

THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 18th DAY OF OCTOBER, 2010, 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.

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

Melissa Northern	Mayor
Al Filidoro	Mayor Pro Tem
Steve Dixon	Councilmember Place 1
Mike Wallace	Councilmember Place 3
Steve Lyda	Councilmember Place 4

Constituting a quorum with the following members absent:

Tom Hayden	Deputy Mayor Pro Tem
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And the following Town Staff participating:

Harlan Jefferson	Town Manager
Cindi Price	Administrative Assistant
Terry Welch	Town Attorney
Chuck Springer	Assistant Town Manager/Chief Financial Officer
Kent Collins	Assistant Town Manager
Kenny Brooker	Police Chief
Gary Sims	Executive Director of Community Services
Doug Powell	Executive Director of Development Service

A. CALL BRIEFING SESSION TO ORDER

Mayor Northern called the briefing session to order at 6:02 p.m.

B. BRIEFING SESSION

1. Town Council Boards and Commissions Subcommittee Reports

Mayor Pro Tem Filidoro reported that at their last meeting, the P&Z Commission went over the urban design standards and the Toll Brothers subdivision located at the corner of Chaparral and 2499. Council would see those items shortly. A SMARTGrowth meeting was also planned, but due to the late hour, the discussion was deferred to another meeting.

Councilmember Lyda reported that he attended the Board of Adjustment and Oil and Gas Board of Appeals meeting last Wednesday. They elected a new chair, Mr. Baker, and new vice chair, Mr. Neal, and also received training on the Town's ordinances. They looked forward to going to work in the future.

Councilmember Wallace reported that at their last meeting, the PALS Board approved a request from Dallas Athletes, Inc. to hold a sanctioned triathlon event at the CAC natatorium and Gerault Park on April 10, 2011. They also recommended to Town Council a Standards of Care for Recreation Programs operated by the Town. Last, they recommended to Town Council consideration of a 25-year lease for 243 acres of park land

known as Twin Coves Park from the U.S. Army. Those items would come before Council on November 15.

Mayor Northern reported she attended the Precinct 3 meeting two weeks ago.

2. Discuss Consent and Regular Items

Councilmember Dixon requested Item 6 be pulled from the Consent Agenda for discussion.

3. Discuss Future Agenda Items

No discussion.

4. Discuss Council Communications

Town Manager Harlan Jefferson stated there were no outstanding Council Communications that needed direction. The most recent was the Environmental Health Quarterly Report.

Councilmember Lyda said it would help if they could receive the environmental report in a searchable format in the future. The copy they received was a scanned pdf, so it was hard to search through for a particular case or neighborhood.

Mr. Jefferson said they would follow up with the one they just sent them, and make sure it was one they could search.

C./D. ADJOURN BRIEFING SESSION AND CALL REGULAR MEETING TO ORDER

Mayor Northern adjourned the briefing session and called the regular meeting to order at 6:07 p.m.

E. INVOCATION

Chaplain Mike Liles gave the invocation.

F. PLEDGE OF ALLEGIANCE TO THE AMERICAN FLAG AND THE TEXAS FLAG

Chaplain Mike Liles led the pledges.

G. PRESENTATIONS

No presentations.

H. PUBLIC PARTICIPATION

Jim Wall, 2900 Stanford Drive, Flower Mound

Mr. Wall said last week, they went to a meeting in Dish, Texas, to hear testimony before the TCEQ and EPA. There was growing evidence that there were many problems

with the emissions from the gas wells. That was weighing heavy on his mind, considering he was pretty close to the Hilliard property. Some of the testimony was new to him. One lady talked about insect kills when the smells from the well near her home were very strong. That was dramatic and scary. Also people talked about kids coming off the playground with nose bleeds. When he was a kid and someone came off the playground with a nose bleed, it meant they were in a fight or did a flip off the swing. These kids were getting them just from breathing the air. He questioned what it would take to actually shut down a well, if they saw it was causing health problems in the city. He asked if there was any threshold they could reach to say that was enough; or if they would always say it could be fixed. The TCEQ always had an answer. They did their evaluation, and then claimed they had it fixed, but people were still getting sick.

Kathy Parrish, 2005 Woodhill Drive, Flower Mound

Ms. Parrish said they all agreed to do their part with the infrastructure improvements that were taking place in town, but when it came down to a matter of safety in the community, she was concerned. She appreciated that they put a speed indicator on her street in front of her home to help deter some of the speeding. Those who drove the speed limit slowed down, but for those who did not, it was a great incentive to see how high they could get the ticker to rise. They knew they had to do their part during this interim situation of inconvenience, but they were putting residents and children at great risk. If they drove down her street, they would see the children walking and riding their bicycles to school every morning and understand. Hundreds of cars passed her street on a daily basis, and they were in a hurry. They could change their routes or leave earlier, but she could not relocate her home. She asked them to use their power to help restore the safety and quality of life her neighborhood deserved and paid for. They should have looked at lessons learned with the expansion of 2499. They did not need people like her and hundreds of emails and phone calls telling them how inconvenienced they were. They should meet with the HOA presidents on a recurring basis to understand what kind of impact the changes and improvements in the city were making to their quiet neighborhoods.

Karen Spencer, 2812 Aberdeen Drive, Flower Mound

Ms. Spencer said responsibility was something they tried to teach their children from the time they learned to walk. As parents, they did not allow their children to blame siblings for not doing their homework or family chores, or to blame friends for breaking curfew or skipping school. As residents of Flower Mound, they could not allow the Town Council to shift responsibility for their decisions to Town staff, the Town Manager, or the Town Attorney. They were elected to strictly enforce the ordinances and make well-informed decisions. When residents came to them with issues related to enforcement of ordinances, it was not enough for them to say they asked for zero tolerance, but were told by Town staff it was not possible due to their interpretation of an ordinance. It was their responsibility to direct the Town Manager on the ordinance or, if needed, to change the ordinance. Doing nothing, while protesting their hands were tied, was not responsible. It was not acceptable to allow a 15-page derogatory letter to be placed on the Town website. Members of Council acknowledged the letter was inappropriate, but claimed it was posted before they knew it. The letter remained posted. She asked if they did not have the power to direct staff about content on the website. She said many residents pointed out instances when the tank battery ordinances were applied differently than they were to Hilliard Field. Because this issue was important to the future of the Town, they

asked them to obtain a second legal opinion to make sure they had it right. Apparently, Council was not going to do that. It seemed they did not want to appear to undermine the authority of the Town Attorney. She asked if residents were supposed to accept that the reputation and authority of the Town Attorney was more important than making sure the Town did the right thing. She said responsibility for the governance of the Town rested with them. It was difficult. She did not envy the work they had to do, but they chose to do it and said they would protect them. Their hands were not tied. The Town Manager and Town Attorney served at the pleasure of the Council. If they were not performing their duties as they wanted, it was not just their prerogative; it was their responsibility to make changes. That was the authority given to them by the residents of Flower Mound.

