

**THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING; TOWN OF FLOWER MOUND FIRE CONTROL, PREVENTION, AND EMERGENCY MEDICAL SERVICES DISTRICT SPECIAL MEETING; AND CRIME CONTROL AND PREVENTION DISTRICT SPECIAL MEETING HELD ON THE 19TH OF AUGUST, 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
Steve Dixon	Mayor Pro Tem
Bryan Webb	Deputy Mayor Pro Tem
Michael Walker	Councilmember Place 1
Mark Wise	Councilmember Place 3
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
Tommy Dalton	Director of Strategic Planning
Tammy Wilson	Executive Director of Financial Services
Chuck Jennings	Recreation Superintendent
Mark Wood	Director of Economic Development

**A. CALL REGULAR MEETING TO ORDER**

Mayor Hayden called the regular meeting to order at 6:02 p.m.

**B. INVOCATION**

Chaplain Mike 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 International Overdose Awareness Day with Winning The Fight

Mayor Hayden recited the Proclamation and Mr. Jeff Graves and Dillon Thomas accepted the Proclamation on behalf of Winning the Fight.

2. Presentation of Texas Book Festival Grant to Flower Mound Public Library

Heather Botelho and Sue Ridnour, Library Staff accepted a plaque acknowledging the grant.

**E. PUBLIC PARTICIPATION**

Elaine Barry, 5357 Harbor View Dr, Flower Mound, TX 75022

Ms. Barry indicated being concerned that there are some procedural issues related to the PID. She referenced a letter written by Ms. Doyle in relationship to ownership of the River Walk property. For that reason she asked the public hearing and vote related to the River Walk be tabled to not only avoid an ethics violation, but to also avoid any glitches in a successful bond issuance.

Mayor Hayden indicated when the request was made for the PID it was made by both the owner at the time, which was the Baptist Foundation, as well as Centurion American, so both requested the PID. The Baptist Foundation owned the property until about a week ago when Centurion American purchased it.

Mayor Hayden asked Mr. Welch to clarify the method to be used for the request.

Welch: Section 7.16 of the Charter states that the request for the PID shall be made to the Town Council at a regular meeting. The only actual place it could be made to the Town Council at a regular meeting is during the public participation process. This is because agenda items are prepared by Town staff for the Town Council. So someone coming in requesting something that would not be made by the Town – it would not be a regular agenda item. So the only place on the agenda, to be in full compliance with the Open Meetings Act to make that request, would be during public participation. So the Charter simply requires that it needs to be made a regular meeting of the Town Council.

Mayor Hayden asked Mr. Welch to clarify that the Town has been petitioned by both owners.

Welch: Yes, that is correct. Both have submitted and joined in the petition.

Renee Doyle, 920 Drake Dr, Flower Mound, TX 75028

Ms. Doyle requested item 8 be tabled until a petition comes forward with the correct ownership because she believes it violates the Open Meetings Act, because also in the Town Charter it states there would be discussion and a vote amongst Council. I would like to know where on July 15<sup>th</sup> is the recorded vote for acceptance when Centurion requested the meeting. Where is the discussion and where is the recorded Council vote? Because if it was taken during public participation there was no record of vote or anything. For that reason I think it violates the Open Meetings Act. I would like you to table item 8 until all procedures are looked at again.

**F. ANNOUNCEMENTS**

Mayor Pro Tem Dixon had the following announcements:

- Wichita Trail is now open
- Citizen's Police Academy begins September 5<sup>th</sup> and he recited the announcement related to what it is about and how to get involved

Councilmember Levenick had the following announcements:

- Expressed excitement that Wichita Trail is now open
- Retail and restaurant survey is currently underway and it provides an opportunity for the public to provide input as to what they would like to see in Flower Mound

Mayor Hayden offered thanks to Tammy Wilson for her many years of work in the Finance Department.

**G. TOWN MANAGER'S REPORT**

1. Update and status report related to capital improvement projects.

Mr. Stathatos gave the following update related to capital improvement projects:

- At the Council's request the costs for the booster pump at the Bruton Orand water tower is included in the upcoming budget in conjunction with Regency Park I and II
- For Twin Coves Park, assuming if that report is approved, we do have funds that are in the proposed budget for FY 2014 to pay for the design, and the construction would be the next fiscal year.

2. Update and discussion on Economic Development projects.

Mr. Stathatos gave the following update related to economic development:

- Gave an explanation about how the Town uses the retail and restaurant survey
- Dairy Queen is going into the vacant Burger King location on FM 407
- Economic Development staff will be attending and participating at North Texas Commercial Association of Realtors (NTCAR) to promote the Town
- Academy is on track to finish before Thanksgiving and they recently announced that Smashburger and Jersey Mike's will be co tenants in that shopping center
- Firehouse Subs is going into vacant space at Highlands Ranch

Dixon: For Twin Coves, I would like staff to look at the possibility of doing a swim area and maybe the Town could bring in some sand, especially for the young children. There is a natural cove within the cove, and it might be nice if the Corp allows us to dig that out a little bit and bring in some sand and have that be an area for the younger kids.

3. Update on the Master Plan Review Process.

Mr. Stathatos announced that the Town has kicked off the Master Plan Review process and asked Mr. Dalton to provide an update on those efforts.

Mr. Dalton gave a presentation offering the following updates:

- Important dates, including future meeting dates of September 19 and 21
- What is currently happening and what is coming soon
- Promotional plan (mailers, posters, informational postcards)
- Feedback received to date
- Engagement opportunities

**H. CONSENT ITEMS**

Mayor Pro Tem Dixon moved to approve, by consent, Items 1-6. Deputy Mayor Pro Tem Webb 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 a resolution casting the Town of Flower Mound's vote for Sue Tejml as a member of the Board of Managers of the Denco Area 9-1-1 Emergency Communications District for a two-year term beginning October 1, 2013.**

**RECOMMENDATION:** Move to approve of a resolution casting the Town of Flower Mound's vote for Sue Tejml as a member of the Board of Managers of the Denco Area 9-1-1 Emergency Communications District for a two-year term beginning October 1, 2013.

**RESOLUTION NO. 19-13**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, APPOINTING ONE MEMBER TO THE BOARD OF MANAGERS OF THE DENCO AREA 9-1-1 DISTRICT.**

2. **Consider approval of Change Order No. 1 for the Operations and Maintenance Facility project, with CF Jordan Construction, LLC, for an increase of \$30,010.95; and authorization for the Mayor to execute the same on behalf of the Town.**

**RECOMMENDATION:** Move to approve Change Order No. 1 for the Operations and Maintenance Facility project, with CF Jordan Construction, LLC, for an increase of \$30,010.95; and authorize the Mayor to execute the same on behalf of the Town.

3. **Consider approval of Change Order No. 1 for the Waketon Elevated Storage Tank Rehabilitation project, amending the contract with N.G. Painting, L.P., in the amount of \$8,739.00, final acceptance of the project, and authorization for final**

payment to the contractor, **N.G. Painting, L.P.**, in the amount of **\$77,802.60**; and authorization for the Mayor to execute same on behalf of the Town.

**RECOMMENDATION:** Move to approve Change Order No. 1 for the Waketon Elevated Storage Tank Rehabilitation project, amending the contract with N.G. Painting, L.P., for an increased amount of \$8,739.00, final acceptance of the project, and authorize final payment to the contractor, N.G. Painting, L.P., in the amount of \$77,802.60; and authorize the Mayor to execute same on behalf of the Town..

4. **Consider approval of Amendment No. 1 to the Professional Services Agreement with Kimley-Horn and Associates, Inc., to provide professional engineering services for the Lakeside Lift Station and Force Main project, for an increase of \$25,000.00; and authorization for the Mayor to execute same on behalf of the Town.**

**RECOMMENDATION:** Move to approve the First Amendment to Professional Services Agreement with Kimley-Horn and Associates, Inc., to provide professional engineering services for the Lakeside Lift Station and Force Main project, for an increase in the amount of \$25,000.00; and authorize the Mayor to execute same on behalf of the Town

5. **Consider approval to award Bid No. 2013-89-B Miscellaneous Concrete Replacement Services for Facilities Management to F&F Concrete, LLC, at the unit prices bid, for an estimated annual expenditure of \$100,000; and authorization for the Mayor to execute same on behalf of the Town.**

**RECOMMENDATION:** Move to approve award of Bid No. 2013-89-B Miscellaneous Concrete Replacement Services for Facilities Management to F&F Concrete, LLC, at the unit prices bid, for an estimated annual expenditure of \$100,000; and authorize the Mayor to execute same on behalf of the Town.

6. **Consider approval of a Service Agreement for Demand Response Transit Service with Special Programs for Aging Needs, Inc., in an amount not-to-exceed \$41,505.00, to provide transportation service for Town citizens who are age 65 or older and Town citizens with verifiable disabilities that prevent them from driving; and authorization for the Mayor to execute same on behalf of the Town.**

**RECOMMENDATION:** Move to approve a Service Agreement for Demand Response Transit Service with Special Programs for Aging Needs, Inc., in an amount not-to-exceed \$41,514.90, to provide transportation service for Town citizens who are age 65 or older and Town citizens with verifiable disabilities that prevent them from driving; and authorize the Mayor to execute same on behalf of the Town.

**VOTE ON MOTION**

**AYES:** Wise, Dixon, Levenick, Webb, Walker

**NAYS:** None.

*Administrative Note: Town Council readjusted the order of the budget related agenda items 7, 18, 19, and 20 and all were opened at the same time. Town Council action is not needed on these items at this time.*

**I. REGULAR ITEMS**

**7. Public Hearing to consider a tax rate of \$0.4497 per \$100 assessed valuation.**

**Staff Presentation for items 7, 18, 19, and 20**

Ms. Wilson gave a presentation identifying or noting:

- The presentation is for the budget and property tax for the public hearing
- 2013 debt service and tax rates
- Required budget and tax rate adoption language
- How Flower Mound compares – 2012 tax rate
- Changes since proposed budget was filed on July 31<sup>st</sup>
- Utility fund
- Stormwater utility fund
- Stormwater utility system rate
- Special revenue funds
- Crime control and prevention district budget
- Fire control, prevention, and emergency medical services district budget
- Next steps

Ms. Wallace continued the presentation by identifying or noting:

- Streets and signals projects
- Facilities and parks projects
- Water projects
- Wastewater/Stormwater projects

Hayden: Asked Mr. Stathatos to offer an explanation about the tax rate to alleviate any confusion.

Stathatos: Anytime the actual tax rate is over your effective tax rate you have to declare that you are increasing taxes. The State legislature mandates certain language, so if you just look at the headline – public hearing to increase taxes (which is true), but the increase in taxes is because of the Town's economic development efforts and because property values are appreciating. The Town has not had to deal with the issue since about 2008, so if you look at the current tax rate it increased by about 3.5%. If you add up the last four years prior, collectively it doesn't equal 3.5%. Things are going very well and this is a positive thing. We haven't had to deal with this in the last four years because we didn't have as much growth. There has never been an intention of even remotely discussing a tax rate

increase. The Town Council made it clear at the beginning of the budget process that we're going to live within our means and even cut things if we need to.

