

THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 6TH OF MAY, 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
Doug Powell	Executive Director of Development Services

A. CALL REGULAR MEETING TO ORDER

Mayor Hayden called the regular meeting to order at 6:06 p.m.

B. INVOCATION

Chaplain Liles gave the invocation.

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

Mayor Hayden led the pledges.

D. PRESENTATIONS

1. Proclamation for Public Works Week.

Executive Director of Public Works, Ken Parr accepted a Proclamation for Public Works week and presented Mayor Hayden with a commemorative picture consisting of signatures from the Public Works staff.

2. Certificate of Achievement, 2nd Place State Champions, Marcus High School Hockey Team.

Head Coach, Corey Clarks and Assistant Coaches Erik Jansen and Drew Harcharik accepted a Certification of Achievement on behalf of the team.

3. Update and status report from Keep Flower Mound Beautiful on the Lend-A-Hand Community Enhancement Initiative, and Town Council to discuss and consider same.

Marilyn Lawson and Mary Ligon with Keep Flower Mound Beautiful (KFMB) gave a presentation providing an update related to the first KFMB Lend-A-Hand Community Enhancement Initiative scheduled for May 11, 2013.

4. Presentation and community update by Denton County Transportation Authority (DCTA), and Town Council to discuss and consider same.

Jim Robertson, DCTA Representative for the Town of Flower Mound, and Jim Cline, President, DCTA gave a presentation on DCTA activities and is outlined as follows:

- Background information on DCTA
- Agency facts
- A-train update
- FY 13 ridership to date
- Supporting special events ridership
- Legislative strategy
- Five year capital and operating priorities
- New term service goals
- Bus operations and maintenance facility site plan
- Positive train control
- ITS applications
- Rail trail expansion
- Capitalizing on the investment (partnerships and service to various groups)
- Future expansion

E. PUBLIC PARTICIPATION

Names listed below are not necessarily in the order in which they spoke.

Rachel Pendleton, 3605 Spring Meadow Ln, Flower Mound, TX

Ms. Pendleton stated she enjoys going to the senior center and she is on the board. She commented we really need a new senior center with separate rooms. The building is nice here but we outgrew it before we even moved in. She asked that when the time comes for a new senior center they would appreciate maintaining a central location.

Leo Gonya, 2217 Shumard Ln, Flower Mound, TX

Mr. Gonya indicated being in favor of the new growth with Lakeside and River Walk developments. He mentioned having gone to the Lewisville Senior Center for the Health Fair and there were many comments about things we don't have in Flower Mound.

Councilmember Webb clarified Lewisville did support their seniors because I voted for that bond package when I lived in Lewisville. I moved here. I support our seniors too.

Harry Lantvit, 701 Crested Butte Trl, Flower Mound, TX

Mr. Lantvit indicated he wanted to talk about the senior center. He noted that Lewisville has a nice multi-purpose senior center. He pointed out that currently they can only have one activity taking place at a time. He hoped that something could be done in the near future.

Cameron Cox, 2130 Northwood Terrace, Denton, TX 76209

Mr. Cox expressed appreciation for Council considering Elsey and Elsey for their tax collection business. He provided background information related to his education and work experience.

Jim Robertson, 4029 Dendron, Flower Mound, TX

Mr. Robertson announced he is representing the Forum's residential neighborhood. He indicated they are excited about the neighborhood coming and offer their support. He provided a letter which included a list of concerns for Council consideration as the project moves forward. The letter is included with the May 6, 2013 minutes (Attachment 1 below).

Mayor Hayden announced that on May 19th there will be a Forum's neighborhood meeting with the developers of the River Walk for the purpose of providing an update on the project and being available to respond to questions from residents.

(Jim Robertson Letter) Attachment 1

April 28, 2013

Tom Hayden, Mayor
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, TX 75028

RE: PROPOSED RIVERWALK DEVELOPMENT

Mayor Hayden,

Thank you for visiting with our residents yesterday evening to discuss the conceptual plans for the Riverwalk development as proposed by Centurion American. We appreciate your time to receive input from each family who lives along the proposed greenbelt. As established residents, we are concerned with the future impact of this development and want to ensure all requested amenities and abatements are considered. It is important that our property values are protected and our security is maintained. We believe this development will be a great asset for our community and want to be a partner in the initial design process. The following is a list of concerns that we would like the Flower Mound Town Council to consider:

1. Most importantly, preserve the proposed greenbelt buffer that runs east/west along the north and east sides of the Forums Residential subdivision and ensure all trees located within this zone are protected and maintained prior to and during construction. We would prefer the width of the greenbelt to be considered at a minimum of 150ft throughout its entire length along the northern and eastern property lines.
2. Secure the western end of the north/south alignment parallel to FM 2499 with a permanent sound wall or equivalent-similar to one constructed by TXDOT. We would also suggest that an interior earthen berm be constructed with permanent evergreen vegetation. The vegetation should be drought tolerant and include evergreen Live Oak trees to produce a visual barrier and improve sound attenuation.
3. Construct a permanent masonry security wall along the northern perimeter of the greenbelt to be located approximately 150ft north our residential property lines, run parallel generally east/west and the full length of the greenbelt to protect and secure the northern property owners. If restaurant and entertainment facilities are being proposed in this area, this abatement would help improve sound attenuation and security for the property owners located at the northern end of the subdivision. We are suggesting a 10ft pre-cast masonry wall system with maintenance access as needed. We would also request that we be included in the design process and have influence on the color and style of the wall system.
4. Minimize exterior lighting and direct any lighting source away from residential structures with the exception of ambient security lighting should be considered for security purposes.
5. Restrict the hours of use of outdoor facilities which within reasonable hours which may produce noise during late evenings. Sometimes restaurants with outdoor dining near residential areas may produce unfavorable noise during the evening and late hours. We request that any outdoor activity be limited to specific hours and be in compliance with local noise related ordinances. Any permanent vegetation to help deflect and abate exterior noise near residential areas should be considered.
6. Allow residents to access the greenbelt at anytime from the rear of their properties.

