

THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 17TH DAY OF MARCH, 2014, 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 (<i>arrived at 6:28 p.m.</i>)
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
Bryn Meredith	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
Kenneth Parr	Director of Public Works
James Hoefert	Environmental Review Analyst

A. CALL REGULAR MEETING TO ORDER

Mayor Pro Tem Dixon called the regular meeting to order at 6:00 p.m.

B./C. INVOCATION/PLEDGE OF ALLEGIANCE TO THE AMERICAN FLAG AND THE TEXAS FLAG

Chaplain Don Cone gave the invocation and Mayor Pro Tem Dixon led the pledges.

D. PRESENTATIONS

1. Proclamation for Addiction Awareness Day (March 22nd).

Deputy Mayor Pro Tem Webb presented a proclamation to Kathy O'Keefe of Winning the Fight.

E. PUBLIC PARTICIPATION

Names listed below don't necessarily reflect the order in which each person spoke.

Amy Wallace, 2913 Trailwood Ln, Flower Mound, TX

Ms. Wallace expressed concern that a 5K race is being planned with the route being in her neighborhood and questioned why they were not notified. She

suggested the race be rerouted to locations such as Town trails due to public street access blockage concerns.

Elizabeth Covington, 2845 London Ln, Flower Mound, TX

Ms. Covington provided background information related to the proposed off leash dog park. She pointed out she served on the site search subcommittee for a dog park. She also identified various benefits associated with having a dog park. She indicated being in favor of the dog park item.

Bill McGee, 1901 Doubletree Trl, Flower Mound, TX

Mr. McGee stated he was in favor of the speed limit change on Foxborough Trail. He also expressed appreciation for the responsiveness of Town staff on other matters.

Mark Edgren, 1412 Cedar Bluff Ln, Flower Mound, TX

Mr. Edgren voiced a concern related to repeated trips to his home by Animal Services regarding a barking dog situation. He requested something be done about how the Ordinance is written that allows the option to call in anonymously.

F. ANNOUNCEMENTS

No announcements.

G. TOWN MANAGER'S REPORT

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

Mr. Stathatos provided the following capital improvement updates:

- booster pump station for Regency Park subdivision
- senior center

Mr. Stathatos responded to questions from Council regarding:

- Construction on Chinn Chapel and the subsequent impact on Waketon. Mr. Kenneth Parr, Director of Public Works, provided a brief overview of the project.
- Possible landscaping for the round a bout on Chinn Chapel
- Concerns brought about by some residents regarding speeding on River Hill Drive and the process associated with the installment of stop signs

Councilmember Walker requested that there be a policy related to stop signs, such as was recently done with speed bumps.

Deputy Mayor Pro Tem Webb agreed with having the policy, which would include a full review by engineering.

Councilmember Levenick pointed out that caution needs to be exercised with the policy because everybody believes people speed on their street. She would like to see neighborhoods involved and with an understanding as to what they are doing in their own neighborhood to get the word out.

Mayor Pro Tem Dixon pointed out the current 100% agreement threshold is significant and would like that to be reviewed as well.

2. Update and discussion on Economic Development projects.

Mr. Stathatos provided an update on various businesses soon to be opening in Flower Mound.

Mr. Stathatos responded to questions from Council regarding:

- Location of Mellow Mushroom and Mod Market
- Opening dates of some of the restaurants

H. CONSENT ITEMS

Mayor Pro Tem Dixon moved to approve by consent Items 1 – 11. Councilmember Levenick seconded the motion. Each item, as approved by consent, is restated below along with the approved recommendation, and if applicable, the Ordinance or Resolution caption for each, for the record.

1. Consider approval of the minutes from a regular meeting of the Town Council held on March 3, 2014.

RECOMMENDATION: Move to approve the minutes from a regular meeting of the Town Council held on March 3, 2014.

2. Consider the authorization of new or reclassified positions within the Police Department and Information Technology (IT) Division.

RECOMMENDATION: Move to approve the authorization of new or reclassified positions within the Police Department and Information Technology (IT) Division.

3. Consider approval of the award of Bid No. 2014-13, to Crescent Constructors, Inc., for the construction of the Western Pump Station Phase I project, in the amount of \$10,199,000.00.