Tad Sims, 6409 Oakview, Flower Mound

Mr. Sims passed out some documentation. He said he started conversing with the city in 2007 on this issue. The road had deteriorated further. There was a hole approximately 3½ feet deep directly in front of his house, and the pothole was growing ever larger as a result. He wanted to bring this matter to a resolution. The people driving on the street deserved to be on a safe street. At any moment the road could collapse, seriously injuring people. The easy solution was to fill the hole with concrete, but that was not going to eradicate the problem that he and his neighbor were seeing and the amount of water that was flowing through their yards.

I. MAYOR AND TOWN COUNCILMEMBER ANNOUNCEMENTS

- **Announcements and brief discussion regarding recent and upcoming civic and social events, traffic issues, informational updates on Town projects, capital improvement projects, reports about contacts with other groups and/or individuals about Town issues and projects, Town legislative and regulatory issues, informational responses to questions, and information sharing.**

Mayor Northern said she attended the National Night Out on October 5th. She and Councilmember Filidoro went to four neighborhoods, and they were all fabulous. She thanked everyone for participating. She attended the Flower Mound High School homecoming, and was in the parade. She thanked LISD for including her. On Saturday, October 9th, they attended the Parker Chiropractic School's open house at Parker Square, Wills for Heroes, and the Fire Station open house. Flower Mound Performing Arts also had their ribbon cutting. That was an opportunity to welcome them to the Chamber. On Friday, Flower Mound Hospital provided an opportunity to participate in the Susan G. Komen Cure for Cancer by giving free mammograms. It was a huge success. Around 150 residents came in for those. She thanked the hospital for opening that up for the community. The Chamber of Commerce Fiesta Flower Mound was held on Saturday, and it was a very fun event. She encouraged everyone to attend next year, if they had the opportunity. She thanked Dr. Bach at Northlake College for inviting her to speak to his class. Wonderland Montessori had their grand opening and ribbon cutting, and Learning Express also had their grand opening. LISD was hosting their Medication Disposal Day on Saturday, October 23, from 10 am to 2 pm at Flower Mound High School, Marcus High School, Lewisville High School, and other places. Early elections had started, so she encouraged everyone to get out and vote. On Saturday, October 23, the Flower Mound Community Orchestra was holding a concerto for viola by William Walton at Trietsch United Methodist Church at 7:30 pm, free admission. She encouraged everyone to attend.

Also, starting October 28-31, Flower Mound Performing Arts was hosting their Ghost Stories. They should check them out on FMPAT.org. On Sunday, November 7, at 5:00 pm, the Lewisville Lake Symphony was having a gala and fundraiser.

Councilmember Dixon said the Fiesta Flower Mound was fantastic. If they did not attend this year, he suggested they definitely make plans to go next year. It was the biggest party in town. The Chamber exceeded their goal of raising money. The Mayor mentioned early voting had started. He encouraged everyone to do their duty and let their voices be heard.

Mayor Pro Tem Filidoro said he had the opportunity to go to Lewisville Lake Symphony Chamber Series last weekend. It was a good event, a piano concerto. They presented an honorary citizenship to the gentleman from UNT, who was from Russia.

Councilmember Lyda said he also had a good time at the National Night Out. He went with a couple from the Flower Mound Police Volunteer Organization. It was a very strong and organized group, and several of those volunteers were helping throughout the evening. National Night Out was founded so that people would come outside and meet their neighbors, and by doing that, know who belonged in the neighborhood and who did not, therefore, reducing crime. The neighborhood he went to, The Forums, truly reflected that kind of spirit. All of the neighbors were out participating in the evening. They had a chili cook off and scavenger hunt for the kids, along with other activities. It was a very successful evening for the Town. The police had an open house. It was definitely something it seemed they should do more often.

Councilmember Wallace said he wanted to echo the comments about Fiesta Flower Mound. Flower Mound rocked for sure this year. He and his wife Amy had a great time. He thought the venue this year, the Embassy Suites in Grapevine, was a better location for the event than last year, no offense to Texas Motor Speedway. It was wonderful to see how the Chamber of Commerce in Flower Mound was flourishing. His wife was the Co-Vice President of the Friends of the Flower Mound Library, and they were having a book sale this weekend, on Friday from 5 to 7 pm, Saturday from 11 am to 5 pm, and Sunday from 1 to 5 pm. The sales would be held in the Program Room of the Library, and funds would be used to purchase new materials for the Library. He encouraged everyone to please get out and support the Friends.

Mayor Northern reminded everyone that this was National Breast Cancer Awareness month, so if they had not had an opportunity, they should make sure they addressed that.

J. TOWN MANAGER'S REPORT

- **Update and status report related to operational issues, capital improvement projects, budget projections, grants, legislation, and regulatory activities.**

Town Manager Harlan Jefferson announced a ribbon cutting was planned for FM 2499, Section 4, the section north of FM 407, on October 30 at 10:00. In addition, a ribbon cutting was planned for Spinks Road, Section 4, on November 15 at around 4:30. He asked them to pencil it in and see if they had any conflicts. The road looked great, and he hoped everyone would be able to attend. They were inviting all of their regional

transportation partners. A project currently under construction, that was near and dear to Mr. Wall's heart, was the Flower Mound Road reconstruction. By the end of this month, the contractor was projected to be through with the westbound lane. In the transition, he was going to open up the full intersection at Flower Mound Road and Old Settlers for a two or three-week period, so they could get some relief from the congestion in that area before changing over to the eastbound lanes. Depending on weather conditions, he hoped to be able to continue at the same fast pace. They got some capacity improvements at the intersection of 1171 and 2499, so currently had a dedicated left-turn lane, two dedicated through lanes, and a combo right-turn and through lane. That had made some improvement for the morning eastbound commute. They were still working to get the capacity back at the signals at Glenwick and Bridlewood, which would help traffic in both directions, but particularly the westbound traffic. That was forecasted to be completed within three weeks. The FM 407 project was under construction. They were building some additional asphalt lanes on the south side of the roadway to transition the traffic to while they constructed the two new lanes on the north side of the roadway, so they could continue to have two-lane capacity at all times.

Mayor Northern said, so that meant Highland Village got to join their fun.

Mr. Jefferson answered Highland Village, Lantana, Bartonville, Double Oak, and the whole region.

Mayor Northern said excellent. She had the opportunity to drive the roads on Friday during the rush hour, and noticed the capacity had greatly improved on 1171. She thanked him for working very diligently with TxDOT and guiding them to the right conclusions.

Mr. Jefferson said Kent Collins and Ken Parr were really the project persons on 1171. They were doing a great job monitoring them. They had not gotten all of the requested improvements, but continued to stay on track. Bobby Mitchell and Andy Eads also continued to assist.

Mayor Northern thanked them all.

Councilmember Dixon said Mr. Sims gave them a packet. Back in March, Mr. Sims was in contact with Council, and he asked staff to get with him. He asked Mr. Jefferson if he had any information on the issue. He honestly thought it was resolved.