Please consider these points of concern prior to approval of any additional conceptual plans as submitted by the developer.

Sincerely,



Jim Robertson

Kathy Robertson

Randy Vandervaate

Kim Vandervaate

Kenny Powers

Kevin Corley

Laura Corley

Sean Fleming

Monta Fleming

Bill Blackmon

Sherry Blackmon

Richard Plott

Sherry Plott

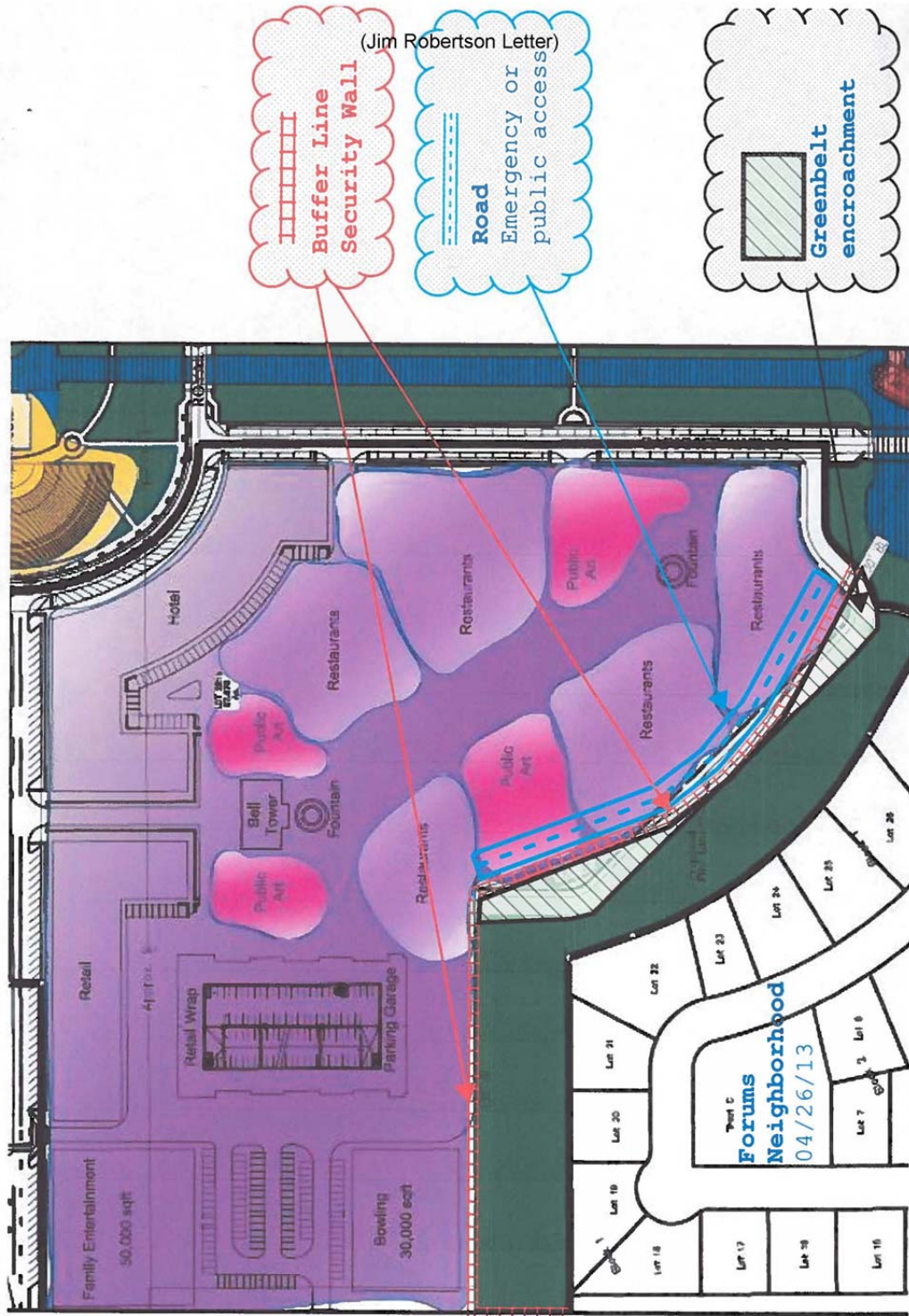
Kurt Witter

Susan Witter

Missy Morrish

Mike Perry

Cathy Perry



F. ANNOUNCEMENTS

Stephenson: Announced that voter turnout is low and encouraged everyone to vote.

