

THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON 1ST DAY OF APRIL, 2013, 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:

Tom Hayden	Mayor
Kendra Stephenson	Mayor Pro Tem
Mark Wise	Deputy Mayor Pro Tem
Bryan Webb	Councilmember Place 2
Steve Dixon	Councilmember Place 4
Jean Levenick	Councilmember Place 5

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

Theresa Scott	Town Secretary
Terrence Welch	Town Attorney
Jimmy Stathatos	Town Manager
Debra Wallace	Assistant Town Manager/CFO
Gary Sims	Executive Director of Community Services
Doug Powell	Executive Director of Development Services
Tracy Knierim	Executive Director of Community Relations

A. CALL REGULAR MEETING TO ORDER

Mayor Hayden adjourned the briefing session and called the regular meeting to order at 6:04 p.m.

B. INVOCATION

Chaplain Don Cone gave the invocation.

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

Mayor Hayden led the pledges.

D. PRESENTATIONS

1. A representative of CoServ to offer a financial contribution to Sharlyn Elliott of Bridges Outreach, and Town Council to discuss and consider same.

Dennis Engelke with CoServ presented Sharlyn Elliott of Bridges Outreach with a financial contribution in the amount of \$12,000. Tony Mowles with Lakeside Flooring and Mayor Hayden offered their assistance with an issue she has been having with a room at her home.

2. Presentation by a representative of Centurion American related to the River Walk, and Town Council to discuss and consider same.

Mehrdad Moayedi, President and CEO of Centurion America and Bobby Dollack, G&A Consultants, 111 Hillside Drive, Lewisville

Mr. Moayedi announced they are now under contract to control the River Walk and presented their proposed concept plan, along with the following elements of the development listed as follows:

- Seeking to purchase 95 acres and the River Walk project will be a \$400 million dollar investment.
- Anticipated being under construction by the end of July or early August, which includes the River Walk vision that was put in place a few years ago.
- Currently working on two mixed used developments in the area: Westlake and Farmers Branch (Mercer and Luna).
- We plan to reduce the amount of multi-family – currently there are 950 units of multi-family allowed, and we're taking it down to somewhere between 400–430. For the residential units/townhomes or brownstones there will be about 200–250 units for sale, with price points being for Villas - \$350,000 - \$700,000, townhomes - \$300,000 - \$350,000.
- We've looked at what has been approved in the past and we're going to follow that same theme and add to it.
- We will get with the property owners next door to make sure they are happy with the buffer plans.
- There is a big area (referenced on the map) where we plan on building 300,000 – 400,000 square feet of retail entertainment.
- We feel certain we can bring in about eight high end restaurants.
- There will be meandering streets with walkways and areas for fountains and art pieces.
- A small boutique type of hotel with 100 - 125 rooms with an exhibit hall would be offered. It would be privately owned. The way we plan on making sure it is successful is if you have a quality product and the adjacency to the airport, along with the proper advertising, we will get those rooms filled up. Mr.Dollack pointed out the proposed location on a map.
- We have taken on a development partner by the name of Jeff Blackhead who has done a project that I'm going to show you a lot of pictures of in McKinney, Texas called Adriatica, which is serving as a model for the River Walk. He showed a picture of a bell tower within that development that is already in place and planned for the River Walk.
- He stated the amphitheater could support 20-25 concerts per year, hold about 3,000 people, and pointed other events that could happen there as it's a place in the community where people can come and gather and hopefully spend money in the shops. He noted they have a promoter that handles acquiring the entertainment, selling the tickets and everything that goes with it.

- Another unique feature I want to point out is there will be a 300 seat chapel on the water and there is an example of one in place in McKinney Texas that people can go and look at – it would be at the end of the lake. It could be used for weddings and those people that come to those weddings usually need a place to stay and that would help the hotel, and it would help the restaurants. The entertainment here would have to drive the rest of the business.
- He pointed out some of the types of entertainment they would pursue for the site.
- There is a structured parking building in the middle of the entertainment area.
- The roads would be made out of pavers
- We are not multi-family developers so we will most like sell that piece.
- We are looking for privately owned retail to locate here
- We will be building an 80,000 square foot office building on the lake that will be a focal point
- Water feature at key points will be in place.
- Lighting elements will be incorporated as well as pedestrian walkways and bridges.
- We have heard that you may want to move your senior center so that is another thing we are going to work on.
- 8-foot trails will be included.
- There will be hundreds of trees throughout the site.

He pointed out everything presented this evening is just a first brush and he would be coming forward with detailed plans later.

Hayden: You mentioned Westlake a few times. Where is your experience and background?

Moayed: As far as Westlake, we're going through the zoning now and that should all be finalized in 60 days, and it would be about the same size as the River Walk here.

Hayden: How long will it take to build?

Moayed: For the River Walk if we get started in August, it takes us six months to build the waterway infrastructure (water, sewer storm, which is the lakes, and the River Walk park. Then after that we have to build the main thoroughfares (streets). In total the entire project would take five years to complete.

Stephenson: Do you think all of this can be done in the existing PD?

Moayed: No, there are a couple things we're asking to be changed but they are not major. One of them is we're getting rid of two streets. Besides that we'll probably add a bridge across the water if we're successful in getting the other seven acres.

Dollack: There will need to be some text amendments and we'll work with staff on that to bring those forward as a package. This is a change from new urbanism approved zoning to more something that fits into Flower Mound.

Stephenson: I would ask that we keep in mind the process that we just had Lakeside go through so we're making sure we are treating everybody the same consistently.

Levenick: Can you give us an update on the 404 permit.

Moayedi: The 404 permit is in place. It expires December 31st of this year and as long as you start to buy construction before then you fulfill it.

Hayden: Explain what the 404 permit is for the public.

Dollack: We're taking out a couple ponds, we're messing with the critters so you have to buy bank land to restore that wetland habitat at that credit within the same drainage system of the Trinity, which this all drains down to the Trinity River so you have to go down stream. In recollecting the many public hearings held, we were going to do on site mitigation, which is the preferred method, but the state, and with the Trinity River Program, they changed their mind in that they wouldn't allow on site mitigation – we're going to require you to do off site mitigation and that is where the bank credits come in.

Moayedi: I have years of experience with the 404 permit process and I'm not going to let it slip by.

Levenick: That is why I asked because I know it's a lengthy process and knew there was an expiration date.

Levenick: You stated that your multi-family is going to go from 950 units down to 400/450 and then you're going to have some of the other units be ownership instead of rental. Is there actually a decrease in density across the property, or is it about the same.

Moayedi: It depends on how you look at the assisted living and memory care. If you put those aside we're talking about 400 – 450 multi-family units, probably close to 200 – 250 in town homes and housing. So the answer would be yes in that regard.

Webb: With regard to Mayor Pro Tem Stephenson's comment about treating everyone fairly, if a Go Team is needed on this one to push it forward then we should.

Dixon: Provided some historical background related to the River Walk and pointed out this project would need to come back to Council for approval for any proposed changes or building structures they want to put in. He noted being most impressed with the boutique hotel, fountains, and river walk amenities such as

the bell tower and the chapel. The one thing that has been clear over the many years in Flower Mound is we don't want to be the same as what you might find just down the street, and here it would be something unique. That is the kind of thing people want to spend their money on instead of driving out to North Park Mall, etc. One of the things that have been worked on for many years is the 404 because that infrastructure of the River Walk is primarily for drainage, and that's the backbone of the actual river walk so that's very important.

Moayed: It's a destination place so it has to be something that people within 5 – 10 miles come to. The river part will be a concrete channel that's lined with stone, but when you look at it from the outside you don't see the concrete channel. It has a series of waterfalls, one of which is a 14', and there will be something really unique there (pointed out the location on the map). You are actually pumping water all the way from the bottom to the top and keeping it from becoming stagnated.

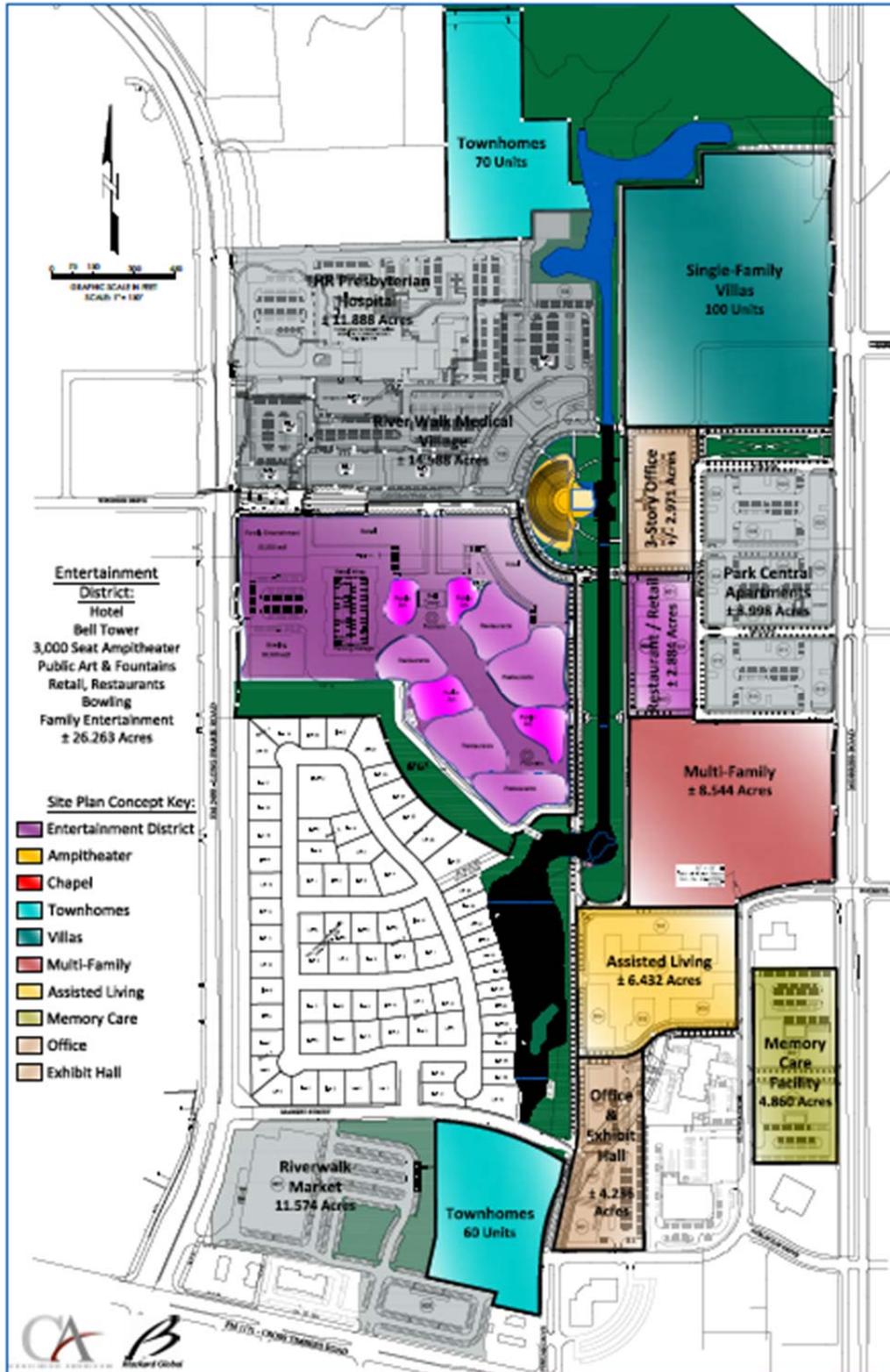
Dixon: You said the right thing when you indicated you are going to meet with the neighbors – The Forums Neighborhood will be excited you want to have meetings with them.

