

THE FLOWER MOUND TOWN COUNCIL SPECIAL MEETING AND WORK SESSION HELD ON THE 20th DAY OF JANUARY, 2011 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
Tom Hayden	Deputy 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 of the Town Staff participating:

Harlan Jefferson	Town Manager
Theresa Fawcett	Interim Town Secretary
Terry Welch	Town Attorney
Chuck Springer	Assistant Town Manager/CFO
Gary Sims	Executive Director of Community Services
Tommy Dalton	Planning Manager

A. CALL BRIEFING SESSION TO ORDER

Mayor Northern called the briefing session to order at 6:07 p.m.

B. BRIEFING SESSION

1. Town Council Boards and Commissions Subcommittee Reports

Councilmember Hayden reported attending the Planning & Zoning Commission and the potential changes for the sign ordinance was discussed.

Councilmember Filidoro attended the Property Standards Committee with a presentation from code enforcement. The committee is bringing in representatives from other communities to review best practices. A representative from Farmers Branch will be at their next meeting.

Councilmember Lyda attended the Environmental Conservation Commission meeting on Jan 4th and they discussed the solid waste franchise and recommendations were made for the Request for Proposal (RFP). They also talked about powers and duties of the board. He also attended the Community Development Corporation meeting where upcoming goals were discussed. On Jan 11th he attended the Transportation Commission meeting in which they discussed future topics to bring forward and a presentation on the Complete Streets concept.

Mayor Northern reported attending her neighborhood leader's roundtable for the purpose of discussing solid waste and recycling services. Those represented provided feedback regarding current and potential levels of service to coincide with putting together the Town's Request for Proposal for this service. She also reported attending the CDC, Planning & Zoning, Transportation Commission, and ECC meetings.

2. Discuss Consent and Regular Items

No discussion.

3. Discuss Future Agenda Items

No discussion.

4. Discuss Council Communications

Harlan Jefferson, Town Manager, reported there are two communications presented and they will be discussed at the upcoming Strategic Planning Session.

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

Mayor Northern adjourned the briefing session and called the special meeting to order at 6:13 p.m.

E. INVOCATION

Chaplain Grace Sherrill gave the invocation.

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

Mayor Northern led the pledges.

G. PRESENTATIONS

Mayor Northern presented the following recognitions:

- Texas Recreation and Parks Society honored with an award:
 - Dawn Garber as the part time employee of the year
 - Doug and Ann Brown (volunteers) as advocates of the year
- Proclamation – Kimberly McCary Day
Kimberly was unable to attend.
- Presentation by Williams Production Company, LLC regarding gas drilling operations in the Town of Flower Mound
A representative from Williams was not available for a presentation.

Mayor Northern commented it was mentioned during their previous presentation to council they would be invited back next time they had an issue. In December they had another leak and wanted to offer them an opportunity to speak, and more specifically to explain why the complaint was initiated by a resident in this incident and not by their equipment.

Councilmember Lyda commended the Fire Department on how they handled the leak situation.

Councilmember Filidoro recalled that during a previous council meeting when Williams was represented discussing accidents at that time, and how at the end of the meeting they were told that if there was another accident the Town would ask them to appear again in front of council. He indicated the Williams represented stating they would be here; however, they didn't anticipate any accidents.

Councilmember Filidoro expressed disappointment for them not being represented, and stated it reflects poorly on them as a responsible neighbor or citizen. He indicated Williams will be on the Agenda every time there is an accident and there is an expectation for them to be fully accountable.

Councilmember Hayden reported attending the Lewisville Council meeting and there was a discussion as to whether or not the Fire Department is responsible for shutting off valves on gas well sites. It was made clear that the Fire Department was doing what they were supposed to do by not shutting off the valves.

Councilmember Dixon stated he sent an e-mail to the Town Manager on the 31st regarding what has been termed a "wash-out" in which he asked "is there an on-site automated system to shut the valves in case of a wash-out or any other event such as this". Also, "if this was initially detected by a neighbor (hearing a loud sound from a pad site), is there equipment that could detect a loud sound or noise to notify first responders of a potential problem and initiate quick inspection?"