Levenick: On Friday, May 10th the Seniors in Motion will have a Mother's Day breakfast at 9:00 a.m., and on June 14th they will have a Father's Day ice cream social at 1:00 p.m. Those events are open to seniors and you simply need to sign up at the front desk.

Webb: Reiterated the importance of getting out and vote.

Mayor Hayden had the following announcements:

- Participated in the Mornings with the Mayor meeting with the residents of the Willow Ridge subdivision. There were approximately 30-35 people there and they had a couple things they wanted me to relay. When we were discussing the update of the thoroughfare plan they want us to consider Old Orchard Road because it's four lanes until a certain section and then it turns to two lanes and it's becoming difficult to navigate. Another thing they mentioned (where Orchard Flower is going) is that several residents discussed that they didn't think that corner was being kept up and the grass is getting long and to make sure code enforcement is making sure it is being maintained.

Mr. Roy Oteo was complimentary of the Town's fence and sidewalk programs. He would like to see if it's possible to expand the fence program to the entire Town and not just the thoroughfares.

- Announced Twelve Stones is a new upscale steak and seafood restaurant coming to Flower Mound in the fall of this year. It's a local business owner that lives in Wellington and he noted the following specifications or features:
 - Will be located at the corner of Morriss Road and FM 3040
 - 4,000 square feet in size
 - Will offer new American cuisine, steaks, seafood, regional American specials
 - Everything will be made from scratch
 - Produce will be from local distributors
 - There will also be seating for 14 in a private wine room

G. TOWN MANAGER'S REPORT

Update and status report related to capital improvement projects.

Mr. Stathatos offered the following updates:

- Post Oak Park: dedication is scheduled for May 20th at 4:00 p.m.
- Wichita Trail: efforts are being made to expedite that project and Council will soon be updated on some considerations that could help in that process, and will later be conveyed publically in the future.
- Accident at Shadowood and Firewheel: There was a significant accident recently at this location and the Town has been in contact with some of the residents in that area. A traffic study is being conducted to look at what can we do to make that a safer intersection – whether that means making it a 3-way stop, etc. The traffic counts are being conducted this week and then we're going to do a warrant study,

followed by a visibility study. In addition, we're also looking at stop signs for various locations through Tealwood Oaks. And also at Clearpoint and Flower Mound Road we've had some residents that have expressed the need for stop signs. Our goal is to ensure safety and asked if anyone has concerns in terms of intersections, mobility, etc. to let the Town know. We can run the models and see what can be done to make the improvements.

Update and discussion on Economic Development projects.

Mr. Stathatos offered the following updates:

- The Black Walnut Café is coming and going to be at Firewheel at 2499 near Calloway's. Not only are they going to have their 6,000 square foot restaurant, but they will have an office located there in which they will use to facilitate their expansion for the rest of the Metroplex.
- The Town is one of three finalists for an electronics manufacturing headquarters. This would be significant in that it would be over 100 jobs, the average salary would be \$75,000, and it would be 80,000 – 100,000 square feet of new construction.
- There is another international headquarters in the works has well.
- Dunkin Donuts has been one of the most talked about restaurants. Staff has met with them and they went through the development review committee and they should be coming to the P & Z Agenda with a site plan in the month of June. That location will be Flower Mound Rd and FM 2499.

Update related to relief efforts for the Town of West, Texas by the Flower Mound Fire Department.

Mr. Stathatos reported that Chief Metzger facilitated with staff the ability for some of our fire fighters to go out and help the Town of West that was in need. Everyone on staff was eager to help and that demonstrates the commitment and dedication of our staff. Some of the things they did when they were in West had to do with regular functions such as responding to calls, maintaining the station, and helping residents that were impacted by the tragedy in retrieving their belongings, and doing whatever they could to provide some normalcy.

He pointed out having received an email from an employee at the City of Keller and she grew up in West, Texas. She lost both her stepfather and her uncle. They were two of the first responders that passed away. Obviously her family was heavily impacted and to add even more sentimentality to the situation her husband is a firefighter in Keller. It's amazing because a lot of times if you have been fortunate enough to not have to call the Fire Department and to not need their services you don't necessarily realize the impact they have on people's lives. To see the outpouring of appreciation from people that our staff was able to impact is significant.

Update and status report related to the launch of TRAKiT development software.

Mr. Stathatos reported that on April 30th we unveiled the new TRAKiT software and it's going to be a great help in our development and code enforcement efforts. It's going to

allow someone to pull a permit on line, ability to accept credit cards, track progress, and site plan comments can be reviewed on line. It will help with both internal and external customer service. It's also going to allow us to fine tune some areas of code enforcement such as tracking, historical review of calls. The feedback so far has been positive.

Update related to ATMOS easement clearing, and more specifically, in relation to an ATMOS HCA (High Consequence Area) classification, and Council to discuss and consider same.

Mr. Stathatos reported that one of the issues of discussion with Atmos in the past had to do with the high consequence area (HCA). Right now there is a 12.3 mile stretch of the Atmos pipeline in Flower Mound. And about 8.7 miles of that pipeline is part of the HCA. One of the things that come up is that Council requested Atmos consider designating the entire pipeline as an HCA, and Atmos has agreed. The reason I think this is such a win, and critical for the Town, is because that heightens Atmos' monitoring efforts and it shows that the entire area is a sensitive area that needs to be constantly monitored. It made sense from the perspective that if 70-80% of the pipeline in Flower Mound is already being heavily monitored, to incorporate the rest of it. That will go into effect June 1st.