Wise: With regard to the multi-family, you mentioned it's going to come down to 400/430. Does that include the 300 that are there today?

Moayed: No, it does not. It was 1,250 units; there are 350 in place now. That takes it down to 900/950, and then we're only going to use 400.

Mayor Hayden and all members of Council expressed appreciation for their time and bringing the project to Flower Mound.

The proposed concept plan is as follows:



E. PUBLIC PARTICIPATION

Mary Kay Walker, 3229 Oak Meadow, Flower Mound, TX

Ms. Walker asked that consideration be given regarding any naming rights association with the future dog park. She announced Youth and Family Counseling will be moving into a new building. She also announced the Seniors in Motion will have Casino Night on April 6th.

Vern Olson, 1904 Doubletree Trail, Flower Mound, TX 75028

Mr. Olson expressed concern related to the Atmos easement clearing and the associated trees slated to be removed. He indicated there are 21 trees on his property alone. He pointed out an Atmos rep recently came to his home to inspect the pipeline, which hadn't been done in many years.

Angie Cox, 7616 Emerson Ln, Flower Mound, TX 75028

Ms. Cox announced the Women of Flower Mound recently had their fashion show and they raised \$6,000 for scholarships. She also announced the Keep Flower Mound Trash Off and Health Fair is April 6th. She provided an update related to the KFMB Lend a Hand Initiative and noted the next event is May 11th. She also expressed concern that TxDOT has indicated they will not be providing a sound wall with the road widening project in the next phase of 1171.

Sharon Cox, 8008 Woodcreek Cir, Argyle, TX 76228

Ms. Cox spoke in support of Elsey & Elsey related to the agenda item for that firm and tax collection.

Carol Kohankie, 4312 Lauren Way, Flower Mound, TX 75028

Ms. Kohankie announced there was a recent head on collision on FM 2499. She indicated having contacted Careflite about transportation cost and it was substantial. She encouraged Town Council to cover group member cost for elected officials and Town employees, along with the subsequent cost for others.

Joy Bowen, 3706 Dresage Ln, Flower Mound, TX 75022

Ms. Bowen announced she is a candidate for Place 1. She pointed out that dedicated parks and trails should be on the development plan. She also expressed concern related to SMARTGrowth and the change related to the removal of schools as a component. She requested item 14 be removed from the agenda.

Melissa Northern, 4601 Portsmouth, Flower Mound, TX 75022

Ms. Northern requested Council pull item number 14 and expressed concerned there was not an RFP process for this item.

Mark Burroughs, 17 Royal Oaks Cir, Denton, TX 76210

Mr. Burroughs offered comments related to item 14, which deals with the property tax contract for legal services. He pointed out he has been the delinquent property tax attorney since 1995. He offered background information related to the process associated with tax collection and the type of service they provide.

John Mrozek, 2925 Woodway Dr, Flower Mound, TX 75028

Mr. Mrozekk spoke in support of the Flower Mound Youth Football Association (FMYFA).

Darren Lee, 3129 Plum Tree, Flower Mound, TX 75022

Mr. Lee indicated he is in support of the FMYFA.

Troy Scheer, 4724 Prescott Dr, Flower Mound, TX 75028

Mr. Scheer indicated he is in support of the FMYFA. He also read a letter from a Flower Mound resident that couldn't be here tonight who also expressed support of FMYFA, and outlined some concerns experienced with LFA.

Scott Corbin, 921 Noble Ave, Lantana, TX 76226

Mr. Corbin indicated a few years ago he assisted a team with LFA and outlined some bad experiences he encountered. He later heard about FMYFA and due to the positive things he heard, he was encouraged to coach. He later did and indicated it's one of the best organizations he's been involved with. He pointed out that the team patrons Flower Mound restaurants and grocers on game and practice days.

John Rodriguez, 1152 Prospect Dr, Flower Mound, TX 75028

Mr. Rodriguez spoke in support of FMYFA, and also indicated he was a coach in the league.

Bruce McFarling, 900 Oak Dr, Flower Mound, TX 75028

Mr. McFarling indicated he is with the Lewisville Football Association (LFA) and indicated he showed up because there was an email to FMYFA to come down to the meeting tonight and speak negatively about LFA.

Dave Paxton, 3705 Kentmere Ct, Flower Mound, TX 75022

Mr. Paxton spoke in support of FMYFA.

Jeff York, 1528 Rustic Timbers Ln, Flower Mound, TX 75028

Mr. York indicated FMYFA is his business and noted there is approximately 70 people in attendance this evening to support FMYFA. He indicated all they are seeking is field usage to give a place for the kids to play. He provided an explanation as to why they are not a non-profit organization. He reported they have approximately 500 members.

Kendra Wagner, 2800 Hastings Way, Flower Mound, TX 75022

Ms. Wagner spoke in support of the FMYFA Football League.

Kevin Adams, 1920 Widgeon Way, Flower Mound, TX

Mr. Adams spoke in support of FMYFA Football League.

Greg Navarro, 2806 Spring Oaks Dr, Highland Village, TX 75077

Mr. Navarro indicated he is a coach in the FMYFA and spoke in support of the organization.

Albert Montero, 2912 Tophill Ln, Flower Mound, TX 75022

Mr. Montero indicated he is a coach with FMYFA and spoke in support of the organization.

Jason Kitchen, 1462 Sedalia Dr, Flower Mound, TX 75028

Mr. Kitchen indicated he has seen negativity in other leagues. As a youth coach he watched the LFA program and noticed activities going on by the coaches that he was not in favor of. He spoke in support of FMYFA.

Al Zwanenburg, 6405 Lakeside Dr, Flower Mound, TX 75022

Mr. Zwanenburg indicated he is a coach with FMYFA and spoke in support of the organization.

Robert Williams, 1613 Yaggi Dr, Flower Mound, TX 75028

Mr. Williams spoke in support of FMYFA.

Jay Colley, 1717 Meyerwood Ln, Flower Mound, TX 75028

Mr. Colley spoke in support of the FMYFA.

Rob Goodson, 1308 Cherry Brook Way, Flower Mound, TX 75028

Mr. Goodson spoke in support of FMYFA.

Kris Pourroy, 5309 Meadow Chase Ln, Flower Mound, TX 75028

Ms. Pourroy spoke in support of FMYFA and pointed out negative things that she observed with LFA.

Jody Smith, 3705 Sarah Springs, Flower Mound, TX 75022

Ms. Smith displayed a Tom Hayden campaign flyer and indicated she was excited about how he lived up to his promises, and especially with the River Walk presentation heard this evening.

Michael Walker, 5121 Marshall Creek, Flower Mound, TX 75028

Mr. Walker announced he was a candidate for Place 1. He pointed out his reasoning for running for Council and being excited about the River Walk. He indicated on March 15th Council looked at various items associated with property standards, all of which is good. He indicated being interested with helping people, especially in the older neighborhoods through various programs that are available.

Bob Weir, 3208 Druid Way, Flower Mound

Mr. Weir spoke in support of Elsey & Elsey as the tax collector for the Town of Flower Mound.

Mayor Hayden asked Mr. Stathatos what is the timing about making a decision regarding the youth football league.

Stathatos: There was a Resolution passed by the Town Council in 2004 that outlined the requirements of the non-profit status that people have been referencing. The way it is set up right now is that in order for us to move forward we would need to select a group following those requirements. Therefore, I will be recommending to the PALS Board, as well as Council, that we come forward with a Resolution that would modify those requirements to give the Town more flexibility in determining who the team would be. I am not guaranteeing anything; however, I don't want myself or the Town to be in a position where a team has to be selected by default. The PALS Board meeting is Thursday night.

F. ANNOUNCEMENTS

Councilmember Webb announced that on April 2nd there is a Winning the Fight Winners Circle meeting at Faith Lutheran Church at 7:00 p.m. Dillon Thomas, who is a survivor of a cheese heroin overdose, is going to be their speaker. I would encourage anyone who has kids, in middle school, approaching middle school, or in high school to take some time and let your kids go and hear this gentleman's story and allow your kids to learn from mistakes that others have made. Mayor Hayden pointed out there was another overdose at Marcus High school last week.

Dixon: Expressed thanks to the Women of Flower Mound and the Summit Club for the Easter Sunrise Service on The Mound.

