

FLOWER MOUND BOARD OF ADJUSTMENT & OIL AND GAS BOARD OF APPEALS JOINT MEETING OF OCTOBER 10, 2018

THE FLOWER MOUND BOARD OF ADJUSTMENT & OIL AND GAS BOARD OF APPEALS JOINT MEETING HELD ON THE 10TH DAY OF OCTOBER 2018, IN THE FLOWER MOUND TOWN HALL, LOCATED AT 2121 CROSS TIMBERS ROAD IN THE TOWN OF FLOWER MOUND, COUNTY OF DENTON, TEXAS, AT 6:30 PM.

[Click here](#) for meeting video link.

The Oil and Gas Board of Appeals met in regular session, with the following members present constituting a quorum:

Stephen Harris	Chair
Kent Johnson	Vice Chair
Gregory Schultz	Board Member, Place 1
Sky Jay Schoggins	Board Member, Place 4
David Moraine	Board Member, Place 5
Brad Painter	Board Member, Place 6
Denis Toth	Board Member, Place 7
Greg Wilson	Board Member, Place 8

*Places 6, 7, and 8 of the Board do not vote on items unless they sit in place of one of the regular members, Places 1-5.)*

And the following members of Town staff present:

Allen Taylor	Town Attorney
Bryn Meredith	Town Attorney
Julie Fort	Other Attorney
Matthew Woods	Director of Environmental Services
Emily Chapman	Administrative Assistant
John Luxton	Oil and Gas Inspector
Joelle Hainley	Building Official
Kathy Allgood	Administrative Assistant
Chris Pamplin	Assistant Building Official

**A. CALL TO ORDER - REGULAR SESSION: 6:31 PM**

**B. INVOCATION AND PLEDGE OF ALLEGIANCE**

**C. ELECTION OF CHAIR AND VICE CHAIR**

Stephen Harris was appointed Chair and Kent Johnson was appointed Vice Chair both by a unanimous vote.

**D. PUBLIC COMMENT**

None.

**E. CLOSED MEETING: 6:33 PM**

FLOWER MOUND BOARD OF ADJUSTMENT & OIL AND GAS BOARD OF APPEALS JOINT MEETING OF OCTOBER 10, 2018

The Board of Adjustment & Oil and Gas Board of Appeals to convene into closed meeting pursuant to Texas Government Code Chapter 551, specifically, Section 551.071 to consult with its attorney and to receive legal advice regarding any item listed on this agenda.

F. RECONVENE TO REGULAR MEETING: 6:53 PM

G. CONSENT AGENDA

1. Consider approval of minutes from the regular meeting of the Board of Adjustment held on September 12, 2018.
2. Consider approval of minutes from the regular meeting of the Oil and Gas Board of Appeals held on June 20, 2018.

Board Member Schoggins made a single motion to approve consent Items 1 & 2, as presented in the agenda caption. Vice Chair Johnson seconded the motion. Each item, as approved by consent, is restated above.

H. PUBLIC HEARING

Chair Harris opened items 3, 4, and 5 at the same time.

Board Member Moraine provided Town staff an Affidavit of Conflict of Interest and did not participate in items 3, 4, and 5. Board Member Painter (Alternate) served in his stead.

3. (OGB18-0001) Public hearing to consider a request from Eagle Ridge Operating, LLC., for a variance to Section 34-422(g), Article VII, of the Town’s Code of Ordinances. The request is for a variance to the Town’s work hours requirement, which limits work hours for gas well permits to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday and 9:00 a.m. to 5:00 p.m. on Saturday.

Chair Harris opened the Public Hearing for items 3, 4, and 5.

*The following individuals either spoke in support or opposition, or had questions / comments related to the item(s): 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	Tommy Miller, 6411 Frontier Drive *	None
	Shirley Miller, 6411 Frontier Drive	
	Sabrina Contreras, 11425 Peppergrass Trail	

\*indicated did not wish to speak but would like to record their opposition.

**Applicant Presentation**

**FLOWER MOUND BOARD OF ADJUSTMENT & OIL AND GAS BOARD OF APPEALS JOINT MEETING OF OCTOBER 10, 2018**

Art Anderson (2728 N. Harwood Street, Ste. 500, Dallas, TX 75201), Applicant's Attorney presented to the board. Mr. Anderson provided Board Members packet of exhibits for items 3, 4, and 5.

