

**THE FLOWER MOUND TOWN COUNCIL SPECIAL AND REGULAR MEETING HELD ON THE 17TH DAY OF SEPTEMBER, 2012, IN THE FLOWER MOUND TOWN HALL, LOCATED AT 2121 CROSS TIMBERS ROAD IN THE TOWN OF FLOWER MOUND, COUNTY OF DENTON, TEXAS AT 5:00 P.M.**

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

Tom Hayden	Mayor
Kendra Stephenson	Mayor Pro Tem
Mark Wise	Deputy Mayor Pro Tem
Bryan Webb	Councilmember Place 2
Steve Dixon	Councilmember Place 4
Jean Levenick	Councilmember Place 5

constituting a quorum with the following members of the Town Staff participating:

Harlan Jefferson	Town Manager
Theresa Scott	Town Secretary
Terrence Welch	Town Attorney
Kent Collins	Assistant Town Manager
Chuck Springer	Assistant Town Manager/CFO
Gary Sims	Executive Director of Community Services
Christine Hastings	Animal Services Manager

**A. CALL SPECIAL MEETING TO ORDER (5:00 P.M.)**

Mayor Hayden called the special meeting to order at 5:00 p.m.

**B./C. CLOSED/OPEN MEETING**

The Town Council convened into a closed meeting at 5:00 p.m. on September 17, 2012, pursuant to Texas Government Code Section 551.071 for consultation with attorney and reconvened at 6:00 p.m. on September 17, 2012, to take action on the items as follows:

- a. Legal consultation relative to outstanding Town contractual issues, and legal rights and obligations of parties related thereto.

No action taken.

**D. ADJOURN SPECIAL MEETING**

Mayor Hayden adjourned the Special Meeting on September 17, 2012, at 6:00 p.m.

**E. CALL BRIEFING SESSION TO ORDER (6:00 P.M.)**

Mayor Hayden called the Briefing Session to order at 6:00 p.m.

**F. BRIEFING SESSION**

**1. Town Council Boards and Commissions Subcommittee/Liaison Reports**

Deputy Mayor Pro Tem Wise reported the September 11<sup>th</sup> Transportation Commission meeting has been postponed until tomorrow.

Councilmember Dixon reported attending the Development Review Process Committee meeting last Tuesday, and another one is planned for this coming Tuesday.

Councilmember Webb reported attending the Planning & Zoning Commission meeting last week.

Councilmember Levenick reported attending the ECC meeting on September 5<sup>th</sup>.

**2. Discuss Consent and Regular Items**

No discussion.

**3. Request Future Agenda Items**

No discussion.

**G./H. ADJOURN BRIEFING SESSION AND CALL REGULAR MEETING TO ORDER**

Mayor Hayden adjourned the briefing session and called the regular meeting to order at 6:02 p.m.

**I. INVOCATION**

Chaplain Liles gave the invocation.

**J. PLEDGE OF ALLEGIANCE TO THE AMERICAN FLAG AND THE TEXAS FLAG**

Mayor Hayden led the pledges.

**K. PRESENTATIONS**

1. Certificate of Appreciation for Ft. Wildflower Committee members.

Mayor Hayden provided the following Ft. Wildflower Steering Committee members with a certification of appreciation:

Norma Krueger, Ft. Wildflower Steering Committee Chair	Mike McCall
Bill Krueger	Todd Schreiber
Andie Milton	Claudio Forest
Amy Weidner	Laurie Long
Mary Kay Walker	Ray White
	Angie Cox
	Melissa Snyder

Mayor Hayden asked Ms. Krueger to say a few words about the committee.

Ms. Krueger pointed out the responsibilities of the various members and applauded them for their work in the project.

**L. PUBLIC PARTICIPATION**

Gary Bode, 2700 Lake Flower Dr, Flower Mound, TX

Mr. Bode stated there is a truck traffic concern as a result of the expiration of Rule 11 in conjunction with the Hilliard pad site.