Mayor Hayden had the following announcements:

- Town employee survey results was conducted in the Fall of 2012 and it was one of the most recent dramatic increases in almost every dimension, and accredited the work of the Council as they have worked well together, and that is the reason why we have had such a positive response because we have a direction that we would like to see the Town go and we're working together to achieve that, and that is the biggest credit to what happened.
- Atmos will be at the April 18th Town Council Work Session and there will be an opportunity for public input. This will probably be the last opportunity to voice your opinion to Atmos in a public meeting.

Mayor Hayden had the following requests for the Town Manager:

- Mike Wallace and Chris Henry will be working on a Farmers Market in the Lakeside District in Flower Mound and asked that staff support them in that endeavor.
- Parker Square – occupancy is only at about 50% and I know that six of the buildings are owned by various banks. We need to get busy and come up with a plan about what we can do to move Parker Square out of where it is. I think on the long term ultimately it will not end up being a retail destination, but an office destination with a few restaurants sprinkled in. As a Town we need to come up with an economic plan about what we're going to do to fix what's happening at Parker Square.
- At the CDC meeting and PALS meeting I have heard people say I didn't realize we had these parks and there was discussion about what can we do to educate people about our parks. One suggestion that might be worth considering is what if we were to allow the Parks Dept. and the utility billing section to once or twice a year talk about the various parks in our Town.
- I visited with a group called RSVP. They are a senior organization based in Denton and they are interested in partnering with the Town to help provided public transportation. He asked the Town Manager to visit with them.
- I would like you to come back with recommendations as to what we can do with respect to non-HOA neighborhoods. For example, the monuments that are on private property can be quite expense. They are on private property. They are getting old. We need to come up with a plan as those structures age and what can be done to repair them.
- Suggested having a charity softball game to raise money for the fire truck restoration project and a great time to do that would be when we have the baseball tournaments that come through Flower Mound, like perhaps before their final game there could be a charity baseball game. If we don't organize it, and move forward it's not going to happen. As I mentioned Chad Hennings would be interested in getting former Dallas Cowboy football players. He encouraged Chief Metzger to work with the Parks Dept. on that.

- There is interest in having a joint retreat between the PALS Board and Council to talk about the Parks Master Plan – where we are and what are we going to do. We have tens of millions of dollars of ideas on the CIP list and we have 1.5 million dollars a year to pay for them. He questioned if there might be a need to update the survey.
- Twin Coves Park suggestion: It's a park that is going to create a surplus of revenue that exceeds the expense for maintaining the park. It's expected to generate just shy of one million dollars a year and the annual expense is only half a million. The problem is the upfront capital charge is several million dollars. We don't have that in our budget to pay for that, so with interest rates at such low levels I think it would be interesting to look at perhaps issuing debt on the Town because we have a revenue source that would not encumber the tax payers that would actually pay for that. And just to see if it's feasible where we can go ahead and build out Twin Coves Parks, otherwise I fear in 5 – 10 years we'll still be talking about someday we're going to build a Twin Coves Park. If we have a park that is not only going to benefit our Town, it's also going to generate revenue that far exceeds the cost; we should look at what we can do to come forward with a plan.
- When Lakeside DFW was coming forward with their plan they put together a demographic study related to the impact to LISD, I think it would be a good idea to make sure the school board has access to the demographic study. Mayor Pro Tem Stephenson commented they have access, however, they have chosen not to us it.

Mr. Stathatos responded some of those items mentioned staff has been working on and he'll report back to the Council regarding progress.

G. TOWN MANAGER'S REPORT

1. Update and status report related to capital improvement projects

Mr. Stathatos provided the following updates:

Chinn Chapel - Notice to proceed was issued today so the contractual substantial completion date is February 25, 2014, with the actual final completion day being March 27, 2014. He noted that two-way traffic will be required during construction.

Wichita Trail: Utilities have not been cleared by the contractor so there is the possibility they may not reach that substantial completion date in June.

Levenick: Commented that she drives that area every day and disagreed with the comment that the contractors have been out there religiously because she hasn't seen anyone in two weeks. They basically have one truck and two guys out there.

Stathatos: Religiously compared to when they were out there before.

Wise: Inquired about the status of West Windsor, as it would be good if it was opened prior to starting Chinn Chapel because it does offer an alternate path.

Stathatos: Currently the Town is waiting on TxDOT as they need to sign off on the light.

Dixon: Asked for staff and TxDOT to get together and review the sound wall for Emerson Lane off High Road to understand what the requirements are and be able to report back to Council. Mayor Hayden indicated that perhaps if they won't do that, given the expense, they can consider doing a berm along there as I know they did that for the first section. Councilmember Webb commented to make sure all avenues are explored such as partnerships, agreements, grants, etc. It's not that many residents are involved, but I had two conversations over the weekend and they would be willing to sit down and talk ideas through.

Stathatos: I'll get with you separately to get names besides Ms. Cox and see what we can do.

2. Update and discussion on Economic Development projects.

Mr. Stathatos offered the following economic development updates:

- There is a desire to attract high end restaurants in the River Walk and he noted Mr. Moayedhi has ownership of high end restaurants which will help in the recruitment process.
- Lakeside is breaking ground on April 24th.
- The last retail citizen survey was two years ago and we're in the process of updating it for release in early summer. Previously we utilized utility billing records, however, there were negative comments made about how people wanted to contribute and couldn't because they didn't get a survey. This year there will also be a function on the web site so we can get more feedback in terms of what the residents of Flower Mound would like to see in terms of retail and restaurant businesses.
- There is a new business in Lakeside that is soon to be announced and it will create 100 new jobs, and we could have an announcement by the end of the week.
- Oakmont is now going vertical and collectively equals 750,000 square feet of space.
- Flower Mound will be profiled in the Bis Now journal in mid-April with some positive recognition for the commitment to quality and high end economic development.
- Last week the Town and Chamber hosted an economic development forum in which 35 people attended and the speaker was Market Street.
- Market Street is under construction and it will have around 55,000 square feet and it will have more organic and fresh food than any other Market Street in the entire chain. They will also have a beer and wine bar- it will be the new prototype. They will open before Christmas and there will be some announcements regarding the ancillary retail late summer.

- At the next meeting in April there will be a site plan for a new facility – a 580,000 square foot space in Lakeside Ranch and that will add a minimum of \$18 million to Flower Mound’s tax base.

3. Update about the Town's website and availability of online information.

Mr. Stathatos reported that regarding the Town’s web site, Mr. Dalton and Ms. Wallace recently met with a few residents last week to discuss the web site and some of the information they would like to see on the web site. We’re going to reach out to other website users to find out what they are looking for. One of the things we’re trying to balance is there are a lot of residents, based on the feedback we are getting, that want to know when is Rick Springfield going to be here, when is trash pick-up, and there are others that want to know more in depth information. We want to be a one stop shop for everyone’s web site needs but in order to do that we want to get a better handle on the interest of the people we serve. So we are going to be reaching out and I’ll later be in a position to report back on those efforts.

Stephenson: I’m glad to hear you say that because I think a lot of times we concentrate on just a couple of people and we forget about the rest of the people that might be using the web site successfully. I just want to make sure that we balance the cost of having every document available with the needs of the residents. There are a lot of documents out there that perhaps only a couple of people might be interest in but it would cost us a lot of money to maintain a web site that had everything out there, and the case that one or two residents might want to access it. So when you’re doing that let’s make sure we’re cognizant of how much that cost us to do and that our web site should serve 98% of our resident’s needs, as striving for that 100% might be a little over the top.

4. Update and status report related to ATMOS.

Mr. Stathatos reported that by the end of the week there will be an integrated map on the Town’s web site to better identify distances associated with the easement and clearing areas.

H. CONSENT ITEMS

Councilmember Dixon moved to approve by consent Items 1 – 10 and 12. Mayor Pro Tem Stephenson seconded the motion. Each item, as approved by consent, is restated below along with the approved recommendation, and if applicable, the Ordinance or Resolution caption for each, for the record.

1. Consider approval of the minutes from a regular meeting of the Town Council held on March 4, 2013.

RECOMMENDATION: Move to approve the minutes from a regular meeting of the Town Council held on March 4, 2013.

2. Consider approval of the award of Competitive Sealed Proposal No. 2013-28-A Council Chambers Audio/Visual Equipment to Swagit Productions, LLC, in the amount of \$89,829.30.

RECOMMENDATION: Move to approve the award of Competitive Sealed Proposal No. 2013-28-A Council Chambers Audio/Visual Equipment to Swagit Productions, LLC, in the amount of \$89,829.30.

3. Consider approval of the award of Best Value Bid No. 2013-39-A The Heritage Park of Flower Mound and Post Oak Park Landscape Maintenance Program, to Metro Landscape Maintenance, Inc., at the unit prices bid, in the estimated annual amount of \$29,474; and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Move to approve the award of Best Value Bid No. 2013-39-A The Heritage Park of Flower Mound and Post Oak Park Landscape Maintenance Program, to Metro Landscape Maintenance, Inc., at the unit prices bid, in the estimated annual amount of \$29,474; and authorize the Mayor to execute same on behalf of the Town.

4. Consider approval of Change Order No. 1 for the Wellington Interceptor Section I project, amending the contract with Dowager Utility Construction, LTD., for a decrease of \$5,160.00, final acceptance of the project, authorization of final payment to the contractor, Dowager Utility Construction, LTD., in the amount of \$83,115.50; and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Move to approve Change Order No. 1 for the construction of the Wellington Interceptor Section 1 project, amending the contract with Dowager Utility Construction, LTD., for a decrease in the amount of \$5,160.00, final acceptance of the project, authorize final payment to the contractor, Dowager Utility Construction, LTD., in the amount of \$83,115.50; and authorize the Mayor to execute same on behalf of the Town.