Dixon: Several months ago I believe at a Council meeting I mentioned Arch Angel II. If you could give an update to the residents and let them know what has happened on that.

Stathatos: The Police Department contacted the vendor for Arch Angel II and we tried it out. He asked Chief Brooker to provide an update based on the Town's experience with that.

Chief Brooker reported Arch Angel II is basically a GPS system that will keep officers from being able to use their computers and other equipment at the time they are driving. What happened with it was that the officers had to reboot their computers every time they used it. So they would have to stop and take 30-45 seconds to reboot, which was throwing off our response times. They are developing other products and we're hoping we can find one to replace it.

Dixon: Yes, that's an important thing for the Town to consider and I know the Police Department and the Town Manager's office did report there was a glitch in their system and it wouldn't be prudent for us to go that direction. But hopefully in the near future we can come up with a program that actually works.

Another thing I wanted to mention is that I had a meeting last week with the Homeowner's Association in Wellington. The HOA has been in communication and in a legal situation with one of the residents in Wellington about solar arrays on their property. The solar arrays on their property started with some solar panels on their roof. It has expanded off of his roof onto the back and side yard. When it was brought to my attention I went over and drove by his house. In Wellington we're required to have tubular steel fences so you can easily see from my back yard into my neighbor's back yard visibility from the ground up, unless there is a landscape buffer. When I went over to this house and I saw what the next door neighbors have to see and view from their property, it's not good. I also had my wife look at it she came to the same conclusion. From that meeting I informed the Town Manager about this and they are going to be investigating it, which will include talking with the Wellington HOA to get some information that they have gleaned through their

discussions and work. I do know that Alan has put an Ordinance on the books for their code regarding this, but I would like for us to start the ball rolling on looking to see if there is something the Town needs to do to make sure that our residents are not impacted by this situation in the future.

Wise: What is the status of the opening of West Windsor? I know we were waiting on a permit for the light but there have been a lot of questions as to when that is going to open up.

Stathatos: Doug met with TxDOT last week and this is one of the issues.

Powell: The issue is we're waiting for a TxDOT permit to install the signal. We're expecting the permit from TxDOT, and even though we have the equipment, etc. on site, we still have to install it too, so it's going to take a little bit of time after we get the TxDOT permit to put up the light. The fear is that location really is a blind curve so without that light we're fearful of people exiting out of there to go North. It's in process and we hope to get the permit soon and we'll be under construction.

Dixon: I had several resident contact me on this – if you're traveling Southbound on 2499 when you get to the hospital (just shy of the hospital at West Windsor), we have had a lot of situations where people are doing U-turns (turning back North) and it's created a situation that we wouldn't want someone having a traffic accident. For that reason I did mention to the Town Manager a request to have the engineering and police department look into the possibility of doing a no U-turn at West Windsor from going Southbound and U-turning to go Northbound.

Levenick: I came up on that accident soon after it happened on Firewheel. When it happened it was right at the corner and it was a pretty bad accident so I am glad to see that the traffic studies are underway.

H. CONSENT ITEMS

Councilmember Dixon moved to approve by consent Items 1 – 6. Deputy Mayor Pro Tem Wise 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 work session of the Town Council held on March 21, 2013.**

RECOMMENDATION: Move to approve the minutes from a work session of the Town Council held on March 21, 2013.

2. **Consider approval of the minutes from a regular meeting of the Town Council held on April 1, 2013.**

RECOMMENDATION: Move to approve the minutes from a regular meeting of the Town Council held on April 1, 2013.

3. **Consider approval of the minutes from a special meeting of the Town Council held on April 15, 2013.**

RECOMMENDATION: Move to approve the minutes from a special meeting of the Town Council held on April 15, 2013.

4. Consider approval of the minutes from a regular meeting of the Town Council held on April 15, 2013.

RECOMMENDATION: Move to approve the minutes from a regular meeting of the Town Council held on April 15, 2013.

5. Consider approval of canceling the September 2, 2013, regular meeting of the Town Council.

RECOMMENDATION: Move to approve canceling the September 2, 2013, regular meeting of the Town Council.

6. Consider approval of Amendment No. 1 for the design and bidding phase services of the Operations and Maintenance Facility project, amending the Professional Services Agreement with Freese and Nichols, Inc., for an increase of \$16,168.90; and authorization for the Mayor to execute the same on behalf of the Town.

RECOMMENDATION: Move to approve Amendment No. 1 for the design and bidding phase services of the Operations and Maintenance Facility project, amending the Professional Services Agreement with Freese and Nichols, Inc., for an increase of \$16,168.90; and authorization for the Mayor to execute the same on behalf of the Town.

VOTE ON MOTION

AYES: Wise, Dixon, Stephenson, Levenick, Webb

NAYS: None.

