

**THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 17<sup>TH</sup> DAY OF APRIL 2017, 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.**

Meeting Video Link: <http://flowermoundtx.swagit.com/play/04172017-1373> (subject to change)

The Town Council met in a regular meeting with the following members present:

Tom Hayden	Mayor
Kevin Bryant	Mayor Pro Tem
Bryan Webb	Deputy Mayor Pro Tem
Jason Webb	Councilmember Place 1
Don McDaniel	Councilmember Place 4

With the following members absent:

Itamar Gelbman	Councilmember Place 5
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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	Deputy Town Manager/CFO
Tommy Dalton	Assistant Town Manager
Doug Powell	Executive Director of Development Services
Ken Parr	Executive Director of Public Works
Andy Kancel	Police Chief
Wess Griffin	Police Captain

**A. CALL REGULAR MEETING TO ORDER**

Mayor Hayden 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 Mark Sherrill gave the invocation and Mayor Hayden led the pledges.

**D. PRESENTATIONS**

1. Recognition of the Flower Mound Citizens Academy - Class of 2017

Ms. Scott gave a presentation identifying or noting background information about the academy and accomplishments of the participants. Graduates recited a pledge and each was presented an award.

**E. PUBLIC PARTICIPATION**

*Names listed below don't necessarily reflect the order in which each person spoke and all addresses are located in Flower Mound unless otherwise indicated.*

	Speaker names and address	Subject <i>(as written on the form)</i>
1.	Ron Hilliard, 2461 Sheri Ln	Town Council
2.	Michael Brizendine, 2709 Fordham Ct	Item 7 (ACMS)
3.	Paul Stone, 4100 Broadway, # 11111	Elections, Item 13(Lakeside)
4.	Sandeep Sharma, 2504 Stillwater Ct	Facebook Live
5.	Susan Dawson, 3425 Lamden Dr	Children's Advocacy Center
6.	Shaheed Luqman, 3429 Jameston Dr	Annual Picnic Invitation

#### F. **ANNOUNCEMENTS**

Councilmember Jason Webb had the following announcements:

- Candidate forum dates
- Early voting and election day information
- Reported on the recent vehicle burglaries and noted that all of them were crimes of opportunity and reminded residents to lock their vehicles.

Members of Council reported on the Stryker ribbon cutting and opening ceremony event, including information relative to their financial investment in the community.

Members of Council reported on the high turnout of the recent Easter sunrise service on The Mound. It was also pointed out that former Mayor Tom Webb was there and he has moved back to Flower Mound.

Mayor Hayden announced that the Town is now utilizing Facebook Live to broadcast Council meetings.

#### G. **TOWN MANAGER'S REPORT**

Mr. Stathatos gave an update on the following projects:

1. Capital improvement projects.
  - McKamy Creek Rd

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

- What is the Town's process for public notification as it relates to a road designation change
2. Economic Development projects.
    - Milwaukee Joe's was issued their certificate of occupancy
    - Stryker expansion
    - Close to consummating a deal with another company that will take the space vacated by Stryker

3. New town hall and library expansion.
  - Future meeting dates for briefings

#### H. FUTURE AGENDA ITEMS

1. There were no items requested for a future agenda.

#### I. COORDINATION OF CALENDARS

Mayor Hayden announced that the next Town Council regular meeting is scheduled for Monday, May 1, 2017.

#### J. CONSENT ITEMS

1. Consider approval of the minutes from a regular meeting of the Town Council held on April 3, 2017.

**RECOMMENDATION:** Move to approve the minutes from a regular meeting of the Town Council held on April 3, 2017.

2. Consider approval for Waste Water Treatment Plant Administrative Building Renovation.

**RECOMMENDATION:** Move to approve for Waste Water Treatment Plant Administrative Building Renovation.

3. Consider approval of an ordinance amending section 54-178(a) of the Town of Flower Mound Code of Ordinances and the general restrictions applicable to property subject to United States Army Corps of Engineers property rules and regulations; amending recreational use fees contained in Appendix A "Fee Schedule" established by Section 54-178.1 of the Code of Ordinances; providing a penalty; for severability; for repeal of conflicting ordinances; establishing an effective date and providing for publication. (The Parks Board recommended approval by a vote of 6 to 0 at its April 6, 2017, regular meeting.)