5. Consider approval of Change Order No. 3 for the FM 1171 Water Utility Relocations project, amending the contract with UtiliTex Construction, L.L.P., for an increase of \$4,234.20; final acceptance of the project; authorization of final payment to the contractor, UtiliTex Construction, L.L.P., in the amount of \$50,530.17; and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Move to approve Change Order No. 3 for the FM 1171 Water Utility Relocations project, amending the contract with UtiliTex Construction, L.L.P., for an increase of \$4,234.20; final acceptance of the project; authorize final payment to the contractor, UtiliTex Construction, L.L.P., in the amount of \$50,530.17; and authorize the Mayor to execute same on behalf of the Town.

6. Consider approval of Change Order No. 2 for the Phase II Wastewater Treatment Plant Rehabilitation Phase II project; amending the contract with North Texas Contracting, Inc., for an increase of \$246.00, final acceptance of the project, authorization of final payment to the contractor North Texas Contracting, Inc., in the amount of \$48,847.35; and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Move to approve Change Order No. 2 for the Phase II Wastewater Treatment Plant Rehabilitation Phase II project; amending the contract with North Texas Contracting, Inc., for an increase of \$246.00, final acceptance of the project, authorize final payment to the contractor North Texas Contracting, Inc., in the amount of \$48,847.35; and authorize the Mayor to execute same on behalf of the Town.

7. Consider approval of a Professional Services Agreement with Kimley-Horn and Associates, Inc., to provide professional engineering services for the FM 2499 12-Inch Water Line Phase III and Long Prairie 12-Inch Water Line project, in the amount of \$48,000.00, and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Move to approve a Professional Services Agreement with Kimley-Horn and Associates, Inc., to provide professional engineering services for the FM 2499 12-Inch Water Line Phase III and Long Prairie 12-Inch Water Line project, in the amount of \$48,000.00, and authorize the Mayor to execute same on behalf of the Town.

8. Consider approval of a Professional Services Agreement with Kimley-Horn and Associates, Inc., to provide professional engineering services for the FM 2499 at Silveron Intersection Improvement project, in the amount of \$39,000.00, and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Move to approve a Professional Services Agreement with Kimley-Horn and Associates, Inc., to provide professional engineering services for the FM 2499 at Silveron Intersection Improvement project, in the amount of \$39,000.00, and authorize the Mayor to execute same on behalf of the Town.

9. Consider approval of a Professional Services Agreement with Kimley-Horn and Associates, Inc., to provide professional engineering services for the Pressure Reducing Valves (Lakeside Business District) project, in the amount of \$59,500.00, and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Move to approve a Professional Services Agreement with Kimley-Horn and Associates, Inc., to provide professional engineering services for the Pressure Reducing Valves (Lakeside Business District) project, in the amount of \$59,500.00; and authorize the Mayor to execute same on behalf of the Town.

10. Consider approval of a Professional Services Agreement with Kimley-Horn and Associates, Inc., to provide professional engineering services for the Master Transportation Plan Model Update project, in the amount of \$55,000.00; and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Move to approve a Professional Services Agreement with Kimley-Horn and Associates, Inc., to provide professional engineering services for the Master Transportation Plan Model Update project, in the amount of \$55,000.00; and authorize the Mayor to execute same on behalf of the Town.

Item 11 pulled from Consent.

12. Consider approval of a resolution in support of the preservation of tax-exempt financing.

RECOMMENDATION: Move to approve the resolution in support of the preservation of tax-exempt financing.

RESOLUTION NO. 11-13

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, IN SUPPORT OF THE PRESERVATION OF TAX-EXEMPT FINANCING.

Item 13 and 14 pulled from Consent.

VOTE ON MOTION

AYES: Wise, Dixon, Stephenson, Levenick, Webb

NAYS: None

I. REGULAR ITEMS

Item 11 was pulled from Consent to Regular items

11. Consider approval of a Quitclaim Deed to Lakeside DFW Land, Ltd.; and authorization for the mayor to execute same on behalf of the Town.

Staff Presentation

Mr. Powell gave a presentation pointing out on the last agenda there was a discussion on a similar item and it notes in the packet it is a companion item, and it involves Lakeside DFW. He pointed out the main and local roadways on a map that shows the right of way and the yellow areas are old right of ways that were abandoned when Lakeside and 2499 went in. Then the blue that just popped up is a piece that was on your last agenda item. And it follows Old Long Prairie, and Old Long Prairie used to go north and tie into what is now 2499 where the fountains are. That blue area is a piece of property that we don't think we own, or that we have any interest in it, but the title company for the property owner said we found this and we're not sure what happened to it. In this case there was actually a minute order from TxDOT that said yes, this portion of property is abandoned by TxDOT when 2499 went in, so the Town did a quit claim to say that we have no interest in this property. There is nothing out there right now. On the same agenda I tried to put the other blue piece – and that is the blue piece that connects Old

Long Prairie to Lakeside. If you notice when Lakeside went in that became a piece of right of way that was no longer used and no longer needed. If you go out there today there is nothing there – it's grass. Again, we think what really happened is at the time when those roadways were put in the Town really said to the property owner's "here – that's your property now", but we cannot find the documentation so this quit claim is to get rid of any cloud on the title so the property owner can develop the property.

Stephenson: So if you went to the Denton County tax office you wouldn't find a piece of property with that legal description on it that said Flower Mound owns that piece of property, correct?

Powell: Correct.

Stephenson: It was just abandoned – it was never deeded to us.

Powell: Correct, and we're much more sophisticated now a days where we would have the attorneys right it up, surveys conducted and it would be documented. But back then it wasn't done, or it wasn't done correctly, as we can't find it. But the intent is very clear that the Town didn't maintain it, we had no right to it, nor do we have interest in it. He demonstrated on a map what you would see in the way of Old Long Prairie in that it appears there is a roadway there. That map gives an indication that something is there and the quit claim is the process where the Town says no, there is nothing out there and we have no interest in this. That is different from item 18 on your agenda because there is a road there today and to abandon that road is a public hearing and we really do have an interest in that area. He noted item 11 previously had the incorrect backup. He pointed out that having this road there would be a dangerous situation and that's why they tore it out at the time and it's not there today.

Councilmember Webb moved to approve a Quitclaim Deed with Lakeside DFW Land, Ltd.; and authorize the mayor to execute same on behalf of the Town. Councilmember Levenick seconded the motion.

VOTE ON MOTION

AYES: Webb, Levenick, Stephenson, Dixon, Wise

NAYS: None

Item 13 was pulled from Consent to Regular items

13. Consider approval of a resolution of the Town of Flower Mound, Texas, opposing House Bill 2828, recently introduced in the 83rd Texas Legislature, relating to the effect of rules and standards adopted by the Railroad Commission of Texas relating to the gas pipeline industry on ordinances, orders, or rules adopted by political subdivisions; and authorization for the Mayor to execute same on behalf of the Town.

Staff Presentation

Mr. Stathatos pointed out that this proposed bill is an attempt to undermine the Town's authority to regulate pipelines within the Town and that is why it's before you – because we want to get Council's feedback in order to protect our autonomy in terms of regulating pipelines.

Ms. Knierim reported that the bill has been filed and it's been referred to the Energy Resources Committee and it hasn't had any movement – it's not been set for public hearing. Essentially it's a one page bill and in summary it states that the Texas Railroad Commission's authority supersedes any ordinance, rule, or any regulation by a municipality regarding gas pipelines. We have introduced a Resolution and if approved we will forward it to the Energy Resources Committee with a letter tomorrow indicating the Town's opposition to this HB 2828.

Councilmember Webb moved to approve a resolution opposing House Bill 2828, recently introduced in the 83rd Texas Legislature, relating to the effect of rules and standards adopted by the Railroad Commission of Texas relating to the gas pipeline industry on ordinances, orders, or rules adopted by political subdivisions; and authorize the Mayor to execute same on behalf of the Town. Councilmember Levenick seconded the motion.

RESOLUTION NO.10-13

A RESOLUTION OF THE TOWN OF FLOWER MOUND, TEXAS, OPPOSING HOUSE BILL 2828, RECENTLY INTRODUCED IN THE 83RD TEXAS LEGISLATURE, RELATING TO THE EFFECT OF RULES AND STANDARDS ADOPTED BY THE RAILROAD COMMISSION OF TEXAS RELATING TO THE GAS PIPELINE INDUSTRY ON ORDINANCES, ORDERS OR RULES ADOPTED BY POLITICAL SUBDIVISIONS.

VOTE ON MOTION

AYES: Wise, Dixon, Stephenson, Levenick, Webb

NAYS: None

14. Consider the approval of a professional services agreement with Elsey & Elsey, Attorneys at Law for the collection of outstanding taxes and other accounts receivable.

Staff Presentation

Ms. Wallace clarified that the agenda item is for the collection of delinquent taxes as Denton County collects the majority of our taxes. If you look at the last two tax years, our tax levy a couple years ago was \$30.9 million and Denton County collected 99.56% of that, leaving a little less than a half of percent as delinquent. Then this past year our tax levy was \$31 million and Denton County even collected more of that. It was 99.74%, leaving just around a quarter of a percent in delinquency, or \$80,000. The collection firms are allowed to charge 20% to

the delinquent tax payer so that Town does not pay that fee – it's paid by the delinquent tax payer. She provided background information related to how the item came to the agenda. She pointed out Elsey and Elsey is local firm, member of the Flower Mound Chamber, and they are experienced in delinquent tax collections. Currently they collect for Denton County Fresh Water District No. 6 and 7 (Lantana).

Webb: Asked for clarification that the taxpayer pays the 20% delinquent fee which pays the attorney's fees, and that equates to \$16,000.

Wallace: That is correct, and that is based on the \$80,000.

Levenick: We have talked about wanting to utilize local businesses. There have been some questions about this in that we have had some residents come forward that they were surprised to see this, but on the other hand we talked about it in June, August, March, and now April. My understanding is that it's a legal service so we don't need to put it out for bid. That is quite different than putting it out for qualifications, but we aren't required to put it out for bid.

Wise: You referenced a presentation that each party made in the past and I think it would be beneficial for that information to be put in the packet because there is really only one page of material for me to review and make a decision and the same for the residents. I am not aware of any problems we have with the existing attorney and it would have been nice to see that comparison to better make a decision.