Hayden: To clarify, property values increased, so as property values increased then you had to roll it back, but the rate actually being charged by the Town hasn't changed.

Stathatos: Correct. The roll back rate is essentially what rate would it take based on the new tax base to generate the same amount of revenue as the prior year (effective rate).

Hayden: Can you go over what the Town is recommending in terms of raises for employees.

Stathatos: For high performing employees that reach certain criteria, they will be eligible for a 3% increase. Also, historically the Town has aimed for the 50% percentile in terms of comparing ourselves to our benchmark cities, and we're increasing that to 65%. The reasoning has to do with what the Mayor and Council has said in that if we are going to expect our employees to give far more than 50% (in terms of productivity) then we want to make sure that the compensation is consistent with that goal.

Hayden: In looking at the reserves of the Town's general fund, last year there was approximately \$10.7 million and this year the estimate is about \$2 million more than that as to where we're going to end up.

Mayor Hayden opened the Public Hearing for items 7, 18, 19, and 20 at 6:50 p.m.

### **Public Participation**

Marilyn Jenkins, 6716 Raintree Pl, Flower Mound, TX 75022

For the increases mentioned, Ms. Jenkins asked how does that eventually affect the Town pensions that the Town will be obligated to pay to these people.

Stathatos: The Town is in excellent shape overall. In terms of our pensions, there was an actuarial study done. The Town participates in Texas Municipal Retirement System – TMRS, in which the employees are required to participate if they work over 1,040 hours per year and the Town matches those contributions, and they are all pretax dollars. So basically if you have an employee making \$30,000 a year and the Town is matching it based on the employee's contributions, then it's going to go up proportionately based on the increase. The employee will also have to share in that increase and the Town will share on a 2:1 basis.

Hayden: So the part that the Town matches – none of that is unfunded. That is actually contributed throughout the year?

Wallace: Correct, we are either 93/95% funded so we are well ahead of the national averages as far as funding of the pensions.

Ms. Jenkins clarified she's not talking about today, but her question has to do with are these funds in an annuity or how are they financed. Because as the Mayor pointed out Detroit didn't have this problem several years ago. They have gradually gotten into it and everybody is totally aware that most cities are not preparing for the 10 or 15 years from now when the majority of the Town will be ready and eligible for pensions. This has to do with strategic planning on the part of the Town for 20 years out and I don't know how far you go out, but it's something that needs to be addressed. I sell new homes. This is great right now, but what happens if we hit another 2008 and everyone knows that the economy is bouncing around at 1.5% growth, which is not enough to keep us sustained. How are we going to deal with it?

Wallace: The funding amount I was discussing is based on that accrued liability for in the future. I think its 25 years out.

Hayden: So we fund that on a cash basis, correct?

Wallace: Correct. Where some other cities nationwide might have run into trouble is they tend to borrow from some of those or they don't fund them completely.

Hayden: So when you're considering raises that is part of the calculation, correct?

Wallace: Correct, it's all benefits.

Stathatos: We're in a much different situation because we don't have our own retirement system – we're part of TMRS. In the situation with Detroit I think there were some red flags, and I can tell you there are a lot of checks and balances in place. We are very secure.

Renee Doyle, 920 Drake Dr, Flower Mound, TX 75028

Ms. Doyle indicating her question is at the request of her neighbor. The senior center is on the budget for \$5.2 million and it's also later on for the contract to construct the senior center. The Town did a feasibility study (paid \$100,000 for it). I did put in a public information request for that feasibility study and it has been sent to the attorney general's office to be closed because it is not complete. Our question is, the seniors have been moved several times, and with the groundbreaking of the senior center, is the senior center that you are currently getting ready to build going to meet all the needs of the seniors. Because you're basing a \$5.2 million contract on a feasibility study that is not complete. So if the feasibility study is not complete, why are we awarding a contract for \$5.2 million, because we don't know if the senior center will meet the needs of the seniors?

Stathatos: I believe we released the portion that was complete.

Doyle: Yes, it was just a one page document and it just said the square footage, and it was the exact square footage of what they are currently in. I just want to make sure we don't have to move them again and we're giving them what they want and need.

There was some discussion relative to the needs analysis, project design, and location information

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

Ms. Kohankie asked about the incentive money and what pot does it come out of when you're going to do incentives. Is there money we spend out of pocket or is it allowances so there is no money out of pocket?

Hayden: I'm going to save that question until Item 23.

Elaine Barry, 5357 Harbor View Dr, Flower Mound, TX 75022

Ms. Barry stated having seen the news flash about the tax rate on the web site and immediately came to the wrong conclusion. Then I saw the Town Manager's post explaining it and had to go back and read it two times. She said after reading it, and since the Town is doing so well, she suggested consideration be given to have a decrease in taxes.

Hayden: Commented that out of 15 comparison cities our Town is the 4<sup>th</sup> lowest. He pointed out that 20% of the property tax bill actually goes to the Town.

Mayor Hayden closed the Public Hearing for items 7, 18, 19, and 20 at 7:13 p.m.

*Administrative Note: No action by the Town Council required on items 7, 18, 19, and 20 at this time.*

Mayor Hayden made the following required announcement:

The Town of Flower Mound's tax rate is scheduled for adoption on Monday, September 16, 2013, at 6:00 p.m., at a regular Town Council meeting, to be held in the Town of Flower Mound Council Chambers, located at 2121 Cross Timbers Road, Flower Mound, Texas 75028.

18. **Public Hearing to consider the proposed budget for the fiscal year beginning on October 1, 2013, and ending on September 30, 2014.**
19. **Public Hearing by the Town Council acting as the Board of Directors for the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District to consider the Flower Mound Fire Control, Prevention, and Emergency Medical Services District proposed budget for the fiscal year beginning on October 1, 2013, and ending on September 30, 2014.**
20. **Public Hearing by the Town Council acting as the Board of Directors for the Town of Flower Mound Crime Control and Prevention District to consider the Flower Mound Crime Control and Prevention District proposed budget for the fiscal year beginning on October 1, 2013, and ending on September 30, 2014.**

Mayor Hayden opened items 8, 9, and 10 at the same time.

8. **Public Hearing to receive input regarding the proposed creation of a public improvement district in the Town and thereafter consider the adoption of a resolution authorizing the creation of a public improvement district in the Town; making findings related thereto, including those findings and related issues mandated by Chapter 372 of the Texas Local Government Code, as amended; and providing an effective date.**

**Staff Presentation**

Mr. Powell gave a presentation identifying or noting:

- Highlighted the captions associated with the three agenda items and the purpose for each
- Overview related to the creation of the PID and pointed out State and Town statute dictate the process
- Steps to date and steps going forward, outlining dates when various documents were received and what is anticipated, and noted all of the detail related to this information is on the Town's website
- Map of the River Walk development area, including an overlay map identifying the PID boundaries
- Identified various property owners
- The Town has letters of support for the PID

Hayden: Asked the Town Attorney to briefly explain what the PID will be.

Welch: It's a district that is created and it's unlike a lot of other districts in that it doesn't have separate governance. There is not a board or commission that is created to govern it. The purpose of the district is to help fund public improvements. And those public improvements are described by statute as to what can be included (generally roads, streets, sewer, drainage, and water). Those types of improvements and amenities, such as fountains and those types of public areas can be funded through the Public Improvement District (PID). The PID issues debt, and then the property owners are assessed, and it is usually about a 20 year repayment. The assessment process goes in varying degrees on the property within the boundaries of the district and that debt is paid off over time. The purpose of it is to pay for public improvements.

Hayden: Earlier this evening there were questions about whether or not process has been followed. Are you satisfied that everything has been done appropriately?

Welch: Yes, we have. One of the concerns that were raised was that at the July 15<sup>th</sup> meeting when the request was made, and the petition was presented for the creation of the PID, that there was some vote taken. No vote has been taken. That is what we are doing here tonight. What occurred on July 15<sup>th</sup> was the presentation of the PID and the request for the creation of the PID. Then on July 29<sup>th</sup> the Council had a special meeting to call tonight's meeting to have the public hearing to

consider the creation of the PID. Because of notice requirements under State law, there is a 15 day notice requirement in regards to newspaper and property owner notification. Because of that 15 day requirement we could not call that two weeks ago at a regular Council meeting because it required 15 days, not 14 days by statute. The hearing was set at a special meeting on July 29<sup>th</sup> for tonight and all of the statutory notices have been met. So no vote has been taken by the Council. That is the purpose of tonight – to receive public input and then to proceed one way or the other with the creation of the PID. If Council decides to create the PID it is proposed for election on November 5<sup>th</sup>.

Hayden: So when voters go to vote on November 5<sup>th</sup>, they will know exactly what they are voting on, correct?

Welch: There are boundaries already established for the PID. One of the items tonight is an amended Development Agreement that details what will be done, what public improvements will be funded through the PID, and all of those types of details are addressed in the amended Development Agreement. In addition, State law dictates the process.

Hayden: What will be the impact to current taxpayers if this district is created?

Welch: For the bonds that are issued, that is paid off through assessments on the property within the boundaries of district. There would not be an increase in taxes for anyone outside the district.

Hayden: It will be important to communicate that to those coming into the district.

Welch: All of that information about assessments is given to someone prior to closing on a piece of property so there shouldn't be a surprise. All of that information legally has to be disclosed.

Hayden: There is always a concern in the situation where the developer declares bankruptcy should something happen. What is the recourse of the Town if something doesn't work out? What's the Town's liability?

Welch: The Town has no liability for that debt, and actually on the bond documents that are created, there are probably 10-15 places in the documents where it states the Town has no liability for the debt. The payment of the assessments come from the district itself, and only from the District. So if there were some type of default you go back to the property owners in the District. You don't go to the Town and say we have a default here, won't you write a check to make up the difference. That cannot occur.

Hayden: So this debt will not carry the credit rating of the Town either, correct?

Welch: Correct. These are specially issued bonds by the PID. They are not Town of Flower Mound issued debt, for example, like we might do for a traditional public works project.

Hayden: The Town (Council) will control the release of funds to the developer, correct?

Welch: Correct.

Hayden: So if we're reimbursing expenditures for things he has done, even though the recourse isn't to us, we're actually the ultimate body that releases the funds and the finances that go along with that.

Welch: Correct, and in the amended Development Agreement there is a process for that, where you get certifications about construction costs, etc. So when there is construction that has been done on one of these public improvements (water, sewer, roads) then like any construction the Town is involved with, there are applications for payment and there is a reimbursement process to go through.

Dixon: Earlier it was stated there was a violation because Town Council did not have a vote at the July 15<sup>th</sup> meeting. You already established that there was not an item on the agenda for us to deliberate or vote on. If we would have voted that night it's my understanding that would be a violation of the Texas Open Meetings Act.

Welch: Yes, that is correct because the request was made during public participation and there wasn't a posted agenda item for consideration or deliberation about that.

