount of \$145,140.23.

**Staff Presentation**

Ms. Wallace provided background information regarding the purpose of the item.

Councilmember Pierson indicated that he would like Council to consider enhancing the Town's current audio/video equipment to improve the quality of virtual meetings.

**Council Discussion**

There was Council discussion regarding expanding the Town's capabilities as it relates to online meetings.

Ms. Wallace noted that staff is looking into those options for future budget consideration.

Councilmember Pierson moved to approve as presented in the agenda caption. Deputy Mayor Pro Tem Bumgarner seconded the motion.

**VOTE ON MOTION:**

*Motion passed*

**AYES: PIERSON, MARTIN, ENGEL, BUMGARNER, SHARMA**

**NAYS: NONE**

7. Consider approval of a resolution expanding the Veterans Liaison position, including member appointments.

#### **Board Member Presentation**

Colonel Si Simonson provided background information regarding the recommendations for the makeup of the board, as well as some ideas they have for future endeavors.

#### **Council Discussion**

Several members of Council extended appreciation for the board and their work.

There was Council consensus to include information regarding how often they meet in the Resolution.

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

#### **RESOLUTION NO. 05-21**

#### **A RESOLUTION TO EXPAND THE VETERANS LIAISON POSITION TO A BOARD FOR THE TOWN OF FLOWER MOUND, AND DEFINE THE TERMS AND DUTIES OF THE POSITION; AND DECLARING AN EFFECTIVE DATE.**

#### **VOTE ON MOTION:**

*Motion passed*

**AYES: SHARMA, BUMGARNER, ENGEL, MARTIN, PIERSON**

**NAYS: NONE**

8. Public Hearing to consider the approval of an ordinance adopting updated land use assumptions and updated capital improvements plans, and to update and amend certain provisions of Chapter 42, "Impact Fees," regarding the imposition of impact fees and amending Appendix A, "Fee Schedule", accordingly. (The CIAC recommended approval by a vote of 9 to 0 at its November 9, 2020, meeting.) (The Town Council moved to postpone this item by a vote of 5 to 0 at its January 4, 2021, meeting.)

#### **Staff Presentation**

Mr. Waltenburg provided background information regarding the item.

#### **Consultant Presentation**

Anthony Samarripas, Kimley Horn

Mr. Samarripas gave a presentation identifying or noting:

- Water maximum fee
- Water impact fee comparison
- Wastewater maximum fee
- Wastewater impact fee comparison
- Roadway maximum fees – dwelling unit
- Roadway impact fee – dwelling unit
- Roadway impact fee comparison
- Roadway fees – 15,000 sq. ft. retail

and he, Ms. Wallace, Mr. Dalton, or Ms. Bruce responded to the following questions from Council:

- Clarification regarding:
  - the percentage range of 15 and 100% in 2015 for the roadway service area
  - the Town is recouping the cost associated with infrastructure for new developments
  - the calculated maximum, and what does that mean to a builder
  - water and wastewater calculated maximums (and possibility of keeping them flat without an increase)
  - residential projects that have requested fee waivers
  - calculations for CIP projects
  - residential and commercial percentages
- What does the state allow in the way of increases
- How far off on the fee structure is the Town to get back to even overall
- If there is an opportunity to modify the fees in the future prior to the five-year update

### **Council Discussion**

There was Council discussion regarding:

- Acceptable to raising the fees if it's for recouping cost and not for generating revenue
- How the cost of building roads is expensive, and the numbers reflect that cost
- If customer service can be improved because of the additional cost, it's a benefit for the Town
- One of the reasons it cost so much to build in Flower Mound is because builders have allowed land cost to escalate
- If the Town doesn't pass on some of the cost of new construction, then the current residents will be subsidizing the new development cost
- 93% discount on a roadway fee is egregious
- Possibility of different discount levels for the various areas
- What maximum numbers look like to get the Town into the black and what would be a sensible number for the Town to continue to grow and not stop growth
- Fees should represent 80% of the cost
- How it's difficult to have one total number because there are different components
- The 2020 calculated max is the real cost and anything below that is a discount
- It's about how much discount now and how much debt want to take on later
- What is the delta in being between the red and black
- It's about how much the Town wants to recoup of the total cost
- Commercial versus residential rates