Mr. Jefferson said he recalled Mr. Sims' original suggestion was to increase the size of the culverts to allow more water to flow underneath the roadway. Their concern was that by doing so, they would potentially flood out some of their neighbors on the north side of the roadway. The water cut through two residents' properties, and then circled and went back east behind some property, so they did not want to cause a flooding problem where one currently did not exist. He thought the issue was that an excessive amount of water approached the culverts that were not large enough, and when it receded, it left extra debris. It was not an issue of someone's residence physically flooding. The interim solution they talked about was expanding the capacity of the detention ponds on the Fire Station No. 2 site. Then there was a larger, more permanent solution that would require some massive changes throughout the whole area. So, he

agreed the problem was looked into, and they were going to pursue more of an interim solution that would move things down the road until they actually had to move forward with the larger long-term solution.

Mayor Pro Tem Filidoro said some residents called him about 1171, specifically on Saturday and Sunday. They understood there was a lot of traffic Monday through Friday during rush hour, but it seemed like they were having a problem getting down 1171 almost all daylight hours from noon on. He actually tried to drive it from Glenwick where he lived going west, and after 10 minutes had not really left his subdivision that much, so he got off it. He was not sure what was causing 1171 to be so backed up. He asked him to comment on that.

Mr. Jefferson said he also noticed the traffic Sunday afternoon. He approached 1171 going north on Flower Mound Road, and was surprised how little the congestion was around the Pumpkin Patch and Pumpkin Village. He thought the fact they could use the northern lane for the westbound traffic really helped. He was even more surprised when he went eastbound past Bruton Orand and saw the long line of traffic. It really did appear similar to commuter traffic, or worse. The fact they did not have enough capacity at the signals at Glenwick and Bridlewood, because there were no dedicated left-turn lanes, TxDOT had the signals in a phasing program, where eastbound traffic was released, westbound traffic was held up, and then the reverse happened. As a result, the signals did not allow as much capacity to get through as before construction ever started. During commuter traffic on weekdays, they had police officers controlling the signals, so he thought the traffic this weekend could have been caused because they did not have the officers there. This was his first time observing it this weekend. They had talked about the situation, and would continue to monitor and see if they could come up with some ideas to address it over the next three weeks. By then TxDOT would have the contract to build a bypass lane, similar to the right-turn lanes, and then would install the left-turn lanes and change the signals, so both eastbound and westbound traffic could go at the same time. The pumpkin patch facilities might have contributed to the congestion, as well.

Mayor Northern said, so he would follow up on Mr. Sims' road, and get back to Council on where they were and a timeline of when they would have some resolution.

Mr. Jefferson said he did not know if he would know when they would have resolution, but he would follow up with what they did from the last time he spoke to them and document what the options were, the interim solution, long-term solution, and the cost. At some point, the Council would have to decide when they wanted to implement the long-term solution and approve any changes. They had a drainage utility fund that could address it, but the question was when they would have enough funding to address that solution. The Council would eventually have to prioritize that. They would also look into the weekend congestion on 1171.

K. CONSENT ITEMS

Councilmember Lyda made a motion to approve by consent Items 1, 2, 3, 4, 5, 7, and 8. Councilmember Dixon seconded the motion. Each item, as approved by consent, is restated below along with the approved recommendation for each, for the record.

1. Consider approval of minutes from a regular meeting of the Town Council, special meeting of the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District, and special meeting of the Town of Flower Mound Crime Control and Prevention District held on September 20, 2010.

RECOMMENDATION: Approve the minutes from a regular meeting of the Town Council, special meeting of the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District, and special meeting of the Town of Flower Mound Crime Control and Prevention District on September 20, 2010.

2. Consider approval of minutes from a regular meeting of the Town Council held on October 4, 2010.

RECOMMENDATION: Approve the minutes from a regular meeting of the Town Council held on October 4, 2010.

3. Consider approval of minutes from a special meeting of the Town Council held on October 7, 2010.

RECOMMENDATION: Approve the minutes from a special meeting of the Town Council held on October 7, 2010.

4. Consider approval of Change Order No. 8 for Bid No. 4308-B, 2008 Street Reconstruction Phase II project, amending the contract with Dirtco dba Styles Contracting, for a decrease in the amount of \$4,162.32; final acceptance of the projects; the Project Close-Out Agreement; authorization of final payment to the surety, American Safety Casualty Insurance Company, in the amount of \$31,309.28; and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve Change Order No. 8 for Bid No. 4308-B, 2008 Street Reconstruction Phase II project, amending the contract with Dirtco dba Styles Contracting, for a decrease in the amount of \$4,162.32; final acceptance of the projects and the Project Close-Out Agreement; authorization of final payment to the surety, Safety Casualty Insurance Company, in the amount of \$31,309.28; and authorize the Mayor to execute same on behalf of the Town.

5. Consider approval of an ordinance amending Chapter 66, Article V, Section 66-214 of the Code of Ordinances of the Town of Flower Mound relating to prima facie speed limits for specific streets by lowering the prima facie speed limits for Blue Leaf Drive, Bluffview Court, Bluffview Lane, Elmridge Drive, Flamingo Drive, Lake Bluff Court, Lake Bluff Drive, Larkspur Street, Lavender Lane, Meadowbrook Lane, Northshore Boulevard between Woodpark Drive and Long Prairie Road, Regency Drive, River Place Drive, Shelmar Drive, Silverthorn Lane, Stone Trail Drive, Teakwood Court, Tophill Drive, Tophill Lane, Woodhill Drive, and Woodland Boulevard to 25 mph.

RECOMMENDATION: Approve an ordinance amending Chapter 66, Article V, Section 66-214 of the Code of Ordinances of the Town of Flower Mound, Texas, relating to prima

facie speed limits for specific streets by lowering the prima facie speed limit for Blue Leaf Drive, Bluffview Court, Bluffview Lane, Elmridge Drive, Flamingo Drive, Lake Bluff Court, Lake Bluff Drive, Larkspur Street, Lavender Lane, Meadowbrook Lane, Northshore Boulevard between Woodpark Drive and Long Prairie Road, Regency Drive, River Place Drive, Shelmar Drive, Silverthorn Lane, Stone Trail Drive, Teakwood Court, Tophill Drive, Tophill Lane, Woodhill Drive, and Woodland Boulevard to 25 mph. The caption of the ordinance reads as follows:

ORDINANCE NO. 64-10

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS BY AMENDING SUBPART A, CHAPTER 66 OF THE CODE OF ORDINANCES, ENTITLED "TRAFFIC AND VEHICLES," THROUGH THE AMENDMENT OF ARTICLE V, "SPEED LIMITS," BY AMENDING SECTION 66-214, "ENUMERATION FOR SPECIFIC STREETS," BY THE ADDITION OF TWENTY-ONE MORE STREETS TO THE LIST OF STREETS ENUMERATED THEREIN AND IDENTIFYING THE MAXIMUM PRIMA FACIE SPEED LIMITS FOR SAID TWENTY-ONE STREETS; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

6. Consider approval of Change Order No. 3 for Bid No. 20-10-B, Morriss/Gerault Road Improvement Phase 1 project, amending the contract with TISEO Paving Company, for an increase in the amount of \$98,019.97, and authorization for the Mayor to execute same on behalf of the Town.