RECOMMENDATION: Move to approve the award of Bid No. 2014-13, to Crescent Constructors, Inc., for the construction of the Western Pump Station Phase I project, in the amount of \$10,199,000.00.

4. Consider approval of a Professional Services Agreement with Fugro Consultants, Inc., to provide geotechnical and material testing services associated with the FM 2499 12-Inch Water Line Phase III and Long Prairie 12-Inch Water Line Project, in the amount of \$18,410.15.

RECOMMENDATION: Move to approve a Professional Services Agreement with Fugro Consultants, Inc., to provide geotechnical and material testing services associated with the FM 2499 12-Inch Water Line Phase III and Long Prairie 12-Inch Water Line Project, in the amount of \$18,410.15.

5. Consider approval of the Final and Change Order No. 1 for the construction of the Upper Timber Creek Interceptor Phase I project, amending the contract with Wright Construction Company, Inc., for a decrease in the amount of \$13,866.00, acceptance of the project, and authorization of final retainage payment to the contractor, Wright Construction Company, Inc., in the amount of \$60,884.05.

RECOMMENDATION: Move to approve the Final and Change Order No. 1 for the construction of the Upper Timber Creek Interceptor Phase I project, amending the contract with Wright Construction Company, Inc., for a decrease in the amount of \$13,866.00, acceptance of the project, and authorization of final retainage payment to the contractor, Wright Construction Company, Inc., in the amount of \$60,884.05.

6. Consider approval of the purchase of five (5) picnic pavilions to be located at the following parks: Westchester, Glenwick, Northshore, Shadow Ridge, and Bluebonnet, for the Individual Park Improvements project, from Site Source, Inc., through the Texas Local Government Purchasing Cooperative, in the amount of \$110,932.00.

RECOMMENDATION: Move to approve the purchase of five (5) picnic pavilions to be located at the following parks: Westchester, Glenwick, Northshore, Shadow Ridge, and Bluebonnet, for the Individual Park Improvements project, from Site Source, Inc., through the Texas Local Government Purchasing Cooperative, in the amount of \$110,932.00.

7. Consider approval of the purchase of traffic sign sheeting material, in the estimated annual amount of \$50,000.00, from 3M Company, through a City of Fort Worth contract.

RECOMMENDATION: Move to approve the purchase of traffic sign sheeting material, in the estimated annual amount of \$50,000.00, from 3M Company, through a City of Fort Worth contract.

8. Consider approval of a resolution designating the Denton Record-Chronicle as the official newspaper for the Town of Flower Mound.

RECOMMENDATION: Move to approve a resolution designating the Denton Record-Chronicle as the official newspaper for the Town of Flower Mound.

RESOLUTION 02-14

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, DESIGNATING THE DENTON RECORD-CHRONICLE AS THE OFFICIAL NEWSPAPER FOR THE TOWN OF FLOWER MOUND, TEXAS.

9. Consider approval of the Comprehensive Annual Financial Report (CAFR) for the fiscal year ended September 30, 2013.

RECOMMENDATION: Move to approve the Comprehensive Annual Financial Report (CAFR) for the fiscal year ended September 30, 2013.

10. Consider approval of an ordinance amending Chapter 66, Article V, Section 66-214 of the Code of Ordinances of the Town of Flower Mound, Texas, relating to the prima facie speed limits for specific streets by lowering the prima facie speed limit for Foxborough Trail.

RECOMMENDATION: Move to approve an ordinance amending Chapter 66, Article V, Section 66-214 of the Code of Ordinances of the Town of Flower Mound, Texas, relating to the prima facie speed limits for specific streets by lowering the prima facie speed limit for Foxborough Trail.