Mayor Pro Tem Engel opened the Public Hearing at 7:07 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>
None	David Lehde, 5816 W. Plano Parkway Comment (from Public Comment Form): "The Dallas Builders Association urges the Town Council to adopt impact fees at the lowest rate possible. Even at 45%, the roadway fees in Service Area B would be among the highest we have seen. Total increase of more than \$5900 per home".	None

Mayor Pro Tem Engel closed the Public Hearing at 7:09 p.m.

*Motion for Water/Wastewater only :*

Councilmember Martin moved to approve the wastewater and water impact fees for 2020 for commercial and residential projects at 80% of the calculated maximums and to approve the capital improvements plans and land use assumptions. Councilmember Pierson seconded the motion.

**VOTE ON MOTION:**

*Motion passed*

**AYES: PIERSON, MARTIN, ENGEL, BUMGARNER, SHARMA**

**NAYS: NONE**

*Motion 1 of 3 for roadway only:*

Councilmember Sharma moved to approve the roadway fees for both retail and residential at the 2020 calculated max, which is the cost of recovery (100%), and to adopt the updated land use assumptions and updated capital improvements plans, and to update certain provisions of Chapter 42, impact fees. Councilmember Pierson seconded the motion.

**VOTE ON MOTION:**

*Motion failed*

**AYES: SHARMA, PIERSON**

**NAYS: BUMGARNER, ENGEL, MARTIN**

*Motion 2 of 3 for roadway only:*

Councilmember Martin moved to approve the 2020 roadway fees for residential and commercial at 80% of the 2020 calculated maximums, and to also approve the land use assumptions and capital improvements plans. Mayor Pro Tem Engel seconded the motion.

**VOTE ON MOTION:**

*Motion failed*

**AYES: MARTIN, ENGEL**

**NAYS: PIERSON, BUMGARNER, SHARMA**

*Motion 3 of 3 for roadway only:*

Deputy Mayor Pro Tem Bumgarner moved to postpone the discussion for roadway impact fees, including land use assumptions and capital improvements plans to February 15, 2021. Councilmember Pierson seconded the motion.

**VOTE ON MOTION:***Motion passed (to postpone)***AYES: SHARMA, BUMGARNER, ENGEL, MARTIN, PIERSON****NAYS: NONE**

*Mayor Pro Tem Engel opened items 9-12 at the same time.*

9. Public Hearing to consider an ordinance amending the zoning (ZPD20-0005 - Niagara Conservation) from an Agricultural (A) Zoning district to Planned Development District No.179 (PD-179) with Campus Industrial uses. The property is generally located north of Enterprise Road and east of Old Gerault Road. (The Planning and Zoning Commission recommended approval of the rezoning request and denial of the exception request to Section 82-376 of the Town Code that requires overhead utilities to be placed underground, by a vote of 6 to 0 at its November 9, 2020, meeting.) (The Town Council moved to postpone this item by a vote of 4 to 1 at its December 7, 2020, meeting.) (The Town Council moved to postpone this item by a vote of 4 to 1 at its January 4, 2021, meeting.)
10. Public Hearing to consider an application for a tree removal permit (TRP20-0021) for twenty-two (22) specimen trees on property proposed for development as Niagara Conservation. The property is generally located north of Enterprise Road and east of Old Gerault Road. (The Environmental Conservation Commission recommended approval by a vote of 4 to 3 at its November 4, 2020, meeting. The Town Council moved to postpone this item by a vote of 4 to 1 at its January 4, 2021, meeting.)
11. Public Hearing to consider approval of an ordinance establishing a Tax Abatement Reinvestment Zone for commercial tax abatement at 300 Old Gerault Road (Niagara Conservation, Inc., aka Deus, LLC). (The Town Council moved to postpone this item by a vote of 4 to 1 at its December 7, 2020, meeting.) (The Town Council moved to postpone this item by a vote of 4 to 1 at its January 4, 2021, meeting.)
12. Public Hearing to consider approval of a Chapter 380 and Tax Abatement Agreement with Niagara Conservation, Inc. (aka Deus, LLC), for the economic development of Flower Mound, and authorization for the Mayor to execute same on behalf of Town. (The Town Council moved to postpone this item by a vote of 4 to 1 at its December 7, 2020, meeting.) (The Town Council moved to postpone this item by a vote of 4 to 1 at its January 4, 2021, meeting.)