**RECOMMENDATION:** Move to approve an ordinance amending section 54-178(a) of the Town of Flower Mound Code of Ordinances and the general restrictions applicable to property subject to United States Army Corps of Engineers property rules and regulations; amending recreational use fees contained in Appendix A "Fee Schedule" established by Section 54-178.1 of the Code of Ordinances; providing a penalty; for severability; for repeal of conflicting ordinances; establishing an effective date and providing for publication. (The Parks Board recommended approval by a vote of 6 to 0 at its April 6, 2017, regular meeting.)

## ORDINANCE NO. 11-17

**AN ORDINANCE AMENDING SECTION 54-178(a) OF THE FLOWER MOUND CODE OF ORDINANCES AND THE GENERAL RESTRICTIONS APPLICABLE TO PROPERTY SUBJECT TO UNITED STATES ARMY CORPS OF ENGINEERS PROPERTY RULES AND REGULATIONS; AMENDING RECREATIONAL USE FEES CONTAINED IN APPENDIX A "FEE SCHEDULE" ESTABLISHED BY SECTION 54-178.1 OF THE CODE OF ORDINANCES; PROVIDING A PENALTY; FOR SEVERABILITY; FOR REPEAL OF CONFLICTING ORDINANCES; ESTABLISHING AN EFFECTIVE DATE AND PROVIDING FOR PUBLICATION.**

4. Consider approval of naming the 10.756 acre public park located at 6425 Stonecrest Road in the Canyon Falls Development as Canyon Falls Park.

**RECOMMENDATION:** Move to approve naming the 10.756 acre public park located at 6425 Stonecrest Road in the Canyon Falls Development as Canyon Falls Park.

5. Consider approval of an Interlocal Cooperation Agreement for Library Services.

**RECOMMENDATION:** Move to approve an Interlocal Cooperation Agreement for Library Services.

6. Consider approval of a resolution suspending the April 21, 2017, effective date of Oncor Electric Delivery Company's requested rate change to permit the Town time to study the request and to establish reasonable rates; approving cooperation with the Steering Committee of Cities Served by Oncor to hire legal and consulting services and to negotiate with the company and direct any necessary litigation and appeals; finding that the meeting at which this resolution is passed is open to the public as requested by law; requiring notice of this resolution to the company and legal counsel for the Steering Committee.

**RECOMMENDATION:** Move to approve a resolution suspending the April 21, 2017, effective date of Oncor Electric Delivery Company's requested rate change to permit the Town time to study the request and to establish reasonable rates; approving cooperation with the Steering Committee of Cities Served by Oncor to hire legal and consulting services and to negotiate with the company and direct any necessary litigation and appeals; finding that the meeting at which this resolution is passed is open to the public as requested by law; requiring notice of this resolution to the company and legal counsel for the Steering Committee.

## RESOLUTION NO. 07-17

RESOLUTION OF THE TOWN OF FLOWER MOUND SUSPENDING THE APRIL 21, 2017, EFFECTIVE DATE OF ONCOR ELECTRIC DELIVERY COMPANY'S REQUESTED RATE CHANGE TO PERMIT THE TOWN TIME TO STUDY THE REQUEST AND TO ESTABLISH REASONABLE RATES; APPROVING COOPERATION WITH THE STEERING COMMITTEE OF CITIES SERVED BY ONCOR TO HIRE LEGAL AND CONSULTING SERVICES AND TO NEGOTIATE WITH THE COMPANY AND DIRECT ANY NECESSARY LITIGATION AND APPEALS; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND LEGAL COUNSEL FOR THE STEERING COMMITTEE

7. Item 7 was pulled from consent and moved to regular items.

8. Consider approval of the purchase and installation of play equipment for the 2016-17 Playground Replacements for Glenwick Park, from Playcraft Systems, Inc., through the Texas Local Government Purchasing Cooperative, in the amount of \$135,743.47.