Mr. Jefferson indicated there was a review of the situation by Williams and in this instance the problem was caused by a valve that was transporting gas from a well-head to a separator which contained some sand and debris, and that sand as it rotates around sometimes cuts into the valve. They discussed technology that can be inserted in a valve that would wear sooner than the pipe itself and that would send off a signal to them to initiate maintenance and a replacement schedule.

Councilmember Filidoro recalled Councilmember Dixon and himself discussing with Williams the importance of having some type of system to detect pressure drops, and if they had a pressure drop lines would it be turned off immediately. At that time Williams mentioned they did have equipment to detect line pressure drops. It seems that equipment was either not installed or working when this accident happened.

Councilmember Dixon acknowledged having that conversation.

Mayor Northern encouraged residents to report concerns identified at or near oil and gas sites.

H. PUBLIC PARTICIPATION

Virginia Simonson, 3104 Native Oak Dr, Flower Mound, Tx

Thanked council for creating the Oil & Gas Advisory Board. Reiterated concerns from last year relating to oil and gas drilling and on property values, effects on human health and the environment.

Jennifer Rogers, 2608 Carteron Way, Flower Mound, Tx

Ms. Rogers distributed a copy of the previous petition ordinance to council. She believes there are some things that didn't get enough attention - specially centralized facilities and pipelines and wants to make sure the town is thoroughly protected.

Melanie Lamb, 5109 Prince Edward Ct, Flower Mound, Tx

Extended thanks to Oil & Gas Advisory Board for their work.

Randall Wilson, 3005 Oak Meadow Dr., Flower Mound, Tx

Please pass Item No. 13.

Closed Public Participation at 6:42 pm

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.**

Councilmember Lyda announced Council is meeting Saturday for the Strategic Planning Session.

Councilmember Wallace announced he has decided not to seek re-election for Place 3 and his last meeting will be May 16th.

Mayor Northern reported she participated in many events taking place in Flower Mound during the Christmas holiday season. She also participated in the Martin Luther King, Jr. event.

Mayor Northern announced the Town currently has openings in the following boards and commissions: Transportation, Community Development Corporation, and Parks, Arts, Library Services and encouraged those interested to complete an application.

J. TOWN MANAGER'S REPORT

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

Mr. Jefferson reported that the Town didn't receive a grant award from the Texas Parks and Wildlife to fund Phase I and II of the Wilson Carmel tract. The

Town will move forward with Phase I of this project, which includes an amphitheater, community built playground, picnic pavilion, rest rooms, parking lot, hike and bike trails, and landscaping. Phase II will be moved to a future budget and includes a skateboard park, splash pad, pond, arboretum, off-leash dog park, frisbee golf course, additional rest rooms, and parking spaces. There may be an opportunity to apply for the grant next year.

Mr. Jefferson reported road construction on FM 407 is delayed by 6-8 weeks, due in part because Bartonville Water Supply Corporation has a water line that is in conflict with the area that the pavement would be constructed on.

Councilmember Hayden thanked Kent Collins for getting pavement to the Glenwick and Bridlewood entrances.

K./L. TEMPORARILY ADJOURN SPECIAL MEETING AND CALL WORK SESSION TO ORDER

Mayor Northern adjourned the Special Meeting and called the Work Session to order at 6:59 p.m.

M. WORK SESSION ITEM

1. Discuss the findings and recommendations of the Oil and Gas Advisory Board.

Mayor Northern indicated this is the first step in the process and thanked all board members and residents that participated for their time and input.

Dennis McKaige, Chairman of the Oil and Gas Advisory Board, gave a presentation of the findings and recommendations from the Oil & Gas Board.