Mayor Pro Tem Engel, and Mr. Walton, provided background information regarding the request for postponement.

Councilmember Sharma moved to postpone items 9 – 12, including the Public Hearing, to February 15, 2021. Councilmember Martin seconded the motion.

**VOTE ON MOTION:***Motion passed (to postpone)***AYES: PIERSON, MARTIN, ENGEL, SHARMA****NAYS: BUMGARNER**

13. Public Hearing to consider approval of a Chapter 380 Agreement with Communications Test Design, Inc. for the economic development of Flower Mound, and authorization for the Mayor to execute same on behalf of Town.

**Staff Presentation**

Mr. Walton gave a presentation identifying or noting:

- Aerial map of location
- Company information
- CTDI Incentives
- Cost-Benefit Analysis

and he responded to the following questions from Council:

- How confident is the Town that they will meet their obligations
- Is the expansion strictly from a warehouse space or office

**Council Discussion**

There was Council discussion regarding:

- Appreciation for the Town incentivizing an existing business
- How CTDI is a good employer in the Town
- Payback period is good
- Liked how there are obligations that need to be met in order for them to receive the incentive

Mayor Pro Tem Engel opened the Public Hearing at 8:10 p.m. No one spoke. Mayor Pro Engel closed the Public Hearing at 8:10 p.m.

Councilmember Sharma moved to approve as presented in the agenda caption. Councilmember Pierson seconded the motion.

**VOTE ON MOTION:**

*Motion passed*

**AYES: SHARMA, BUMGARNER, ENGEL, MARTIN, PIERSON**

**NAYS: NONE**

14. Consider approval of an ordinance authorizing the issuance of the Town of Flower Mound, Texas, Special Assessment Revenue Refunding Bonds, Series 2021 (River Walk Public Improvement District No. 1), establishing parameters for the sale and issuance of such bonds, delegating certain matters to an authorized official of the Town and resolving all matters incident and related thereto.

**Staff Presentation**

Ms. Wallace provided background information regarding the item, and she, or John Martin, Hilltop Securities, responded to the following questions from Council:

- Clarification that the Town is not extending any bonds, the maturity date will remain, and the benefit for refunding these goes directly to the property owners in the PID with reduced property assessments

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



**ORDINANCE NO. 04-21**

**AN ORDINANCE APPROVING AND AUTHORIZING THE ISSUANCE OF THE TOWN OF FLOWER MOUND, TEXAS, SPECIAL ASSESSMENT REVENUE REFUNDING BONDS, SERIES 2021 (RIVER WALK PUBLIC IMPROVEMENT DISTRICT NO. 1); ESTABLISHING PARAMETERS AND DELEGATING MATTERS RELATING TO THE SALE AND ISSUANCE OF SAID BONDS TO AN AUTHORIZED TOWN OFFICIAL; AND APPROVING AND AUTHORIZING RELATED AGREEMENTS.**

**VOTE ON MOTION:***Motion passed***AYES: PIERSON, MARTIN, ENGEL, BUMGARNER, SHARMA****NAYS: NONE**

15. Public Hearing to consider an ordinance for rezoning (ZPD20-0009 – Lakeside Center) to amend Planned Development No. 169 (PD-169) with Campus Commercial uses for both residential and non-residential uses to modify approved development standards related to signage and to modify approved compatibility buffer exception along the southern property line. The property is generally located south of Lakeside Parkway along and between Long Prairie Road and Northwood Drive. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its January 25, 2021, meeting.)