Mayor Hayden asked Mr. Jefferson to provide a statement of fact on the concern brought up by Mr. Bode.

Mr. Jefferson responded that the Rule 11 has expired, and the application has been submitted to TxDOT, however, it was not approved within the twelve months the Town had in conjunction with the agreement. He noted that during the review process TxDOT had received a lot of citizen input in opposition of the permit they were considering. He indicated staff can revisit the matter with TxDOT if there is interest by Council, which would involve a public process as there are new accesses being proposed. He indicated the residents of the Villages of Northshore would be interested in the new proposed access, as well as the residents in Lakeview Estates. He pointed out the main opposition came from the residents of Woodlake Estates in relation to the new access route. He further added the Hilliard permit site was administratively approved with the emergency access already in place and the primary access on FM 2499. The Town entered into the Rule 11 in an attempt to try and relocate the primary access, and currently they are operating under the permit that was submitted and approved by the Town and staff would need direction if they need to be reengaged to pursue any alternatives.

Mayor Hayden commented Council will look into going forward.

**M. ANNOUNCEMENTS**

Councilmember Levenick announced the KFMB Trash-off and Environmental Fair is September 29<sup>th</sup> in the Home Depot parking lot. She also announced on October 1<sup>st</sup> there will be a sustainable landscape design seminar at the Library.

Councilmembers Webb, Wise, and Dixon offered thanks to everyone who helped with the Ft. Wildflower playground build.

Mayor Pro Tem Stephenson announced that the Dorothy's Dash 5K run is November 10<sup>th</sup>.

Councilmember Dixon announced that the West Nile situation has been awful and he recently learned of a church family member that was diagnosed with the West

Nile Virus. He added, his heart and prayers are with that family as well as everyone that goes through this. He also expressed appreciation for Denton County Judge Mary Horn for allowing the Town to participate in the spray program to attempt to stop the disease.

**N. TOWN MANAGER'S REPORT**

1. Update and status report related to capital improvement projects

No report.

**O. CONSENT ITEMS**

Deputy Mayor Pro Tem Wise moved to approve by consent Items 1 – 6. Councilmember 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 the minutes from a regular meeting of the Town Council; Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District Special meeting; and Crime Control and Prevention District Special meeting held on August 20, 2012.**

**RECOMMENDATION:** Move to approve the minutes from a regular meeting of the Town Council held on August 20, 2012.

2. **Consider approval of the minutes from an emergency meeting of the Town Council held on August 23, 2012.**

**RECOMMENDATION:** Move to approve the minutes from an emergency meeting of the Town Council held on August 23, 2012.

3. **Consider approval of Amendment No. 2 to the Professional Services Agreement with Teague Nall and Perkins, Inc., to provide professional engineering services for the Chinn Chapel Phase I project, for an increase of \$39,100.00; and authorization for the Mayor to execute same on behalf of the Town.**

**RECOMMENDATION:** Move to approve Amendment No. 2 to the Professional Services Agreement with Teague Nall and Perkins, Inc., to provide professional engineering services for the Chinn Chapel Phase I project, for an increase of \$39,100.00; and authorization for the Mayor to execute same on behalf of the Town.

4. **Consider approval of an ordinance vacating and abandoning the 10-foot-wide utility easement located along the west and south sides of the backyard of Lot 2, Block C of the Adams Estates Addition, which lot is more commonly known as 3121 Greemar Street. The Adams Estates Addition is generally located east of Old Settlers and north of Flower Mound Road.**

**RECOMMENDATION:** Move to approve an ordinance vacating and abandoning the 10-foot-wide utility easement located along the west and south sides of the

backyard of Lot 2, Block C of the Adams Estates Addition, which lot is more commonly known as 3121 Greinar Street. The Adams Estates Addition is generally located east of Old Settlers and north of Flower Mound Road.