Walker: I received some calls about the Town's responsibility and liability so I want to make sure the Town has no liability for this debt if indeed it is issued. But we do have responsibilities, which is to function as an advisory board and the release of the funds that are held back in escrow upon completion of certain project milestones. We also have the ability and the charge to collect. We're in effect collecting on behalf of the PID. If there is an action of foreclosure, what would be our role at that point in the situation of some of the parcel owners?

Welch: It would be similar to someone defaulting on their property taxes. There is a process you go through. The PID assessments are billed with property tax statements that go out in October with payment by January 31<sup>st</sup>. If there is a default it would be treated similar to a foreclosure when someone hasn't paid property taxes.

**Applicant Presentation:**

Mehrdad Moayedi, Centurion American, 1221 Highway 35E, Carrollton, TX

Mr. Moayedi noted the main reason they are here is to request to be on the November election to let the citizens vote as to whether or not they would allow them to have the PID or not.

Moayed: There are a lot of improvements we are trying to do, additional to what was obligated by the River Walk in the past for the purpose of making it a destination place for the businesses to be successful. As a developer we have brought on some folks that specialize in doing these types of developments.

Bobby Dollak, G & A Consultants, 111 Hillside Drive, Lewisville, TX

Mr. Dollak gave a presentation identifying or noting:

- Site is 107 acres
- Pointed out on a map the enhanced areas that are part of the improvement areas for the PID (entertainment district, amphitheater, chapel, and river walk amenity). It equated to about \$1.6 million dollars' worth of estimated cost for the Central Park, and then another \$1.5 million for the amenities for the River Walk
- Original amenities
- Enhanced River Walk amenities
  - Enhanced waterfalls
  - Sidewalks
  - Art within the River Walk
  - Specialty lighting (led lighting behind the waterfalls, tree lighting to enhance the trees along the River Walk in addition to the bollards)
  - Speakers up and down for seasonal events
  - Enhanced pavements
  - Enhanced landscaping
  - Comparison chart from what was proposed previously and what the enhancements would be if the PID goes forward

Jeff Blackard, 401 Adriatica Parkway, McKinney, TX

Mr. Blackard gave a presentation on the amenity areas with the chapel and entertainment district noting:

- The Chapel will also be a meeting space (seating for approximately 200 – 300)
- Statues and artwork throughout the project with ideas such as bringing in artisans from all over the world to carve on site, which will be the first time it's ever been done in America
- There will be a Farmer's Market
- Typical restaurants you would see along the waterway
- The idea of artisan huts along the River Walk so they would be there year round

Mr. Dollak continued the presentation by identifying or noting:

- Summarized the areas of enhancements and addressed timing if the PID is approved, all of which are identified in the Developers Agreement
- For the funds for the PID, he provided a summary page where each parcel was identified and the associated cost for infrastructure within each one of those parcels, for a total cost of \$13,263,259

Hayden: Asked Mr. Moayed to define his role at Centurion American.

Moayed: I am the president and owner.

Hayden: Someone has alleged that either staff or someone on Council might have a financial interest in Centurion American and might be benefitting from The River Walk project. Are you aware of anybody on Council or staff that might be benefitting or has an interest in Centurion American?

Moayed: No.

Hayden: Why should voters vote for this in November?

Moayed: The project benefits all of the citizens of Flower Mound. It will create a unique destination for the Town with no, in my opinion, additional liability or any kind of expense to the City of Flower Mound. It's written on our credit and ability to get the project done.

Hayden: Mr. Dollak pointed out some of the enhanced features. If the PID is approved, will it allow for some of these enhanced features to be there, and if it's not approved what will happen to those enhancements.

Moayed: The commercial area has to be something that people will want to come to. The original River Walk was very dense and we feel it needs a different setting. We came up with properties that are owner occupied, which will hold their values better and loading this up with 250 units of multi-family all for rent to me was not wise. Secondly, there needs to be unique features. We're talking to some high end restaurants lined up and if we deliver what we are saying they would be glad to be there because it will be a destination point.

Hayden: There is some skepticism out there that only phase one will get built. How can the voters feel confident that all of things presented, including the nice images, will come to fruition?

Moayed: It's spelled out in the Development Agreement and the Town is holding the money for release at some stages after completion. It's all based on performance. Also, we have a track record of 20+ years of building successful projects.

Mr. Powell pointed out that staff has received some correspondence after the packet went out, and that information has been presented to Council.

Mr. Dollak's presentation is available on the Town's web site at: <http://tx-flowermound.civicplus.com/DocumentCenter/View/5623>

Mayor Hayden opened the Public Hearing at 7:45 p.m.

### Public Participation

Renee Doyle, 920 Drake Dr, Flower Mound, TX 75028

Ms. Doyle had the following questions or comments as a result of reviewing some emails she had received through a public information request with the Town:

1. If the Town issues the debt will the Town be responsible for any shortfalls?
2. Trophy Club had negative comments about their Municipal Utility District
3. For the July 29<sup>th</sup> special meeting, was that the first vote for the process as spelled out in the Town Charter?

Barbara Harris, 4205 Woodbine, Flower Mound, TX

Ms. Harris indicated having read the TIRZ meeting minutes from March and in that recap they indicated that they had set aside \$5 million dollars of the TIRZ fund for the River Walk. They also included \$200,000 for the Timber Trail improvements. She stated she's trying to figure out how all of this is going work together. I'm concerned that if that is what we are planning on giving to the developer for the public improvements, how does this work with the PID.

Hayden: Provided background information about the TIRZ and what money was set aside for initially. The \$5 million hasn't been recommended or voted on yet. It was simply on the original prospectus that it was a possibility.

Marilyn Jenkins, 6716 Raintree Pl, Flower Mound, TX 75022

Ms. Jenkins had the following questions:

1. Where the water is going to come from for the site?
2. For the statement about the artwork coming from the Artisans overseas, she encouraged them to check out Harlequin and Greenwood Plaza in Denver, as they have artwork that was imported from Europe and actually done on site. There is also an outdoor art museum they might want to consider.
3. For the Petition, it calls for one consultant – not for the Town to be involved in the decision about the monies that are being spent by the PID. She asked for clarification in that is it one consultant, or is it The Town Council?
4. Questioned the legitimacy of Centurion American circulating a petition to garner support for their project.
5. Asked for clarification with respect to the Town Attorney's statement that the Town would not be on the hook for the indebtedness should the project go south? She stated that in according to Chapter 372 the Town does get the property back and all of its indebtedness. So what happens should those properties foreclose?
6. She recited an article from the Wall Street Journal and would like to have an understanding about the bonds that would be floated on the PID based on the market.
7. She stated there is a lot of trust by the residents for their elected officials and the residents need to be convinced that it is not another Parker Square. How are you going to make this work in November?

Hayden: The River Walk and all the entitlements have already been approved. With respect to how you can trust us, we're going to let that decision be in the hands of the voters when they vote in November. They will make that decision.

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

Ms. Smith asked for clarification that today is simply for the purpose of discussing whether or not the PID will be put up for bond election or not. Are you just deciding today whether the voters have their voice?

Hayden: Correct.

Ms. Smith provided historical information related to the River Walk. She noted what makes it different from Parker Square is that it is adjacent to two major thoroughfares such as 2499 and Morriss Road. She commented it's her opinion that Council's only decision tonight should be whether to take it to the voters or not. Give us a chance to vote.

Mark Glover, 140 Red Oak Ln, Flower Mound, TX

Mr. Glover asked for the opportunity to vote on the matter. He's been to the meetings and studied the development and believes there is a good team working on the project with Mr. Blackard and Mr. Moayed.

Carol Kohankie, 4312 Lauren Way, Flower Mound, TX

Ms. Kohankie asked for the opportunity to take this to the polls and vote. With respect to trust, she indicated having trust in Mr. Moayed, Council, and staff.

Debbie Friedlander, 2700 Rocky Point Rd, Flower Mound, TX

Mr. Friedlander requested the PID be put forward for the voters. She commented that the development of Adriatica in McKinney is spectacular. She noted we have a great opportunity because of our proximity to the airport and traffic counts on 2499, Morriss, and 407.

Kevin Corley, 4020 Saturn St, Flower Mound, TX

Mr. Corley stated he resides in the neighboring Forums subdivision. He commented that this is going to be a great amenity for the Town, and would like to see it come up for a vote.

Bill Blackmon, 4016 Saturn St, Flower Mound, TX

Mr. Blackmon stated he also lives in the Forums subdivision. He stated The River Walk looks like a great project. Through various iterations of this project they have been told as property owners, that they would start out with about a 130' easement around their property to give them a buffer between whatever goes behind them. They would like to keep that. He added, they also have an entry point where they go in and out of the subdivision and would like a fence or some type of barrier that would separate them from whatever goes back there.

Mayor Hayden closed the Public Hearing at 8:33 p.m. He pointed out having received several postcards from people asking them to place this item on the ballot for November.

Stathatos: Provided background information related to the email reference from Mr. Carr and noted there are other interpretations as to why certain statements are made. He welcomed the opportunity to have a conversation with Ms. Doyle and Mr. Carr on the topic to understand the situation further.

Moayed: Provided background information related to the Trophy Club MUD. He pointed out a MUD and PID is different.

Hayden: The Development Agreement spells out everything. It will have our name on the front because we're in control of the distribution of funds, but without any recourse. For the question about July 29<sup>th</sup>, was that the first vote in the process?

Welch: Section 7.16 of the Charter requires that the request for the creation of the PID be made at a regular Council meeting, and July 15<sup>th</sup> was a regular Town Council meeting. On July 29<sup>th</sup> there was not vote on the PID. The vote was on the Resolution setting tonight as a public hearing. There was no authorization to proceed with the PID. It was simply to call a public hearing for tonight. Tonight is the vote on the creation of the PID.

Hayden: Asked Mr. Dollak where the water is going to come from.

Dollak: A waters appropriations permit was applied for and approved with the City of Dallas, who has the rights to the water in the Trinity Basin, and the permit is carried over to the property owner. With that permit there will be two wells drilled. One at the north end of the project and one at the south end of the project to the Trinity Aquifer, and we have the rights to pump 250 gallons a minute per well, 24 hours a day 7 days a week, 365 days a year. That volume of water is really only needed during the peak of July and August. It has to be designed for your worse months, considering evaporation and irrigation for the entire park.

Hayden: Asked Mr. Moayed: if he could commit to leaving a 130' buffer between the Forums neighborhood and The River Walk?

Moayed: Yes. We met with the Forums neighborhood with a few plans. We've listened to them and we're going to follow through with what they have asked us to do. The trees will be preserved, which may include cleaning them up a bit though.

Walker: To separate the Town's liability with the debt versus its responsibilities, he summarized the process in that if the PID goes through the voters and is approved, we then go through bond underwriting, and then it's underwritten and out in the marketplace. I just want to make sure people understand there is no liability to the Town of Flower Mound to repay the investors, correct?

Welch: Correct.

Walker: It doesn't impact our credit rating in the marketplace, correct?

