

THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 17TH DAY OF NOVEMBER 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:

Jean Levenick	Mayor Pro Tem
Michael Walker	Deputy Mayor Pro Tem
Bryan Webb	Councilmember Place 2
Mark Wise	Councilmember Place 3
Steve Dixon	Councilmember Place 4

With the following members absent:

Tom Hayden	Mayor
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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
Ken Parr	Executive Director of Public Works
James Hoefert	Environmental Review Analyst
Andy Kancel	Police Chief
Justin Buck	Crime Prevention Officer

A. CALL REGULAR MEETING TO ORDER

Mayor Pro Tem Levenick 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 Mike Liles gave the invocation and Mayor Pro Tem Levenick led the pledges.

D. PRESENTATIONS

1. 'National Night Out' neighborhood winner award presentation

Chief Kancel outlined the purpose of National Night Out and announced Brookstone neighborhood as the winner of the 2014 National Night Out block party. Officer Buck presented Mrs. Cornelius with a sign in recognition of this achievement for display in their neighborhood.

2. Announcement of Santa Cops program

Officer Justin Buck and Citizen Patrol volunteer Doug Graves announced that the Santa Cops program has begun and they provided details about how the program works as well as the people it serves.

3. Presentation to Ad Art for their sole sponsorship of the Hometown Heroes Banner Program

Mr. Barry Anderson accepted a certificate of recognition for their sponsorship of the Hometown Heroes Banner program.

4. Proclamation for American Diabetes Month

Mr. Quin Neal, Executive Director of the North Texas American Diabetes Association accepted the proclamation.

5. Lakeside DFW development updated by Realty Capital

Jimmy Archie, Realty Capital Management

Mr. Archie gave a presentation identifying or noting:

- Actual photo of Lakeside at FM 2499 and indicated they are near the finish out phases for this area
- Overview of what was requested by Flower Mound residents for this project
- Merchandising plan
- Phase one of 90,227 square feet of retail, restaurant, entertainment, and office space
- Businesses that have committed to locating in the Lakeside DFW development to date:
 - Moviehouse and Eatery
 - Carvao Prime Brazilian Steakhouse
 - Paradise Bistro and Coffee Co.
 - Taverna del Lago
 - Bottle & Bottega (art uncorked)
 - Elite Pups Luxury Dog Daycare & Spa
 - Majestic Nail Spa
 - The Lodge Barbershop
 - Amber Michelle Salon
 - Engel & Volkens (real estate agents)
 - State Farm Insurance (Tammy Edwards Agency)
- Map of where the above referenced business will be located within the development
- Finish out timing
- Highlights of what is to come

The following individuals provided an overview of their business and what services, products, or food choices they plan to offer:

- Ashley Simmons, Taverna del lago
- Paulo Novaes, Carvao Prime Brazilian Steakhouse
- Glen Olson, Bottle & Bottega
- Roxanne Taylor, Engel & Volkers
- Aaron McDaniel, Paradise Bistro and Coffee Co.

E. PUBLIC PARTICIPATION

Names listed below don't necessarily reflect the order in which each person spoke. Each address is located in Flower Mound, unless otherwise indicated.

Jody Smith, 3705 Sarah Springs

Ms. Smith spoke in support of the Highland Court development anticipated at FM 2499 and Rippy Road and encouraged Council to bring the item forward for future consideration. She also questioned the purpose of the agenda item related to the judge.

The following individuals spoke in support of the Highland Court development that is anticipated near FM 2499 and Rippy Road, and particularly due to the variety of housing product that will be offered, including senior housing, as well as for the outstanding reputation that Mr. David Watson has established in the community with respect to other projects: Sam Anderson, 1421 Big Falls; Denis Toth, 2020 Skelton St; Gail Young, 4215 Blue Grass Ct; Don Robertson, 207-R Cimarron Tr, Irving, TX

Clark Canant, 7708 Emerson

Mr. Canant expressed concern related to the alignment change associated with the FM 1171 road project. He also pointed out a concern related to aesthetics if each homeowner is responsible for putting up a fence. He noted that the sound wall would solve both a safety and aesthetics issue.

Angie Cox, 7616 Emerson Lane

Ms. Cox expressed the need for a sound wall and noted they meet the sound requirements.

F. ANNOUNCEMENTS

Mayor Pro Tem Levenick announced the Town's Christmas Parade scheduled for December 6th.