This item was removed from the Consent Agenda by Councilmember Dixon.

7. Consider approval of an Interlocal Cooperation Agreement with Denton County for the provision of library services for the benefit of the citizens of Denton County, and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve an Interlocal Cooperation Agreement with Denton County for the provision of library services for the benefit of the citizens of Denton County, and authorize the Mayor to execute same on behalf of the Town.

8. Consider the subdivider's request for a twelve-month extension to the approval of the Replat (RP 03-09) for Rheudasil Farms, pursuant to Section 90-212(b)(1) of the Town's Code of Ordinances, to develop a residential subdivision. (The property is located at 1601 Lexington Avenue.)

RECOMMENDATION: Approve a twelve-month extension to the approval of the Replat (RP 03-09) for Rheudasil Farms, pursuant to Section 90-212(b)(1) of the Town's Code of Ordinances, to develop a residential subdivision.

VOTE ON THE MOTION

AYES: Wallace, Lyda, Filidoro, Dixon
NAYS: None
ABSENT: Hayden

L. REGULAR ITEMS

- 6. **Consider approval of Change Order No. 3 for Bid No. 20-10-B, Morriss/Gerault Road Improvement Phase 1 project, amending the contract with TISEO Paving Company, for an increase in the amount of \$98,019.97, and authorization for the Mayor to execute same on behalf of the Town. (This item was removed from the Consent Agenda by Councilmember Dixon.)**

Assistant Town Manager Kent Collins said there were four main categories of bid items: 1) the tree relocations and tree removals were about \$52,000; 2) the kick boards for the wooden fences to meet the Town's standard were approximately \$32,500; 3) the irrigation modifications were about \$9,500; and 4) the manholes and purple piping, which would allow them to use re-used effluent in the future, accounted for the remainder.

Councilmember Dixon said the one issue he questioned was the \$32,558.40 for the fences. Back when Council first put the Morriss-Gerault project on the books, so to speak, it was a capacity improvement project. He realized they were playing a broken record, because it seemed like it kept coming back up, but he thought a lot of residents in town had an issue with the Town spending their money or anyone else's money on residents' private fences along a street that might very well not have a capacity improvement. The road project was for roads, and they were continuing to spend money on fences on private property. He voted for this project initially, but the crux around the project was capacity improvement. They were continually being told in town that they needed to become more proactive rather than reactive. They just heard that on October 30 they were going to open the latest phase of the 2499 project between FM 407 and FM 2181. At some point in the future, 2499 was going to connect directly with I-35. They were going to see a dramatic amount of traffic coming into Flower Mound, and it would be extremely important for them to have more north-south corridors, so he did not think it was a good idea to keep kicking the can down the road. Now they were being asked to spend more money on fences. That was why he pulled it off the consent agenda.

Mayor Pro Tem Filidoro moved to approve Change Order No. 3 for Bid No. 20-10-B, Morriss/Gerault Road Improvement Phase 1 project, amending the contract with TISEO Paving Company, for an increase in the amount of \$98,019.97, and authorize the Mayor to execute same on behalf of the Town. Councilmember Lyda seconded the motion.

VOTE ON THE MOTION

AYES: Filidoro, Lyda, Northern
NAYS: Dixon, Wallace
ABSENT: Hayden

- 9. **Consider approval of an ordinance extending for an additional forty-five (45) days the temporary suspension of the acceptance and review of any new permits associated with oil and natural gas drilling and production, pursuant to Article VII of Chapter 34 of the Town's Code of Ordinances.**

Terry Welch, Town Attorney, said at their September 7 meeting, they adopted a 45-day extension. That expired the end of October, and this was the last Council meeting

in October, so this was for another 45-day extension. The Oil and Gas Advisory Board was still in its review process regarding possible ordinance amendments. The new extension would take them to Sunday, December 12. If the Oil and Gas Advisory Board had not concluded its deliberations and amendments had not been made to the ordinance by then, he would anticipate another 45-day extension at that time.

Councilmember Wallace said the original moratorium was approved on June 7th. It was for 180 days, which would be Saturday, December 4. He asked why the end date of this extension would not be December 4.

Mr. Welch said there were two ordinances they considered, the one with the petition process which was the 180-day moratorium, and the one the Town initiated at approximately the same time. This one had an initial period to September, and then it had 45-day increments after that time, so it was different than the petition initiative.

Councilmember Wallace said, so the petition initiative expires Saturday, December 4, and this expires Sunday, December 12.

Mr. Welch said correct. At some point in time, if the Board was not going to be done by December 4, he would anticipate an extension of the other one, as well.

Mayor Pro Tem Filidoro moved to approve an ordinance extending for an additional forty-five (45) days the temporary suspension of the acceptance and review of any new permits associated with oil and natural gas drilling and production, pursuant to Article VII of Chapter 34 of the Town's Code of Ordinances. Councilmember Lyda seconded the motion. The caption of the ordinance reads as follows:

ORDINANCE NO. 65-10

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, EXTENDING FOR AN ADDITIONAL FORTY-FIVE (45) DAYS THE TEMPORARY SUSPENSION OF THE ACCEPTANCE AND REVIEW OF ANY NEW PERMITS ASSOCIATED WITH OIL AND NATURAL GAS DRILLING AND PRODUCTION WITHIN THE TOWN; REPEALING ALL CONFLICTING ORDINANCES AND RESOLUTIONS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Discussion on the Motion

Mayor Pro Tem Filidoro said it was his understanding that the Oil and Gas Advisory Board was working diligently to get to this date. They should be given the opportunity to finish their job, since they were already three-quarters of the way into it. He did not have a problem with the extension. He believed not granting the extension would be in effect trying to cut them off at the pass before they completed their work.

Councilmember Dixon said Mr. Filidoro's comments were correct. The root of them doing the moratorium was obviously a situation with the ordinance, but it was also to give the advisory board the opportunity to review the items, bring the recommendations to Council, and then Council could make some adjustments and enhancements to the oil and natural gas ordinance and possibly the pipeline ordinance. If they recalled, the petition

gave them the luxury and the parameters to be able to look at any ordinances in the Town, so this was the one situation that he felt was appropriate for a moratorium. It came along with the petition drive, but it made all sorts of sense.

VOTE ON THE MOTION

AYES: Lyda, Filidoro, Dixon
NAYS: Wallace
ABSENT: Hayden

10. **Consider amending Chapter 6 of the Code of Ordinances to reflect animal restraint changes and updated definitions for "Animal at Large," "Restraint," "Invisible/Electronic Fence," and "Impound Generally;" and removal of the definition of "Immediate Effective Control."**

Christine Hastings, Animal Services Manager, gave a presentation related to proposed amendments to the Town's leash law and impoundment section, and the addition of a new section designating a Local Rabies Control Authority:

Councilmember Lyda asked what current procedure her department followed for an animal bite.