The Board offered two key recommendations to Council:

- That Council evaluate the need to clarify SMART Growth to articulate clearly its applicability to gas drilling as an activity that impacts the values encompassed by SMART Growth, and to support the changes proposed by the red-lined Ordinance.
- The gas well development process in Flower Mound must become more transparent and open to citizen input. Gas well development, seismic and pipeline activities should become a routine part of Town Council meetings, with staff providing a briefing on their activities to include status reports on the various projects under review. While the Council has no direct involvement in the decision making by staff under the current control process, it would provide an opportunity for the process to become more public. Citizen comments would be taken, but not acted upon at these information sessions, but Council would be urged to consider future agenda items based on citizens feedback and input.

Mayor Northern reiterated the presentation is the first milestone in the process and encouraged residents to participate in upcoming public hearings.

Councilmember Filidoro asked Mr. McKaige about his thoughts as to how the Board felt about continuing their efforts.

Mr. McKaige responded there is still work to do and priorities are needed given the scope of work. They are prepared to go on and a recommendation was made to staff for

the Board to become a standing Board in the town structure and the normal control process. He indicated citizens want a vehicle to communicate in this area.

Councilmember Filidoro asked when they anticipate proposing a non-draft version of the Ordinance.

Mr. McKaige indicated after getting more input from Council, and additional input from citizens. He stated probably over the next month, assuming they could get two public hearings done during that time.

Mayor Northern and Council thanked all the board members and citizens that participated for their time and information thus far.

Councilmember Lyda indicated one of the ways the board could be used going forward is to serve as a source of information that can coincide with background for decisions that will be made in the future.

The entire presentation is available in the Town Secretary's office.

N./O. ADJOURN WORK SESSION AND RECONVENE SPECIAL MEETING

Break at 8:29 p.m.

Reconvene at 8:44 p.m.

P. CONSENT ITEMS

Mayor Pro Tem Filidoro made a motion to approve by consent Items 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16. Councilmember Dixon seconded the motion. Each item, as approved by consent, is restated below along with the approved recommendation for each, for the record.

- 2. Consider approval of minutes from a work session and special meeting of the Town Council held on November 18, 2010.**

RECOMMENDATION: Approve the minutes from a work session and special meeting of the Town Council held on November 18, 2010.

- 3. Consider approval of minutes from a regular meeting of the Town Council held on December 6, 2010.**

RECOMMENDATION: Approve the minutes from a regular meeting of the Town Council held on December 6, 2010.

- 4. Consider approval of a resolution naming Theresa Fawcett, Interim Town Secretary, as the designated Records Management Officer for the Town of Flower Mound, Texas, in accordance with the Texas Local Government Records Act.**

RECOMMENDATION: Approve a resolution naming the Town Secretary or any person acting in such position as the Records Manager Officer for the Town of Flower Mound Texas, in accordance with the Texas Local Government Records Act. The caption of the resolution reads as follows:

RESOLUTION NO. 01-11

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, NAMING THE TOWN SECRETARY OR ANY PERSON ACTING IN SUCH POSITION AS THE RECORDS MANAGER OFFICER FOR THE TOWN OF FLOWER MOUND TEXAS, IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 203.025 OF THE LOCAL GOVERNMENT CODE.

- 5. Consider approval of a participation letter with ATB Services Company, LLC, for alarm tracking and billing services, through a City of Farmers Branch agreement, in the estimated annual amount of \$70,000; and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve a participation letter with ATB Services Company, LLC, for alarm tracking and billing services, through a City of Farmers Branch agreement, in the estimated annual amount of \$70,000; and authorize the Mayor to execute same on behalf of the Town.

- 6. Consider approval of the award of Bid No. 19-11-A for traffic signal poles, to K.W. Industries, at the unit prices bid, in the estimated annual amount of \$50,000.**

RECOMMENDATION: Approve the award of Bid No. 19-11-A for traffic signal poles, to K.W. Industries, at the unit prices bid, in the estimated annual amount of \$50,000.

- 7. Consider approval of the award of Bid No. 28-11-B for the purchase of pick-up trucks, to Sam Pack's Five Star Ford, in the amount of \$142,772.**

RECOMMENDATION: Approve the award of Bid No. 28-11-B for the purchase of pick-up trucks, to Sam Pack's Five Star Ford, in the amount of \$142,772.