G. TOWN MANAGER'S REPORT

1. Update and status report related to capital improvement projects

Mr. Stathatos reported on the following capital improvement projects:

- Update on:
 - The Rheudasil Park Master Plan, pond dredging, and stabilization plan
 - Heritage Park Master Plan phasing plan

Mr. Parr provided an update on the TxDOT FM 2499 project located at FM 2499 and Grapevine Mills Blvd. He responded to various questions and concerns from members of Council related to the construction in that area.

Council encouraged staff to do everything they can to work all parties involved to alleviate or minimize the congestion in that area.

Mr. Parr also gave an update on the proposed FM 2499 drainage/roadway improvements.

2. Update and discussion on Economic Development projects.

Mr. Stathatos gave the following economic development updates:

- Bed Bath and Beyond recently opened
- Mod Market reports they are exceeding projections
- The Town recently received an upgrade to a AAA bond rating from Fitch

H. COORDINATION OF CALENDARS AND FUTURE AGENDAS/MEETINGS

1. The next Town Council meeting is a scheduled for December 1st.
2. Consider rescheduling the regular May 18, 2015, Town Council meeting to a Special Meeting on Thursday, May 14, 2015.

Ms. Scott clarified that the purpose of the proposed reschedule date is due to a scheduling conflict with the International of Council Shopping Center annual convention in which some members of staff will be attending and unavailable on that date. She pointed out that the May 14th date may need to move to May 20th should there be any provisional ballots.

Councilmember Dixon expressed interest in having a future agenda item related to sewer connection requirements. He provided the following explanation for his request, noting over the past 4-5 years, if residential is ever discussed in the Cross Timbers one of the counterpoints is that if the Town allows sewer in Cross Timbers that is just a veiled way to force people to get on to the sewer system if they are within 300 feet of a line. He stated "this is not a Cross Timbers discussion I am proposing for Council to pick up, but the point is that if I lived anywhere in Town and I had a septic system and the Town either has or installs a sewer system within 300 feet of my residence, and I do a very good job of keeping my septic system maintained and in good working order, I would not appreciate the fact that the Town at some point could force me to put a line to the system and now be a part of the system. Now if the situation is that I'm not

maintaining my system property, and not getting it inspected as our ordinances say, then at that point I should be put in the system for public safety. But if somebody is doing the right thing I do not believe that the Town should force a person to be put on the system, and unfortunately our ordinances say that. I am always a proponent that if our rules don't make sense let's change the rules where they do make sense. At some point in the future I would like staff to brief Council on this, and Council deliberate, possibly debate, and make a decision one way or the other."

I. CONSENT ITEMS

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

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

2. Consider approval of an ordinance to amend Chapter 26 of the Code of Ordinances, Article II, Section 26-51 and Section 26-57, and providing that the Town Council shall appoint the Municipal Court Judge by amending Section 26-58.

RECOMMENDATION: Move to approve the ordinance to amend Chapter 26 of the Code of Ordinances, Article II, Section 26-51 and Section 26-57, and providing that the Town Council shall appoint the Municipal Court Judge by amending Section 26-58.

ORDINANCE NO. 60-14

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS AMENDING THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS BY AMENDING CHAPTER 26, "COURT," ARTICLE II, "MUNICIPAL COURT OF RECORD," SECTION 26-51, "APPOINTMENT, DUTIES GENERALLY," AND SECTION 26-57, "FILLING VACANCY IN OFFICE;" PROVIDING THAT THE TOWN COUNCIL SHALL APPOINT THE MUNICIPAL COURT JUDGE; AMENDING SECTION 26-58, "REMOVAL," PROVIDING THAT THE JUDGE SERVES AT THE PLEASURE OF THE COUNCIL; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

3. Consider approval of the Professional Services Agreement with Wade Trim, Inc., to provide professional engineering services for the Oak Drive Water Line Replacement project for \$161,647.50; and authorize the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Move to approve the Professional Services Agreement with Wade Trim, Inc., to provide professional engineering services for the Oak Drive Water Line Replacement project for \$161,647.50; and authorize the Mayor to execute same on behalf of the Town.

4. Consider approval of a Professional Services Agreement with CobbFendley, Inc., to provide professional engineering services, for the McKamy Creek Road Reconstruction, Canterbury Drive Reconstruction and Superior Place Reconstruction projects in the amount of \$337,290.00; and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Move to approve the Professional Services Agreement with CobbFendley, Inc., to provide professional engineering services for the McKamy Creek Road Reconstruction, Canterbury Drive Reconstruction and Superior Place Reconstruction projects for \$337,290.00; and authorize the Mayor to execute same on behalf of the Town.

5. Consider approval of the purchase and installation of play equipment for the Dixon Park Playground project, from Child's Play, Inc., through the Texas Local Government Purchasing Cooperative, in the amount of \$146,579.00.