**ORDINANCE NO. 36-12**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, VACATING AND ABANDONING THE 10-FOOT-WIDE UTILITY EASEMENT LOCATED ALONG THE WEST AND SOUTH SIDES OF THE BACKYARD OF LOT 2, BLOCK C OF THE ADAMS ESTATES ADDITION, AN ADDITION TO THE TOWN OF FLOWER MOUND, DENTON COUNTY, TEXAS, WHICH LOT IS MORE COMMONLY KNOWN AS 3121 GREMAR STREET; DETERMINING THAT THERE IS NO CURRENT NOR PROJECTED FUTURE NEED FOR THAT PORTION OF SAID EASEMENT AS DEPICTED IN EXHIBIT "A"; REQUIRING A HOLD HARMLESS AGREEMENT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

5. **DP 01-12 – Parker Tract**  
Consider approval of a revised development agreement for the Parker Tract residential development project by and between the Town of Flower Mound, Texas and TOLL DALLAS TX LLC, a Texas Limited Liability Corporation; and authorization for the mayor to execute same on behalf of the Town.

**RECOMMENDATION:** Move to approve a revised development agreement for the Parker Tract residential development project by and between the Town of Flower Mound, Texas and TOLL DALLAS TX LLC, a Texas Limited Liability Corporation; and authorization for the mayor to execute same on behalf of the Town.

6. **Consider approval of the Competitive Sealed Proposal method to purchase a turnkey solution for Council Chambers audio/visual equipment and web streaming services.**

**RECOMMENDATION:** Move to approve a Competitive Sealed Proposal method to purchase a turnkey solution for Council Chambers audio/visual equipment and web streaming services.

**VOTE ON MOTION**

**AYES:** Wise, Dixon, Stephenson, Webb, Levenick.

**NAYS:** None.

**P. REGULAR ITEMS**

7. ***LDR 03-12 – Temporary Commercial Signs*** ***Public Hearing***

Public Hearing to consider a request to amend the Land Development Regulations (LDR 03-12) by amending subparagraph (b)(1)c.1. of Section 86-73, entitled "Temporary Commercial Signs," of the Code of Ordinances to increase the number of open house signs permitted to be placed off-premise to five signs, and to

consider adopting an ordinance providing for said amendment. *(The Planning and Zoning Commission recommended denial by a vote of 4 to 0, with one abstention at its August 27, 2012, meeting.)*

### **Staff Presentation**

Mr. Powell provided a presentation providing background information related to the item. He pointed out that currently there can be one on-premise sign and three directional signs, and placed within the hours of 8am to 8pm on the day of the open house (either Saturday or Sunday) and removed by 8 pm the day of the event.

He noted that the item before Council is to change the number of signs from three to five open house signs.

He stated there was back and forth discussion about this item at the P & Z meeting and noted the real estate community was not represented at that meeting.

Mr. Powell responded to questions from Councilmembers related to:

- How many code violations have been issued in relation to open house signs and if there was a problem in the area of removing the signs in a timely manner
- Clarification regarding the amount of signs and hours in which they can be displayed
- Clarification as to what is considered right-of-way

Mayor Hayden opened the Public Hearing at 6:35 p.m.

Kim Lambert, Greater Lewisville Association of Realtors, 997 S Edmonds Ln, Lewisville, TX

Ms. Lambert spoke on behalf of the Greater Lewisville Association of Realtors (GLAR), in support of the change from three to five open house signs. She provided a statement, as well as a map, demonstrating a need to have the additional signs.

Mayor Hayden closed the public hearing at 6:40 p.m.

### **Council Deliberation**

Mayor Hayden indicated he is in support of the change.

Mayor Pro Tem Stephenson commented it's her observation it's not realtors that are leaving the signs out. She encouraged the Town to look at issuing citations to repeat offenders.

Councilmember Webb commented being in support of the item, however, would be appreciative if the realtor association can communicate to their membership the message of being good partners with the Town in the area of collection of their signs at the end of the open house. In that way there would not be a need for code

enforcement to pick up any signs, allowing them to focus on other matters.