Chair Harris administered an oath to Mr. Mark Grawe.

Mark Grawe, (3300 Oak Lawn Ave., Suite 500, Dallas, TX 75219), Eagleridge, provided information and answered questions in regards to items 3, 4, and 5.

**Town Presentation**

Allen Taylor (6000 Western Place, Suite 200, Ft. Worth, TX 76107), Town Attorney, and Bryn Meredith, Town Attorney, provided background information in regards to items 3, 4, and 5. Mr. Taylor provided Board Members a packet of exhibits for items 3, 4, and 5.

Chair Harris administered an oath to Mr. John Luxton.

John Luxton, Oil and Gas Inspector, answered questions in regards to items 3, 4, and 5.

Chair Harris administered an oath to Mr. Matthew Woods.

Matthew Woods, Director of Environmental Services, provided information and answered questions in regards to items 3, 4, and 5.

**Board Member Deliberation**

*Motion 1*

Board Member Schultz made a motion to deny the request from Eagle Ridge Operating, LLC., for a variance to Section 34-422(g), Article VII, of the Town's Code of Ordinances. The request is for a variance to the Town's work hours requirement, which limits work hours for gas well permits to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday and 9:00 a.m. to 5:00 p.m. on Saturday. Board Member Schoggins seconded the motion.

**VOTE ON THE MOTION**

***Motion to deny did not pass***

**AYES: Schoggins, Schultz**  
**NAYS: Painter, Harris, Johnson**  
**ABSTAIN: None**

*Motion 2*

Board Member Johnson made a motion to approve the request from Eagle Ridge Operating, LLC., for a variance to Section 34-422(g), Article VII, of the Town's Code of Ordinances. The request is for a variance to the Town's work hours requirement, which limits work hours for gas well permits to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday and 9:00 a.m. to 5:00 p.m. on Saturday. Board Member Painter seconded the motion.

**VOTE ON THE MOTION**

***Motion to approve did not pass***

FLOWER MOUND BOARD OF ADJUSTMENT & OIL AND GAS BOARD OF APPEALS JOINT MEETING OF OCTOBER 10, 2018

**AYES:** None  
**NAYS:** Painter, Harris, Johnson, Schoggins, Schultz  
**ABSTAIN:** None

*Motion 3*

Board Member Schultz made a motion to reconsider Item 3. Vice Chair Johnson seconded the motion.

**VOTE ON THE MOTION**

***Motion to reconsider passed***

**AYES:** Schultz, Schoggins, Johnson, Harris, Painter  
**NAYS:** None  
**ABSTAIN:** None

*Motion 4*

Board Member Schultz made a motion to deny the request from Eagle Ridge Operating, LLC., for a variance to Section 34-422(g), Article VII, of the Town's Code of Ordinances. The request is for a variance to the Town's work hours requirement, which limits work hours for gas well permits to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday and 9:00 a.m. to 5:00 p.m. on Saturday. Board Member Johnson seconded the motion.

**VOTE ON THE MOTION**

***Motion to deny passed***

**AYES:** Schoggins, Schultz, Painter, Harris, Johnson  
**NAYS:** None  
**ABSTAIN:** None

4. (OGB18-0003) Public hearing to consider an appeal by Eagle Ridge Operating, LLC., of Town staff's determination that the work hour limitations for gas well permits set forth in Section 34-422(g), Article VII, of the Town's Code of Ordinances, apply to gas well pad site produced water collection and hauling operations; or, in the alternative, that sufficient grounds exist to satisfy the work hours exception: "any other emergencies or where the delivery of equipment is necessary to prevent the cessation of drilling or production."

**Board Member Deliberation**

*Motion 1*

Board Member Schultz made a motion to sustain the Town staff's determination that the work hour limitations for gas well permits set forth in Section 34-422(g), Article VII, of the Town's Code of Ordinances, apply to gas well pad site produced water collection and hauling operations. Board Member Schoggins seconded the motion.

**VOTE ON THE MOTION**

***Motion to sustain passed***

**AYES:** Schultz, Schoggins, Johnson, Harris, Painter

## FLOWER MOUND BOARD OF ADJUSTMENT &amp; OIL AND GAS BOARD OF APPEALS JOINT MEETING OF OCTOBER 10, 2018

**NAYS:** None  
**ABSTAIN:** None

*Motion 2*

Board Member Schultz made a motion to sustain the Town staff's determination that justification is not existent to be able to call for an emergency exception to the existing ordinance. Board Member Johnson seconded the motion.