Wallace: I don't have that research.

Stephenson: Did we talk with Lantana (and both water districts) to see what their experience was since they have been using Elsey & Elsey last May.

Wallace: Yes, we spoke with Kevin Mercer and he's happy with the collection process. He noted they have been receiving some additional reports that hadn't been provided to them in the past from whatever firm they were using.

Stephenson: One of the things stated here tonight is that it was unheard of for us not to send these things out for bid. That is not my recollection as to how other professional service contracts have been handled in the past. When we did the Shop Flower Mound Program we didn't send that out for a request for qualifications. We solicited one person and got a bid from them and accepted it. It has always been the Town's practice to put professional services like this out for a request for qualifications. We talk about supporting our existing businesses and what can we do to help them grow so it's shocking to me that we have resistance to helping a business that has been part of Flower Mound for years. I have seen Mr. Elsey's solicitation on a few occasions and I agree it would have been good to have that as part of the backup. One of the main reasons we're pursuing this is because Mr. Elsey is a local firm and we did want to make sure there were not any other Flower Mound attorneys that were interested in this

work and our previous Town Manager was going to make sure that we've opened that up for everybody, however, that documentation is not available.

Levenick: Since we've talked about this in June, August, March, and now April, have we heard from any other law firms that have expressed interest in this contract. I was also of the understanding the previous Town Manager sent a letter to the Flower Mound Bar Association.

Stathatos: No, we have not.

Wise: Would we expect to?

Stathatos: All I know is that I didn't see a letter that was either sent or received in the tax collection file. I wasn't here so I don't know what was asked of staff.

Wise: Would that be a procedure to send out a letter to determine if anyone is interested?

Stathatos: It really depends. I don't think there is a common procedure for professional services. There are some that do RFPs, RFQs, but legally we can't do bids (since its professional service we can't do sealed bids).

Stephenson: What is interesting about this is that the price is set. What we're really asking for is whether the firm is qualified or not. We're fortunate in Flower Mound that our delinquent tax collections are pretty easy in that we get almost 100% out of Denton County. While I understand the questions asked and appreciate the residents asking that question, it seems a little bit of overkill to go through the complete RFQ process. Mr. Elsey has submitted his qualifications, we've checked his references and they seem to check out. People are happy. They are getting extra reports. My only issue that I would ask people about is when we talked about this in June we put together what we thought would be a reasonable process for this and it seems like part of that documentation is missing.

Wise: Mr. Burroughs commented on the software that is required to do this. I have no idea what's involved in collecting delinquent taxes. My thoughts are that someone writes a letter and sends it out for that person to pay their taxes. I have no idea what that software does.

Webb: In my professional world collections is highly automated and as I think through this process with the dollar amounts involved per customer, and you're talking about somebody that has \$1,000 delinquent ad valorem tax bill, how much time can an attorney spend to collect that bill if all they can collect is \$200. It has to be very efficient and automated. The processes have to be down tight. It's a volume item. This doesn't take the level of legal specialty that you're going to need to practice before the Supreme Court. This is folks that can manage processes and I think both groups have the talent and proven experience to manage processes. If you can't manage the process you're not going to do it efficiently, and you're not going to keep clients. So there is the risk.

Webb: I'm ready to make a decision tonight. Mr. Wise indicated a desire to have the two prior presentations brought together side by side for consideration. I know how much he prepares. He looked at the prior information, and so did I. Residents didn't have that opportunity. Ms. Stephenson and Ms. Levenick talked about an email or a letter they thought had been sent out, but it hadn't been. If we need to wait another meeting on this one to where we can get those items together, and have a better visual for a decision, that's okay. If folks think they have enough information I would go along with the decision tonight.

Levenick: Suggested postponing for the next meeting to allow residents to see the documents as presented in the past in the interest of transparency, and so they can get their questions answered.

Webb: The only thing I would offer up, after looking at the prior presentations, and research on both firms, is that both firms give back tremendously to their respective communities, which was very impressive. The one thing I have noticed is that you give back to your home community the most and that makes sense. I think that means something for Flower Mound Town Council when you have a company and a firm doing business in Flower Mound for a long period.

Wise: I agree. For me to be able to make a decision I would want to see a side by side comparison and I think I can do that with the past presentations we've had. People at home need to see what we have been looking at and I would be in favor of postponing it to another meeting.

Levenick: Mr. Wise I don't think we'll have a side by side comparison because you're looking at a firm that has been doing this for the Town for many years compared to someone who hasn't done this for the Town but is a local agency. I think we know the qualifications of Sawko & Burroughs, so I would like the residents to see the qualifications of Elsey & Elsey.

Stathatos: In the event this is postponed, I want to make sure I understand Council's expectations in terms of information. We can provide the qualifications for Elsey & Elsey, the minutes from the June and August meeting, and is that consistent with Council's expectations?

Stephenson: The type of information that should be put in the packet includes:

- Amount of money involved
- Original proposal from Mr. Elsey
- Documentation from the two water districts they are serving so we have their experience
- Send a letter to the Flower Mound Bar Association with a date certain for them to reply, and include responses
- A copy of Mr. Cox's affidavit (if he is agreeable to that) that verifies his qualifications
- The presentation that Sawko & Burroughs provided last spring, along with any associated updates.

Councilmember Levenick moved to postpone Item 14 (Consider the approval of a professional services agreement with Elsey & Elsey, Attorneys at Law for the collection of outstanding taxes and other accounts receivable) until April 15, 2013. Councilmember Webb seconded the motion.

VOTE ON MOTION

AYES: Webb, Levenick, Stephenson, Wise

NAYS: None

ABSTAIN: Dixon

15. ZPD 05-12 – Kids R Kids

Public Hearing

Public Hearing to consider a request for rezoning (ZPD 05-12 - Kids R Kids) to amend Planned Development District No. 36 (PD-36) with Commercial District-1 (C-1), Commercial District-2 (C-2), and Office District (O) uses to modify certain of the existing development standards for the Commercial District-1 (C-1) area and add a Specific Use Permit (SUP 408-12) to permit a day care center, with an exception to Section 82-302, Compatibility buffer, of the Code of Ordinances; an exception to Section 82-303, Compatibility setback, of the Code of Ordinances; an exception to Section 90-423, Underground utilities, of the Code of Ordinances; a request for a deviation to the required parking standard pursuant to Section 82-73, of the Code of Ordinances; and an exception to the access management policy and criteria, regarding driveway spacing, contained in the Town's Engineering Design Criteria and Construction Standards adopted through Chapter 32 of the Code of Ordinances, and to consider adopting an ordinance providing for said amendment. The property is generally located along the south side of Justin Road and east of Country Meadows Drive. *(The Planning and Zoning Commission recommended approval by a vote of 4 to 0 at its March 25, 2013, meeting.)*

Town Council recessed at 9:20 p.m. and reconvened at 9:30 p.m.

Staff Presentation

Mr. Powell provided a presentation identifying or outlining:

- Detailed location of the site
- Land use
- Photographs of the site, including the overhead utility line
- Site plan, including:
 - The approximate location of the overhead utility line
 - Driveway spacing
 - Compatibility buffer
 - The building is set back approximately 44' – normally they are required to have 60', but that first 25' only has to be landscaping, and after that you can have drive-aisles, dumpsters, etc. What they have done is now on the back side put anything other than play areas. Also there was discussion at P & Z about the height of the

wall as they are required to put in a 6' masonry wall, but there is at that point a grade separation where the houses will be higher than the businesses in front, and so the effective height of that wall, because of the retaining wall, will add at least a foot, but in some case more than 4 – 6'. There was a lot of discussion about raising that but in the end P & Z was acceptable to the retaining wall adding extra height.

- There is also an exception for the parking. The Town's Ordinance allows for some flexibility. There is a base rate for commercial and it doesn't divide it up specifically for day cares, but then it says you can have below or above 20%. This falls under that 20% but they have given you a lot of data in your backup that shows there are other locations that don't necessitate that other parking. A day care doesn't have the same traffic. They do have adequate access and circulation at a drop off point.
 - At P & Z there was discussion about the location of the dumpster. This site plan has moved the dumpster next to the Firestone so it would be part of the approval.
 - At P & Z Chuck Russell read an email we got that day from the Country Meadows HOA expressing their support and that is in your packet.
- Building elevations
 - If approved tonight the applicant will come back to P & Z with a site plan (so there is another review layer). What will really change is the engineering behind it.

Wise: With regard to the wall, that existing "panhandle" that was there for the access on the southern side, does that brick wall come the whole way to Victory Drive, or does it stop right where the panhandle begins?

Powell: He demonstrated on a map the location where it stops.

Mayor Hayden opened the Public Hearing at 9:39 p.m.

Public Participation

Linda Sims/James Westbrook & Assoc., 10700 Abotts Bridge Rd., Duluth, GA

Ms. Sims stated she is a landscape architect with James Westbrook and Associates and that she prepared the plans in the packet and is available to answer any questions.

Larry Kraxberger, 2895 Green Eagle, Alpharetta, GA

Mr. Kraxberger stated he is with Kids R Kids corporate and primarily here to answer questions that related to them having 160 facilities around the country and he has personally done 70 of them. He was available to answer any questions about the building or parking.

Mayor Hayden closed the Public Hearing at 9:40 p.m.

Council Deliberation

Dixon: I had to go back to the minutes of Planning and Zoning on June 11, 2007 when we were approving the Firestone application adjacent to it. At that meeting there were several representatives from the HOA. Mr. Powell did talk about how they were definitely requesting that the Town grant the exception to the overhead power lines, because they did not want the extra equipment at their corner. At that time I said because the HOA, at that time requested it, and because it's commercial land use all the way over to the end of Flower Mound, that I would be in favor of keeping it up and nothing has changed on this. I recall we had lengthy discussion at P & Z as they did not really care for overhead utilities. I know there are several people on Council that would rather see things underground, especially if they are not in the right of way when we can't force that. But because of the situation that across the street is Highland Village, to the east is commercial, and to the west is the HOA (and the HOA has voiced support for maintaining those overhead utilities), I will agree with the decision and recommendation of Planning & Zoning, both in the past in 2007, and also here recently.