Councilmember Dixon moved to approve a request to amend the Land Development Regulations (LDR 03-12) by amending subparagraph (b)(1)c.1. of Section 86-73, entitled "Temporary Commercial Signs," of the Code of Ordinances to increase the number of open house signs permitted to be placed off-premise to five signs, and adopt an ordinance providing for said amendment. Councilmember Webb seconded the motion.

**ORDINANCE NO. 42-12**

**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 86, ENTITLED "SIGNS," THROUGH THE AMENDMENT OF ARTICLE II ENTITLED "REGULATIONS," THROUGH THE AMENDMENT OF DIVISION 2 ENTITLED "COMMERCIAL SIGNS" AND SECTION 86-73 ENTITLED "TEMPORARY COMMERCIAL SIGNS" BY AMENDING SUBPARAGRAPH (B)(1) ENTITLED "REAL ESTATE SIGNS" BY AMENDING SUBPARAGRAPH C.1., THEREOF, TO INCREASE THE NUMBER OF OPEN HOUSE SIGNS PERMITTED TO BE PLACED OFF-PREMISE TO FIVE SIGNS; REPEALING ALL CONFLICTING ORDINANCES, ORDERS, AND RESOLUTIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**VOTE ON THE MOTION**

**AYES:** Levenick, Webb, Stephenson, Dixon, Wise.

**NAYS:** None.

**8. Code of Ordinances - Animals**

**Public Hearing**

**Public Hearing to consider amending Section 6-281, "Enclosure Requirements," of Chapter 6, "Animals," of the Code of Ordinances by amending subsection (b) relative to the number of poultry that may be kept on certain lots and adding a new subsection (c) relative to possession of roosters.**

**Staff Presentation**

Ms. Hastings provided a presentation offering a brief history related to the item, defined what the current Ordinance allows, and identified the recommended changes on behalf of the Animal Services Board.

Ms. Hastings responded to questions from Councilmembers related to:

- roosters not being allowed for certain lot size
- set back requirements for lots under/over an acre
- enclosure for the chickens
- steps currently taken if chickens get loose
- nuisance clauses in relation to odors, noise, etc. and the complaint process, as well as steps staff takes in addressing

- slaughtering restrictions
- current registration requirements for pets and the associated purpose
- limitations as to the amount of chickens you can have
- types of illnesses a chicken might carry
- if there are existing standards for a coop

Councilmember Levenick commented her main concern has to do with the setback and expressed concern regarding the minimum ten foot setback for lots under an acre, as well as the noise and odor issues that might be a factor for those that might not be as responsible in taking care of the chickens as they should be. She indicated having done some research on the topic and outlined some of the common themes identified. She further commented having read about the possibility of in the absence of a rooster one of the chicken hens may take on the role of a rooster, and start acting like a rooster. She also expressed concern regarding how the chicken food would be stored and if there is a predator proof type container being used.

Mayor Pro Tem Stephenson commented the setback should be consistent with ten feet regardless of the size of the lot because there is not a logical reason why it should be different. She pointed out that chickens are thought about differently than other animals and wasn't in favor of registering chickens as there are other pets such as rabbits, and perhaps it needs to be viewed differently.

Mayor Hayden opened the Public Hearing at 7:02 p.m.

Marilyn Jenkins, 6716 Raintree Pl, Flower Mound, TX

Spoke in opposition of amending the ordinance due to the fact that wildlife feasts on poultry and asked for a requirement for coops.

Pam Glynn, 7307 Stallion Cir, Flower Mound, TX

Ms. Glynn spoke in favor of amending the ordinance.

Michelle Fischer, 6664 Orchard Dr, Flower Mound, TX

Ms. Fischer spoke in favor of amending the ordinance, however, expressed concern about limiting the number of chickens to three given the associated initial investment.