Welch: Correct.

Walker: Also, with respect to the process, this is the beginning of the process. This is allowing us to place it on the ballot in November. Hopefully the voters will familiarize themselves with the way the escrow money is being released as the infrastructure and enhancements are completed and inspected and approved. There are a lot of safeguards in the system. This is not just a typical PID because you have us acting as the advisory body. We are the overseers as to the way it is carried out. The Town is responsible to collect the assessment, just like it does on any tax bill. It is no different than that, correct?

Stathatos: It is, and we would recommend that we hire the Denton County Tax Office such as what we do with the ad valorem taxes.

Hayden: Asked the Town Attorney if this is Town issued debt.

Welch: Yes, the Town issues the debt. The Town has no liability for it by State statute. The Town would issue the debt on behalf of the Public Improvement District. With respect to the question about a consultant, in Section 6 of the Petition for the creation of the PID that was submitted in mid July, it states that the owner proposes that the district be managed by Flower Mound, with the assistance of a consultant, who shall, from time to time, advise Flower Mound regarding certain operations of the district. The consultant is brought in to assist with the assessments. Bonds are issued over time. They are assessed against property. The Town staff doesn't do that. You hire a consultant to basically go through the process of determining what those are, getting the correct figures and the Town has to approve those assessments, and a consultant generally does that to assist. It's associated with the actual assessment process, which is fairly detailed and is regulated through the documents through the service and assessment plan.

Walker: Also, for the bond underwriting process, in our packet we have a one page letter from Catalyst to Gateway Planning stating they need more information. The underwriter will be asking for more information because they have to go out and entice investors to buy these bonds – to lend money, correct?

Stathatos: Correct.

Walker: If the ultimate authority was Town Council, we have the right at any time not to go up to \$16 million, correct?

Stathatos: Correct.

Webb: With respect to the concern for unfunded long-term liabilities of the Town in terms of employee retirement. It was later suggested that if we are in such great shape maybe we should start thinking about reducing our tax rates. We do have some long-term underfunded obligations, such as with an aging infrastructure in

parts of our Town, and we recently learned there is a possibility we may get some additional responsibilities for roadway maintenance in terms of some of our Farm Market roads that TxDOT may be pushing back to some larger communities. The only way we can address these issues or get to an opportunity to reduce tax rates is to grow our commercial tax base efficiently. This is an opportunity that presents itself to do that. For the item we're talking about tonight, the Charter states that Town Council cannot say yes to a PID. He expressed excitement for the project and the benefit it will bring to the entire community, and for the opportunity for the residents to weigh in by way of a vote in November.

Levenick: For the Development Agreement she indicated a desire to have Letters of Intent on the restaurants before we have the issuance of any bonds, if possible. Regarding the feasibility study, it was not as expected. I was hoping to have more information about the amenities, specifically the amphitheater. When that time comes I need to see how it is going to be parked, if the anticipation is 3,000 people there. I also want to know what type of programming plan you have in place to utilize the amphitheater. Regarding the design elements shown in the presentation, I understand those are concepts, however, when you show these things as concepts, that's the level our residents will expect, so please don't come back with something less than what you are showing us in these presentations. That is very important (selling what we're buying). Also, we're here tonight to send this to the voters and that's our main course for tonight. A lot of other questions will be answered along the way as we get farther into the project.

Dixon: A lot of important information has been communicated earlier. When there is a large development that comes to Town there are a lot of meetings that go on for quite a while. There have been several meetings on this project. When a member of Council goes to these meetings they are there as a resident and as a representative of the people of Flower Mound. I'm pretty critical. I don't think developers sit back and say Steve Dixon is going to vote for this. I think it's just the opposite most of the time because I'm going to ask the hard questions, because I think that's what most people want us to do. There is a lot of information to read and listen to. But if you're going to read one thing, please read the 8-9 pages of the Development Agreement. This would give you a good feeling. There are a lot of certainties and protections in that. In addition, there has been some conversation tonight about the bond issuance. That's not tonight. That would be after the vote of the Flower Mound voters as to whether they ultimately approve it. They have the final word. I could not vote for this if I didn't think it was the right thing to do.

Wise: What Mr. Webb stated stands true with me as well. If we don't have the right to say "yes", why do we have the right to say "no"? I'm very much in favor of putting it on the ballot. One thing I want to make sure of is that we continue to put all documentation possible on the web site so that the voters can properly educate themselves before they vote.

Mayor Pro Tem Dixon moved to approve a resolution to create the River Walk Public Improvement District No. 1. Councilmember Wise seconded the motion.

**RESOLUTION NO. 20-13**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, MAKING FINDINGS THAT PROPOSED RIVER WALK PUBLIC IMPROVEMENT DISTRICT NO. 1 AND THE PROPOSED PUBLIC IMPROVEMENTS WILL PROMOTE THE INTERESTS OF THE TOWN AND CONFER A SPECIAL BENEFIT ON A DEFINABLE PART OF THE TOWN; PROVIDING THAT THE DISTRICT AND THE PROPOSED PUBLIC IMPROVEMENTS ARE FEASIBLE AND ADVISABLE; PROVIDING FINDINGS WITH RESPECT TO THE NATURE AND ESTIMATED COST OF THE PROPOSED PUBLIC IMPROVEMENTS, THE BOUNDARIES OF THE DISTRICT, THE METHOD OF ASSESSMENT, AND APPORTIONMENT OF COSTS BETWEEN THE DISTRICT AND THE TOWN; AUTHORIZING THE CREATION OF THE DISTRICT; PROVIDING FOR COMPLIANCE WITH SECTION 7.16 OF THE TOWN CHARTER; DIRECTING THE TOWN SECRETARY TO PUBLISH NOTICE OF THE CREATION OF THE RIVER WALK PUBLIC IMPROVEMENT DISTRICT NO. 1 IF THE CREATION OF SAME IS APPROVED BY TOWN VOTERS AT AN ELECTION CALLED PURSUANT TO SECTION 7.16 OF THE TOWN CHARTER; AND PROVIDING AN EFFECTIVE DATE.**

**VOTE ON THE MOTION**

**AYES: Wise, Dixon, Levenick, Webb, Walker**

**NAYS: None.**

- 9. Consider authorizing the Mayor to execute an amended development agreement with CADG Riverwalk, LLC, on behalf of the Town relative to the development of the River Walk at Central Park and River Walk Public Improvement District No. 1, and all matters incident and related thereto.**

Deputy Mayor Tem Webb moved to authorize the Mayor to execute an amended development agreement with CADG Riverwalk, LLC, on behalf of the Town relative to the development of the River Walk at Central Park and River Walk Public Improvement District No. 1. Councilmember Walker seconded the motion.

Welch: With respect to Councilmember Levenick's request for additional language related to a letter of intent for restaurants; based on Council's approval, I would submit an amendment in the Development Agreement (paragraph 6, section B3) to read on or before October 31, 2015, in conjunction with the construction of the chapel and amphitheater special amenity, developer shall construct 50,000 square feet of restaurant space, and developer shall submit a letter of intent for any proposed restaurant development prior to any reimbursement by the Town associated with the chapel and amphitheater special amenity.

Hayden: Asked Mr. Moayedi if he was acceptable to that amendment.

Moayed: I don't have a problem with that and think it's a great idea. I am a bit cautious about the reference to 50,000 square feet. What if it's 45,000 or 44,000 square feet? I would like it to be a number of restaurants because I can't dictate the square footage of restaurants.

Hayden: We also need to be able to define the quality and standard of the restaurant.

Levenick: Section three of the Development Agreement states that said restaurant space shall be designated for high quality restaurants, etc. When we originally started talking about this we wanted to define what a restaurant is.

Moayed: The 50,000 square foot was commercial space with phase I, and not necessarily all restaurants, however, includes restaurants.

Walker: Can we limit the LOI just to the restaurant use.

Levenick: Pointed out that it states in the Agreement that the developer will develop 50,000 square feet of restaurant space, so that needs to be addressed.

Moayed: Noted that the intention was that there would be 50,000 sf of commercial space built within phase I, and within that 50,000 sf there would be five restaurants. That was the intent.

*Town Council recessed at 9:00 p.m. and reconvened at 9:12 p.m.*

Hayden: Asked Mr. Welch if he has new language.

Welch: Paragraph 6, section B3, was clarified to read on or before October 31, 2015, in conjunction with the construction of the chapel and amphitheater special amenity, developer shall construct 50,000 square feet of commercial retail space, including at least five (5) restaurants, and developer shall submit a letter of intent for any restaurant development prior to any reimbursement by the Town associated with the chapel and amphitheater special amenity. All restaurant space shall be designated for high quality restaurants defined as sit down restaurants, generally offering a full menu of fresh food products, where customers are provided with individual menus, food is served in non-disposable containers by a restaurant employee at the same table at which such food items are consumed, and table turnover rates generally are at least one hour or longer.

Webb: Accepted the amendment as read for his motion.

Walker: Accepted the amendment for his second to the motion.

Hayden: Asked Councilmember Levenick if this language was acceptable.

Levenick: Yes.

**VOTE ON THE MOTION**

**AYES:** Walker, Webb, Levenick, Dixon, Wise

**NAYS:** None.

10. Consider approval of an Ordinance ordering a Special Election on November 5, 2013, whether River Walk Public Improvement District No. 1 should be created and authorized to issue up to \$16 million in bonds for public improvements, and all matters incident and related thereto.

Councilmember Levenick moved to approve an ordinance calling a special election on November 5, 2013, whether River Walk Public Improvement District No. 1 should be created and issue up to \$16 million in bonds for public improvements in said District. Deputy Mayor Pro Tem seconded the motion.