Councilmember Dixon moved to approve a request for rezoning (ZPD 05-12 - Kids R Kids) to amend Planned Development District No. 36 (PD-36) with Commercial District-1 (C-1), Commercial District-2 (C-2) and Office District (O) uses to modify certain of the existing development standards for the Commercial District-1 (C-1) area and add a Specific Use Permit (SUP 408-12) to permit a day care center, with an exception to Section 82-302, Compatibility buffer, of the Code of Ordinances; an exception to Section 82-303, Compatibility setback, of the Code of Ordinances; an exception to Section 90-423, Underground utilities, of the Code of Ordinances; a request for a deviation to the required parking standard pursuant to Section 82-73, of the Code of Ordinances; and an exception to the access management policy and criteria, regarding driveway spacing, contained in the Town's Engineering Design Criteria and Construction Standards adopted through Chapter 32 of the Code of Ordinances, and adopt an ordinance providing for said amendment. Councilmember Webb seconded the motion.

ORDINANCE NO.14-13

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE OFFICIAL ZONING MAP, EXHIBIT "A" OF SUBPART B, LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY CHANGING THE ZONING ON APPROXIMATELY 2.446 ACRES OF LAND SITUATED IN THE SHELTON LUTTRELL SURVEY, ABSTRACT NUMBER 744, FROM PLANNED DEVELOPMENT DISTRICT NO. 36 (PD-36) WITH COMMERCIAL DISTRICT-1 (C-1), COMMERCIAL DISTRICT-2 (C-2) AND OFFICE DISTRICT (O) USES TO PLANNED DEVELOPMENT DISTRICT NO. 36 (PD-36) WITH COMMERCIAL DISTRICT-1 (C-1) USES, COMMERCIAL DISTRICT-2 (C-2) AND OFFICE DISTRICT (O) USES, SUBJECT TO

SPECIFIC USE PERMIT NUMBER 408 (SUP-408) TO ALLOW FOR A DAYCARE CENTER ON THE TRACT OF LAND DESIGNATED FOR COMMERCIAL DISTRICT-1 (C-1) USES, BY THE AMENDMENT OF EXHIBIT "B" TO ORDINANCE NO. 41-05, WHICH ORDINANCE ESTABLISHED THE REFERENCED ZONING ON SAID PROPERTY, BY AMENDING PARAGRAPH III, ENTITLED "DEVELOPMENT STANDARDS – C-1, COMMERCIAL-1," BY DELETING SUBPARAGRAPHS B AND C IN THEIR ENTIRETY AND REPLACING SAID SUBPARAGRAPHS WITH NEW SUBPARAGRAPHS B AND C, AS SET FORTH HEREIN, AND BY GRANTING EXCEPTIONS TO SECTION 82-302, "COMPATIBILITY BUFFER," SECTION 82-303, "COMPATIBILITY SETBACK," AND SECTION 90-423, "UNDERGROUND UTILITIES," OF THE CODE OF ORDINANCES, GRANTING A DEVIATION TO THE REQUIRED PARKING STANDARD PURSUANT TO SECTION 82-73, "COMPUTING PARKING AND LOADING REQUIREMENTS," AND GRANTING AN EXCEPTION TO THE ACCESS MANAGEMENT POLICY AND CRITERIA, REGARDING DRIVEWAY SPACING, CONTAINED IN THE TOWN'S ENGINEERING DESIGN CRITERIA AND CONSTRUCTION STANDARDS ADOPTED THROUGH CHAPTER 32 OF THE CODE OF ORDINANCES, IN ACCORDANCE WITH THE TOWN'S MASTER PLAN AND SPECIFIC REQUIREMENTS STATED HEREIN AND EXHIBITS ATTACHED HERETO; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON THE MOTION

AYES: Wise, Dixon, Stephenson, Levenick, Webb

NAYS: None

16. ZPD 01-13 – Timber Creek Medical Park

Due to an inadvertent administrative error this item will be rescheduled for a future date.

17. LDR 01-13 – Amendments to Land Development Regulations Public Hearing

Public Hearing to consider a request to amend the Land Development Regulations (LDR 01-13) by amending Subpart B, Chapter 82, of the Code of Ordinances, entitled "Development Standards," through the amendment of Section 82-181, "Traffic Impact Analysis Required," by deleting said section in its entirety and replacing it with a new Section 82-181 also entitled "Traffic Impact Analysis Required"; by amending Chapter 90 of the Code of Ordinances, entitled "Subdivisions," through the amendment of Section 90-301, "Exceptions to street standards," by deleting Subparagraph B thereof in its entirety and replacing said Subparagraph B with a new Subparagraph B that exempts replats of existing lots in certain subdivisions from conforming to the Town's street design standards, and through the amendment of Section 90-402, "Minimum drainage standards," by adding a new subparagraph regarding the "100-year Floodplain"; by amending Chapter 98 of the Code of Ordinances, entitled "Zoning," through the amendment of Section 98-814, "Development Standards," regarding Planned Development Districts by deleting said section in its entirety and replacing it with a new Section 98-814 also entitled "Development standards," and through the amendment of Section 98-1081, "Floodplain Prefix to District Designation," by deleting said section in its entirety and replacing it with a new Section 98-1081 also entitled

"Floodplain Prefix to District Designation"; by amending Volume I, "Design Criteria," of the Town's Engineering Design Criteria and Construction Standards by and through Section 32-3, "Engineering Design Criteria and Construction Standards--Amendments," by the amendment of Part B, "Technical Standards," by amending Section VII, "Town of Flower Mound Access Management Policy and Criteria," by amending the paragraph entitled "Deviation and Dispute Resolution Process," on Page B-VII-7, thereof, by deleting said paragraph in its entirety and replacing it with a new paragraph also entitled "Deviation and Dispute Resolution Process," and to consider adopting an ordinance providing for said amendments. *(The Planning and Zoning Commission recommended approval by a vote of 4 to 0 at its March 25, 2013, meeting.)*

Staff Presentation

Mr. Powell provided a presentation identifying or noting:

- This item is in conjunction with the last step from the Development Process Review Committee (DPRC)
- He provided background information regarding the charge and make up of members of the DPRC

Stephenson: I want to address one question that has been out in the community regarding Ms. Carol Kyer, and why she was appointed to that committee. Ms. Kyer was representing the school district as one of the largest not for profit builders in Flower Mound. So when we selected her we wanted to make sure we had representation from people that weren't building "for profit" so we can make sure their issues were covered. We also have a responsibility to the taxpayers to make sure that the schools are constructed in the most efficient manner. I think that she was a valuable member of the committee.

- There are a total of 15 items the committee looked at and they are covered in the report.
- The report is broken down into two phases. Phase I items were staff initiated items. The first two have already been implemented and that is the technical level of detail we put in the packets, which Council is now following up on in their packets, and double noticing – instead of taking a month or three weeks to get from P & Z to Town Council, we make that a week turn around and there is a lot of benefit from doing that.
- The checks represent recommendations that the committee made to make changes and what was presented to P & Z. What happened at P & Z – there are two items – number 6 and 7 in which there was a lot of discussion. Those two items were not recommended for adoption.
- We started off with 15, then we had 6 that were recommended for part of this LDR amendment but what you have before you tonight is only 4 items to change.
- For phase II (what came out from the committee's questioning) and going back to the charge, one of the reasons the committee was formed because

the Town did a survey from the development community. The table shows that for those phase II items, what came up at the 2007 survey was also there in 2012. We added one flexibility standard; however, it's the same issues. These, I believe, are the top issues that came out of that survey. Also, as part of the phase II discussion, we had a panel of developers and consultants talk about their experiences and verify whether or not these were truly the items that they had some concerns on.

- I want to point out also that there are a couple things that the committee did not make a recommendation on because they are more complex issues than what the committee could do – fees, for example.
- SMARTGrowth was on the list but the committee discussed how it's an interest in a set of regulations to keep the Town current with development, but it's hard to talk about that in a vacuum and not talk about the Town's Master Plan at the same time. So the recommendation is yes, we probably need to review SMARTGrowth, but that needs to be done in conjunction with the Town looking at the Master Plan and the vision for the Town.

Mr. Powell outlined each recommendation as follows:

1. Access Management Policy:

- Access Management Policy establishes criteria for driveway spacing, auxiliary lane requirements, cross access, and median openings
- Formal policy allows the Town to administer access approval on State-owned facilities
- Some exceptions are due to physical obstructions, others are temporary in nature and will be resolved with subsequent development
- Limited to cases where the exception is beyond the control of the developer (not just a preference or cost issue), and where the deviation is no more than 20% of the standard

Webb: With the staff being able to administratively approve, does that mean staff will approve every time it is asked?

Powell: No, an analysis would be done to see if it makes sense.

Webb: After staff analyzes it and if it makes sense they will do it? If staff does not believe it makes sense, then the applicant could go ahead and take it to P & Z and Council?

Powell: Yes, or if it's outside of the 20%.

Webb: One of the concerns I've heard is will staff be discerning. What you are telling me is that you will and your team will use their expertise.

Powell: Yes.

2. Administrative Approval of Streets Standards for Older Neighborhoods:

- P & Z didn't bring this one forward
- Older neighborhoods in Town with existing narrow, asphalt streets
- Redevelopment and/or combining of lots into one platted lots triggers requirement to meet infrastructure standards
- March 25, 2010 – change made to allow P&Z to make exception.

This amendment would allow for administrative approval of such exceptions.

Dixon: Over the years but I have gotten some phone calls about are you going to deny me on this. Since 2004 I have never seen a situation where P & Z or Council has not recommended granting the exception. I like the fact that we are giving some assurance, especially to the residents, that they are not going to have to spend thousands of dollars to bring a street up to the current standards of the streets, and frankly, it would look very odd to have a curb and gutter property half way into the street, and everybody else wouldn't have it.