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

Mr. Glover spoke in favor of amending the ordinance and indicated the quantity of three is not satisfactory and six is more reasonable.

Jennifer Paul, 1916 Reserve Ct, Flower Mound, TX

Ms. Paul spoke in favor of amending the ordinance, and she commented six is preferred.

John Fierke, 3025 Yale Dr, Flower Mound, TX

Mr. Fierke spoke in support of the ordinance change and believed there could be flexibility as to the quantity.



Dale Hoskisson, 3008 Black Walnut Dr, Flower Mound, TX

Mr. Hoskisson spoke in favor of the ordinance change.

T.C. Miles, 3000 Yorkshire Ct, Flower Mound, TX

Mr. Miles spoke in support of the ordinance change.

Carol Kohankie, 4312 Lauren Way, Flower Mound, TX

Ms. Kohankie inquired if there is a flat recommendation of three chickens no matter how big your land is.

Mayor Hayden closed the Public Hearing at 7:25 p.m.

Councilmember Webb commented he's not sure where the number three was derived. He indicated he's hearing that three is not good for consistent egg delivery; however, he's not sure about bumping that up to eight. He indicated being in favor of keeping the setback at ten feet in the interest of being good neighbors to add some space between the neighbors. It could be monitored and addressed later. He indicated being okay with going from three to five and address it later.

Councilmember Dixon commented about having chickens when growing up. With regard to the setback, he stated it is needed for the smaller lots in order to be good neighbors, and in addition there is no way to manage the coop if there is not a setback. He would be okay with a five foot setback. He indicated he would be okay with raising the quantity to a maximum of four given they are a flock ground bird. More importantly is the coop, as chickens will attract predators. Having it be just an enclosure such as just the back fence is a concern. It needs to be enclosed. He indicated being in favor of going forward with the ordinance and then looking at it later.

Councilmember Levenick commented those living on a larger lot are accustomed to having natural predators on their property; however, there is concern as to how this would impact those with smaller lots. She also indicated an enclosure needs to be more defined and there should be a requirement they are enclosed from dusk to dawn. In talking about the number of chickens that would be allowed, three seems reasonable and review it in a year or so to identify how it's going at that point (i.e. complaints, compliments, etc.). She also indicated there is a need for language indicating outside slaughter is not permitted on these smaller lots, as well as the need for language requiring feed to be contained in a predator proof container. She gave an example of an Ordinance in Arkansas and language related to grandfather clauses.

Councilmember Levenick asked Mr. Glover if he was available to answer questions from the public going forward related to chickens should there be interest.

Mark Glover

Mr. Glover pointed out there will be classes offered at the Environmental Fair on September 29<sup>th</sup>. He also pointed out there is a meet up club where people go to

find out how to get started. He pointed out he is aware of several people that could help.

He also addressed some of the concerns that were brought up by Council in relation to coops and free range chickens.

Deputy Mayor Pro Tem Wise indicated being acceptable to a five foot setback and okay with raising the quantity to four. He believed the enclosure aspect is a concern and hoped that would be addressed in the initial education component relating to raising them.

Mayor Hayden inquired of Council as to their acceptance in relation to the quantity of chickens allowed.

Councilmember Webb commented he would be comfortable with four, along with an agreeable setback and come back later, if necessary, and address valid issues raised by Councilmember Levenick.

Mayor Pro Tem Stephenson commented she would be okay with four; however, there would be a need to define what is considered a proper chicken coop and address how the feed is to be stored, especially since that was one of the concerns brought up by Animal Services.

Councilmember Dixon indicated being in favor of four chickens, and indicated a five foot setback would be acceptable.

Councilmember Levenick indicated being in favor of three chickens.

Mayor Hayden inquired of Council as to their acceptance in relation to the allowed setback.

Councilmembers Levenick, Webb, and Wise indicated ten feet.

There was some discussion by Council as to whether or not to include language in the Ordinance in relation to predator proof containers, as well as provisions regarding no slaughtering.