**Staff Presentation**

Ms. Murphy gave a presentation identifying or noting:

- General and detailed location
- Land use and zoning
- Proposed amendment
- Building site photos
- Proposed amendment (compatibility buffer)
- Wood fence detail
- Photos of the site, including existing retaining walls

and she responded to the following questions from Council:

- Clarification regarding the only change is from a masonry fence to a wood fence, including the location
- Clarification that the adjacent lot is master planned for commercial

**Applicant Presentation**Spencer Long, Realty Capital

Mr. Long gave a presentation identifying or noting:

- Building photographs
- Importance of building signage
- How a masonry wall is not a good option for the site given the retaining wall

and he responded to the following questions from Council:

- Will the proposed signs also be lighted and for what duration
- Is the 2<sup>nd</sup> signage request for future use and of similar appearance to the Texas Bank and Trust sign

Mayor Pro Tem Engel opened the Public Hearing at 8:37 p.m. No one spoke. Mayor Pro Tem Engel closed the Public Hearing at 8:37 p.m.

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

**ORDINANCE NO. 03-21**

**AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING ORDINANCE NO. 03-19, WHICH ESTABLISHED PLANNED DEVELOPMENT DISTRICT NO. 169 (PD-169) ON CERTAIN PROPERTY DESCRIBED AS APPROXIMATELY 5.309 ACRES OF LAND AND BEING ALL OF LOT 1, BLOCK A, OF THE LAKESIDE CENTER ADDITION BY MODIFYING DEVELOPMENT STANDARDS RELATED TO WALL SIGNAGE FOR BUILDING NO. 2; BY REPLACING EXHIBIT "G" – COMPREHENSIVE SIGN PACKAGE WITH A NEW EXHIBIT "A" – COMPREHENSIVE SIGN PACKAGE; BY MODIFYING COMPATIBILITY BUFFER EXCEPTION TO ALLOW SCREENING FENCING; AND BY ADDING A CONCEPTUAL HARDSCAPE PLAN ; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL 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 IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.**

**VOTE ON MOTION:**

*Motion passed*

**AYES: SHARMA, BUMGARNER, ENGEL, MARTIN, PIERSON**

**NAYS: NONE**

16. Public Hearing to consider an ordinance granting Specific Use Permit No. 466 (SUP20-0010– 1308 Oak Drive Accessory Dwelling) to permit an accessory dwelling. The property is generally located north of Oak Drive and east of Fireside Drive. (The Planning and Zoning Commission recommended approval by a vote of 6 o 0 at its January 25, 2021, meeting.)

**Staff Presentation**

Ms. Murphy gave a presentation identifying or noting:

- General and detailed location
- Land use and zoning
- Concept plan
- Photos from the site
- Accessory dwelling standards
- Elevations

Mayor Pro Tem Engel opened the Public Hearing at 8:55 p.m. No one spoke. Mayor Pro Tem Engel closed the Public Hearing at 8:55 p.m.

Councilmember Sharma moved to approve as presented in the agenda caption. Councilmember Martin seconded the motion.

**ORDINANCE NO. 05-21**

**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 APPROVING SPECIFIC USE PERMIT NO. 466 (SUP-466) FOR AN ACCESSORY DWELLING ON CERTAIN PROPERTY DESCRIBED AS THE WEST 2.5 ACRES OF LOT 17 OF THE OAK HEIGHTS SUBDIVISION AND ZONED SINGLE-FAMILY ESTATE (E); PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

**VOTE ON MOTION:***Motion passed***AYES: PIERSON, MARTIN, ENGEL, BUMGARNER, SHARMA****NAYS: NONE**

17. Public Hearing to consider an ordinance granting Specific Use Permit No. 464 (SUP20-0008– Arbor Crossing) to permit a retail, general (indoors) use with a request for a deviation to computing parking and loading requirements pursuant to Section 82-73 of the Code of Ordinances. The property is generally located south of Dixon Road and east of Long Prairie Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its January 25, 2021, meeting.)