**RECOMMENDATION:** Move to approve the purchase and installation of play equipment for the 2016-17 Playground Replacements for Glenwick Park, from Playcraft Systems, Inc., through the Texas Local Government Purchasing Cooperative, in the amount of \$135,743.47.

9. Consider approval of the purchase and installation of play equipment for the 2016-17 Playground Replacements project for Grove Park, from Child's Play, Inc., through the Texas Local Government Purchasing Cooperative, in the amount of \$134,186.00.

**RECOMMENDATION:** Move to approve the purchase and installation of play equipment for the 2016-17 Playground Replacements project for Grove Park, from Child's Play, Inc., through the Texas Local Government Purchasing Cooperative, in the amount of \$134,186.00.

10. Consider approval of Bid No. 2017-61, to purchase materials and installation for the renovation of Fire Station No. 1's crew showers and mechanical areas, from Unified Services of Texas, Inc., as part of the Fire Station No. 1 Facility Upgrades project in the amount of \$299,057.00.

**RECOMMENDATION:** Move to approve Bid No. 2017-61, to purchase materials and installation for the renovation of Fire Station No. 1's crew showers and mechanical areas, from Unified Services of Texas, Inc., as part of the Fire Station No. 1 Facility Upgrades project in the amount of \$299,057.00.

11. Consider approval of Bid No. 2017-62, to purchase materials and installation for the renovation of the Police Department's Jail, Locker and Shower areas, for the Police and Courts Facility Upgrades project, from Unified Services of Texas, Inc., in the amount of

\$639,341.00.

**RECOMMENDATION:** Move to approve Bid No. 2017-62, to purchase materials and installation for the renovation of the Police Department's Jail, Locker and Shower areas, for the Police and Courts Facility Upgrades project, from Unified Services of Texas, Inc., in the amount of \$639,341.00.

12. Consider approval for emergency purchase of a backup system for all Town servers.

**RECOMMENDATION:** Move to approve emergency purchase of a backup system for all Town servers.

Councilmember Jason Webb moved to approve by consent Items 1 – 6; 8 – 12. Councilmember McDaniel 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:**

*Motion passed*

**AYES: B. WEBB, BRYANT, MCDANIEL, J. WEBB**

**NAYS: NONE**

**ABSENT: GELBMAN**

**K. REGULAR ITEMS**

7. Consider approval of an agreement with All City Management Services (ACMS).

Staff Presentation

Chief Kancel or Captain Griffin gave a presentation identifying or noting:

- Purpose of tomorrow's meeting with the crossing guards
- Importance of crossing guards
- Crossing guard program proposal
- Service days and hours involved for crossing guards, volunteers, and officers
- 5 year budget history
- Background information on All City Management Services (ACMS), including other municipalities served in Texas
- Summary of what the partnership with ACMS would mean (safety, response asset increase, reduces tangential administrative liabilities)

Captain Griffin responded to questions from Council as follows:

- Why is it difficult for the Town to find crossing guards
- What changes for the existing crossing guards, if anything
- Will Flower Mound residents be given preferential treatment for new positions over someone outside of Flower Mound
- What percentage of the current crossing guard team are Flower Mound residents
- What gives ACMS the advantage to fill crossing guard positions that the Town currently cannot fill
- Will the Flower Mound Police Department keep the authority in this area
- Clarification that the main driver behind this agreement is because when there is an absence of a crossing guard one of the police officers is called in to fill that

vacancy, reducing the response assets to take calls for service or monitor school zones

- What is the duration of the contract
- Clarification regarding the transition plan
- Does the Town still have a say as to crossing guard hiring qualifications
- Who would be the point of contact for any issues or complaints
- Clarification that no changes, if approved, would go into effect until the next school year
- How does the company make money if the pay is the same

There was Council discussion or comments as follows:

- The timing as it relates to communicating the proposed changes to the crossing guards
- How there is a history of the Town struggling to get enough crossing guards to cover all the locations
- How it is not an effective use of police officers to be stationed as a crossing guard as it's not the highest and best use of their skillset
- Interest in having language in the agreement stipulate that if there is a lack of coverage situation that results in putting a uniformed officer at a location, the Town should get compensated back for that
- Every crossing guard the Town has today will be able to stay, and they'll keep their current salary
- Concerns were addressed relative to tenure, transition, pay, training, and hiring practices by ACMS
- How everything stays the same other than a large pool of people in which to hire from and frees up the police officers

There was Council direction to proceed with modifying the agreement that takes into account the following considerations:

- preferential treatment for Flower Mound residents for any new positions
- language in the agreement that stipulates that if there is a lack of coverage that results in putting a uniformed officer at a location, the Town gets reimbursed
- and input that is forthcoming at the meeting tomorrow

Deputy Mayor Pro Tem Bryan Webb moved to postpone an agreement with All City Management Services (ACMS) indefinitely. Councilmember McDaniel seconded the motion.

**VOTE ON MOTION:***Motion passed***AYES: J. WEBB, MCDANIEL, BRYANT, B. WEBB****NAYS: NONE****ABSENT: GELBMAN**

13. Consider approval of a design change (MISC17-0003) for the terminus feature in the central roundabout within the Lakeside DFW development. The property is within the intersection of Edgemere Road and Lakeside Parkway. (The Planning and Zoning Commission denied the item by a vote of 6 to 0 at its April 10, 2017, meeting.)

**Staff Presentation**

Mr. Powell gave a presentation identifying or noting:

- the applicant is appealing the Planning and Zoning decision as it relates to site plan (reason why it is coming to Council)
- location
- land use and zoning
- photographs of the site
- summary of discussion at the Planning and Zoning meeting

and Mr. Powell or Mr. Meredith responded to questions from Council as follows:

- How did the idea of the terminus come about
- A request for a visual clarification in that if the item is denied what would go there
- How tall does a live oak get in the proposed roundabout environment
- Concerns that the branches of the tree may cause road visibility issues
- In the interest of the roundabout feature not being a stumbling block for the developer to obtain a certificate of occupancy, could there be an exception to the roundabout feature, with the understanding it would be addressed later. There was later Council direction to the Town Manager to proceed with working with the applicant for that purpose
- Legalities associated with what Council or applicant action is necessary in the situation of allowing an exemption to the roundabout feature to the extent that it doesn't restrict the applicant from obtaining a certificate of occupancy

**Applicant Presentation**

Richard Myers, 909 Lake Carolyn Pkwy, Ste 150, Irving, TX 75039

Mr. Myers gave a presentation identifying or noting:

- Proposal for the Lakeside DFW Roundabout and *The Lakeside Liberty Tree*
- Liberty tree lighting example
- Cell phone coverage issues in the area and possible resolutions
- Options as it relates to a manmade terminus as they believe the obelisk is not fitting at the location

and he responded to questions or comments from Council as follows:

- How large and what type of tree would be planted
- What is the caliper inches on the trunk
- Concerns regarding the business owner's association ability to maintain the trees,

- particularly given they didn't put up holiday lights this past year
- What changed in one year that shifted the desire for an obelisk as the visual terminus element to a tree
- Why couldn't they bring forward this item at the same time of the 3<sup>rd</sup> round about that addresses cell service
- Height contradictions as it relates to the tree and the obelisk
- Would a large water feature or a sculpture be an option

There was Council discussion or comments related to:

- How visually the tree will not serve the purpose of a terminus
- Which is more appealing – the obelisk or a tree, and why
- Suggested utilizing the Cultural Arts Commission to get their input on art ideas

Mr. Myers (applicant) officially withdrew the application during the meeting and therefore no council action was taken.