- 8. Consider the approval of the purchase of upgraded technology for water meters, from Neptune Technology Group, Inc., a sole source provider, in the amount of \$93,289.00.**

RECOMMENDATION: Approve the purchase of upgraded technology for water meters, from Neptune Technology Group, Inc., a sole source provider, in the amount of \$93,289.00.

- 9. Consider approval of Amendment No. 1 to the Fiscal Year 2010-2011 Capital Improvement Program.**

RECOMMENDATION: Approve Amendment No. 1 to the Fiscal Year 2010-2011 Capital Improvement Program.

- 10. Consider approval of a Professional Services Agreement with Kimley-Horn and Associates, Inc., to provide professional engineering services for the Wellington Interceptor Phase I, Phase II, and Phase III project designs in the amount of \$253,100.00; and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve a Professional Services Agreement with Kimley-Horn and Associates, Inc., to provide professional engineering services for the Wellington Interceptor Phase I, Phase II, and Phase III project designs in the amount of \$253,100.00; and authorize the Mayor to execute same on behalf of the Town.

11. Consider approval of Change Order No. 3 for Bid No. 109-B for the construction of the Wastewater Treatment Plant Rehabilitation Phase 1 project, amending the contract with Gracon Construction, Inc., for a decrease in the amount of \$12,633.30, acceptance of the project, authorization of final payment to the contractor, Gracon Construction, Inc., in the amount of \$12,709.48; and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve Change Order No. 3 for Bid No. 109-B for the construction of the Wastewater Treatment Plant Rehabilitation Phase 1 project, amending the contract with Gracon Construction, Inc., for a decrease in the amount of \$12,633.30, acceptance of the project, authorization of final payment to the contractor, Gracon Construction, Inc., in the amount of \$12,709.48; and authorize the Mayor to execute same on behalf of the Town.

12. Consider approval of a Professional Services Agreement with Fugro Consultants, Inc., to provide geotechnical and material testing services associated with the construction of the final phase of the Assimilation of Water Supply Corporations project, in the amount of \$29,243.00, and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve a Professional Services Agreement with Fugro Consultants, Inc., to provide geotechnical and material testing services associated with the construction of the final phase of the Assimilation of Water Supply Corporations project, in the amount of \$29,243.00, and authorize the Mayor to execute same on behalf of the Town.

13. Consider approval of a resolution for the Meadows at Cross Timbers subdivision to change the temporary construction speed limit of 25 mph to a permanent speed limit of 25 mph for all streets within this subdivision after the Morriss/Gerault Improvement Phase I project is complete.

RECOMMENDATION: Approve the resolution for the Meadows at Cross Timbers subdivision to change the temporary construction speed limit of 25 mph to a permanent speed limit of 25 mph for all streets within this subdivision after the Morriss/Gerault Improvement Phase I project is complete. The caption of the resolution reads as follows:

RESOLUTION NO. 02-11

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, IN SUPPORT OF THE TRANSPORTATION COMMISSION RECOMMENDATION TO ALLOW FOR THE MEADOWS AT CROSS TIMBERS SUBDIVISION STREETS TO REMAIN AT 25 MILES PER HOUR AFTER THE MORRISS/GERAULT IMPROVEMENT PHASE I PROJECT IS COMPLETE.

14. Consider approval of a Professional Services Contract with Promoter Line, Inc., to provide professional event production and planning services for the 2011 Wild About Flower Mound Independence Day Festival, in an amount not-to-exceed \$114,000.00; and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve a Professional Services Contract with Promoter Line, Inc., to provide professional event production and planning services for the 2011 Wild About Flower Mound Independence Day Festival, in an amount not-to-exceed \$114,000.00, and authorize the Mayor to execute same on behalf of the Town.

15. Consider approval of the sale and consumption of alcoholic beverages (beer and wine) at Bakersfield Park, during the Wild About Flower Mound Independence Day festival. (The Parks, Arts and Library Services (PALS) Board recommended approval by a vote of 6 to 0 at its December 9, 2010, meeting.)