RECOMMENDATION: Move to approve the purchase and installation of play equipment for the Dixon Park Playground project, from Child's Play, Inc., through the Texas Local Government Purchasing Cooperative, in the amount of \$146,579.00.

6. Consider approval of the purchase and installation of play equipment for the Prairie Creek Park Playground project, from Recreation Consultants of Texas, through the Texas Local Government Purchasing Cooperative, in the amount of \$152,457.00.

RECOMMENDATION: Move to approve the purchase and installation of play equipment for the Prairie Creek Park playground project, from Recreation Consultants of Texas, through the Texas Local Government Purchasing Cooperative, in the amount of \$152,457.00.

7. Consider approval of the purchase of new Traffic Signal Detection Equipment for the Traffic Detection Rehabilitation project, from Twincrest Technologies through the TxSmartBuy program, in the amount of \$124,918.00.

RECOMMENDATION: Move to approve the purchase of new Traffic Signal Detection Equipment for the Traffic Detection Rehabilitation project from Twincrest Technologies through the TxSmartBuy program, in the amount of \$124,918.00.

8. Consider approval of the First Amendment to the Interlocal Agreement with Lewisville Independent School District for Construction and Maintenance of Hike and Bike Trail on School Property associated with the Pink Evening Primrose Trail Section 3; and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Move to approve the First Amendment to the Interlocal Agreement with Lewisville Independent School District for Construction and Maintenance of Hike and Bike Trail on School Property associated with the Pink Evening Primrose Trail Section 3; and authorization for the Mayor to execute same on behalf of the Town.

9. Consider approval of Change Order No. 4 associated with the Wastewater Treatment Plant Rehabilitation Phase III project, amending the contract with Prime Controls, LP, for an increase in the amount of \$50,888.66; and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Move to approve Change Order No. 4 associated with the Wastewater Treatment Plant Rehabilitation Phase III project, amending the contract with Prime Controls, LP, for an increase in the amount of \$50,888.60; and authorize the Mayor to execute same on behalf of the Town.

10. Consider approval of the Professional Services Agreement with Schrickel Rollins and Associates, Inc., to provide professional engineering services for the Braden Bakersfield Park Improvements project for \$22,500.00; and authorize the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Move to approve the Professional Services Agreement with Schrickel Rollins and Associates, Inc., to provide professional engineering services for the Braden Bakersfield Improvements project for \$22,500.00; and authorize the Mayor to execute the same on behalf of the Town.

11. Staff requests authorization to increase the settlement limit for the Whitworth right of way tract purchase, associated with the Stonecrest Road project, by \$3,000.00.

RECOMMENDATION: Move to approve staff to purchase approximately .221 acres of the property located at 6404 Stonecrest Road, Flower Mound, Denton County, Texas, owned by Barry Whitworth, for the public use as public right-of-way for the Stonecrest Road project for the amount of \$30,000.00 and authorize the Town Manager, or his designee, to close on the property, to pay all cost associated with said closing in addition to the purchase price of the property, and to execute all necessary documents at closing on behalf of the Town.

Councilmember Webb moved to approve by consent Items 1-11. Councilmember Walker seconded the motion. Each item, as approved by consent, is restated above along with the approved recommendation, and if applicable, the Ordinance or Resolution caption for each, for the record.

VOTE ON MOTION

AYES: WISE, DIXON, LEVENICK, WEBB, WALKER

NAYS: NONE

J. REGULAR ITEMS

12. Public Hearing to consider an application for a tree removal permit for one (1) specimen tree on property proposed for development as Block C, Lot 6, of the Preserve at Flower Mound Phase One. The property is generally located at 2621 Creekside Place. *(The Environmental Conservation Commission recommended approval by a vote of 3-0 at its October 7, 2014, meeting).*

Staff Presentation

Mr. Hoefert gave a presentation identifying or noting:

- Project information
- Photos of the site

Mayor Pro Tem Levenick opened the Public Hearing at 7:46 p.m. No one spoke in support or opposition. Mayor Pro Tem Levenick closed the Public Hearing at 7:46 p.m.

Councilmember Webb moved to approve the requested permit for the removal of one (1) specimen tree on property proposed for development as Block C, Lot 6, of the Preserve at Flower Mound Phase One. Councilmember Dixon seconded the motion.

VOTE ON THE MOTION

AYES: WALKER, WEBB, LEVENICK, DIXON, WISE

NAYS: NONE

13. Consider Town participation options for the proposed installation of a screening wall/fence along the south right-of-way line of FM 1171 adjacent to the north boundary of Lost Canyon Estates Phase I.