14. Public Hearing to consider a request for rezoning (ZPD17-0002 - Victory Retail) to amend Planned Development District No. 51 (PD-51) by amending the development standards related to permitted uses and parking standards for the Retail District-2 (R-2) tract, and to consider adopting an ordinance providing for said amendment. The property is generally located north of Flower Mound Road and east of Morriss Road. (The Planning and Zoning Commission recommended denial by a vote of 6 to 0 at its April 10, 2017, meeting.)

### **Staff Presentation**

Mr. Powell gave a presentation for items 14 and 15 identifying or noting:

- General and detailed location
- Land use and zoning
- Photos of the site
- Clarification regarding the deviation request as it relates to parking (item 15)
- Development standards, particularly as it relates to the Town's parking requirements and how there are some restaurants such as Smoothie King, Nothing Bundt Cakes, etc. that don't have tables and therefore don't have the same actual restaurant requirements
- Applicant revised their applicant in that there is not a request for the limited restaurant provision and now it would only be a request for uses that meet the walk up/counter only type restaurants
- Correspondence received by The Pines development, indicating they would like the same approvals
- How outside seating is also figured into the parking calculations

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

- Clarification of the square footage calculations that trigger parking and how does Flower Mound compare to our neighboring communities
- Why do we include non-customer space into the parking calculations

- Procedural issues as it relates to proceeding (for the Council/Applicant) given the supermajority element and 4 of 5 members present
- Who is responsible for the gate (based on comments from the Tealwood Oaks residents who spoke during the public hearing about it not working)

**Applicant Presentation**

Kris Ramji, 4908 Pinehurst Dr, Frisco, TX 75034

Mr. Ramji gave a presentation identifying or noting:

- They are asking for the ability to have a store front restaurant that doesn't include seating

And he responded to the following questions:

- What percentage of the total retail is anticipated for the store front use

Mayor Hayden informed the applicant that given the item was denied at P & Z there is now a supermajority requirement from Council (4 out of 5), and given there is one member of Council absent it would require a unanimous vote in favor for approval. For that reason he was provided the option to postpone to another date. The applicant opted to proceed.

Mayor Hayden opened the Public Hearing at 8:27 p.m.

The following individuals either spoke in support or opposition, or had questions / comments related to the item: *Names listed below don't necessarily reflect the order in which each person spoke and all addresses are located in Flower Mound unless otherwise indicated.*

<b>Support: Comments/ Questions</b>	<b>Opposition: Comments/Questions</b>	<b>Question(s)/ Comments Only</b>
	Pierce Cauvin, 909 Wood Duck Way (indicated on form did not wish to speak)	
	Barry Gabbert, 2017 Ring Teal Ln	
	Mary Ann Holbrook, 912 Drake Trl	
	Jerome Patterson, 620 Autumn Ln	
	Jim Engel, 5110 Bayberry	
	Robert O Monroe, 1904 Ring Teal Ln	
	Renee Doyle, 920 Drake Trl	
	Sandeep Sharma, 2504 Stillwater Ct	
	Martin Rice, 908 Wood Duck	
	Paul Stone, 4100 Broadway, # 11111	
	Karen Martin, 840 Tealwood Cir	

Mayor Hayden closed the Public Hearing at 8:48 p.m.

There was Council discussion as follows:

- How if there is interest in putting in a subsection for limited service restaurants it should be an adjustment to the Town's Ordinance instead of a case by case

- development issue
- How the applicant didn't make any changes since the last meeting, and instead is asking the Town to make changes
- Possibility of having the Transportation and/or Planning and Zoning Commission look at the Town's parking ordinances and associated requirements, which would include a comparison of neighboring cities, as well as a review of some of the Town's retail centers that are thriving and what the thoughts and assumptions were at that time, followed by making any recommendations as warranted.
  - Interest in having the topic for discussion at the Town's Strategic Planning session later this year
- How the applicant should continue to work on getting shared access to the east

Mayor Pro Tem Bryant moved to deny a request for rezoning (ZPD17-0002 - Victory Retail) to amend Planned Development District No. 51 (PD-51) by amending the development standards related to permitted uses and parking standards for the Retail District-2 (R-2) tract, and adopt an ordinance providing for said amendment. Councilmember McDaniel seconded the motion.