ORDINANCE 12-14

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS; AMENDING SECTION 66-214, "ENUMERATION FOR SPECIFIC STREETS," PROVIDING FOR THE ADDITION OF ONE STREET TO THE LIST OF STREETS ENUMERATED THEREIN; IDENTIFYING THE MAXIMUM PRIMA FACIE SPEED LIMIT FOR SAID STREET; PROVIDING A PENALTY FOR VIOLATIONS HEREOF IN ACCORDANCE WITH SECTION 1-13 OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

11. Consider approval of a Road Maintenance Agreement for gas well permit GWP-03-01 in the amount of \$53,661.00 for the Obenchain gas well pad site generally located west of FM 377, and north of Cross Timbers Road (FM 1171), for Legend Natural Gas, L.P., to provide funds in advance should gas well operations on the property create a need for road repair on the travel route of Canyon Falls Drive; and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Move to approve a Road Maintenance Agreement for gas well permit GWP-03-01 in the amount of \$53,661.00 for the Obenchain gas well pad site generally located west of FM 377, and north of Cross Timbers Road (FM 1171), for Legend Natural Gas, L.P., to provide funds in advance should gas well operations on the property create a need for road repair on the travel route of Canyon Falls Drive; and authorization for the Mayor to execute same on behalf of the Town.

VOTE ON MOTION

AYES: Wise, Dixon, Levenick, Webb, Walker

NAYS: None

I. REGULAR ITEMS

12. Discuss and consider Heritage Park East as the location for the Town's Dog Park (*The Parks, Arts, and Library Services Board recommended approval by a vote of 6 to 0 at its March 10, 2014, meeting*).

Staff Presentation

Mr. Sims gave a presentation identifying or noting:

- Site location
- Alternatives and options
- Concept plan for dog park
- Vicinity map

Mr. Sims responded to questions from Council regarding:

- Background information related to alternative sites reviewed
- Costs breakdown (site preparation, fencing, irrigation, sod, parking)
- Funding resource
- How many specimen trees would need to be removed
- Area neighborhood access to the dog park

Mayor Pro Tem Dixon expressed concern related to the associated cost and indicated he was in favor of providing direction to staff to pursue further, however, he is concerned about the costs and would want that figure much lower when the time comes to approve the project.

Councilmember Levenick agreed and also noted the price tag is a concern and she doesn't understand why it is so high. She did, however, indicate being in favor of the location. She requested that the next time the item comes forward she has questions about what the Raising Cane's sponsorship means and what does it include.

Mr. Stathatos commented that staff will value engineer it.

Mayor Hayden requested that details be provided when the design item comes back for approval, including each element and the associated costs, as well as the annual maintenance costs.

Councilmembers Wise, Webb, and Walker expressed concern related to the price as well, however, agreed with the location.

Councilmember Walker suggested having sponsors for both the small and large dog area.

Deputy Mayor Pro Tem Webb moved to approve Heritage Park East as the location of Flower Mound's Dog Park. Councilmember Walker seconded the motion.

VOTE ON THE MOTION

AYES: Walker, Webb, Levenick, Dixon, Wise

NAYS: None

- 13. Public Hearing to consider approval of an amendment to the Chapter 380 Incentive Agreement with DD/TPRF II Cross Timbers, L.P. for Cross Timbers Village retail center, and authorization for the Mayor to execute same on behalf of the Town.**

Staff Presentation

Mr. Wood gave a presentation identifying or noting:

- Amendment details
- Background information
- Overall amendment to the site plan

Mr. Wood responded to questions from Council regarding:

- How the original intent of the agreement was believed to have been met
- Confirmation of area planned to be sold
- Current assessed value
- Estimated value for Walgreens and Bank of America buildings

Applicant Presentation

David Watson, Direct Development, 2001 Ross, Ste 550, Dallas, TX

Mr. Watson responded to questions from Council regarding:

- Interest on the vacant lots

Mayor Hayden opened the Public Hearing at 7:24 p.m.

No one spoke in favor or opposition of the item.

Mayor Hayden closed the Public Hearing at 7:24 p.m.

Mayor Pro Tem Dixon moved to approve an amendment to the Chapter 380 Incentive Agreement with DD/TPRF II Cross Timbers, L.P. for Cross Timbers Village retail center, and authorization for the Mayor to execute same on behalf of the Town. Councilmember Wise seconded the motion.