I. REGULAR ITEMS

7. Public Hearing to consider a request for rezoning (ZPD 01-13 - Timber Creek Medical Park) to amend Planned Development District-114 (PD-114) with Retail District-2 (R-2) and Office District (O) uses, by amending the Development Standard(s) to add Hospital as a use that may be permitted with a Specific Use Permit approved by the Town Council in those areas having a base zoning district designation of Retail District-2 (R-2) or Office District (O) uses, and to consider adopting an ordinance providing for said amendment. The property is generally east of Long Prairie Road and south of College Parkway. *(The Planning and Zoning Commission recommended approval by a vote of 4 to 0 at its March 25, 2013, meeting.)*

Staff Presentation

Mr. Powell gave a presentation identifying or noting:

- Property location
- Land use and zoning
- Photographs of site (undeveloped)
- Hospital use
- Approved concept plan
- Conceptual elevations

What is before you tonight is to add back in the hospital use. When the PD was created, which was in conformance with the Master Plan, both within that Retail 2 (which is in the front of the property and the office uses in the rear), the sections that allowed the property owner to come in and seek an SUP for a hospital were eliminated. At that time there was a lot of discussion as to what falls in that category of hospital. I say hospital, but it involves more than just a hospital, but a surgery center, and places that have onsite medical treatment/medical care. Even though it says hospital the definition is much broader than just a hospital.

He showed the concept plan to demonstrate the access across from the new roadway, where the new light will be and people will be able to come down the access drive into the hospital proper. So it really is the ultimate access to the property for the folks to the north.

There is no application for you tonight to do anything to this concept plan or any of the standards that were approved - Only to allow/add back in that use for a hospital that the property owner then could use to ask for an SUP. Of course they would still have to come through, have a site plan, build the buildings, etc.

The reason for the item coming forward to Council is to add the use of "hospital" so they can proceed with the approved plan.

Dixon: Asked Mr. Weaver to come forward. In reading through the packet it states it was December of 2010 when this came before Council. From my recollection the hospital use was removed at the very end of a Council meeting.

Todd Weaver, Weaver Commercial Real Estate, 3505 Yucca Dr, Ste 100, Flower Mound, TX

Weaver: And you are right. I had just come off finishing the College at Parker Square and I got reacquainted with this project. We sailed through P & Z 6 - 0 and I was under the impression someone was about to make a motion to go forward with it when Harlan and Al started talking about trying to restrict uses and that was one of the uses they wanted to restrict.

Dixon: And Doug was correct. I recall having quite a bit of conversation about different types of hospitals. This location is just north of the Presbyterian Hospital and there was some concern related to competition for the hospital at that time. It was also mentioned that there are so many different types of hospitals that would not even compete with Texas Health Presbyterian Hospital, and because the hospital use was removed, it doesn't even allow the application to be taken because it's not a permitted use.

Weaver: That is correct. There is going to be groups. The physicians travel in packs sometimes. Some of these groups are not allowed privileges at Texas Health. So they from time to time look for areas to come into and that would not affect Presby. It wouldn't be a detriment at all. It would be just a different group of physicians wanting to come out here. In fact, Lewisville Hospital is looking at other sites, such as possibly a medical surgical clinic. Also, several physicians have come to me saying they like that location and the fact that they see pipes sitting out there. These owners have worked with staff allowing them to upsize the sewer and bring it across the road and then up on the West side, so that is what that 3-4 foot pipe is doing out there on their property – they are granting the easement to come right through here and then up and out off of 2499.

Dixon: So when you're having conversation with potential tenants or investors, or potential businesses wanting to build here, and they might be a behavioral hospital, for example, if there was a specialty hospital that was considering this area in which to put their business, just because the use is not there, would they know this and say I'm not even going to call Todd because it's not even an allowed use over there.

Weaver: Yes, it's a lot easier to sell a specific use application than it is to go through a zoning hearing and then an SUP. The fact that this Council will see any user that comes in with that title through the SUP and site plan process gave me a lot of comfort, and hopefully you all too.

Dixon: Asked Mr. Powell to walk us through the process if Council were to put this use back in – if a hospital use was considering this area, what would they have to do to get approved.

Powell: Tonight's action, if approved, would allow an applicant to seek a specific use permit for the property for a specific hospital, generally described. So they could say within certain parts of the building they would like to have a hospital. That is a specific use permit. It is a zoning change with a public hearing before the Planning & Zoning Commission (P & Z), and a public hearing before the Town Council, with notice to adjoining property owners, published in the newspaper, and a sign on the property. The property does not have a site plan so ultimately a site plan would have to be approved. If there are no exceptions or waivers there could be final action by P & Z, but they still have to go through that process to do that. The property is platted so they have already done that and some of the utilities serving the site are being put in right now. So the decision to approve an SUP would come before this body. A site plan could be final action at the P & Z Commission if there are no exceptions after that point.

Mayor Hayden offered his recollection of the situation at that time.

Town Council convened into closed session at 7:41 p.m. to consult with the Town Attorney for this item and reconvened at 7:48 p.m.

Mayor Pro Tem Stephenson opened the Public Hearing at 7:48 p.m.