Mr. Powell defined the current process and the discussion at P & Z was that it doesn't happen that often and doesn't it make sense that since P & Z is the group that is part of development applications that they be part of that discussion.

3. Deferral of Traffic Impact Analysis (TIAs):

- TIA – site analysis of traffic impacts associated with land development
- Consider deferral of TIA on non-residential applications until after site plan approval
 - Developer would have to agree to incorporate any recommendations from the TIA
 - Any development that does not pass the SMARTGrowth threshold analysis would not be eligible for this deferral

He pointed out there is an issue about TIAs that keep coming up which is that Flower Mound is fairly unique in that we require our consultants to do TIAs. In other cities the developer or their consultant can conduct the studies. This element is more costly and time consuming to the developer. This will need to be worked on later.

Dixon: The feedback given by the developers was that a professional engineer was going to have to do it based on a standardized model. Because we would potentially use the same engineering firm that we normally use in every other municipality we would be able to get it back quicker and at much less cost because they have that ongoing relationship with the engineering firm. As we consider this down the road I would like to have some direct examples of the turnaround time from Kimley Horn or Lee Engineering on the turnaround time for the Town, once the Town requests it, and then the cost. Then be able to go out to some engineering firms as to what it would be in the event it was put in their hands to be able to do it, for comparison of the time and expense.

Stephenson: We have fixed the issue such as what happened with Lakeside where we did not allow the applicant to have access to the consultant until after the first round was done?

Powell: Correct.

4. Planned Development(PD) Standards:

- The current PD standards do not allow flexibility to accommodate innovative and specific instances.
- This change would allow for flexibility without making global changes or creating specific standards which have taken place for such developments as The River Walk at Central Park, Lakeside DFW and Lakeside Ranch.
- The increase in flexibility should not be used to negatively impact the high development standards currently in place.

5. Definition of Floodplain:

- Recommend that the definition of floodplain be revised to only use FEMA limits and to use fully developed conditions for all streams and waterways.
- The new standard would have the effect of giving developers flexibility in determining how to develop their property while not affecting adjacent properties by maintaining the upstream or downstream water surface or velocity (speed) of flow.

Mr. Powell pointed out there are some facts that he keeps coming back to with regard to floodplain:

- Town currently allows
 - Development of the floodplain with Town Council approval
 - Environmental exceptions for economic development projects
- Amendment would not change
 - Flood protection
 - Maintaining natural features
 - Floodplains in existing developments
 - SMARTGrowth requirements

He noted the various categories of flood plain and pointed them out on a map, indicated the map explains the difference and the impact.

This amendment would get the Town in line with some of the competing municipalities to not have that different standard.

Dixon: Requested of Mr. Beougher, who has been doing business in Flower Mound for a long time and is a professional engineer, to touch on the time frame when the current Town flood plain put in place.

Von Beougher, G & A Consultants, Development Process Review Committee member

Beougher: Around 2007 and in 1986 there are some old Town ordinances that basically outline using the FEMA model, and at that time it said that any changes to the FEMA flood plain required Town Council approval, which that is normal and customary with every city. In 2007 I think that was the intent but the language got twisted around some. This is one of the impediments to development – the 80 acres and the two foot of depth was a significant hurdle to overcome because it would render some properties unbuildable that could easily be built on.

Dixon: If Council changed the definition to fully developed FEMA flood plain, it's actually going back to where we were originally, as that was the standard. I want you to talk about the protections using FEMA fully developed flood plain versus Flower Mound definition of a fully developed flood plain.

Beougher: The committee had a survey of the surrounding cities and he commented that Flower Mound was somewhat out of step in that they have their own definition. What wasn't mentioned was though some of the other cities don't even require fully developed flows in their studies; it's just based upon FEMA flows. FEMA models the flood plain based upon current development. They don't even take into account your zoning map and calculate the run off from the fully developed upstream water shed. So that is an additional protection for the Town of Flower Mound and some cities do require fully developed flow. Not every city does. You are gaining protections by having the fully developed flow requirement in the ordinance and that is what the committee recommended.

Powell: Pointed out that people believe the FEMA flood plain is somehow the current status in a municipality. These streams have not been studied by FEMA except for Timber Creek. Two years ago FEMA came to the Metroplex indicating they have enough money to study 5 – 12 streams in the Metroplex. The Town got together with Lewisville, because Timber Creek dumps in there, so let's make this one of those. This is the only stream in Flower Mound that really has been studied. The rest of it is based on 1985 data. The standard doesn't take into account current and future conditions. The next issue deals with how to cross a flood plain (i. e. con span or box culverts). That hasn't been brought forward yet because the aesthetic conditions still need to be reviewed. In the meantime the Town Manager does have the ability to allow those, which we have done, and we have looked at the aesthetics on the ones that have come forward on a case by case basis. The other item on the list is the level of detail requirement – what level of detail is required at what stage in the process for the development applications. The committee was provided carrying costs based on various cities. We require at the zoning stage that people do a lot of work that they don't have to do until the site plan stage or building stage. What we have done is, Mr. Stathatos has instructed me that we're going to take a test case (Lakeside DFW) and look at that and it's not even changing the standards or regulations, but what we are requiring at each step of the process. For example, you take Cross Timbers Village – they had a concept plan and what we require on a concept plan looks like a site plan. You put

them side by side and the level of detail for both of them is almost the same. Let's take landscaping, for example, on a concept plan we don't require people to show the areas that they are going to put landscaping, or where there is a buffer needed. We make them show us on a map the individual locations of all of those at the concept plan stage. Then at the site plan stage, where they really should be, we make them do it again. What would happen on the concept plan stage we would say yes, you need to be able to talk about and express but we're not going to make you show every tree. There would be notes that you would meet the landscaping and buffer standards. The engineering is a costly thing because we're making them design the project at a concept plan stage before they get entitlements (before they even know if their project is going to go forward). That is another discussion point and we're trying to discuss that on a staff level and we think we can get there without changing the regulations, however, over the years there has been this creep to require more and more information earlier in the process.

Stephenson: For all of these years I have heard people complain but I thought it was because it was in the Ordinance. That said, if we want to do that then we should make it part of the ordinance because people would know what to expect when they come forward.

Powell: Right. Once we get it ironed out we have said we are going to find some things and we will want to tweak the Ordinance or regulations. We owe it to everybody to write some standards.

Dixon: That's exactly the point that we have heard for years – good quality professional engineers would say it's not in your ordinance but the people who have done business in Flower Mound have just done it and looked at it as a cost of doing business in the good years. In the lean years there started to be more push back. If the Town is going to have expectations it has to match up with our ordinances, which could be considered the road map of expectations.

Hayden: Does the committee feel if these changes were made it would diminish the standards?

Si Simonson, Development Process Review Committee, Chair

Simonson: No. We didn't want to change any standards; we just wanted getting things done to make sense. It's more about what is due when.

Dixon: Expressed appreciation for Mr. Simonson serving as chair and also appreciated how he was consistent in asking the opinion of those in the audience on everything.

Simonson: We had a good cross section of developers and citizens.

Mayor Hayden opened the Public Hearing at 10:48 p.m.

Public Participation

Melissa Northern, 4601 Portsmouth Ct, Flower Mound, TX

Ms. Northern had the following comments or questions:

1. Mr. Powell did not outline which neighborhood would be impacted by this new change (ones that are currently undeveloped)
2. What I heard Mr. Powell say at the P & Z Commission is that the exception we currently have at the Town Council is no longer going to be a public hearing, but an improved process through staff, so if that is not correct please let me know because I won't be in opposition to it as much. I would encourage those of you who saw other communities impacted by flooding, that whether they are doing the fully developed study, which is great they are continuing to do that. But when you take something out of the public eye and they don't have the opportunity to participate. I hope I heard that wrong.
3. Subdivision regulations and the TIA deferral, I really agree with P & Z on this that they need to go through P & Z on this. I think you saw what happened with the day care, and you would have had a lot of issues.

Powell: For the second question my intent is to say that the process doesn't become a public process. If someone needs to get an exception to develop in the flood plain that would still be a public process to do that. That does not change. What really changes, which goes to the other question - what is the impact. The neighborhoods aren't impacted because all of the existing neighborhoods would be protected by the studies that would need to be done. There are not new neighborhoods in these green areas. They are either existing or yet to be developed. He pointed out various locations on the map including Lakeside, Denton Creek, SPA 8, and the Cross Timbers area.

Webb: Pointed out that this may make it easier to develop but all of the protections are still there because it has to be developed based on fully set up development upstream and you can't dump more water downstream than what is being put out today (or faster water).

Powell: That is correct, I have not received any comment or phone calls, no one spoke at P & Z, and Ms. Northern is the first person that has asked a question.

Stephenson: With regard to the reduction of P & Z packets, has anyone expressed any concern, and how long have you been doing that?

Powell: No, and I think it's still an evolving process and we're gauging how much is too much and how much is not enough.

Powell: Mentioned that there is new software coming called Track It that will put a lot of information out there such as a site plan. The public will have the option to review final revisions at P & Z on line.

Dixon: For items 6 and 7, which were the recommendations from P & Z and not in the draft motion, which was the process for amending subdivision regulations and to defer the TIA to after site plan approval. I watched the P & Z meeting and I thought the recommendations were sound, and as a motion comes forward it will not include items 6 and 7.

Mayor Hayden closed the Public Hearing at 10:57 p.m.