Ms. Hastings said the dog was checked for rabies and quarantined for 10 days from the date of the bite. Depending on the circumstances, it could be quarantined at home, or it might have to be quarantined at a licensed facility or veterinarian's office.

Councilmember Lyda asked if they received any correspondence on these changes.

Ms. Hastings said no.

Councilmember Lyda said Ms. Hastings mentioned the parks had a different set of ordinances for dogs. He asked if this would in any way effect their future off-leash dog area.

Terry Welch, Town Attorney, said most cities had specific ordinances for dog parks that eliminated some of the leash requirements, so if the Town did have a dog park one day, they would have to go back and do some ordinance amendments.

Ms. Hastings said she had the actual ordinance from the Parks Department. It said, "This subsection shall not apply to guide dogs or other animals used to assist handicapped or disabled persons, to penned animals that are part of an activity authorized by the Town's PALS Board or the Director of Parks and Recreation or his designee, and park areas or recreational facilities designated as leash-free by the Town's PALS Board." So, if they had a future dog park, that would help cover it.

Councilmember Wallace asked if the proposed ordinance changes went through the Animal Services Board.

Ms. Hastings said no.

Councilmember Wallace asked if there was a reason why it did not.

Ms. Hastings said she was instructed to go to Council, and that it was not within the Board's capacity to change ordinances. Their purpose was to make sure the shelter was following the current laws regarding animals and getting their inspections done.

Councilmember Wallace said he would like to get more input from the public about these changes.

Mayor Northern asked, for clarification, if he was saying he would like it to go back to the Animal Services Board, or he would like to get more public participation.

Councilmember Wallace said he would prefer it to go to the Animal Services Board, based on the fact that on the Town's website it said, "The Board shall perform such other duties as the Town Council may prescribe." He would like it to be placed as an item on their next meeting. They had Council representation with Mr. Dixon. Potentially, they could even offer it up as a public hearing to allow any public comments to be made.

Mayor Pro Tem Filidoro said a resident, who lived in the Wichita Creek area, called him this weekend and said they had an issue with coyotes. The resident said they called Animal Services, but were told by someone that there was nothing Animal Services could do about coyotes being in neighborhoods. He asked if that was correct.

Ms. Hastings said correct.

Mayor Pro Tem Filidoro asked why.

Ms. Hastings said coyotes were native to the area, so as soon as one was taken out, more would come in. They were quite difficult to catch. They had tried for several years to set traps, but they really needed live bait to do that, which was illegal. They had tried to educate residents about coyotes and encourage them to scare them off, to not feed them, to pick up after pets, so they did not attract rodents, and to pick up trash to discourage them. Coyotes ran up to 40 mph, so unless they were injured and could not run, they really could not go out there and catch them free-hand.

Mayor Pro Tem Filidoro said, well the language said, "...it is the duty of the town enforcement agent to capture and impound wild or non-domesticated animals in response to citizens' complaints of public nuisance or to control feral populations." They just talked about an example of where that was not correct. An individual could read that and believe they should call the Town. He was not sure if they should put an asterisk and say "except coyotes," but it was confusing for residents. He asked if there was some way to define that better.

Ms. Hastings said she could look into revising that. The same would go for bob cats and mountain lions. Those were wild animals that it was difficult, if not impossible, to catch using the catch-poles. For wildlife, such as armadillos, possum, raccoons, and skunks, they provided traps to residents, and emptied those on a daily basis.

Mayor Pro Tem Filidoro said then maybe it should say small wild animals. He could understand a resident reading this, asking the question, and then becoming confused with the answer, since it said "...capture and impound wild animals." They already talked about three exceptions. A resident might assume they were not doing their job, which was not the case. Somehow this was not specific enough.

Mayor Northern asked for confirmation that the Town did not allow residents to shoot at those animals.

Ms. Hastings said as long as they had over five acres and a certain caliber of gun, they could defend their property and their livestock to protect it from coyotes. She would not go into the gun laws in town. The police department should answer that.

Mayor Northern said she also got quite a few calls and kept telling them, if they lived out west, to get a bigger dog. She appreciated that this was a concern in the community. Residents who moved out there were not familiar with this issue until there was an issue with their small pets, so she agreed with Mr. Filidoro that they needed to make sure that residents understood that if it was an animal that ran faster than they did, that might be a problem.

Mr. Welch said it would be very difficult to do a breed-specific exception to this ordinance. For example, in Copper Canyon there was a wild steer that no one had been able to catch, and they had attempted on multiple occasions. Whatever they listed, there would be something they did not list, so the only thing he knew to address that was to add "to the extent feasible" before "to capture and impound" the animals. Obviously, every situation would be different. That would let the folks who were charged with capturing it have some discretion in making that call, rather than trying to wrestle a mountain lion.

Mayor Pro Tem Filidoro asked if they could just say "to capture and control feral populations."

Ms. Hastings said feral would be domestic animals that become wild, such as cats that were left out to breed. That would not cover coyotes, etc.

Mayor Pro Tem Filidoro said that was good, because they would be saying that they were not.

Councilmember Lyda said that would eliminate raccoons, skunks, etc.

Mayor Pro Tem Filidoro said then maybe they should strike the whole sentence, starting with "in addition."

Mr. Welch said they could strike that sentence, and then it would just be up to the discretion of the Animal Control person about what they could and could not do safely.

Councilmember Lyda said he liked the language in there, adding Mr. Welch's language "to the extent possible."

Mayor Northern said she tended to agree with Mr. Lyda.

Town Manager Harlan Jefferson said earlier Mr. Lyda asked about correspondence in response to the proposed changes. He agreed they had not received any in direct response to the agenda posting, but starting three or four months ago, there was one resident who consistently wrote them emails about this item. He did not think he was present that evening, but he wanted to remind them that they received correspondence related to this, and they did reply that it would be on their October agenda. In addition, the Council talked about the leash law changes as part of the overall discussion at their retreat last January, and followed up last June, in which they talked about the desire to change it. In fact, he thought it went back to Ms. Hastings predecessor, and they delayed it a year because they wanted her to come on board and get her input. It had been around a while. They did not elect to take it to the Animal Services Board because they were not an advisory board and it was outside their scope. That was the Council's discretion to make that choice.

Councilmember Dixon said personally he did not think it needed to go to the Animal Services Board. It was not the purview of that board. Mr. Cleland's recommendation, who was the gentleman that had been providing information to them for several months, was to make it a harness, but he liked the language Ms. Hastings included. It put the responsibility on the owner to make sure they were under control. He would rather them bring the item back as a noticed public hearing to Council before sending it back to the Animal Services Board.