**Staff Presentation**

Ms. Murphy gave a presentation identifying or noting:

- General and detailed location
- Land use and zoning
- Site plan
- Site photos
- Parking deviation
- Approved elevations

and she responded to the following questions from Council:

- Are they also requesting any setbacks
- What happens if the existing spaces change in the future

**Applicant Presentation**

Robert Baldwin, Baldwin Planning; Christy Lambeth, Lambeth Engineering; Scott Remphrey, Developer/Property Manager

Ms. Lambeth gave a presentation identifying or noting:

- Parking summary
- Adjustments to parking demand
- Peak parking demand
- Recommend approval of parking reduction

and she, Mr. Remphrey, or Mr. Baldwin responded to the following questions from Council:

- Are the existing tenants acceptable to the parking change
- Would the other property owner be acceptable to sharing the parking

Mayor Pro Tem Engel opened the Public Hearing at 9:04 p.m. No one spoke. Mayor Pro Tem Engel closed the Public Hearing at 9:04 p.m.

Councilmember Sharma moved to approve as presented in the agenda caption. Councilmember Pierson seconded the motion.

#### ORDINANCE NO. 06-21

**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 APPROVING SPECIFIC USE PERMIT NO. 464 (SUP-464) FOR A RETAIL, GENERAL (INDOORS) USE ON CERTAIN PROPERTY DESCRIBED AS 2.47 ACRES OF LAND AND BEING ALL OF LOT 3, BLOCK A, OF ARBOR CROSSING AND ZONED RETAIL DISTRICT-1; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

#### VOTE ON MOTION:

*Motion passed*

**AYES: SHARMA, BUMGARNER, ENGEL, MARTIN, PIERSON**

**NAYS: NONE**

Mayor Pro Tem Engel opened items 18 and 19 at the same time.

18. Public Hearing to consider an ordinance amending the Town's Code of Ordinances (LDR20-0005 – Development Fees) by adding section 32-4 requiring permits and permit fees for site development construction, by amending various portions of Chapter 78, "Administration," to add a new section 78-2 regarding inactive projects, to repeal section 78-124 in its entirety, and to add a new article VII regarding amendments to approved plans; and by amending Appendix A entitled "fee schedule," to amend various fees related to land development within the town. (The Planning and Zoning Commission recommended approval by a vote of 5 to 1 at its December 14, 2020, meeting.)

Councilmember Sharma moved to approve as presented in the agenda caption. Deputy Mayor Pro Tem Bumgarner seconded the motion.

#### ORDINANCE NO. 07-21

**AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING CHAPTER 32 "ENGINEERING DESIGN CRITERIA AND CONSTRUCTION STANDARDS," BY ADDING SECTION 32-4 REQUIRING PERMITS AND PERMIT FEES FOR SITE DEVELOPMENT CONSTRUCTION; BY AMENDING VARIOUS PORTIONS OF CHAPTER 78 "ADMINISTRATION," TO ADD A NEW SECTION 78-2 REGARDING INACTIVE PROJECTS, TO REPEAL SECTION 78-124 IN ITS ENTIRETY, AND TO ADD A NEW ARTICLE VII REGARDING AMENDMENTS TO APPROVED PLANS; AND BY AMENDING APPENDIX A ENTITLED "FEE SCHEDULE," TO AMEND VARIOUS FEES RELATED TO LAND DEVELOPMENT WITHIN THE TOWN; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF**

**ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

**VOTE ON MOTION:**

*Motion passed*

**AYES: PIERSON, MARTIN, ENGEL, BUMGARNER, SHARMA**

**NAYS: NONE**

19. Consider approval of an ordinance amending Appendix A “Fee Schedule,” referenced in Chapter 14, “Buildings and Building Regulations,” Section 14-1, “Building, plumbing, mechanical and electrical permit fees,” of the Code of Ordinances of the Town of Flower Mound, Texas, by revising various building permit fees.