Councilmember Webb moved to approve a request to amend the Land Development Regulations (LDR 01-13) by amending Subpart B, Chapter 90 of the Code of Ordinances, entitled "Subdivisions," through the amendment of Section 90-301, "Exceptions to street standards," by deleting Subparagraph B thereof in its entirety and replacing said Subparagraph B with a new Subparagraph B that exempts replats of existing lots in certain subdivisions from conforming to the Town's street design standards, and through the amendment of Section 90-402, "Minimum drainage standards," by adding a new subparagraph regarding the "100-year Floodplain"; by amending Chapter 98 of the Code of Ordinances, entitled "Zoning," through the amendment of Section 98-814, "Development Standards," regarding Planned Development Districts by deleting said section in its entirety and replacing it with a new Section 98-814 also entitled "Development standards," and through the amendment of Section 98-1081, "Floodplain Prefix to District Designation," by deleting said section in its entirety and replacing it with a new Section 98-1081 also entitled "Floodplain Prefix to District Designation"; by amending Volume I, "Design Criteria," of the Town's Engineering Design Criteria and Construction Standards by and through Section 32-3, "Engineering Design Criteria and Construction Standards--Amendments," by the amendment of Part B, "Technical Standards," by amending Section VII, "Town of Flower Mound Access Management Policy and Criteria," by amending the paragraph entitled "Deviation and Dispute Resolution Process," on Page B-VII-7, thereof, by deleting said paragraph in its entirety and replacing it with a new paragraph also entitled "Deviation and Dispute Resolution Process," and adopt an ordinance providing for said amendments. Councilmember Dixon seconded the motion.

ORDINANCE NO.15-13

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 90 OF THE CODE OF ORDINANCES, ENTITLED "SUBDIVISIONS," THROUGH THE AMENDMENT OF SECTION 90-301, "EXCEPTIONS TO STREET STANDARDS," BY DELETING SUBPARAGRAPH B THEREOF, IN ITS ENTIRETY AND REPLACING SAID SUBPARAGRAPH B WITH A NEW SUBPARAGRAPH B THAT EXEMPTS REPLATS OF EXISTING LOTS IN CERTAIN SUBDIVISIONS FROM CONFORMING TO THE TOWN'S STREET DESIGN STANDARDS, AND THROUGH THE AMENDMENT OF SECTION 90-402, "MINIMUM DRAINAGE STANDARDS," BY ADDING A NEW SUBPARAGRAPH REGARDING THE "100-YEAR FLOODPLAIN"; BY AMENDING CHAPTER 98 OF THE CODE OF ORDINANCES, ENTITLED "ZONING," THROUGH THE AMENDMENT OF SECTION 98-814, "DEVELOPMENT STANDARDS," REGARDING PLANNED DEVELOPMENT DISTRICTS BY DELETING SAID SECTION IN ITS ENTIRETY AND

REPLACING IT WITH A NEW SECTION 98-814 ALSO ENTITLED "DEVELOPMENT STANDARDS," AND THROUGH THE AMENDMENT OF SECTION 98-1081, "FLOODPLAIN PREFIX TO DISTRICT DESIGNATION," BY DELETING SAID SECTION IN ITS ENTIRETY AND REPLACING IT WITH A NEW SECTION 98-1081 ALSO ENTITLED "FLOODPLAIN PREFIX TO DISTRICT DESIGNATION"; BY AMENDING VOLUME I, "DESIGN CRITERIA," OF THE TOWN'S "ENGINEERING DESIGN CRITERIA AND CONSTRUCTION STANDARDS" BY AND THROUGH SECTION 32-3, "ENGINEERING DESIGN CRITERIA AND CONSTRUCTION STANDARDS--AMENDMENTS," BY THE AMENDMENT OF PART B, "TECHNICAL STANDARDS," BY AMENDING SECTION VII, "TOWN OF FLOWER MOUND ACCESS MANAGEMENT POLICY AND CRITERIA," BY AMENDING THE PARAGRAPH ENTITLED "DEVIATION AND DISPUTE RESOLUTION PROCESS," ON PAGE B-VII-7, THEREOF, BY DELETING SAID PARAGRAPH IN ITS ENTIRETY AND REPLACING IT WITH A NEW PARAGRAPH ALSO ENTITLED "DEVIATION AND DISPUTE RESOLUTION PROCESS"; REPEALING ALL CONFLICTING ORDINANCES, ORDERS, AND RESOLUTIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON THE MOTION

AYES: Webb, Levenick, Stephenson, Dixon, Wise

NAYS: None

18. Abandonment of Heritage Lane

Public Hearing

Public Hearing to consider vacating, closing and abandoning Heritage Lane and a segment of Surrey Road at and about its intersection with Heritage Lane and Lakeside Parkway, authorizing the mayor to execute the necessary documents required to quitclaim and convey the Town's interest in the Heritage Lane and Surrey Road right-of-way sections to the abutting property owner, and to approve a development agreement regarding the timing of the road closure and the construction of new streets.

Staff Presentation

Mr. Powell gave a presentation outlining or identifying:

- What the item does is that in two sections gives Heritage Lane to the adjacent property owners. One of the things we found out today, and we're changing is that in your packet that track two does not say JBL Chateau LLC, it says Realty Capital LLC because when they did the survey Realty Capital owned it and JBL (the developer for the single family) has now bought it so they now own both sides of that. It stops short of where it intersects Lakeside and there is a second piece that continues. It's a little portion of Surrey because Surrey now is going to come in at a 90 degree angle. That means that for the development plan you saw that has a dark area that shows existing street that street is going to go away with the development of phase I and you can see the new streets. Then this is that other page that shows where Heritage currently comes in, and that goes away, and you have a new street aligned from Surrey. This also shows that as part of this development they are building new roadways.

- Overall development plan
- This allows, as a record plat comes forward, they want to be able to say there is no right of way for Heritage so when someone goes to buy a house with a mortgage there is no question that there is still a road out there.
- The development agreement protects the Town in that we're going to abandon that roadway, but you have to keep it open to traffic until the new streets are in.

Hayden: I received a comment today from a resident asking why are we giving away land and selling it for \$10, and shouldn't we be getting something in return.

Welch: The reason we do a quit claim is there are some special exceptions under state law that this isn't property you can do anything with when you ultimately abandon it. You can't build on it. There are special provisions in state law that allow you to abandon old right of way and the Town's practice, and has always been, for these small strips of land we wouldn't go out and sell a 40 foot right of way to somebody. There is no market for that. It's difficult to value a strip of land behind someone's property. It has no value in of itself.

Hayden: Its 1.6 acres of land, why isn't Lakeside giving us something.

Stephenson: In this particular instance we're getting new roads.

Powell: Yes, we're getting a new development. From a non-legal standpoint if you have been out to Heritage Lane you realize it's not built to Town standards and it's costly for the Town to maintain, and it's not safe to keep it the way it is now with the connection to Lakeside. That was always a temporary roadway to allow for access and connectivity but it was never going to be a permanent roadway. You go back to the earliest PDs for PD 39, so it's been out there. In the process, the Town gets rid of a substandard street that we do have to maintain and we get new streets and connectivity and we get a new development. He offered a few examples as to when this had been done in the past, however, it doesn't happen often.

Mayor Hayden opened the Public Hearing at 11:16 p.m.

No one spoke in support or opposition.

Mayor Hayden closed the Public Hearing at 11:16 p.m.

Councilmember Webb move to approve an Ordinance and Development Agreement with JBGL Chateau LLC and Lakeside DFW Land, Ltd.; and authorize for the mayor to execute same on behalf of the Town. Mayor Pro Tem Stephenson seconded the motion.

ORDINANCE NO.13-13

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, VACATING, CLOSING AND ABANDONING CERTAIN SECTIONS OF HERITAGE LANE AND SURREY ROAD, IN THE TOWN OF FLOWER MOUND, DENTON COUNTY, TEXAS; AUTHORIZING THE MAYOR TO EXECUTE THE NECESSARY DOCUMENT(S) REQUIRED TO QUITCLAIM AND CONVEY THE TOWN'S INTEREST IN THOSE SECTIONS OF HERITAGE LANE AND SURREY ROAD RIGHT-OF-WAY SO VACATED, CLOSED AND ABANDONED TO THE ABUTTING PROPERTY OWNERS AS PROVIDED HEREIN; PROVIDING A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE. _

VOTE ON THE MOTION

AYES: Wise, Dixon, Stephenson, Levenick, Webb

NAYS: None

J. COORDINATION OF CALENDARS AND FUTURE AGENDAS/MEETINGS

Consider cancellation of the July 1st Town Council meeting in conjunction with the July 4th holiday.

There was Council consensus to cancel the July 1st Town Council meeting.

K./L. CLOSED/OPEN MEETING

The Town Council convened into a closed meeting at 11:19 p.m. on April 1, 2013, pursuant to Texas Government Code Chapter 551, including, but not limited to, Sections 551.087, 551.072, 551.074, and 551.071 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 12:22 a.m. on April 2, 2013, to take action on the items as follows:

- a. Discuss and consider economic development incentives.

No action taken.

- b. Discuss and consider purchase, exchange, lease or value of real property for municipal purposes and all matters incident and related thereto.

No action taken.

- c. Discuss and consider appointments to the Animal Services Board, Board of Adjustment, Oil and Gas Board of Appeals, Community Development Corporation, Environmental Conservation Commission, Parks, Arts and Library Services Board, Public Arts Committee, Planning & Zoning Commission, SMARTGrowth Commission, Tax Increment Reinvestment Zone Number One (TIRZ #1), and Transportation Commission.

Councilmember Levenick moved to approve the appointment of Annette Weir, Dave Gary, and Tammie Turner to the Public Arts Committee with a term expiration date of September 30, 2014. Deputy Mayor Pro Tem Wise seconded the motion.

VOTE ON THE MOTION

AYES: Wise, Dixon, Stephenson, Levenick, Webb
NAYS: None

- d. Consultation with Town Attorney regarding legal issues relative to franchise agreement with utility provider and contract utilities.

No action taken.

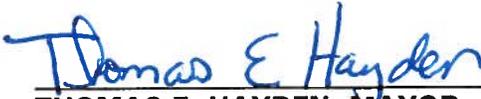
- e. Discuss and consider duties of Town Secretary, and all matters incident and related thereto.

No action taken.

M. ADJOURN REGULAR MEETING

Mayor Hayden adjourned the meeting at 12:24 a.m. on Tuesday, April 2 2013, and all were in favor.

TOWN OF FLOWER MOUND, TEXAS


THOMAS E. HAYDEN, MAYOR

ATTEST:


THERESA SCOTT, TOWN SECRETARY