Mayor Pro Tem Filidoro asked, going back to Section 6-121, whether it would be possible to put something in there that would allow them to refer back to Animal Control, and require them to keep a list, to be able to explain that list when somebody called, and to send it to them. The list would not be put in the ordinance, and it could be changed by them. His concern was that, with the "to the extent possible" language, it was still possible for someone to not understand that. They could still say the Animal Control staff were not doing their job, did not want to do it, etc. That way it was not simply what somebody randomly said; it was documented. He was trying to save them from getting a bad rap. He thought they ran a great department. At the same time, he wanted to be sure they were helping them by further explaining in some measure why they could not pick up a puma or a coyote or feral steer.

Mr. Welch said regardless of how they changed the language in Section 6-121, they could simply give that as direction to Animal Control staff to come up with some sort of documentation, a list or notice of animals they did not normally go after to impound because of safety reasons, rather than making that part of the ordinance..

Mayor Pro Tem Filidoro asked if they could add that to direct staff to do that.

Mr. Welch said correct, to a motion.

Councilmember Dixon said to help expedite this meeting, why not postpone it. They had gotten some good direction, and could work with Mr. Welch to make sure they incorporated everyone's thoughts. Then they could bring it back as a public hearing to satisfy Mr. Wallace.

Councilmember Wallace said he thought that was a good compromise. He had heard a couple of Council members, as well as Mr. Jefferson, say it was not the purview of the Animal Services Board. He would like to ask Town staff to update the Town's website as to what the purpose of the Animal Services Board was, because he was reading, "The Animal Services Board will serve in an advisory capacity to the Town Council in matters pertaining to the animal shelter and complying with the laws set forth in the Texas Rabies Control Act," which they had spoken about that evening. There was another bullet that said, "The Board shall perform such other duties as the Town Council may prescribe by ordinance or resolution." So again, it was certainly within their purview. If the Animal Services Board was not the appropriate board to make recommendations to Town Council, he was not sure who would be. He appreciated Mr. Dixon's offer to perhaps bring it back as a public hearing and to allow comments. During his campaign in May of 2009, someone pulled him aside and said they needed to do something about the off-leash rules. There had been lots of discussion about the off-leash park, which was a separate issue. They heard a lady a couple of months ago say they needed to outlaw all pit bulls in town. He thought there were many residents who might like to participate in this, and they ought to give them the opportunity.

Councilmember Lyda said he personally thought since this was addressing a public safety issue in town, the dog bites, they should take action on it that evening, and then maybe bring it forward at a later time. They could have a workshop on the Animal Services Board and provide them some new direction that might possibly change their charter. They certainly had the purview to do that. If one of the things was to direct any further Animal Services-related things that were coming before Council to be reviewed by them in a public forum, he thought that would be a good deal.

Mayor Pro Tem Filidoro said while he was prepared to move on it that evening, with the change to Section 6-121, he did understand what they were saying about what the Animal Services did for the shelter, and this might fall loosely in or out of their purview. They had talked about this for a long time, but in deference to Councilmember Wallace, he did not have a problem in waiting a few weeks and having a public hearing on this.

Mayor Northern said there was a recommendation to postpone for a public hearing and a recommendation to move forward that evening. She asked Councilmember Wallace if he thought postponing this for a public hearing would change the ordinance in any way.

Councilmember Wallace said in their deliberation that evening Councilmember Filidoro discovered something that seemed like it needed to be changed, and Mr. Welch had offered to prepare some changes to the language. He thought it was feasible that it could potentially change, but at least it would give the public an opportunity to weigh in. Perhaps tabling it to the November 15 meeting would be a good idea.

Mayor Northern said she agreed that it was a public concern, and they needed to act quickly on it.

Councilmember Dixon said as a compromise, they could put teeth in the ordinance, and then bring it back later to clarify some of these points. What was said about bringing it forward for public safety made a lot of sense. They should deliberate, figure something out so they could do their job better, and then talk about it at length at a later date.

Mayor Pro Tem Filidoro said he was good with that.

Mr. Welch said regarding the last sentence in Section 6-121, he was not sure if there was a consensus to eliminate that sentence in its entirety and to give direction to staff, or to go with the "to extent feasible" language.

Mayor Pro Tem Filidoro said his understanding was that they would caveat that with direction to staff to have some type of list of animals that were exempt or did not fit under the ordinance. They did not have to put it in the ordinance, but it was to show somebody when they walked in.

Mr. Welch said, so eliminate that last sentence.

Mayor Pro Tem Filidoro said yes.

Mr. Welch said okay, he just wanted to make sure he understood what the motion would be. He would read the draft motion: "Move to approve amending Chapter 6 of the Code of Ordinances to reflect animal restraint changes and updated definitions for "Animal at Large," "Restraint," "Invisible/Electronic Fence," "Impound Generally," removal of the definition of "Immediate Effective Control;" and designate the Town's Animal Services Manager as the local rabies control authority, and additionally to remove the last sentence of proposed Section 6-121 which begins "in addition," and further to direct staff to prepare a list of animals for which impoundment will not be undertaken by Animal Control Services staff."

Mayor Pro Tem Filidoro so moved. Councilmember Dixon seconded the motion.
The caption of the ordinance reads as follows:

ORDINANCE NO. 66-10

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY AMENDING SUBPART A OF THE CODE OF ORDINANCES THROUGH THE AMENDMENT OF CHAPTER 6, "ANIMALS," THROUGH THE AMENDMENT OF ARTICLE I, ENTITLED, "IN GENERAL," BY AMENDING SECTION 6-1, "DEFINITIONS" BY AMENDING THE DEFINITIONS FOR THE PHRASES "AT LARGE" AND "RESTRAINT," BY ADDING DEFINITIONS FOR THE PHRASES "INVISIBLE/ELECTRONIC RESTRAINT" AND "LOCAL RABIES CONTROL AUTHORITY," AND BY DELETING THE DEFINITION FOR THE PHRASE "IMMEDIATE EFFECTIVE CONTROL;" THROUGH THE AMENDMENT OF ARTICLE II, ENTITLED, "ANIMAL CARE AND CONTROL," BY AMENDING SECTION 6-45 ENTITLED "ANIMAL AT LARGE" IN ITS ENTIRETY; THROUGH THE AMENDMENT OF ARTICLE III, ENTITLED, "RABIES CONTROL," BY AMENDING SECTION 6-81, "STATE REGULATIONS ADOPTED," IN ITS ENTIRETY TO DESIGNATE THE LOCAL RABIES CONTROL AUTHORITY AND IDENTIFY THE AUTHORITY'S ENFORCEMENT RESPONSIBILITIES; THROUGH THE AMENDMENT OF ARTICLE IV, ENTITLED, "IMPOUNDMENT, REDEMPTION AND DISPOSITION," BY AMENDING SECTION 6-121 "IMPOUNDMENT GENERALLY," IN PART, BY THE AMENDMENT OF SUBPARAGRAPH (B); PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING A PENALTY CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Discussion on the Motion

Mayor Pro Tem Filidoro said they were taking this action, but they still wanted to make sure they followed up on Councilmember Wallace’s suggestion. It might be a little unclear for a few weeks, but he thought they could bring it all back into order, but to make sure they addressed an issue of public safety, he did not think it would hurt this body to look at it more and have a public hearing and make some changes to it, and he did not have a problem with Animal Services Board weighing in, because they had covered the issue at least temporarily, and it was something that was long overdue in some of the areas that were not congruent with the state.