Public Participation

Pam Petrides, 4400 Long Prairie Rd, Flower Mound, TX 75028

Ms. Petrides indicated she is representing Texas Health Presbyterian Hospital Flower Mound. Our president Mr. Spencer Turner sends his apologies for not being able to attend tonight's meeting and sends these comments:

Thank you for allowing us to comment on the proposed zoning changes. Our comments on the proposed zoning change to allow hospital use in future developments such as the Timber Creek Medical Park are as follows:

- Approximately two years ago on a similar request the Town Council determined that the Master Plan for developing the area would not allow zoning changes that would include a hospital use
- The Council voted against the zoning change. This decision can now be viewed as the proper decision and it has allowed the hospital to develop successfully.
- With the development of the hospital came physician practices, outpatient services, and many health care related businesses, and with more on the way.
- Texas Health Presbyterian Hospital Flower Mound was not built primarily to be a Flower Mound business but to provide the needed health care services to the community that did not exist before. We have met that need and continue to do so.
- Hospitals are costly, complex, and highly regulated businesses that require strong operating and financial partners, such as Texas Health Resources to be successful.
- The Town of Flower Mound has a very special medical community that has developed with a strong reputation for quality and satisfaction because they chose Texas Health Resources to anchor their medical community.
- We at Texas Health Presbyterian Hospital Flower Mound ask that the Town Council take special consideration before changing the zoning regulations without knowing exactly what type of medical business, or more importantly, hospital, will be built, and gain an understanding as to what their abilities and motives are.
- The quality and reputation of our medical community depended on these decisions.
- These statements are not against Timber Creek Medical Park because we are unaware of their intent.
- These statements are to remind the Council of their successful decisions of the past and requests that they continue to diligently evaluate these request before changing the zoning rules that are in place to ensure develop continues to occur successfully.

Mayor Hayden closed the Public Hearing at 7:51 p.m.

Hayden: What is the intent? What kind of square footage? I do take comfort in that before it becomes official there will be an SUP and there will be a lot more input at that time. I also want to comment that it's not the Council's job, in terms of zoning cases, to regulate competition. It's our job to make sure there is open competition.

It is a specialized industry that takes specialized care.

Weaver: I wasn't here when the Council voted. But I did get the chance to watch it later. It was kind of upsetting on a lot of facets. Right across the street there is an emergency medical center (Lewisville) and when you start leaving a municipality post and getting in to the free market, it's scary to me and I don't agree with that. Going back to your original question – we want the right to market the property. We don't have anybody with a letter of intent. We don't have anybody in tow, but we want the right to go out for shows like ICSC and other people out there that are looking to market this property.

Hayden: So is it a 300 bed hospital?

Weaver: No, I'm not going after 300 bed hospitals.

Hayden: So is it some type of specialty clinic?

Weaver: I'm going after medical brokers out of Dallas, Houston, Fort Worth, and a couple other South Texas towns, but we're trying to market this property and get it developed.

Webb: I think the questions being presented are not for tonight. They are for after an application has been submitted and at that point to come forward with an SUP. I understand there is interest; however, I don't think it's the right time.

Hayden: Disagreed.

Webb: I go back to the decision made in 2010. One of the justifications for that decision was if they have something they want to pursue they can always come back and ask to have that use put back into the zoning. That seemed odd to me and backwards because that's what you have an SUP process for.

There was some additional discussion relative to if this was the time to gain a more detailed understanding of what's anticipated prior to approval of adding the hospital use back in.

Mayor Pro Tem Stephenson and Councilmember Dixon outlined the process. Mayor Pro Tem Stephenson gave the example of The Children's Learning Center that wanted to go on Morriss Road as it's the same SUP situation, and it was denied because it was not an appropriate use.

Dixon: If this passes tonight (regardless of which end of the spectrum of a hospital use) they have to show Council that this is appropriate and it would take a meeting of the minds on Council to say yes, we agree with you. We have an extra level for the Flower Mound residents to make sure it's an appropriate use. Adjacency, and all the other criteria we have at our disposal to make a good decision for Flower Mound. I think we're talking about a multi-step process. It is a little backwards.

Instead of saying it is a permitted use, but come prove to us that it's a good permitted use. And then at that point if Council says yes they can continue with the application and build. By having a situation where the use is stricken when the property is being marketed, it's not being able to be fully marketed because anyone doing their due diligence is saying why are you talking to me because I can show you where Flower Mound says it's not a permitted use. The person marketing the property then has to respond that you can go to Council and ask that it be put in. It didn't make sense to me in 2010 and it doesn't make sense to me today.

I heard you read Spencer's letter and the once thing I will tell Spencer is that it has to go through the system and it has to be an appropriate use, even if we put the permitted use back on our books. I think that is what he was saying. We're not saying we're against something being a hospital use but we want Council and the Town to make good decisions for the area just North of the hospital that is here. By passing this tonight, and having an SUP process, it will allow us that bite at the apple, and that second layer of protection for the residents and the adjacent business owners.

Hayden: After given it some further thought I do agree in that it is saying all things are possible as opposed to this is what will happen. This just opens up the door for us to consider everything.

Mayor Pro Tem Stephenson moved to approve a request for rezoning (ZPD 01-13 - Timber Creek Medical Park) to amend Planned Development District-114 (PD-114) with Retail District-2 (R-2) and Office District (O) uses, by amending the Development Standard(s) to add Hospital as a use that may be permitted with a Specific Use Permit approved by the Town Council in those areas having a base zoning district designation of Retail District-2 (R-2) or Office District (O) uses, and adopt an ordinance providing for said amendment. Councilmember Webb seconded the motion.