RECOMMENDATION: Approve the sale and consumption of alcoholic beverages (beer and wine) at Bakersfield Park, during the Wild About Flower Mound Independence Day festival.

16. Consider approval of an agreement with the Texas State Library and Archives Commission for a Loan Star Libraries Grant; and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve an agreement with the Texas State Library and Archives Commission for a Loan Star Libraries Grant; and authorize the Mayor to execute same on behalf of the Town.

VOTE ON THE MOTION

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

Q. REGULAR ITEMS

17. **Public Hearing**
Public Hearing to consider the approval of Standards of Care for Day Camp Programs operated by the Town, in accordance with the Texas Human Resources Code - Section 42.041 and to consider adopting an ordinance providing for said Standards. (The Parks, Arts and Library Services (PALS) Board recommended approval of the Standards of Care by a vote of 6 to 0 at its October 14, 2010, meeting.)

Staff Presentation

Gary Sims, Director of Community Services, indicated the State Department of Protective and Regulatory Services regulates child care facilities, and municipalities are exempted from the child care facilities requirement if the Town has a Standards of Care that is formally adopted by Town Council.

He indicated the Standards of Care being presented establishes staffing ratios, staff qualifications, type of facility, health issues, and safety standards. He indicated the Standards of Care is being presented to obtain a formal policy that council approves and allows citizen input on the policy.

Questions from the Governing Body and Answers

Councilmember Lyda inquired about how the Town comes up with the standards of care. Mr. Sims indicated from survey city standards.

Councilmember Dixon inquired about the language relating to criminal background checks for potential employees and requested the addition of language such as "indictment" in addition to "conviction" for employee consideration. Mr. Sims indicated he will look into adding that language.

Mayor Northern opened the Public Hearing at 7:58 p.m.

Public Comments

None

Mayor Northern closed the Public Hearing at 7:58 p.m.

Council Deliberation

None

Councilmember Dixon moved to approve Standards of Care for Day Camp Programs operated by the Town, in accordance with the Texas Human Resources Code - Section 42.041 and to adopt an ordinance providing for said Standards. Deputy Mayor Pro Tem Hayden seconded the motion. The caption of the ordinance reads as follows:

ORDINANCE NO. 01-11

AN ORDINANCE 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 54, "PARKS AND RECREATION," BY CREATING ARTICLE V ENTITLED "STANDARDS OF CARE FOR YOUTH RECREATION PROGRAMS, RESPECTIVELY;" REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE, PROVIDING A PENALTY CLAUSE; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

VOTE ON THE MOTION

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

18.

Public Hearing

Items 18 and 19 were opened together.

Public Hearing to consider an application for a tree removal permit for the removal of one specimen tree on property proposed for development as the Rockbrook Montessori Academy. The property is generally located south of Wichita Trail and west of Simmons Road. (The Environmental Conservation Commission recommended approval by a vote of 5 to 0 at their December 7, 2010, meeting).

Staff Presentation

Doug Powell, Director of Development Services, gave a presentation on the site location, land use, and drainage conditions.

The entire presentation is on file in the Town Secretary's office.

The applicant, Jeff Crannel, Crannel, & Martin Engineering, 810 Office Park Circle, Lewisville, Tx, indicated they met with the neighbors and showed them plans, in addition to including their feedback in future site plan revisions. Mr. Crannel indicated drainage conditions will improve in this area with this development.

Mayor Northern opened the Public Hearing at 8:38 p.m.

Public Comments

Kevin Conway, 3904 Simmons Creek Ct, Flower Mound, Tx
Opposed the project.

Applicant and business owner Samir Bhargava, 725 Ben Falls, Coppell, Tx gave a background on the business.

Mayor Northern closed the Public Hearing at 9:04 p.m.

Councilmember Wallace moved to approve a tree removal permit for the removal of one specimen tree on property proposed for development as the Rockbrook Montessori Academy. The property is generally located south of Wichita Trail and west of Simmons Road. Councilmember Lyda seconded the motion.