**VOTE ON THE MOTION***Motion to sustain passed*

**AYES:** Schultz, Schoggins, Johnson, Harris, Painter  
**NAYS:** None  
**ABSTAIN:** None

5. (BOA18-0008) Public hearing to consider a preemption determination appeal from Eagle Ridge Operating, LLC. The applicant is appealing the Town Manager's denial of a preemption determination request, which contended that Chapter 621 of the Texas Transportation Code preempted the Town's authority to apply the work hour limitations (pursuant to Section 34-422(g), Article VII, of the Town's Code of Ordinances,) to gas well pad site produced water collection and hauling operations.

**Board Member Deliberation**

Board Member Schoggins made a motion to sustain the Town Manager's denial of a preemption determination request, which contended that Chapter 621 of the Texas Transportation Code preempted the Town's authority to apply the work hour limitations (pursuant to Section 34-422(g), Article VII, of the Town's Code of Ordinances,) to gas well pad site produced water collection and hauling operations. Board Member Schultz seconded the motion.

**VOTE ON THE MOTION***Motion to sustain passed*

**AYES:** Schultz, Schoggins, Johnson, Harris  
**NAYS:** Painter  
**ABSTAIN:** None

*Chair Harris requested a short recess at 9:05 PM and was reconvened at 9:08 PM.*

6. (BOA18-0006) Hold a public hearing and consider a request from Christy Tull for a special exception in accordance with Section 78-86, "Special Exceptions," of the Code of Ordinances. The property is generally located South of Cross Timbers Rd and West of Tour 18 Dr. and is locally known as 9104 Shawnee Trail, Lot 2, Block GR, of the Roanoke Hills Subdivision.

**Staff Presentation**

Chris Pamplin, Assistant Building Official, answered questions and gave a presentation with the following items included:

**FLOWER MOUND BOARD OF ADJUSTMENT & OIL AND GAS BOARD OF APPEALS JOINT MEETING OF OCTOBER 10, 2018**

- Special Exception overview
- Section 78-86
- Section 78-321 (e)
- Items are that are nonconforming for this zoning district (SF-3)
- Overview of 9104 Shawnee Trail
- Google Street view
- Photos from Code Case
- Property Information
- Special Exception definition

Joelle Hainley, Building Official, answered questions on this item.

**Applicant Presentation**

Matt and Christy Tull (9104 Shawnee Trail, Flower Mound, TX 75028), answered questions and gave background information in regards to item 6.

Chair Harris opened the Public Hearing for item 6.

*The following individuals either spoke in support or opposition, or had questions / comments related to the item(s): 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>
Pete Tichansky, 4209 Pocahontas	None	None

**Board Member Deliberation**

Board Member Schultz made a motion to approve the request from Christy Tull for a special exception in accordance with Section 78-86, "Special Exceptions," of the Code of Ordinances; recognizing that it will not be in compliance with Town Codes and all permits be obtained. The property is generally located South of Cross Timbers Rd and West of Tour 18 Dr. and is locally known as 9104 Shawnee Trail, Lot 2, Block GR, of the Roanoke Hills Subdivision. Vice Chair Johnson seconded the motion.

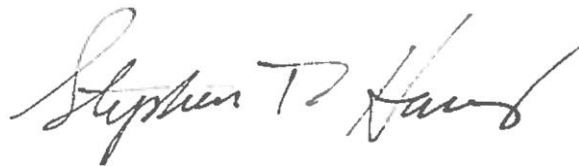
**VOTE ON THE MOTION**

***Motion to approve passed***

**AYES: Schultz, Schoggins, Johnson, Harris, Moraine**  
**NAYS: None**  
**ABSTAIN: None**

**I. ADJOURNMENT – REGULAR SESSION 9:45 PM**

FLOWER MOUND BOARD OF ADJUSTMENT & OIL AND GAS BOARD OF APPEALS JOINT MEETING OF  
OCTOBER 10, 2018



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**STEPHEN HARRIS**  
CHAIR

**ATTEST:**



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**EMILY CHAPMAN**  
ADMINISTRATIVE ASSISTANT