Councilmember Lyda said he wanted to extend his appreciation to the Council for taking this up that evening. He thought it was in the best interest of the citizens of the Town that they go ahead and take immediate action, plus it was going to bring them into compliance with state law and update the ordinance.

VOTE ON THE MOTION

AYES: Dixon, Filidoro, Lyda, Wallace
NAYS: None
ABSENT: Hayden

Town Manager Harlan Jefferson said he thought they were clear that there was a desire for a public hearing around November 15 on this item. They were not clear whether there was a consensus on going to the Animal Services Board.

Mayor Pro Tem Filidoro said he preferred that it go to the Animal Services Board. There was no reason not to do that at this point. It did no harm, and it also gave Ms. Hastings a chance to talk to the members of that board. It might not be November 15, but they were covered from the standpoint that they had an ordinance.

Councilmember Lyda agreed that since they took action on it, the schedule of November 15 was relaxed.

Mayor Northern said, so the direction was to go back to the Animal Services Board and review it with them, and then bring it back to Council for a public hearing.

Mr. Jefferson said, so it might not be the 15th.

[The Council said no.]

Mayor Northern said public safety was number one.

Mayor Pro Tem Filidoro said any changes might be minor based on this, but it was still a good idea to fine-tune and make sure they touched all the bases.

- 11. Public Hearing to consider approval of a Chapter 380 Partnership Agreement with Nature’s Best, to provide for incentives for the economic development of Flower Mound, and authorization for the Mayor to execute same on behalf of the Town.**

Melissa Glasgow, Director of Economic Development, said she was there to present a request for incentives by Nature's Best as an enticement for them to locate in Flower Mound. In attendance were Tim Groff, who was the Senior Vice President of Finance for Nature's Best, who travelled from the corporate headquarters in Brea, California, and Mark Collins and Kirk Collins, from Cushman and Wakefield, who handled the real estate site selection process on behalf of Nature's Best over the last several months. This was a public hearing since the Town's Economic Development Incentive Policy required that any request for incentives came to Town Council for consideration during a public hearing. She then gave a presentation.

Mayor Pro Tem Filidoro asked Mr. Groff to talk briefly about the company. He said they were excited to have him there, and the meeting was being televised.

Mr. Groff said after doing business with Sprouts for many years, which was a Phoenix-based company that was growing at a rate of a store-a-month throughout the western U.S., they asked them to distribute to them at a location closer to them, as opposed to their Orange County home base. The delivery was being affected by the long drive. They came to a seven-year supply agreement with them, which gave them the comfort to open up a second distribution center. They decided to go with Dallas. They hired Cushman and Wakefield as their broker, and looked at 23 buildings over the last four or five months. They narrowed it quickly down to eight, and from there chose one in Flower Mound based on a number of parameters, one of which was the discussion that evening. Nature's Best was a 40-year-old company formed in 1969. It was a family-owned, third generation company. The revenues were about \$300 million, and they had about 350 employees, mostly in Orange County. They had over 100 trucks and trailers, driving about 3.5 million miles. Their expectation was to grow in the entire Midwest area on top of Texas. They planned to ship up to Oklahoma City and Kansas City, and down to Houston, Austin, and San Antonio. This was a big step for them as a private company, and obviously cost and expense were a huge consideration for them.

Councilmember Wallace asked what type of products they distributed.

Mr. Groff said they shipped almost everything in the Sprouts store, except the fresh meat and produce. They carried 20,000 items from 1,100 vendors and sold to 3,000 retailers. About 35% of their offerings were organic, but they were all health food items, so the ingredients were critical to them. There were no Oreo cookies in their warehouse.

Councilmember Wallace asked if they would give tours of their facility to scout groups.

Mr. Groff said they could. They did that in Orange County.

Councilmember Wallace asked if there was any chance they could help them get a Whole Foods in Flower Mound.

Mayor Northern said she asked him that out in the lobby.

Mr. Groff said they had done business with them for many years and knew them pretty well. Currently, Sprouts was their biggest customer, and were the ones really driving the bus.

Councilmember Lyda said he mentioned this would be their second distribution center.

Mr. Groff said more or less. They had a small distribution center in Hawaii. It did not have a full offering of products.

Councilmember Lyda asked how many years before they expected to roll in the Orange County facility to the one in Flower Mound.

Mr. Groff said they had a lot of tenant improvements, which would be the tax base for them, the biggest being the freezer-cooler. Those took some time to build. They hoped to open up in the spring of next year. They would immediately start shipping to the Sprouts stores in Texas, of which the majority were in Dallas and Austin. Then within about three weeks, they expected to ship to their stores in Colorado, so they would immediately offload approximately \$40 million of business out of the Brea distribution center to down here. They had also hired a regional sales manager to start knocking on doors to tell people they were in town, and fully expected to have third-party business in their shop by the end of the third quarter.

Mayor Northern said Councilmember Lyda was inviting him to relocate his corporate headquarters to Flower Mound.

Mayor Pro Tem Filidoro said they were sure as their business shifted eastward and other consumers and stores had the same reception they were getting now in California, that they would understand that Dallas-Fort Worth was the middle of the country. They could get to either coast in the same amount of time from their airport. They would love to have their corporate headquarters here.

Public Comments

No comments.

Close Public Hearing

Council Deliberation

Mayor Pro Tem Filidoro moved to approve a Chapter 380 Partnership Agreement with Nature's Best, to provide for incentives for the economic development of Flower Mound, and authorize the Mayor to execute same on behalf of the Town. Councilmember Lyda seconded the motion.

VOTE ON THE MOTION

AYES: Wallace, Lyda, Filidoro, Dixon
NAYS: None
ABSENT: Hayden

12. SP 46-08 – Valley Creek Church

Consider a request for a Site Plan (SP 46-08 - Valley Creek Church) to develop a building addition, with an exception to Section 82-302, Compatibility buffer, and a request for additional height pursuant to Section 98-1031(d), Additional height, of the Code of Ordinances. The property is located at 5800 Long Prairie Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its September 27, 2010, meeting.)

Doug Powell, Executive Director of Development Services, showed a few slides and explained the expansion would be wrapped around the existing façade. The driveway would be changed so it would feed into the driveway on the northern part of the property. The site plan had been reviewed by the Town's DRC, and they had found it to be compliant with all of the Town's standards, except for two things. The first was the height of the building. The Town Council could grant additional height. The new building was proposed to be 7.5 feet taller than the typical height to allow for the stage apparatus in that part of the building. The second item dealt with the existing compatibility buffer along the eastern property line. The adjacent property was master-planned for office, but currently zoned Agricultural. Because of that, when they built the church, they put in a compatibility buffer. Now the church had been asked by the Town, in relation to the expansion and improvements to Dixon Road, to allow for a drainage easement in that compatibility buffer. Because of that, the existing trees would have to be removed and planted on the western side of the property. The adjacent property owner originally submitted a letter to P&Z expressing concerns, but those had been resolved.