**ORDINANCE NO. 34-13**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, ORDERING A SPECIAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2013, FOR THE PURPOSE OF VOTING "FOR" OR "AGAINST" A PROPOSITION WHETHER RIVER WALK PUBLIC IMPROVEMENT DISTRICT NO. 1 SHOULD BE CREATED IN THE TOWN; PROVIDING FOR THE APPOINTMENT OF ELECTION OFFICERS; PROVIDING FOR THE DESIGNATION OF THE PLACES AND MANNER OF HOLDING SAID ELECTION; PROVIDING FOR THE DESIGNATION OF THE EARLY VOTING POLLING PLACES; PROVIDING FOR THE DESIGNATION OF THE EARLY VOTING CLERK; PROVIDING FOR THE POSTING AND PUBLICATION OF NOTICE; PROVIDING A SEVERABILITY AND CONFLICTS CLAUSE; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.**

**VOTE ON THE MOTION**

**AYES:** Wise, Dixon, Levenick, Webb, Walker

**NAYS:** None.

11. Public Hearing to consider a request for rezoning (ZPD 13-0003- Canyon Falls) to amend Planned Development District No. 98 (PD-98) to modify the minimum standards set forth in the Single-Family District-10 (SF-10) zoning district regulations by reducing certain front, side and rear yard setbacks. The property is generally located north of F.M. 1171 between Interstate 35W and U.S. 377. *(The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its August 12, 2013, meeting.)*

Staff Presentation

Mr. Powell gave a presentation identifying or noting:

- Site location

- Land use and zoning
- The development plan that has been processed with the area they are record platting
- The area allows for variations of the SF10 zoning districts on a few of the lots
- Based on the Town's new PD regulations that allow flexibility, they have asked for some relief in some of the setbacks. The P & Z Commission was concerned about how many lots it was. So they came back with a map to show the areas (in red) that will have no setback modifications. Only the ones in the beige color have the potential to have those revised standards
- The revised standards are: Exhibit 1 is a typical SF10 lot which has setbacks. Exhibit 2 is what they are proposing if the lot is less than 130 feet in depth. Exhibit 2 matches Exhibit 1. What they have done is that if there are larger lots (depths greater than 130'), which is Exhibit 3, they are asking to narrow the width for the side yard from 10 feet to 7.5 feet. The front yard is still 25, and the rear is 25
- It would allow for a different building envelope, but Exhibit 4 shows what would happen at a "J" swing, which means the garage doesn't face the street, but sides the street, and this is to encourage that. If you look in neighborhoods that just have the garages predominantly facing the street, it's not quite as aesthetic as having garages that side the street. For those "J" swing garages (Exhibit 4) and for those lots that are deeper than 130', you would only have a 15' setback, and still the 7.5 on the sides. What that does is to not penalize someone for having that garage in the front. What it really does is to cause the front of the house to someone line up. If you didn't, what happens on "J" swing garages, is that the front door is set so much farther back than everyone else's front door, which eats up the back yard and doesn't provide as nice of a streetscape.
- Another thing they have asked for is that we require corner clips, and this is in a couple places in the development, where a roadway, because of visibility, there is a corner clip in the lot. What happens is, because that is the lot line, the setback also comes and clips that building envelope. They are asking, in those instances, to not have those clips in the actual building envelope. The dotted lines represent the maximum.
- At the P & Z meeting there was a concern that we're going to have these huge houses taking all the lot, but there is another provision in all our zoning codes – its maximum lot coverage and what these two slides try to show is that you can only have a 40% coverage of lots. So Exhibit 6, again if you have a 40', you can't even get to 25 if it's a square. You can only get to 33.4. And the same way for a "J" swing. You can only get to 41 feet. What happens is you have a 40% lot coverage, so in this case, maybe you can go back to 25 and it comes over. Again, the idea, because of that maximum 40%, you can't fill up that lot. There is still open space.
- There was also some concern at P & Z as to what this does to that rear setback. They wanted to increase the rear setback. One of the challenges of doing that is (for that rear setback), if you have an outdoor patio that is attached to the house, which also has to be in that rear setback. The developer has shown pictures where they want to encourage this because

many of the lots back up to open space. Then those people would be penalized. Last week we had a case in Sunrise Court, the house, because of the setback, they had to detach their arbor from the house and move it 5' away, because if it was part of the house, then they couldn't meet the setbacks.

- Summary table related to setbacks
- No comments have been received from the public on this item

#### Applicant Presentation

Bret Pedigo, Manna Land, 820 Shady Oaks Lane, Southlake, TX

Mr. Pedigo provided an update on Canyon Falls identifying or noting:

- They have progressed from moving out of the dirt work stages and into utilities, which will be for the next 2 – 3 months, and then they will start into paving operations to get to the final stages of the development cycle
- They are moving along the landscaping and amenity packages
- Summarized general information about the development project, including phases, builders slated for the project
- Special permissions had to be worked out with Atmos due to an adjacent gas line near the entry
- Explanation for the request and how it creates a different variation for the builders and streetscape where they don't all look the same
- The goal is to create different architecture on the front of these identified homes
- The 254 lots within the SF 10 – that is what they are asking for and it makes up about 59% of the SF 10 lots (which is about 32% of the total number of lots)
- Originally they came to P & Z for all of the SF 10 lots, however, there was a concern that the variation became the norm, so they looked at the villages and identified the ones that have the best opportunity for this option so a revised request was submitted

Walker: Inquired about the market demand for housing product as well as the uniqueness of the location near I35 and the benefit of that.

Pedigo: The market is strong and the location near 35 is beneficial because some of the neighborhoods along 114 are out of lots, in addition to the growth from 1171 going out west, and the 35W traffic near Alliance.

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

#### Public Participation

No one spoke in support or opposition.

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

Deputy Mayor Pro Tem Webb moved to approve a request for rezoning (ZPD 13-0003- Canyon Falls) to amend Planned Development District No. 98 (PD-98) to modify the minimum standards set forth in the Single-Family District-10 (SF-10) zoning district regulations by reducing certain front, side and rear yard setbacks, and adopt an ordinance providing for said amendment. Councilmember Wise seconded the motion.

**ORDINANCE NO. 35-13**

**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 AND THROUGH THE AMENDMENT OF ORDINANCE NO. 19-08 AND ORDINANCE NO. 58-12, WHICH ORDINANCES AMENDED ZONING ON APPROXIMATELY 626 ACRES OF LAND IN THE M.E.P. & P. R.R. SURVEY, ABSTRACT NO. 922, F. THORNTON SURVEY, ABSTRACT NO. 1244, J. WILBURN SURVEY, ABSTRACT NO. 1416 AND THE W. LOVE SURVEY, ABSTRACT NO. 728, PRESENTLY ZONED PLANNED DEVELOPMENT DISTRICT NO. 98 (PD-98) WITH SINGLE-FAMILY DISTRICT-10 (SF-10) USES, SINGLEFAMILY DISTRICT-5 (SF-5) USES, COMMERCIAL DISTRICT-1 (C-1) USES, CAMPUS COMMERCIAL DISTRICT (CC) USES, AND RECREATIONAL DISTRICT (REC) USES, BY MODIFYING THE MINIMUM FRONT, SIDE AND REAR YARD SETBACKS FOR THE LOTS WITHIN CERTAIN AREAS OF PLANNED DEVELOPMENT DISTRICT NO. 98 (PD-98) HAVING A BASE ZONING DISTRICT OF SINGLE-FAMILY DISTRICT-10 (SF-10) USES, 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: Walker, Webb, Levenick, Dixon, Wise**

**NAYS: None.**

*Mayor Hayden opened items 12 and 13 at the same time.*

- 12. Public Hearing to consider a request for rezoning (ZPD13-0001 - High Meadow) from Agricultural District (A) uses to Planned Development District-126 (PD-126) for a conservation development, and to consider adopting an ordinance providing for said amendment, subject to the terms and conditions in the attached Development Agreement; and authorization for the Mayor to execute same on behalf of the Town. The property is generally located south of Cross Timbers Road and west of High Road. *(The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its August 12, 2013, meeting.)***

Staff Presentation

Mr. Powell gave a presentation identifying or noting:

- Site location
- Land use and zoning
- Explanation regarding the Conservation Development District in that it does not mean there is not any development. It really means that there are aspects of that area that should be conserved. One of the primary ways to do that through the Master Plan is through the use of conservation development
- There is a minimum two acre lot size, and the conservation standards allow you to go down to one acre and then have 50% open space
- The Development Plan
- You have 15 residential lots, with a minimum size of 1 acre, and 50% in a conservation easement
- There is an emergency access at the northern end of the property, but the subdivision interest is down to the south
- There was quite a bit of discussion at the P & Z level and there has been correspondence received by staff with concerns on this, with one of the concerns being the additional traffic because of this development
- This development does not increase the density – you can build 15 two acre lots, or you can build 15 one acre lots with half the property in the conservation district
- Other concerns were about not having larger lots where people could keep horses as they felt this area of Town was to encourage the keeping of animals and horses
- There is a trail that runs through the property

**Applicant Presentation**

Randi Rivera, G & A Consultants, 111 Hillside Dr, Lewisville, TX

Ms. Rivera gave a presentation identifying or noting:

- They have elected to do a conservation easement to preserve more natural features on the site and some habitats as well
- Neighboring districts
- Zoning map and the associated request to a PD zoning change
- Initial concept and where they want to save the trees and habitats
  - 15 lots
  - Access points, including emergency access
- Neighborhood meetings and input
- 200' buffer incorporated (neighbor to the north)
- Increased the rear setback from 25' to 75' to accommodate the neighbors to the east
- Future equestrian trail connection opportunities and associated challenges
- There will be one 4.5 acre preservation lot, with only one acre being buildable
- Future landscaping plans

Levenick: Do you have a picture with an overlay and an aerial to demonstrate what the property looks like now with all the trees? I ask because it seems strange to me that you are taking an emergency access going right through the conservation easement.

Rivera: We are not proposing to remove trees in the emergency access easement along the western edge tree canopy. It's outside of that. But because it's so dense along the frontage along High Road we will have to work around some of the trees in that area. Maybe we can work around some of those trees once we conduct the tree survey and that buffer, but that little area along High Road will be the only area that is impacted with tree removal if necessary to accommodate the emergency access. But the plan, and the actual road itself, follows along the western edge of the group of trees, but it does cut through the middle of the trees at this point (demonstrated on the map) and it will be gated.

Levenick: The area that you said was 4.5 acres for one owner, with one acre of buildable land, meaning they can't put up a barn or anything like that – they can't touch the other three acres even though they own it.

Rivera: Correct. It will be written in the conservation easement documents to be maintained in perpetuity by Connemara.

Levenick: I've not heard of moving prairie grasses in a habitat. Is this something that is allowed? Something we've done before, or is it a matter of let's do this because we can put a lot there?

Powell: We've done it quite a few times, and recollected this was done at the Pines, Highlands Ranch, and others.

Walker: Clarified that this is not an increase in density and it's more about compacting (gross versus net). Also, this is not a contradiction or non-compliance with our Master Plan because it does allow for conservation development and this is an example of that.

Mayor Hayden opened the Public Hearing at 10:01 p.m.

#### Public Participation

Melissa Wilson, 3200 High Rd, Flower Mound, TX

Ms. Wilson stated not being aware of any neighborhood meetings and believes that not everyone is happy about this. She pointed out it's the same developer that developed Chimney Rock. One of the stipulations for Chimney Rock was equestrian access. There is no equestrian access. It did not happen, just as in this development they are saying there is equestrian trail access. I would like for them to walk me out there and show me. I have three horses. I would like to figure out where is the equestrian access because there is none. There are also several different feeder streets on High Road. There are quite a few people that live in that

area. Whenever there is an accident you can't get through. You're adding to that number and they're going to be on High Road.

Lori Segura, 3801 Immel Drive, Flower Mound, TX

Ms. Segura stated she has lived on High Road for ten years. She bikes, walks, and rides her horses up and down High Road and has been nearly hit many times. High Road is a rural road (no sidewalks, no dotted lines, and many blind corners). If you agree to this development, with the addition of all of these new homes, I really do have to put you on notice that you are increasing the pedestrian danger, where traffic is already bad on High Road. The Town could take care in the development of this sensitive area and create an opportunity for an exit on 1171, which is already set up to carry that amount of traffic. It would also give the emergency exit on to High Road. She requested the item be tabled until a better solution can be found, and perhaps incorporating the other piece of land that is also looking to build.