VOTE ON THE MOTION

AYES: Wise, Dixon, Levenick, Webb, Walker

NAYS: None

14. **Public Hearing to consider an application for a tree removal permit for the removal of three (3) specimen trees on property proposed for development as Edgewood. The property is generally located south of FM 3040 (Flower Mound Road) and east of Gerault Road. (*The Environmental Conservation Commission recommended approval by a vote of 6 - 0 at its March 4, 2014, meeting*).**

Staff Presentation

Mr. Hoefert gave a presentation identifying or noting:

- Site location
- Project information
- Specific trees being requested for removal

Mr. Hoefert responded to questions from Council regarding:

- Location of one of the trees slated for removal and the roadway adjacency

Applicant Presentation

Ron Stewart, Environs Group, a division of G & A consultants, 111 Hillside Dr, Lewisville, TX

Mr. Stewart responded to questions from Council regarding:

- Efforts that have been made to save trees

Deputy Mayor Pro Tem Webb asked for a follow up report in the future regarding how many trees were able to be saved.

Mayor Hayden opened the Public Hearing at 7:24 p.m.

No one spoke in support or opposition of the item.

Mayor Hayden closed the Public hearing at 7:24 p.m.

Deputy Mayor Pro Tem Webb moved to approve an application for a tree removal permit for the removal of three (3) specimen trees on property proposed for development as Edgewood. The property is generally located south of FM 3040 (Flower Mound Road) and east of Gerault Road. Mayor Pro Tem Dixon seconded the motion.

VOTE ON THE MOTION

AYES: Walker, Webb, Levenick, Dixon, Wise

NAYS: None

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

15. **Public Hearing to consider an application for a tree removal permit for five (5) specimen trees on property proposed for development as Canyon Falls, Phase 3 (previously labeled as Phase 2). The property is generally located north of F.M. 1171 and west of U.S. 377.**

16. Consider a request for a Development Plan (DP13-0003 - Canyon Falls - Phase 3) to develop a residential subdivision, subject to the terms and conditions in the attached Development Agreement and authorization for Mayor to execute same on behalf of the Town. The property is generally located north of Cross Timbers Road and west of U.S. 377. *(The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its February 24, 2014, meeting.)*

Staff Presentation

Mr. Powell gave a presentation for items 15 and 16 identifying or noting:

- General location
- Detailed location
- Land use and zoning
- Photographs of the site
- Phasing plan (color coded), including surrounding boundaries
- Development plan
- Amendments

Mr. Powell responded to questions regarding:

- Clarification regarding process

Applicant Presentation

Brett Pedigo, Manna Land, Southlake, TX

Mr. Pedigo responded to questions from Council regarding:

- Progress report for Canyon Falls

Mayor Hayden opened the Public Hearing for items 15 and 16 at 7:46 p.m.

No one spoke in support or opposition of the item.

Mayor Hayden closed the Public Hearing for items 15 and 16 at 7:46 p.m.

Item 15

Councilmember Wise moved to approve an application for a tree removal permit for five (5) specimen trees on property proposed for development as Canyon Falls, Phase 3 (previously labeled as Phase 2). The property is generally located north of F.M. 1171 and west of U.S. 377. Deputy Mayor Pro Tem Webb seconded the motion.

VOTE ON THE MOTION

AYES: Wise, Dixon, Levenick, Webb, Walker

NAYS: None

Item 16

Councilmember Wise moved to approve a Development Plan (DP13-0003 - Canyon Falls - Phase 3), as amended, to develop a residential subdivision, and acceptance of cash in lieu of land in the amount of \$509,040.00 in place of the otherwise required Park Land dedication, and Park Development Fees in the amount of \$420,564.00, 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.

VOTE ON THE MOTION

AYES: Walker, Webb, Levenick, Dixon, Wise

NAYS: None

- 17. Public Hearing to consider a request to amend the Land Development Regulations (LDR14-0001) by amending Section 82-31, subparagraph (b) of Article II, entitled "Site Plans," of the Code of Ordinances by removing the requirement for town council approval of site plans in conjunction with a designated economic development project, and to consider adopting an ordinance providing for said amendment. *(The Planning and Zoning Commission recommended approval by a vote of 4 to 0 at its March 10, 2014, meeting.)***

Staff Presentation

Mr. Powell gave a presentation identifying or noting:

- Item is a clean-up item in relation to the ED policy

Applicant Presentation

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

No one spoke in support or opposition of the item.