ORDINANCE NO.17-13

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 AMENDING ORDINANCE NO. 75-10, WHICH AMENDED ZONING ON APPROXIMATELY 21.62 ACRES OF LAND IN THE C. CHACON SURVEY, ABSTRACT NO. 229, PRESENTLY ZONED PLANNED DEVELOPMENT DISTRICT NO. 114 (PD-114) WITH OFFICE DISTRICT (O) AND RETAIL DISTRICT-2 (R-2) USES, BY AMENDING EXHIBIT "B," ENTITLED "DEVELOPMENT STANDARDS" THROUGH THE AMENDMENT OF PARAGRAPH A, "OFFICE DISTRICT (O) USES," BY ADDING "HOSPITAL" AS AN ALLOWABLE USE TO SUBPARAGRAPH 2 "SPECIFIC USES" AND THROUGH THE AMENDMENT OF PARAGRAPH B, "RETAIL DISTRICT-2 (R-2) USES," BY ADDING "HOSPITAL" AS AN ALLOWABLE USE TO SUBPARAGRAPH 2 "SPECIFIC USES" IN ACCORDANCE WITH SPECIFIC REQUIREMENTS STATED HEREIN AND EXHIBITS

ATTACHED HERETO; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON THE MOTION

AYES: Webb, Levenick, Stephenson, Dixon, Wise

NAYS: None.

8. **Public Hearing to consider a request for a Specific Use Permit (SUP/SP 415-13 - Goddard School) to permit a day care center, and to consider adopting an ordinance providing for said amendment. The property is generally located south of Cross Timbers Road and east of Bruton Orand Boulevard. (*The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its April 22, 2013, meeting.*)**

Staff Presentation

Mr. Powell gave a presentation outlined as follows:

- Location map
- Photographs of the site
- This action would trigger the need to put in the compatibility buffer
- Elevations of the building
- No comments have been received
- The site backs up to the church and the Regency Park developer is aware of the proposed building and use.

Kartavya (Kevin) Patel, 1503 Astoria Dr, Allen, TX 75013

Mr. Patel noted Goddard School is the # 1 franchise school in the preschool industry, and has been for the last seven years.

Hayden: Have you had any comments from the neighbors?

Patel: No.

Mayor Hayden opened the Public Hearing at 8:06 p.m.

Public Participation

No one spoke in favor or opposition.

Mayor Hayden closed the Public Hearing at 8:07 p.m.

Councilmember Webb moved to approve a request for a Specific Use Permit (SUP/SP 415-13 - Goddard School) to permit a day care center, and adopt an ordinance providing for said amendment. Deputy Mayor Pro Tem Wise seconded the motion.

ORDINANCE NO.18-13

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 1.399 ACRES OF LAND IN THE M.E.P. AND P.R.R. CO. SURVEY, ABSTRACT NO. 836, AND BEING ALL OF LOT 9R-2, BLOCK B, OF THE CROSS TIMBERS ADDITION, FROM PLANNED DEVELOPMENT DISTRICT NO. 103 (PD-103) WITH RETAIL DISTRICT-2 (R-2) USES TO PLANNED DEVELOPMENT DISTRICT NO. 103 (PD-103) WITH RETAIL DISTRICT-2 (R-2) USES, SUBJECT TO SPECIFIC USE PERMIT NUMBER 415 (SUP-415) TO ALLOW FOR A DAY CARE CENTER 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 FOR A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON THE MOTION

AYES: Wise, Dixon, Stephenson, Levenick, Webb

NAYS: None.

9. **Public Hearing to consider a request for a Comprehensive Sign Package (CSP 03-13 - North Texas Chiropractic) for a medical office. The property is generally located at 4110 Justin Road #200. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its April 22, 2013, meeting.)**

Staff Presentation

- Detailed location
- Photographs of the site, noting the buildings back up to FM 407.
- Proposed location for building sign to provide additional signage for FM 407
- Part of the discussion at P & Z is that we have been receiving a lot of these sign request lately and I think there is going to be additional discussion, but the P & Z Commission did recommend approval.

Levenick: Mr. Powell, are there any other tenants in this building or close to it in that we are going to start seeing more of these? Because it's starting to look like there is a lot of extra signage on these buildings.

Powell: I think this is it for this building but it is the issue that staff is grappling with in that we have treated these here recently as each individual tenants versus buildings versus the entire development. We really think we need to get back to dealing with the developments versus dealing with the individual tenants.

Levenick: If we were to deal with the development then we could have a sign out in front instead of on the buildings because the animal hospital has two signs. It seems odd to me to have a sign on that where that location is.

Powell: It is, but it's the only place they could put it so as to not obstruct the signs in the front of the building. What is happening in these areas where the tenant doesn't face the major roadway there is a desire to have signage on the front.

We're dealing with another one – North Point, and another one with Westside Professional, where we have the same situation. Businesses in the back of a parallel street to the thoroughfare are wanting that increased signage and visibility on the front and they are not doing it with a "come to Jernigan Heights" but more on the lines of here's my address and so they want that increased visibility. I do think that the comprehensive sign package is a mechanism, but here lately we have been seeing a lot of these individual tenant signs and going back to what we use to see is maybe increased signage on the thoroughfare that maybe had some panels, but mainly identifying the center or development knowing that not everybody is going to have visibility for their particular use on the thoroughfare. That is one of the things that have made Flower Mound visibility different - not everybody having that signage.

Levenick: Is there a sign out now that says Jernigan Heights?

Powell: No, and he pointed out some of the unique features of this development.

Webb: Jean was making great comments in that how do we move this back and get back to where we were without all of this coming into us piecemeal.