**VOTE ON MOTION:**

*Motion passed*

**AYES: J. WEBB, MCDANIEL, BRYANT, B. WEBB**

**NAYS: NONE**

**ABSENT: GELBMAN**

15. Consider approval of a request (MISC17-0002 - Victory Retail Parking Deviation) for a deviation to the required parking spaces in excess of 20 percent as outlined in Section 82-73, Computing parking and loading requirements, of the Code of Ordinances. The property is generally located north of Flower Mound Road and east of Morriss Road. (The Planning and Zoning Commission recommended denial by a vote of 6 to 0 at its February 27, 2017, meeting.) (This item was postponed indefinitely at the March 20, 2017, Town Council meeting.)

Mayor Pro Tem Bryant moved to deny a request (MISC17-0002 - Victory Retail Parking Deviation) for a deviation to the required parking spaces in excess of 20 percent as outlined in Section 82-73, Computing parking and loading requirements, of the Code of Ordinances. The property is generally located north of Flower Mound Road and east of Morriss Road. Councilmember Jason Webb seconded the motion.

**VOTE ON MOTION:**

*Motion passed*

**AYES: B. WEBB, BRYANT, MCDANIEL, J. WEBB**

**NAYS: NONE**

**ABSENT: GELBMAN**

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

Discuss and consider resignations, appointments, evaluations, reassignments, discipline, or dismissals for the following boards or commissions: Animal Services Board, Cultural Arts Commission, Environmental Conservation Commission, Parks Board, SMARTGrowth Commission, Tax Increment Reinvestment Zone Number One (TIRZ #1), and Transportation Commission.

There was some discussion relative to whether or not Council should have Transportation

Commission member Louis Wei come to a future Council meeting to discuss his service to the Town, and more specifically as it relates to a potential willful violation of trust in relation to his role.

Given there was not a majority of Council interested in discussing Mr. Wei's service, no staff direction was provided or additional action taken.

**M./N. CLOSED/OPEN MEETING**

The Town Council convened into a closed meeting at 8:54 p.m. on April 17, 2017, pursuant to Texas Government Code Chapter 551, including, but not limited to, Sections 551.074, 551.087, 551.072, and 551.071 to discuss matters relating to personnel, economic development negotiations, real property, and consultation with attorney, and reconvened into an open meeting at 10:12 p.m. on April 17, 2017, to take action on the items as follows:

- a. Discuss and consider resignations, appointments, evaluations, reassignments, discipline, or dismissals 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.

- b. Deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the Presiding and Alternate Municipal Court Judge.

Councilmember McDaniel moved to approve an Ordinance of the Town Council of the Town of Flower Mound, Texas appointing an alternate judge in the person of Stephanie Askew, to the Municipal Court of Record in the Town of Flower Mound providing this Ordinance shall be cumulative of all Ordinances, providing a severability clause, providing for publication and providing an effective date, with an addendum of a \$500 stipend for training per month for a 30 day period. Councilmember Jason Webb seconded the motion.

**VOTE ON MOTION:**

*Motion passed*

**AYES: J. WEBB, MCDANIEL, BRYANT, B. WEBB**

**NAYS: NONE**

**ABSENT: GELBMAN**

- c. 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.

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

No action taken.

**O. ADJOURN REGULAR MEETING**

Mayor Hayden adjourned the meeting at 10:20 p.m. on Monday, April 17, 2017, and all were in favor.

**TOWN OF FLOWER MOUND, TEXAS**



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**THOMAS E. HAYDEN, MAYOR**

**ATTEST:**



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**THERESA SCOTT, TOWN SECRETARY**

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05/03/2017

Created:	05/02/2017
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- Signed document emailed to Anne Carnes (TownSecretary@flower-mound.com), Theresa Scott (theresa.scott@flower-mound.com) and Thomas E Hayden (mayor@flower-mound.com)  
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