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

Councilmember Walker moved to approve an amendment to the Land Development Regulations (LDR14-0001) by amending Section 82-31, subparagraph (b) of Article II, entitled "Site Plans," of the Code of Ordinances by removing the requirement for town council approval of site plans in conjunction with a designated economic development project, and to consider adopting an ordinance providing for said amendment. Deputy Mayor Pro Tem Webb seconded the motion.

ORDINANCE NO. 13-14

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING CHAPTER 82, "DEVELOPMENT STANDARDS," ARTICLE II, "SITE PLANS," SECTION 82-31, "REQUIRED," OF THE CODE OF ORDINANCES, BY AMENDING SECTION 82-31(b) TO ELIMINATE THE REQUIREMENT FOR TOWN COUNCIL APPROVAL OF SITE PLANS IN CONJUNCTION WITH A DESIGNATED ECONOMIC DEVELOPMENT PROJECT; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON THE MOTION

AYES: Wise, Dixon, Levenick, Webb, Walker

NAYS: None

J. COORDINATION OF CALENDARS AND FUTURE AGENDAS/MEETINGS

Discuss and consider cancelling the May 19th meeting, with the understanding that any items slated to be heard on that would be moved to May 15th for a Special Meeting, and with no work session items.

There was Council consensus to cancel the May 19th regular meeting, and schedule a special meeting on May 15th.

K. BOARDS/COMMISSIONS

a. Discuss and consider resignations, appointments, or evaluations for the following boards or commissions: Animal Services Board, Community Development Corporation, Environmental Conservation Commission, Parks, Arts and Library Services Board, Public Arts Committee, SMARTGrowth Commission, Tax Increment Reinvestment Zone Number One (TIRZ #1), and Transportation Commission.

L./M. CLOSED/OPEN MEETING

The Town Council convened into a closed meeting at 8:11 p.m. on March 17, 2014, pursuant to Texas Government Code Chapter 551, including, but not limited to, Sections 551.087, 551.072 and 551.071 to discuss matters relating to economic development negotiations, real property, and consultation with attorney, and reconvened into an open meeting at 9:37 p.m. on March 17, 2014, to take action on the items as follows:

a. Discuss and consider economic development incentives, including retail centers, corporate relocation/expansion/retention, hospitality projects, and performance related to certain incentive agreements.

No action taken.

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

No action taken.

- c. **Discuss and consider resignations, appointments, or evaluations for the following boards or commissions: Board of Adjustment/Oil & Gas Board of Appeals, Planning and Zoning, and Community Development Corporation.**

Councilmember Walker moved to appoint Gail Scheepers to Place 5 of the Board of Adjustment with an effective date of March 17, 2014 and a term expiration date of September 30, 2015.

VOTE ON THE MOTION

AYES: Wise, Dixon, Levenick, Webb, Walker

NAYS: None

Deputy Mayor Pro Tem Webb moved to appoint Sandeep Sharma to Place 8, Alternate, of the Planning & Zoning Commission, with an effective date of March 17, 2014 and a term expiration date of September 30, 2014.

VOTE ON THE MOTION

AYES: Walker, Webb, Levenick, Dixon, Wise

NAYS: None

- d. **Consultation with Attorney regarding River Hill traffic concerns, indoor recreational land use issue, public information and confidentiality issues, and pending litigation as follows:**

1. Sherrie L. Novak v Town of Flower Mound
2. State Farm Mutual Automobile Insurance Company, as subrogee of Sandra Terrell v. Town of Flower Mound
3. Ivanna Terrell v. Town of Flower Mound, Texas and Brandon Carley
4. Lanette Williams a/n/f A.W., a Minor Child vs. Town of Flower Mound
5. Keystone Exploration, LTD. and EXPRO Engineering, Inc. vs The Town of Flower Mound and The Flower Mound Oil and Gas Board of Appeals
6. Town of Flower Mound, Jimmy Stathatos, in his Official Capacity as Town Manager, Terry Welch, in his Official Capacity as Town Attorney, and Gregg Perry, in his Official Capacity as Town Engineer, v. Anas Alhaji

N. ADJOURN REGULAR MEETING

Mayor Hayden adjourned the meeting at 9:37 p.m. on Monday, March 17, 2014, and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

THOMAS E. HAYDEN, MAYOR

ATTEST:

THERESA SCOTT, TOWN SECRETARY

DRAFT