VOTE ON THE MOTION

AYES: Filidoro, Hayden, Dixon, Wallace, Lyda

NAYS: none

19. **SUP/SP 392-10 – Rockbrook Montessori Academy**

Public Hearing

Public Hearing to consider a request for a Specific Use Permit (SUP/SP 392-10 - Rockbrook Montessori Academy) to permit a daycare center, and to consider adopting an ordinance providing for said amendment. The property is located at 2501 Simmons Road. (The Planning and Zoning Commission recommended approval by a vote of 7 to 0 at its December 13, 2010, meeting.)

Questions from the Governing Body and Answers

There was some discussion regarding the height of the building and a previous application at a different location on Churchill Dr.

Councilmember Dixon expressed concerns regarding building a commercial enterprise in a residential neighborhood. Councilmember Lyda indicated given it's a school use in a residential area; it will add value to the residents in those area or use of a day care facility in the immediate area.

There was some discussion as to what happens to the building in the event the business fails given its uniqueness and location.

Council Deliberation

Councilmember Wallace moved to approve a request for a Specific Use Permit (SUP/SP 392-10 - Rockbrook Montessori Academy) to permit a daycare center, and to adopt an ordinance providing for said amendment, subject to the following conditions:

1. The attached site plan, labeled Attachment "C1," an exhibit to the Specific Use Permit, shall be developed as approved, except that minor changes outlined in Section 82-37 of the Land Development Regulations may be approved as set forth in that section.

2. If a building permit application has not been submitted to the Town's Building Inspections Division for consideration within one year of approval of the ordinance, the Specific Use Permit described herein will be a matter that will automatically be placed upon a subsequent Planning and Zoning Commission agenda for consideration as a Town-initiated zoning change under normal zoning amendment procedures.

Councilmember Lyda seconded the motion. The caption of the ordinance reads as follows:

ORDINANCE NO. 02-11

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE OFFICIAL ZONING MAP, EXHIBIT "A" OF SUBPART B, LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY CHANGING THE ZONING ON LOT 1 BLOCK A OF THE ROCKBROOK MONTESSORI ACADEMY ADDITION FROM AGRICULTURAL (A) USES, TO AGRICULTURAL (A) USES SUBJECT TO SPECIFIC USE PERMIT NO. 392 (SUP-392) FOR A DAY CARE CENTER, IN ACCORDANCE WITH THE TOWN'S MASTER PLAN 2001 AND SPECIFIC REQUIREMENTS STATED HEREIN AND EXHIBITS ATTACHED HERETO; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON THE MOTION

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

20. LDR 04-10 – Wind Turbines

Public Hearing

Public Hearing to consider a request to amend the Land Development Regulations (LDR 04-10) by amending Subpart B, Chapter 98, of the Code of Ordinances, entitled "Zoning" through the amendment of Article III, "District Regulations," through the amendment of Division 3, entitled "A, Agricultural District, Conservation District, and Rural Development," by amending Section 98-272, "Permitted Uses," to add "small wind energy systems on lot sizes of five acres or more," as a permitted use, and Section 98-273, "Specific Uses," to add "small wind energy systems on lots less than five acres," as a specific use in the Agricultural (A) District with the approval of a Specific Use Permit, and through the amendment of Article IV, "Supplementary District Regulations," through the amendment of Division 2, "uses," by amending subdivision 3, entitled "Special Use Conditions," by adding a new Section 98-1001, "small wind energy systems" providing regulations for the construction, use, maintenance and abandonment of small wind energy systems and to consider adopting an ordinance providing for said amendment. (The Planning and Zoning Commission recommended denial by a vote of 6 to 1 at its December 13, 2010, meeting.)

Staff Presentation

Doug Powell, Director of Environmental Services, gave a presentation on small wind energy systems and mentioned this item has been discussed already several times at previous meetings. He summarized the general regulations identified in the packet.

The entire presentation is available in the Town Secretary's office.