Jay Reissig, G & A Consultants, Lewisville

Mr. Reissig said he would speak briefly on the two variances. He showed a cross section from 2499 over to the proposed building and existing building. He said they were 92.5 feet off of 2499. The new building would be about 7.5 feet taller than what was typically allowed, plus or minus some parapets. They had about 1,200 feet of frontage along 2499, and the height variance would take up less than 10% of that site corridor. The rest would remain wide open with the fields being used behind the building and the ponds and things in front. There was a small amount of drainage that came in east of the property and got into the drainage swale and continued on down to 2499. The situation was that a large amount of drainage coming from the other side of Dixon Lane currently flowed into two very small culverts that were subject to flooding. There was an existing ditch that came down, turned, and then got into this swale. With the expansion of Dixon Lane and the possible development of the property to the north, the flows would be greatly increased, therefore, an underground storm sewer system was proposed through Dixon, which would turn and enter into the drainage easement that was being requested by the Town. There were 19 trees there that needed to be removed and relocated to the west side of the property.

Councilmember Lyda asked how the proposed building height compared with other buildings in the area.

Mr. Powell said the properties to the south and east were undeveloped. Across the street, there was Win Kids, which was a single-story building, but it had some height, possibly 35 to 40 feet. The big boxes to the northwest had very high ceilings, even though they were single-story. So, this building would be higher, but there were other buildings that were fairly tall in the area.

Councilmember Lyda said he was curious if they had approved a height variance for a different structure in that area. This looked taller than the shopping center buildings.

Mr. Powell said during P&Z it was discussed that the hospital was 60 feet.

Mayor Pro Tem Filidoro said he was present at the P&Z meeting when this was very well vetted. A lot of questions were asked that this Council might have asked also, about the trees, the issue with drainage coming off Dixon, the footprint along Long Prairie, the fact they already had room in front of that building, and the driveway going across the front. It was a considerably longer period of time before it passed. They had a transcript of that so, from his standpoint, he appreciated the presentation he heard last time, and was sure Council had an opportunity to look at that also.

Mr. Powell said the other issue that came up was parking, but P&Z did make a 6-0 recommendation. The point the applicant was making was that there was a lot of frontage along 2499. Only a small portion was going to be impacted by the building, and the rest, especially to the south, would always be open, so it was not like it was a building or a bunch of buildings that stretched for a quarter of a mile right up on the street.

Mayor Pro Tem Filidoro said there was also an issue discussed that had to do with the ingress-egress of the property next door, and an easement being offered. They talked about it being on the plat, or having it in the agreement.

Mr. Reissig said there was a 24-foot access easement on the plat that would give the neighboring property access to the main drive, as well as to the median cut.

Mayor Pro Tem Filidoro said he appreciated them doing that.

Councilmember Dixon said with phase one of the building, they built a structure around some of their HVAC on the roof, and after it was built, they noticed it was kind of ugly. They had a pitched roof on another section, so they asked them to put the pitched roof on the ugly structure. His question was whether someone coming up 2499 would be able to see any electrical or HVAC equipment on top of this building.

Mr. Powell said this time they made sure they had a parapet sufficient to hide the equipment on the roof.

Mr. Reissig confirmed there was a large parapet to hide everything on the roof.

Mayor Pro Tem Filidoro moved to approve Site Plan SP 46-08 – Valley Creek Church – to develop a building addition, with an exception to Section 82-302, Compatibility buffer, and a request for additional height pursuant to Section 98-1031(d), Additional height, of the Code of Ordinances. Councilmember Dixon seconded the motion.

VOTE ON THE MOTION

AYES: Dixon, Filidoro, Lyda, Wallace
NAYS: None
ABSENT: Hayden

13. VP 01-10 – Point Noble

Public Hearing to consider a request to vacate a previously-approved replat (VP 01-10 - Point Noble). The property is located at 1100 Noble Way. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its September 27, 2010, meeting.)

Doug Powell, Executive Director of Development Services, showed some slides, and said the original plat contained three lots. A vacation of the plat would negate the subsequent replat, which combined those into one lot, and the property would go back to three lots in accordance with the original plat, as if the replat never happened. The reason this had to come back to Council was because the replat was approved by the Town Council, and the method of vacating it had to take the same route.

Public Comments

No comments.

Close Public Hearing

Council Deliberation

Councilmember Wallace moved to approve a request to vacate a previously-approved replat (VP 01-10 - Point Noble). Mayor Pro Tem Filidoro seconded the motion.

VOTE ON THE MOTION

AYES: Wallace, Lyda, Filidoro, Dixon
NAYS: None
ABSENT: Hayden

M. COORDINATION OF CALENDARS AND FUTURE AGENDAS/MEETINGS

- Councilmember Dixon was not available to attend Thursday's meeting.

N./O. CLOSED/OPEN MEETING

The Town Council convened into a closed meeting at 8:09 p.m. on October 18, 2010 pursuant to Texas Government Code Sections 551.071, 551.072, 551.074, and 551.087

to discuss matters relating to consultation with Town Attorney, pending litigation, real property, personnel, and economic development negotiations and reconvened into an open meeting at 9:19 p.m. on October 18, 2010 to take action on the items as follows:

- a. **Discuss and consider economic development incentives.**
No action taken.
- b. **Discuss and consider acquisition and/or lease of real property for municipal purposes and all matters incident and related thereto.**
No action taken.
- c. **Consultation with Town Attorney regarding legal issues associated with correspondence from Americans United dated October 4, 2010 and all matters incident and related thereto.**
No action taken.
- d. **Consultation with Town Attorney regarding legal issues associated with a contract between the Town and the Flower Mound Chamber of Commerce.**
No action taken.
- e. **Consultation with Town Attorney regarding legal issues associated with acquisition and/or release of extraterritorial jurisdiction areas located between the Town of Flower Mound and the Town of Bartonville, and all matters incident and related thereto.**
No action taken.
- f. **Discuss and consider appointments to the Animal Services Board, Board of Adjustment, Community Development Corporation, Environmental Conservation Commission, LISD Liaison, Parks, Arts and Library Services Board, Planning and Zoning Commission, TIRZ #1 Board, and Transportation Commission.**
No action taken.
- g. **Discuss selection of and applications for Town Secretary position, and all matters incident and related thereto.**
No action taken.

P. ADJOURN REGULAR MEETING

Mayor Northern adjourned the regular meeting at 9:21 p.m. on Monday, October 18, 2010, and all were in favor.

TOWN OF FLOWER MOUND, TEXAS


MELISSA D. NORTHERN, MAYOR

ATTEST:


TRACY KNIERIM, INTERIM TOWN SECRETARY

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