**Staff Presentation**

Mr. Dalton gave a presentation for items 18 and 19 identifying or noting.

- Background information
- Proposed changes
- Site construction activities
- Plan review
- Tree survey
- Environmental
- Plan amendments
- Trades
- Miscellaneous
- Next steps

and he responded to the following questions from Council:

- How would the Matrix Consulting fees compare to what is being proposed
- Is there an opportunity to adjust the fees again once the Town Has the Matrix analysis

Mayor Pro Tem Engel opened the Public Hearing (Item 18) at 9:28 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.*

Support: Comments/ Questions	Opposition: Comments/Questions	Question(s)/ Comments Only
None	Reginal Rembert, 3625 Bonanza Ln	None
	David Lehde, 5816 W Plano Pkwy, Plano (from public comment form)  “Dallas Builders Association is opposed to the fee increases and additions due the impact they will have on housing attainability and the ability to provide homes in Flower Mound at a price point that the market will accept. What shortfalls is the current fee structure resulting in that would call for fees that we see in other towns such as Frisco? See letter sent on 1/29”.	

	<p>Robert Paul, 205 Cherokee Path (from public comment form)</p> <p>“The new Building Permit Fees are not being applied equally. They range from a 10.86 - 204.6% increase. The same number of inspections take place at each home regardless of size and an increase should be applied equally. Toll builds in the range where we would have to absorb a 72.3-120.4% increase. Let Matrix determine the cost instead of charging more because you can compared to other cities”.</p>	
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Mayor Pro Tem Engel closed the Public Hearing (Item 18) at 9:33 p.m.

**Council Discussion (Items 18 and 19)**

There was Council discussion regarding:

- Total fees and actual cost to a builder
- How Council can change the fees later
- Comparison information as it relates to other cities/towns
- The Town has an obligation to the citizens and the cost needs to be passed down
- Not interested in waiting six months for when the figures come back from Matrix and to go with what staff is recommending
- Acknowledgement of the votes by P & Z
- How existing residents are subsidizing developments if there is not a change
- State limitations regarding taxes

Councilmember Sharma moved to approve as presented in the agenda caption. Deputy Mayor Pro Tem Bumgarner seconded the motion.

**ORDINANCE NO. 08-21**

**AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING APPENDIX A, “FEE SCHEDULE,” REFERENCED IN CHAPTER 14, “BUILDINGS AND BUILDING REGULATIONS,” SECTION 14-1, ENTITLED “BUILDING, PLUMBING, MECHANICAL AND ELECTRICAL PERMIT FEES,” OF THE CODE OF ORDINANCES, TOWN OF FLOWER MOUND, TEXAS, TO REVISE THE FEES RELATED TO THE ISSUANCE OF CERTAIN BUILDING PERMITS; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

**VOTE ON MOTION:**

*Motion passed*

**AYES: SHARMA, BUMGARNER, ENGEL, MARTIN, PIERSON**

**NAYS: NONE**

20. Discuss and consider modifying the Town Council Rules of Procedure, including the agenda setting policy.

Councilmember Pierson provided background information regarding why he requested the item on the agenda, and Ms. Wallace provided clarification regarding a specific situation that was mentioned. Mr. Meredith clarified the Town's legal authority as a Home Rule entity. He also pointed out how the current policy complies with the Open Meetings Act.

### **Council Discussion**

There was Council discussion regarding:

- the current process
- whether to change the amount of council members needed to bring forward items for a future agenda

There was Council consensus to be informed when items are taken off the draft to actual agenda.