Questions from the Governing Body and Answers

Mayor Northern inquired about addressing situations that abut residential lots. Mr. Powell responded the Ordinance does address this.

Councilmember Dixon inquired about the ability to place a system on contiguous lots. Mr. Powell responded that it is only one per lot.

Councilmember Hayden asked Mr. Powell to talk about the size of the system. Mr. Powell referenced the size variations in the presentation and indicated the tallest system that could be put in without a Public Hearing is 65 feet.

Mayor Northern opened the Public Hearing at 10:08 p.m.

Public Comments

Lynn Sanchez, 4805 Dominion Ct, Flower Mound, Tx
Opposed the item.

Al Sanchez, 4805 Dominion Ct, Flower Mound, Tx
Opposed the item.

Kurt Buehler, 2950 Scenic Drive, Flower Mound, Tx
In favor of the item.

Mayor Northern closed the Public Hearing at 10:18 pm

Council Deliberation

Councilmember Lyda reported Council did get an e-mail from Kendra Stephenson, Jennifer Rogers, and Mary Strickland opposing the ordinance, encouraging moving set backs to 500 feet and concerned about the noise, as well as not requiring an SUP for over five acres.

Councilmember Wallace indicated strong support.

There was discussion on set backs and lot size.

Councilmember Wallace moved to approve. Councilmember Lyda seconded the motion.

To address Councilmember Dixon's comment about one turbine per tower, Councilmember Wallace added a text amendment to the Motion, specifically to Section 3, C regarding the location to state only one tower shall be erected on a lot with only one turbine on such tower.

The caption of the ordinance reads as follows:

ORDINANCE NO. 03-11

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 B, CHAPTER 98 OF THE CODE OF ORDINANCES, ENTITLED "ZONING" THROUGH THE AMENDMENT OF ARTICLE III, "DISTRICT REGULATIONS," THROUGH THE AMENDMENT OF DIVISION 3, ENTITLED "A, AGRICULTURAL DISTRICT, CONSERVATION DISTRICT, AND RURAL DEVELOPMENT," BY AMENDING SECTION 98-272, "PERMITTED USES," TO ADD "SMALL WIND ENERGY SYSTEMS ON LOT SIZES OF FIVE ACRES OR MORE," AS A PERMITTED USE, AND SECTION 98-273, "SPECIFIC USES," TO ADD "SMALL WIND ENERGY SYSTEMS ON LOTS LESS THAN FIVE ACRES," AS A SPECIFIC USE IN THE AGRICULTURAL (A) DISTRICT WITH THE APPROVAL OF A SPECIFIC USE PERMIT, AND THROUGH THE AMENDMENT OF ARTICLE IV, "SUPPLEMENTARY DISTRICT REGULATIONS," THROUGH THE AMENDMENT OF DIVISION 2, "USES," BY AMENDING SUBDIVISION 3, ENTITLED "SPECIAL USE CONDITIONS," BY ADDING A NEW SECTION 98-1001, "SMALL WIND ENERGY SYSTEMS" PROVIDING REGULATIONS FOR THE CONSTRUCTION, USE, MAINTENANCE AND ABANDONMENT OF SMALL WIND ENERGY SYSTEMS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING A PENALTY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON THE MOTION

AYES: Filidoro, Hayden, Dixon, Wallace, Lyda

NAYS: None

R. COORDINATION OF CALENDARS AND FUTURE AGENDAS/MEETINGS

- No absences & no future agenda items.

S./T. CLOSED/OPEN MEETING

The Town Council convened into a closed meeting at 10:40 p.m. on January 20, 2011 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 11:20 p.m. on January 20, 2011 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. Discuss and consider implementation and deployment of security personnel and devices.

No action taken.

- d. 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.

U. ADJOURN REGULAR MEETING

Mayor Northern adjourned the regular meeting at 11:26 p.m. on Thursday, January 20, 2011, and all were in favor.

TOWN OF FLOWER MOUND, TEXAS


MELISSA D. NORTHERN, MAYOR

ATTEST:


THERESA FAWCETT, INTERIM TOWN SECRETARY

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