Mr. Welch commented that if Council is considering adding language to include such, staff would need to come back to Council and define that language.

Mr. Welch responded to questions from Councilmembers related to:

- considerations for adding language to include predator proof containers or no slaughtering
- definitions associated with "poultry" versus "hens" as defined in the Ordinance

Mayor Pro Tem Stephenson suggested postponing the item until October 1<sup>st</sup> to allow for some of the changes presented and to get it right initially. She added this would help animal services by giving them the tools to do their job properly. She

didn't want to come back later and have to fix something that Council approved tonight.

Councilmember Webb commented we're on the verge of over engineering this and Council has what is needed to consider it partially complete and work with it later. He noted the demand is for people to have chickens in their back yard. He indicated being of the belief that people that will acquire chickens will do what they need to do to make sure the animals are safe.

Councilmembers Dixon and Wise indicated not being in favor of Council holding the item based on the construction of a proper chicken coop.

Councilmember Webb moved to approve an ordinance amending Section 6-281, "Enclosure Requirements," of Chapter 6, "Animals," of the Code of Ordinances by amending subsection (b) relative to the number of poultry that may be kept on certain lots and adding a new subsection (c) relative to possession of roosters. Deputy Mayor Pro Tem Wise seconded the motion.

**Council Deliberation**

Councilmember Levenick commented not being in agreement with the motion, not because she doesn't support the cause, however, it's more important to get everything laid out in the Ordinance first, prior to coming back in a month and reopening it. Mayor Pro Tem Stephenson agreed.

**ORDINANCE NO. 37-12**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING CHAPTER 6, "ANIMALS," OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY AMENDING SECTION 6-281, "ENCLOSURE REQUIREMENTS," BY REVISING SUBSECTION (b) RELATIVE TO THE NUMBER OF POULTRY PERMITTED ON CERTAIN LOTS AND THE PLACEMENT OF POULTRY ENCLOSURES IN RELATION TO PROPERTY LINES AND ADOPTING A NEW SUBSECTION (c) PROHIBITING THE POSSESSION OF A ROOSTER ON ANY PROPERTY IN THE TOWN; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A PENALTY CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**VOTE ON THE MOTION**

**AYES: Wise, Dixon, Webb.**

**NAYS: Stephenson, Levenick.**

9. **SUP 90-89 – Brazos Electric Substation Addition**

*Public Hearing*

Public Hearing to consider a request to amend Specific Use Permit No. 90 to permit the installation of a second communication tower (SUP 90-89 - Brazos Electric Substation Addition) together with related utility devices necessary to monitor, collect, and transmit information regarding Smart meters and similar utility information, and to consider adopting an ordinance providing for said amendment. The property is generally located south of McKamy Creek Road and west of FM 3040 (Flower Mound Road). (The Planning and Zoning Commission recommended approval by a vote of 3 to 2 at its August 13, 2012, meeting.)

**Staff Presentation**

Mr. Powell provided a presentation identifying the location of the property, land use and zoning, and photographs of the site. He noted the original SUP allowed for a 100 foot tower on the site and they want to put in a second one on the eastern portion of the property. He noted there was a lot of discussion at the P & Z meeting in response to questions raised by the neighboring community. He pointed out it's different than what we normally see in that it is for the utilities to be used. He pointed out there is a section of the Ordinance in which there is a request for CoServ to be added to the Ordinance language. That statement is included which means it couldn't be used for a telecommunications provider.

Mayor Hayden referenced an email received from the president of the Northshore HOA.

Mr. Powell responded the concerns identified in the correspondence will be covered by the applicant.