Elaine Berry, 5357 Harbor View Drive, Flower Mound, TX

Ms. Berry recalled having asked the Town in the past to not change the Master Plan from two to one acre for Point Noble because it's only one road and there are several blind curves. I've been down High Road. I know the dangers. I hope the Town does consider her request because it's a concern for neighborhoods with only one road in and no emergency access.

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

Hayden: Asked Ms. Rivera to address the equestrian access question.

Rivera: The equestrian access on Chimney Rock is part of the recorded plat. It's an approximate location of an equestrian easement that exists on the plat, and how that's defined on the ground really depends on working with the Chimney Rock HOA and maybe determining the limits and extents of this 15' wide easement. But it is there. I don't know if someone is saying it's not there, but it does exist on the plat that is recorded at the County and we're required by the Town's Master Plan to connect into this access point as well with the equestrian trail connection.

Hayden: Asked Ms. Wilson to comment on that.

Ms. Wilson: You can't go through brush to get to it.

Dixon: When the Town has a development that is put in like Chimney Rock, the developer is required to put in the equestrian trail, but until the neighboring developments go in, the trail is not connected. So the trail is there, but there is probably a fence at both ends of that trail. If the developer ever says they want to come in and be on the east side of Chimney Rock and they develop this, they would have to continue on the actual equestrian trail. And on the south end of Chimney Rock, a future developer at that point would also have to connect, where

eventually as development happens you would be able to ride your horse all the way across there. But as it stands right now, it's in there but you can't get there.

Hayden: Pointed out the unfortunate part about that is that those easements start to get neglected.

There was some additional discussion relative to trail access, and what is considered private or Corp of Engineers property.

Stathatos: Recommended staff gets with the Corp and explore if there is a way to open up any adjacency. Also, as future property owners look at that area we can stress the interest in connecting those.

Wise: How did you notify the neighborhood to attend those meetings?

Rivera: We had a total of three meetings. The first two were with the direct adjacent neighbors, and those were with emails. The third meeting was a larger neighborhood meeting. We had a sign in sheet and had about 20 people show up, and I believe that invitation was by email as well. That initiative was led by one of the residents on High Road (to invite other residents to come to that meeting) and it was held at the Police and Courts building on May 29th.

Dixon: Governmental immunity – that was brought up tonight. He asked Mr. Welch to speak on that.

Welch: We do have governmental immunity on planning and zoning type of issues. The only reason we would waive that immunity is if one of our vehicles hit somebody, then of course we would be liable, but just in terms of laying out streets, easements, and equestrian trails, we don't have liability for that.

Powell: The Development Agreement in the packet is based on the last conservation development we did (Montalcino). Item 14 talks about house pad benching. When a subdivision is built we want to make sure the houses are at a certain grade because of drainage concerns. At the time with Montalcino, because it was a larger development, there was a 3,000 per lot number put on that, so there are only 14 houses on this. Since the absorption is going to be much quicker, we would like to change that to 1,000.

Wise: For the emergency access, could you tell me what the thought process was and why the main entrance didn't come in at that northern most section? It seems that would have addressed the narrowness of the road, pedestrian issues, etc.

Rivera: We did have it here in our initial concept and there was a concern about not meeting visibility criteria. When cars are traveling north on High Road they go over a hill, around a curve, and there is limited visibility with the trees standing out along the roadway. It would be a safety issue.

Wise: Is it your intention to put the trail in, or is it just on the plan.

Rivera: There are not any improvements being made except for clearing. In the Town's detail it's a 10' wide clearing with a 14' height clearance for the riders. She recollected there might have been some conversation with the Parks Dept. to help outline where these trails are such as with a split rail fence outlining the trails section so the riders know where to go.

Wise: It seems to me that if that this development goes in that the connection to Chimney Rock would then be required, correct?

Rivera: It would open it up and we would talk with Chimney Rock to remove the barb wire fencing to get the connection through.

Levenick: Would that also clear the trail? Because the question earlier was would the trail happen with this development and the comment was made that it would. Does that actually happen at this point – does that trail get cleared?

Rivera: Yes, we would clear the trail, and for Chimney Rock, the trail is already clear and there wouldn't be a need for any of that improvement on their property, but on ours yes, we would clear out that section that was discussed to open it up to foot or equestrian traffic.

Dixon: Summarized that we have established that Chimney Rock is adjacent to Corp property, and that High Meadow is adjacent to Chimney Rock, and their can't be fences across our trails, so if this gets approved, you're going to be at High Road and you're going to be able to ride your horse from High Road all the way to the equestrian trails and back because there will not be any fences to block your way.

Rivera: Correct. We are providing the missing segment.

Mayor Pro Tem Dixon moved to approve a request for rezoning (ZPD13-0001 - High Meadow) from Agricultural District (A) uses to Planned Development District-126 (PD-126) for a conservation development, and adopt an ordinance providing for said amendment, subject to the terms and conditions in the attached Development Agreement; and authorize the Mayor to execute same on behalf of the Town. Councilmember Wise seconded the motion.

### ORDINANCE NO. 36-13

**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 FROM AGRICULTURAL DISTRICT (A) USES TO PLANNED DEVELOPMENT DISTRICT NO. 126 (PD-126) FOR AGRICULTURAL (A) USES WITH CONSERVATION DEVELOPMENT STANDARDS, ON APPROXIMATELY 32.321 ACRES OF LAND IN**

**THE J.T. STEWART SURVEY, ABSTRACT NO. 1193, AND THE M.E.P. AND P.R.R. SURVEY, ABSTRACT NO. 928, 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.**

Powell: For the request of the change from 3,000 to 1,000?

Welch: If we're going to change the \$3,000 to \$1,000 (paragraph 14A), would you also want to have something in the Development Agreement about the equestrian trail, such as upon the approval of the first building permit for the developer, the developer shall clear the equestrian trail so that it would be accessible (and this change would be on paragraph 6).

Both Councilmembers Dixon and Wise accepted the amendment to the motion as read.

**VOTE ON THE MOTION**

**AYES: Wise, Dixon, Walker**

**NAYS: Levenick**

**ABSTAIN: Webb**

- 13. Consider a request for a Development Plan (DP13-0001 - High Meadow) to develop a residential subdivision. The property is generally located south of Cross Timbers Road and west of High Road. (*The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its August 12, 2013, meeting.*)**

Mayor Pro Tem Dixon moved to approve a Development Plan (DP13-0001 - High Meadow) to develop a residential subdivision, and acceptance of cash in lieu of land in the amount of \$9,397.00 in place of the otherwise required Parkland Dedication and Park Development Fees in the amount of \$10,410.00 to satisfy the requirements of the Park Land Dedication Ordinance. Councilmember Walker seconded the motion.

**VOTE ON THE MOTION**

**AYES: Walker, Dixon, Wise**

**NAYS: Levenick**

**ABSTAIN: Webb**

*Mayor Hayden opened items 14, 15, and 16 at the same time.*

- 14. Public Hearing to consider a request for a Master Plan Amendment to amend Section 1.0, Land Use Plan, and Section 3.0, Specific Plans (MPA 13-0005 – Archangel C.P. Civitas), to change the land use designation from "Office, Residential, or Retail" to "Office, Residential, Retail or Institutional" uses within Specific Plan Area 2 (SPA 2), and to amend certain development controls outlined**

within SPA 2 that apply to the subject property, and to consider adopting an ordinance providing for said amendment. The property is generally located south of Sagebrush Drive and west of Long Prairie Road. *(The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its August 12, 2013, meeting.)*

Staff Presentation

Mr. Powell gave a presentation identifying or noting:

- Site location
- Land use and zoning
- Photographs of the site
- The SPA requires an overall master plan for the development
- The plan was shown last month where we went back and said instead of having this black spine road that will be difficult to build because it goes across Bob White (which the Town doesn't control)
- Proposed access point
- The developer is asking relief from is the 10,000 sf limitation in one building
- Site plan
- Letters from adjacent property owners in support
- The use of an assisted living home is going to have less of an impact than if you had two 10,000 sf buildings, or three 10,000 sf buildings and parking all around them
- Sagebrush is being looked at for improvements
- Identification of the trees being saved and those proposed for removal
- ECC complemented them on their attempts to save as many as they could
- There was some concern expressed at P & Z regarding the elevations. The applicant did show renderings of other buildings they have done, which reduced some of those fears as it demonstrated the quality and standards

Levenick: For Sagebrush, do you know when the Transportation Commission will be looking at that, and what recommendations will be discussed relative to improvements.

Powell: They have already looked at it and its part of the review for next year's budget improvements.

Stathatos: The Transportation Commission has requested a joint work session to start moving forward.

Levenick: Asked for confirmation that what is being done includes putting in a right turn lane to get on to 2499.

Powell: Yes, and they also need to come back with a site plan where those details will be further refined.

Mayor Hayden opened the Public Hearing for items 14, 15, and 16 at 10:47 p.m.

Public Participation

Mr. Marko, 2829 Sagebrush Dr, Flower Mound, TX

Mr. Marko spoke in support of the project.

Connie Smith, 2700 Pecan Leaf Ln, Flower Mound, TX

Ms. Smith questioned if there would be sidewalks on both the 2499 and Sagebrush sides given the proximity to the schools.

Powell: Yes, there will be sidewalks on both Sagebrush and 2499. In addition, on the western part, there is a trail that comes all the way up so it would even tie into that trail system that goes down to the creek by Calloways.

Mayor Hayden closed the Public Hearing for items 14, 15, and 16 at 10:50 p.m.

Dixon: Applauded the developer's efforts on trying to save as many trees as possible.

Deputy Mayor Pro Tem Webb moved to approve a request for a Master Plan Amendment to amend Section 1.0, Land Use Plan, and Section 3.0, Specific Plans (MPA 13-0005 – Archangel C.P. Civitas), to change the land use designation from "Office, Residential, or Retail" to "Office, Residential, Retail or Institutional" uses within Specific Plan Area 2 (SPA 2), and to amend certain development controls outlined within SPA 2 that apply to the subject property, and adopt an ordinance providing for said amendment. Mayor Pro Tem Dixon seconded the motion.