### **J. BOARDS/COMMISSIONS**

Discuss and consider resignations, appointments, or evaluations for the following boards or commissions: **Animal Services Board**, Cultural Arts Commission, Environmental Conservation Commission, Parks Board, SMARTGrowth Commission, Tax Increment Reinvestment Zone Number One (TIRZ #1), and Transportation Commission.

Councilmember Sharma moved to appoint Dr. Robyn Read to the Animal Services Board, Place 1, effective immediately, and with a term expiration date of September 30, 2021. Deputy Mayor Pro Tem Bumgarner seconded the motion.

#### **VOTE ON MOTION:**

*Motion passed*

**AYES: PIERSON, MARTIN, ENGEL, BUMGARNER, SHARMA**

**NAYS: NONE**

Councilmember Sharma moved to appoint Sandra Fambrough to the Environmental Conservation Commission, Place 1, effective immediately, and with a term expiration date of September 30, 2021. Deputy Mayor Pro Tem Bumgarner seconded the motion.

#### **VOTE ON MOTION:**

*Motion passed*

**AYES: PIERSON, MARTIN, ENGEL, BUMGARNER, SHARMA**

**NAYS: NONE**

### **K./L. CLOSED/OPEN MEETING**

The Town Council convened into a closed meeting at 10:20 p.m. on February 1, 2021, pursuant to Texas Government Code Chapter 551, including, but not limited to, Sections 551.071, 551.072, 551.074, and 551.087 for consultation with attorney, and to discuss matters relating to real property, personnel, and economic development negotiations, and reconvened into an open meeting at 12:20 a.m. on February 2, 2021, to take action on the items as follows:

#### **a. Consultation with Attorney.**

Pursuant to Section 551.071 of the Texas Government Code, the Town Council reserves the right to consult in a closed meeting with its attorney and to receive legal advice regarding any item listed on this agenda.

1. Keystone Exploration, LTD. and EXPRO Engineering, Inc. vs. The Town of Flower Mound and the Flower Mound Oil and Gas Board of Appeals.

No action taken.

2. Non-recruitment/non-solicitation clause.

No action taken.

3. Legal issues associated with municipal boundary adjustment/annexation and ESD service issues.

No action taken.

- b. Interim Town Manager.

Deputy Mayor Pro Tem Bumgarner moved to approve the employment of the Interim Town Manager, Debra Wallace, as discussed in closed session. Councilmember Sharma seconded the motion.

**VOTE ON MOTION:**

*Motion passed*

**AYES: SHARMA, BUMGARNER, ENGEL, MARTIN, PIERSON**

**NAYS: NONE**

- c. Discuss and consider resignations, appointments, or evaluations for the following boards or commissions: Board of Adjustment/Oil & Gas Board of Appeals, Community Development Corporation, and Planning and Zoning Commission.

Councilmember Sharma moved to remove David Johnson from the Planning and Zoning Commission, Place 4, effective immediately, and to appoint James Naylor to this same position, effective immediately, and for the unexpired term. Councilmember Pierson seconded the motion.

**VOTE ON MOTION:**

*Motion passed*

**AYES: PIERSON, MARTIN, BUMGARNER, SHARMA**

**NAYS: NONE**

**ABSTAIN: ENGEL**

- d. 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.

No action taken.

- e. Discuss and consider economic development incentives, including retail centers, corporate relocation/expansion/retention, senior housing, hospitality projects, Furst Ranch, and performance related to certain incentive agreements.

No action taken.



**M. ADJOURN REGULAR MEETING**

Mayor Pro Tem Engel adjourned the meeting at 12:22 a.m. on Tuesday, February 2, 2021, and all were in favor.

**TOWN OF FLOWER MOUND, TEXAS**

*Jim Engel*

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**JIM ENGEL, MAYOR PRO TEM**

**ATTEST:**

*Theresa Scott*

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**THERESA SCOTT, TOWN SECRETARY**