Staff Presentation

Mr. Parr provided an overview of the current situation and existing factors and Mr. Stathatos presented the fencing options for consideration.

Mr. Parr, Mr. Meredith, or Mr. Stathatos responded to questions from Council as follows:

- How safe would a wooden fence be in stopping a vehicle, especially for the area in the turn
- Associated cost
- What options did the impacted residents favor

- What is the impact of a masonry wall in conjunction with the Town's scenic corridor
- Who would be responsible for repair or maintenance of the fence
- Is there a situation where this circumstance (another location) would present itself again from the perspective of setting precedence as was previously discussed

Mr. Stathatos outlined the various options for Council consideration.

Councilmember Webb moved to approve the Town's participation at 100% for a masonry screening wall along the northern boundary the Lost Canyon Estate Phase I Subdivision that fronts the southern right-of-way line of FM 1171. Councilmember Wise seconded the motion.

VOTE ON THE MOTION

AYES: WISE, WEBB

NAYS: DIXON, LEVENICK, WALKER

Motion failed.

Council Discussion:

There was Council discussion relative to:

- hearing a motion relative to a 50% match for a masonry wall first
- possibility of incorporating a guard rail for safety reasons
- the location of the proposed sidewalk being put in by TxDOT

Town Council recessed at 8:10 p.m. and reconvened at 8:20 p.m.

Councilmember Webb moved to approve the Town's participation at 50% for a masonry screening wall along the northern boundary the Lost Canyon Estate Phase I Subdivision that fronts the southern right-of-way line of FM 1171, with the conditions that the residents provide a suitable temporary construction easement and that the Town not assume any maintenance responsibility for the screening wall.

Council Discussion:

Councilmember Webb summarized that for this motion the Town's and resident's participation would each be about \$54,000.

The motion failed due to a lack of a second.

Mayor Pro Tem Levenick moved to approve the Town's participation in a screening fence, specifically participating in 50% of the estimated cost for a wooden screening fence and the entire cost of a guard rail along the northern boundary the Lost Canyon Estate Phase I Subdivision that fronts the southern right-of-way line of FM 1171, subject to the following conditions: 1) That the adjacent residents provide a suitable temporary construction

easement; and 2) That the Town not assume any maintenance responsibility for the screening fence. Deputy Mayor Pro Tem Walker seconded the motion.

VOTE ON THE MOTION

AYES: WALKER, LEVENICK, DIXON, WISE

NAYS: WEBB

**K. BOARDS/COMMISSIONS
(Executive Conference Room)**

Discuss and consider resignations, appointments, or evaluations for the following boards or commissions: Animal Services Board, 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. **No action taken.**

L./M. CLOSED/OPEN MEETING

The Town Council convened into a closed meeting at 8:23 p.m. on November 17, 2014, 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 economic development negotiations, real property, personnel, and consultation with attorney, and reconvened into an open meeting at 8:41 p.m. on Monday, November 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, library, and/or other municipal purposes and all matters incident and related thereto.

Deputy Mayor Pro Tem Walker moved to direct the Town Manager to execute a document to acquire property on behalf of the Flower Mound Public Library with the terms as was discussed in Executive Session. Councilmember Wise seconded the motion.

VOTE ON THE MOTION

AYES: WALKER, WEBB, LEVENICK, DIXON, WISE

NAYS: NONE

- c. Discuss and consider resignations, appointments, or evaluations for the following boards or commissions: Board of Adjustment/Oil & Gas Board of Appeals, Community Development Corporation, and Planning and Zoning Commission. **No action taken.**
- d. Consultation with Attorney as follows:
 - 1. State Farm Mutual Automobile Insurance Company, as subrogee of Sandra Terrell v. Town of Flower Mound
 - 2. Ivanna Terrell v. Town of Flower Mound, Texas and Brandon Carley
 - 3. Lanette Williams a/n/f A.W., a Minor Child vs. Town of Flower Mound
 - 4. Keystone Exploration, LTD. and EXPRO Engineering, Inc. vs The Town of Flower Mound and The Flower Mound Oil and Gas Board of Appeals
 - 5. U.S. Bank National Association, as Trustee for the Certificate Holders of Bank of America Funding 2008-FT-1 Trust Mortgage Pass-through Certificates, Series 2008-FT-1 v. Town Of Flower Mound, et al.

No action taken.

M. ADJOURN REGULAR MEETING

Mayor Pro Tem Levenick adjourned the meeting at 8:42 p.m. on Monday, November 17, 2014, and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

THOMAS E. HAYDEN, MAYOR

ATTEST:

THERESA SCOTT, TOWN SECRETARY

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