**ORDINANCE NO.37-13**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING SECTION 1.0 LAND USE PLAN AND SECTION 3.0 SPECIFIC PLANS OF THE MASTER PLAN, BY AMENDING ORDINANCE NO. 24-01 IN PART, WHICH ADOPTED MASTER PLAN 2001, SPECIFICALLY BY AMENDING SPECIFIC PLAN AREA #2 (SPA 2) BY CHANGING THE LAND USE DESIGNATION ON APPROXIMATELY 4.942 ACRES OF LAND LOCATED IN THE J. STEWART SURVEY, ABSTRACT NO. 1161, FROM "RETAIL, OFFICE, AND/OR RESIDENTIAL USES" TO "RETAIL, OFFICE, RESIDENTIAL, AND/OR INSTITUTIONAL USES" WITHIN SPECIFIC PLAN AREA #2 (SPA 2), BY REPLACING THE EXISTING MAP FOR THE DEVELOPMENT OF SPECIFIC PLAN AREA #2 (SPA 2) CONTAINED ON PAGE 3.9 OF THE MASTER PLAN WITH A NEW DEVELOPMENT CONTROL PLAN OF SPECIFIC PLAN AREA #2 (SPA 2), BY AMENDING CERTAIN OF THE TEXTUAL PROVISIONS CONTAINED WITHIN SPECIFIC PLAN AREA #2 (SPA 2) CONTROLLING THE DEVELOPMENT OF SAID PROPERTY, AND BY INCLUDING THE CONCEPT PLAN FOR THE PROPOSED NURSING OR CONGREGATE CARE FACILITY IN SPECIFIC PLAN AREA # 2 (SPA 2) AS AN ALLOWED ALTERNATIVE FOR THE DEVELOPMENT OF THE SUBJECT PROPERTY; REPEALING ALL CONFLICTING ORDINANCES, ORDERS, OR RESOLUTIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

**VOTE ON THE MOTION**

**AYES:** Wise, Dixon, Levenick, Webb, Walker

**NAYS:** None.

15. Public Hearing to consider an application for a tree removal permit for the removal of four (4) specimen trees on property proposed for development as Archangel Capital Partners Civitas. The property is generally located south Sagebrush and west of FM 2499. *(The Environmental Conservation Commission recommended approval by a vote of 6 - 0 at their August 6, 2013, meeting).*

Councilmember Levenick moved to approve the requested permit for the removal of four (4) specimen trees on property proposed for development as Archangel Capital Partners Civitas. The property is generally located south of Sagebrush and West of FM 2499. Councilmember Wise seconded the motion.

**VOTE ON THE MOTION**

**AYES:** Walker, Webb, Levenick, Dixon, Wise

**NAYS:** None.

16. Public Hearing to consider a request for rezoning (ZPD 13-0006 - Archangel Capital Partners Civitas) from Agricultural District (A) uses to Planned Development District No. 128 (PD-128) with Office District (O) uses and a Specific Use Permit (SUP 417) for a nursing or congregate care facility with 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, an exception to Section 82-302, Compatibility buffer, and an exception to Section 82-303, Compatibility setback, of the Code of Ordinances, and to consider adopting an ordinance providing for said amendment. The property is generally located south of Sagebrush Drive and west of Long Prairie Road. *(The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its August 12, 2013, meeting.)*

Mayor Pro Tem Dixon moved to approve a request for rezoning (ZPD13-0006 - Archangel Capital Partners Civitas) from Agricultural District (A) uses to Planned Development District No. 128 (PD-128) with Office District (O) uses and a Specific Use Permit (SUP 417) for a nursing or congregate care facility with 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, an exception to Section 82-302, Compatibility buffer, and an exception to Section 82-303, Compatibility setback, of the Code of Ordinances, and adopt an ordinance providing for said amendment. Councilmember Wise seconded the motion.

ORDINANCE NO. 38-13

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 4.942 ACRES OF LAND SITUATED IN THE J. STEWART SURVEY, ABSTRACT NO. 1161, FROM AGRICULTURAL DISTRICT (A) USES TO PLANNED DEVELOPMENT DISTRICT NO. 128 (PD-128) WITH OFFICE (O) USES SUBJECT TO SPECIFIC USE PERMIT NUMBER 417 (SUP-417) FOR A NURSING OR CONGREGATE CARE FACILITY, 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, AND GRANTING AN EXCEPTION TO SECTIONS 82-302, "COMPATIBILITY BUFFER," AND 82-303, "COMPATIBILITY SETBACK," OF THE CODE OF ORDINANCES REGARDING THE RESIDENTIAL PROPERTY SOUTH OF THE SUBJECT PROPERTY, 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, Levenick, Webb, Walker

NAYS: None.

17. Public Hearing to consider a request for rezoning (Z13-0009 - The River Walk at Central Park) to amend the River Walk at Central Park Zoning Ordinance No. 46-08, by amending Exhibit B, "Development Standards," to allow single-family residential uses in the Community Residential (CR) Sub district and establish dimensional and setback regulations for such single-family residential uses; and by amending Exhibit C, "Concept Plans," to remove the requirement for "ground floor retail" east of the River Walk amenity and to modify and reduce the number of phases in which the River Walk project will be developed, and to consider adopting an ordinance providing for said amendment, subject to the terms and conditions in the attached Development Agreement; and authorization for the Mayor to execute same on behalf of the Town. The property is generally located north of Cross Timbers Road, west of Morriss Road, and east of Long Prairie Road. *(The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its August 12, 2013, meeting.)*

Staff Presentation

Mr. Powell gave a presentation identifying or noting:

- Map of The River Walk that shows the current state of development and key dates when certain things were developed

- Map of areas with development site plans
- The new developer is currently building The River Walk amenity
- In the caption there are four things being asked for:
  1. To allow single family detached residential development (in the community residential district) and then to establish those setback dimensional standards for that use
  2. To amend the concept plan to remove ground floor retail (in a two block area)
  3. Amend the concept phasing plan. The provisions currently in the development agreement and the ability to build residential is tied to the commencement of the River Walk
  4. Amend the Development Agreement so they can get paid as improvements are being made
- The phasing plan

Bobby Dollak, G & A Consulting, 111 Hillside Dr, Lewisville, TX

Mr. Dollak gave a presentation identifying or noting:

- It's the same presentation at the work session
- Each one of the numbers in the original plan defined how many townhomes, and how many multi-family units were in each one of those buildings. That was done for the traffic study, infrastructure, etc. to determine impacts it would have on those different services. At that time it was 259 apartments/condos (4-story wrapped garages) with structured parking; and 55 townhome units
- We are proposing (with the new request) for a definition of a single family detached
- There are 97 2-story villas proposed, so we are going from 259 multi-family and 55 townhome units to 97 units in this block
- Provided a rendering as to what the villas would look like (the distance is 13 feet from the edge of the parallel parking back to the door) – it's an urban feel
- For the second block there was 202 apartment units and ground floor retail (22,000 sf) on the bottom floor of the 4-story multi-family; On this block there was only 13,100 sf just in building 606 and 605 (on the corner). There was 36 townhomes, 202 apartments, and the new proposal is to do an apartment complex of 367 units (3 and 4-stories)
- There is a decrease in multi-family units from what is currently on the books to what is being proposed for a minus 94 multi-family units
- Artistic rendering of what the 4-story building would look like
- Phasing update

There was some discussion about the general urban feel associated with the development overall, noting that is the reason why the existing apartments were built so close to Morriss Road. Mr. Dollak noted that going forward when the rest of the development is built, it won't be so obvious.

Powell: The developer is still working on site plans and plats. Everything seen to date is conceptual.

Dollak: Noted the developer is asking for an adjustment to the Development Agreement to get back the money out of the escrow account in a reasonable manner. Basically, as they do the work and it's signed off on, they are able to get to that money, as defined in the agreement.

Mayor Hayden opened the Public Hearing at 11:09 p.m.

Public Participation

Don Shields, 3815 Contadera Ct, Flower Mound, TX 75028

Mr. Shields spoke in support of the project and was in favor of the single family over apartments.

Hayden: Pointed out that when this project was originally approved 5 – 6 years ago the zoning was for 1,250 apartments, so putting the single family in there is a reduction.

Mayor Hayden closed the Public Hearing at 11:10 p.m.

Councilmember Levenick moved to approve a request for rezoning (Z13-0009 - The River Walk at Central Park) to amend the River Walk at Central Park Zoning Ordinance No. 46-08, by amending Exhibit B, "Development Standards," to allow single-family residential uses in the Community Residential (CR) Sub district and establish dimensional and setback regulations for such single-family residential uses; and by amending Exhibit C, "Concept Plans," to remove the requirement for "ground floor retail" east of the River Walk amenity; and to modify and reduce the number of phases in which the River Walk project will be developed, and adopt an ordinance providing for said amendment, subject to the terms and conditions in the attached Development Agreement; and authorize the Mayor to execute same on behalf of the Town. Deputy Mayor Pro Tem Webb seconded the motion.

**ORDINANCE NO. 39-13**

**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, THROUGH THE AMENDMENT OF ORDINANCE NO. 46-08, THE RIVER WALK AT CENTRAL PARK ADDITION, THROUGH THE AMENDMENT OF EXHIBIT B, "DEVELOPMENT STANDARDS," BY AMENDING SECTION 2.1, ENTITLED "PERMITTED USES," TO ALLOW SINGLE-FAMILY RESIDENTIAL USES IN THE COMMUNITY RESIDENTIAL (CR) SUBDISTRICT AND BY AMENDING SECTION 3.5, ENTITLED "DIMENSIONAL REGULATIONS IN THE CR COMMUNITY RESIDENTIAL SUBDISTRICT," TO ESTABLISH DIMENSIONAL AND SETBACK REGULATIONS FOR SINGLE-FAMILY RESIDENTIAL USES IN THE COMMUNITY RESIDENTIAL (CR) SUBDISTRICT; THROUGH THE AMENDMENT OF EXHIBIT C, "CONCEPT PLANS," BY AMENDING THE MAP DESIGNATED AS "CONCEPT PLAN LAND USE" TO REMOVE THE**

REQUIREMENT FOR "GROUND FLOOR RETAIL" EAST OF THE RIVER WALK AMENITY, AND BY AMENDING THE MAP DESIGNATED AS "CONCEPT PLAN PHASING" TO REDUCE THE NUMBER OF PHASES IN WHICH THE RIVER WALK AT CENTRAL PARK ADDITION WILL BE DEVELOPED 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: Walker, Webb, Levenick, Dixon, Wise

NAYS: None.