Powell: From our standpoint there is a mechanism in the code that allows someone to come forward and bring these. We can tell somebody this is what has happened under similar circumstances. We are hard pressed to tell anyone what Council will or won't do, however, if there is a precedent set we can say the provision allows for that flexibility and this is the conditions by which it is used. There was discussion at P & Z, not just more signs, but to having a sign theme, to having a superior design and what are those elements. So I think that at P & Z we will go back to that discussion in that if it's just more signs, yes, that's the mechanism, but that's really not the intent of the provision. It's how is this providing maybe different signage, specifically to a development that you can't do under the standard code.

Webb: I like what you are saying and that this is a straight zoning case, so maybe as P & Z looks at this they can say, it's okay to bring forward a straight zoning case, if you will, with a CSP that makes sense so it addresses not just the first tenant, but also the last tenants needs.

There was additional discussion between Council and Mr. Powell relative to signage, including:

- placement location
- visibility
- quantity
- comprehensive sign package options
- how this topic was addressed with the sign committee about two years ago
- monument sign options

Levenick: Commented that she regrets her decision on voting on that extra sign for the animal hospital. It's difficult to tell what it's going to look like in a rendering. I just think there are too many signs on the building. Obviously we can't do it with

this one because it's been zoned the way it is. In the future I don't want to see this anymore so we have to figure out a way to not make this happen.

Dixon: When it goes back to P & Z and you all are reviewing this, I'm okay with having comprehensive sign packages for shopping centers like Highlands Ranch, etc. That makes sense because it's a unique situation for a large area. Where I don't like comprehensive sign packages are for one-offs (small buildings where you have situations like this). I like the consistency throughout Town of having one uniform sign ordinance and then having a comprehensive sign package for the large develop areas.

Applicant Presentation/Comments:

Sean Hattelle, North Texas Chiropractic, 4110 FM 407, Ste 200, Flower Mound, TX 75022

Mr. Hattelle clarified that he is one the owners of the 10,000 square foot building and there are currently three tenants, and that is all they will ever have. He offered an explanation as to why the sign is needed, and primarily because the entrance is in the back of the building. He offered background information relative to when the building was constructed.

Mr. Powell also provided background information relative to the development of this property.

Mayor Hayden opened the Public Hearing at 8:29 p.m.

Public Participation

No one spoke in support or opposition.

Mayor Hayden closed the Public Hearing at 8:29 p.m.

Council Deliberation

Webb: I am concerned on this one and regretting the decision on the animal hospital a little bit, but what I'm really getting a better focus in on is what happens as the rest of these lots build out and what is your visual going to be. And is that the visual impact that we want, and in my case, I don't think it is. I think the downside is far greater. I am trying to figure out where in the process can I make a "no" after I have said "yes" and I'm struggling right there. But I think we need to figure out something through P & Z going forward before these other lots come on line.

Dixon: Agreed with Councilmember Webb. He stated what we have before us is a situation where a Flower Mound business needs to have signage like his neighbor. I agree with you we are not in a perfect world, nor are we in a good world on signs in Flower Mound. We have made some progress on our sign ordinance over the last couple of years, but we're still not there. We really do need to take a hard comprehensive look at our sign ordinance to make sure we don't have situations

like this (either next door or across Town). Hopefully that is something that P & Z can move forward on (for them to look at). I am going to vote for this tonight and it's not necessarily the best thing for Flower Mound overall but it's the rules that we are playing with right now. Before we get more of these in Jernigan Heights or anywhere else in Flower Mound, I would like for us to get a new playing field on the signs where going forward we don't require an applicant to wait until their building is full and then find out that their neighbor got a sign so maybe it's time for me to go back in and request a sign from the Town.

Stephenson: I would like to propose making the motion as drafted but directing staff to go back and do exactly what Mr. Powell suggested in trying to get this cleaned up.

Hayden: Summarized that staff is directed to review how comprehensive sign packages are reviewed in the future and maybe take it to P & Z and see if we can come back with some clarification and what Council needs to do to make it more uniform.

Mayor Pro Tem Stephenson moved to approve a request for a Comprehensive Sign Package (CSP 03-13 - North Texas Chiropractic) for a medical office. Councilmember Levenick seconded the motion.

VOTE ON THE MOTION

AYES: Levenick, Stephenson, Dixon

NAYS: Webb, Wise

J. COORDINATION OF CALENDARS AND FUTURE AGENDAS/MEETINGS

No discussion.

K./L. CLOSED/OPEN MEETING

The Town Council convened into a closed meeting at 8:42 p.m. on May 6, 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 9:50 p.m. on May 6, 2013, 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 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.

No action taken.

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

No action taken.

- e. Consultation with the Town Attorney regarding legal issues associated with Town extension of extraterritorial jurisdiction and all matters incident and related thereto.

No action taken.

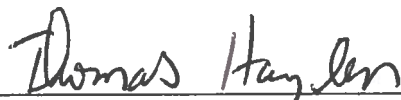
- f. Consultation with Town Attorney about Town ordinances and traffic control and calming devices, and all matters incident and related thereto.

No action taken.

M. ADJOURN REGULAR MEETING

Mayor Hayden adjourned the meeting at 9:51 p.m. on Monday, May 6, 2013, and all were in favor.

TOWN OF FLOWER MOUND, TEXAS



THOMAS E. HAYDEN, MAYOR

ATTEST:



THERESA SCOTT, TOWN SECRETARY