21. Discuss and consider acceptance of the Twin Coves Park Feasibility Study.

Staff Presentation

Mr. Jennings gave a presentation identifying or noting:

- Background information related to Twin Coves Park
- The PALS Board approved the recommendation as presented this evening

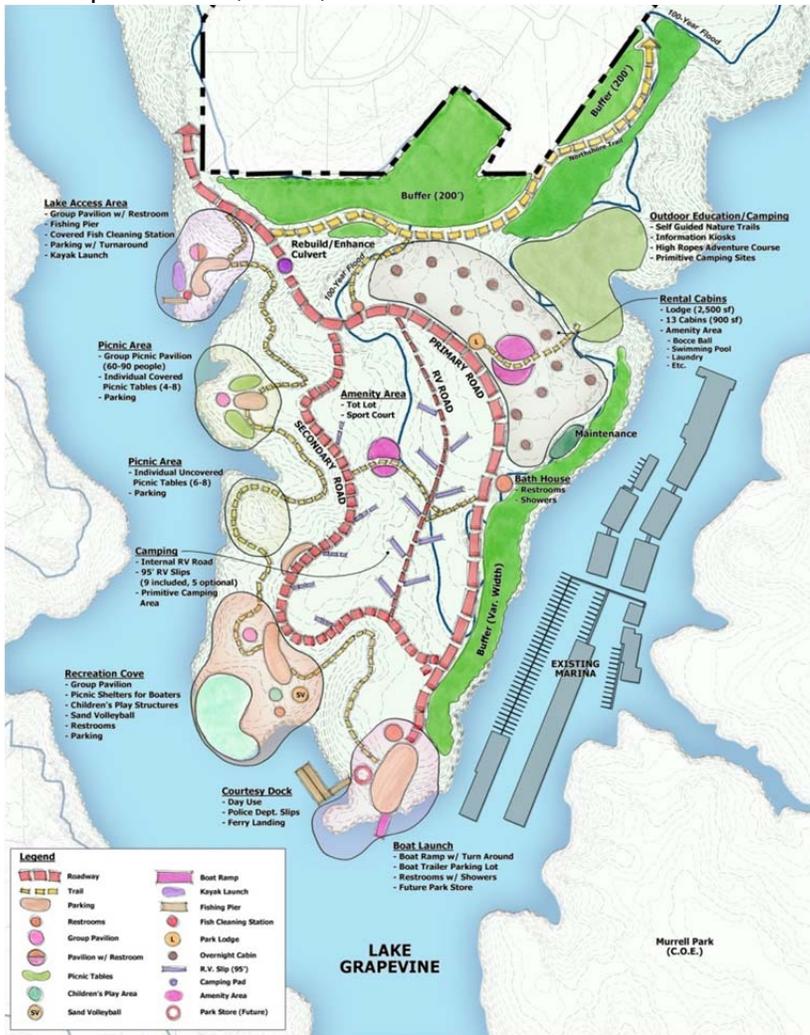
Brian Trusty, Pros Consulting

Mr. Trusty gave a presentation identifying or noting:

- Objective of the study
- Site location
- Process associated with analyzing the site
- Key findings
- Summary of Recommendations
  - Design of the facility should allow for high quality overnight stays, and should be driven by diversified usage and recreational amenities.
  - Operations of the facility should be focused on maintenance, programming and promotions. Consistent and superb customer service is paramount. Concession-based operations of the site is a recommended consideration for the Town.
  - The core business of Twin Coves Park will be from usage of cabins and RV sites. Quality recreation amenities and programming will inspire and support increased visitation and occupancy.
  - The marketing and promotion of this facility is imperative in order to obtain the usage and revenue projections featured in this study.
  - Ancillary revenue streams are advisable to support operations costs and should be addressed in site design. These include, but are not limited to equipment rental and retail/food service options.

Summary of Development Costs	
Cabins (10@1br: 10@2br)	\$ 1,100,000
Pavilions(includes FFE)	\$ 600,000
Day use amenities	\$ 50,000
Restroom / small office combo structure	\$ 150,000
Roads/parking	\$ 100,000
Utilities	\$ 125,000
RV Slip improvements	\$ 625,000
Other(Relocation of Park Hosts)	\$ 80,000
<b>TOTAL</b>	<b>\$ 2,830,000</b>

Conceptual Plan (Alt. 1)



Webb: How many RV slips are you talking about?

Trusty: 25

Webb: Do you anticipate it would be used by folks outside of the community?

Trusty: Yes. It would be intended to be marketed as a tourism destination for the region.

Webb: What I'm trying to work through is that in year five, you have \$200/225,000 profit based on operating expenses, and your recommendation, which I think is wise, is to take half of that and put it in the bank to handle maintenance and upkeep. I'm looking at the other \$100,000 as a return on that \$3 million investment and I'm trying to figure out is that really a wise investment for the Town.

Trusty: That's a great question, however, not within the scope of our work. I can tell you that in the world of parks, and I've been a park operator and park system manager for many years, and I'm currently on the state parks advisory committee for the Texas Parks and Wildlife Department as well; Parks can be operated in such a way that they can generate enough revenue through their operations to support their cost. Not all parks are like that. This is a park that can do that. You can provide for the public value that is hard to measure by way of a financial return on investment. You will have that in addition to any financial return that you get, and that makes for a fairly complex formula to determine if it's a reasonable return on investment for the Town.

Dixon: It was mentioned earlier in the meeting about exploring a beach area for the younger kids. Do you have any experience with that in lakes? What are the pros and cons?

Trusty: It's according to how your managing the beach – whether or not you are importing sand and trying to maintain sand, where the location of the beach is, what contacts to wave action, and what restrictions you have for boat traffic in coming to close proximity to the area. Beach areas can be managed to be great community amenities. A great example of an urban beach in an unusual setting is in Tempe, AZ. The park on Rio Salado has become one of the most popular recreational amenities in that town. So in this case you're talking about putting a natural beach on a natural body of water, so I think you could manage it well, but a lot of considerations about deterioration of the beach through wave action and erosion and use.

Hayden: So it's basically \$3 million. How are we going to pay for that?

Wallace: It's actually about \$3.4 million with the utilities and design. In answer to the question about how we are going to pay for it – one option would be by using some fund balance from the sales tax fund, as well as earnings for next year. We should be able to pay cash for it.

Hayden: In terms of our parks system there are three things that our Town needs. One is Twin Coves Park. We have had residents inquire about a tennis facility, and

we're also going to need additional sporting fields for football, soccer, etc. I wonder if we shouldn't put this forward as an item and give the residents the option to support it and do everything at once through a debt issuance. I am concerned about paying cash for this and drawing down our fund balance that would take away some flexibility for other needs.

Dixon: When can we get started? People in Flower Mound want this. It can make us a little bit of money. Very few times do we have this type of opportunity to decide on these types of things that make this much sense. For the concepts presented, I am in favor of concept # 1.

Hayden: So if we go full speed ahead, the money is going to come from fund balance?

Wallace: Not from the general fund, from sales tax.

Hayden: From 4B?

Wallace: Yes.

Hayden: So in 4B there is a balance of approximately \$1 million.

Wallace: No, there is almost \$3 million.

Hayden: Aren't we going to spend \$2 million this next year on projects for Heritage Park?

Wallace: Yes, but we will also be receiving income next year as well.

Hayden: As I look at our CIP the \$2 million is already budgeted for the next several years. We would have to change our CIP.

Wallace: That's excluding anything that is committed for specific projects. On the budgeted CIP for Twin Coves, what we are recommending for next year was just a design, so about \$300,000, because we don't anticipate construction to start until the following year, primarily because of the timing in finishing up the boat ramp design and repairs.

Hayden: On the CIP we have plans and the bulk of that is going to Heritage Park for the next 5 years, so I thought that money had already been allocated, but you're saying there is an additional \$3 million of available cash beyond what we're already talking about to go for Heritage Park and the CIP Plan?

Wallace: The money that was committed for Heritage Park was basically taking out of the money that was coming in each year. What I'm talking about is using fund balance, which we have almost \$3 million to pay for the majority of Twin Coves. We weren't talking about using that fund balance for Heritage Park.

Stathatos: They are talking about committing future revenues for Heritage Park, but not touching fund balance.

Hayden: So when you say fund balance you're talking about \$3 million of reserves in 4B money, correct?

Wallace: Correct.

Hayden: I thought it was more like \$1 million.

Wallace: It's about \$2.8 million.

Hayden: So what do we need to get going?

Wallace: We would like to get started on the design. I think the actual construction would need to wait because of the boat ramp project coming.

Dixon: For clarification he noted it's his desire to get started with the planning, as it takes time in government to get things going.

Hayden: If this is a priority for Council we can commit to making this happen.

Mayor Pro Tem Dixon moved to approve acceptance of the Twin Coves Park Feasibility Study. Deputy Mayor Pro Tem Webb seconded the motion.

#### **VOTE ON THE MOTION**

**AYES: Wise, Dixon, Levenick, Webb, Walker**

**NAYS: None.**

- 22. Consider approval of a Construction Manager at Risk Agreement for the construction of a Senior Center with Steele & Freeman, Inc., and authorization for the Mayor to execute the same on behalf of the Town.**

#### Staff Presentation

Ms. Wallace gave a presentation identifying or noting:

- background information related to the item and the selection process
- next steps for the construction manager at risk if approved

Deputy Mayor Pro Tem Webb moved to approve the Agreement for the Construction Manager at Risk Agreement for the construction of a Senior Center with Steele & Freeman, Inc., and authorization for the Mayor to execute the same on behalf of the Town. Councilmember Levenick seconded the motion.

**VOTE ON THE MOTION**

**AYES:** Walker, Webb, Levenick, Dixon, Wise

**NAYS:** None.

- 23. Consider approval of a resolution adopting an Economic Development Incentive Policy for the Town of Flower Mound, and providing for an effective date.**

Staff Presentation

Mr. Woods gave a presentation identifying or noting:

- Summary of the requirement for the update
- Expiration date of the current policy
- Several adjustments have been made to the policy
  - The required minimal threshold of capital investment to be considered for incentives was reduced from \$10 million to \$1 million
- New to the policy is the option to offer incentives to keep jobs in Flower Mound (business retention)
- Removed the requirement that all projects receiving incentives must first have site plan approval from both P & Z and Council
- Benefits of adjustments, which includes the ability to consider more desirable projects, and other new types of incentives such as cash grants, sales tax rebates, and training grants
- All incentives are subject to approval by the Town Council
- If approved the policy would be in effect for two more years

Dixon: I like the fact that this is giving us more options and opportunities to come before us and look at it from a business point of view instead of business prospects walking right by us and going someplace else.

Councilmember Dixon moved to approve a resolution adopting an Economic Development Incentive Policy for the Town of Flower Mound, and providing for an effective date. Councilmember Walker seconded the motion.

**RESOLUTION NO. 21-13**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, ADOPTING AN ECONOMIC DEVELOPMENT INCENTIVE POLICY FOR THE TOWN OF FLOWER MOUND; MAKING FINDINGS RELATIVE THERETO; AND PROVIDING FOR AN EFFECTIVE DATE.**

**VOTE ON THE MOTION**

**AYES:** Wise, Dixon, Levenick, Webb, Walker

**NAYS:** None.

**J. COORDINATION OF CALENDARS AND FUTURE AGENDAS/MEETINGS**

No discussion.

**K./L. CLOSED/OPEN MEETING**

The Town Council convened into a closed meeting at 11:54 p.m. on August 19, 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 12:26 a.m. on August 20, 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.

**M. ADJOURN REGULAR MEETING**

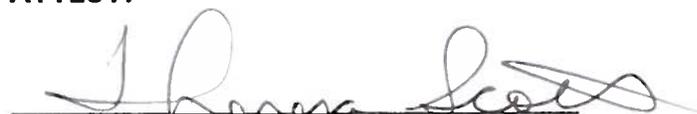
Mayor Hayden adjourned the meeting at 12:26 a.m. on Tuesday, August 20, 2013, and all were in favor.

**TOWN OF FLOWER MOUND, TEXAS**



**THOMAS E. HAYDEN, MAYOR**

**ATTEST:**



**THERESA SCOTT, TOWN SECRETARY**