**Applicant Presentation**

Trevor Castilla, 1515 Heritage Dr, #212, McKinney, TX

Mr. Castilla provided a presentation pointing out:

- the location of the substation
- historical background
- neighboring subdivisions
- area structures in existence on and near the site
- the site plan where improvements are proposed
- photographs of their equipment as well as existing screening of mature trees currently in place
- sample monopole
- past meetings with P & Z and open house meeting (along with the responses to questions received at that meeting)

Mr. Castilla pointed out their request is to amend the existing SUP to allow for a secondary pole. He indicated there is a need to have their equipment next to the existing location. He pointed out the distances and the need for separation due to frequencies.

Mr. Castilla responded to questions from Councilmember related to:

- why they can't go on the Marcus water tower
- height of the current poles

Jerry Fielder, Director of Engineering for CoServ, 7701 S Stemmons, Corinth, TX responded to questions from Councilmembers related to:

- what does a Smart Meter do
- are there additional towers anticipated
- distance from the location of the poles and the closest residence
- reasoning for inability to share poles
- impact on the Town if the item is denied

Charles Dereck, Lorina, Texas (licensed professional engineer in the State of Texas with a degree in Electronic Engineering), responded to questions from Council related to:

- concerns regarding interference with fire department or other communication devices or networks
- clarification regarding security issues
- reasons why the Marcus water tower site would be a challenge
- reason for the need for the tower at the proposed location or are there other locations that could alleviate use of this site
- ability to relocate the pole by 15 feet (on the north side of the communication structure)

Mayor Hayden opened the Public Hearing at 8:45 p.m.

Michael Clark, 1821 Woodland Blvd

Mr. Clark commented the neighborhood's biggest issue is the close proximity to the neighborhood itself. He believed there could be alternatives used to eliminate the need for the tower at this location.

Mayor Hayden closed the Public Hearing at 8:46 p.m.

Councilmember Levenick moved to approve a request to amend Specific Use Permit No. 90 to permit the installation of a second communication tower (SUP 90-89 - Brazos Electric Substation Addition) together with related utility devices necessary to monitor, collect, and transmit information regarding Smart meters and similar utility information, and adopt an ordinance providing for said amendment. She further moved that the use of the utility communication tower shall be limited to the use of Brazos Electric Cooperative Incorporated, CoServ, and Oncor Electric only as reflected in Section 4 of the proposed Ordinance. In addition, the site plan shall be modified to reflect the monopole on the north side of the communication building. Deputy Mayor Pro Tem Wise seconded the motion.

#### ORDINANCE NO. 38-12

**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. 06-90, ZONING APPROXIMATELY 3.4927 ACRES OF LAND IN THE J. WIZEWELL SURVEY, ABSTRACT NO. 1346, AND BEING ALL OF LOT 1, BLOCK 1, OF THE BRAZOS SUBSTATION ADDITION, AS PLANNED DEVELOPMENT DISTRICT NO. 29 (PD-29) WITH RETAIL DISTRICT-2 (R-2) USES SUBJECT TO SPECIFIC USE PERMIT NO. 90 (SUP-90) BY AMENDING SPECIFIC USE PERMIT NO. 90 (SUP-90) TO ALLOW FOR A SECOND UTILITY COMMUNICATION TOWER, TOGETHER WITH RELATED UTILITY DEVICES NECESSARY TO MONITOR, COLLECT, AND TRANSMIT INFORMATION REGARDING SMART METERS AND SIMILAR UTILITY INFORMATION, AND TO CONSIDER ADOPTING AN ORDINANCE PROVIDING FOR SAID AMENDMENT 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:** Levenick, Webb, Dixon, Wise.

**NAYS:** Stephenson.

**10. *CSP 01-12 – Cross Timbers Village***

*Public Hearing*

Public Hearing to consider a request for a Comprehensive Sign Package (CSP 01-12 - Cross Timbers Village) for the Cross Timbers Village commercial development. The property is generally located at and about the southwest and southeast corners of Cross Timbers Road and Bruton Orand Boulevard. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its September 10, 2012, meeting.)

**Staff Presentation**

Mr. Powell provided a presentation outlining the request for two signs. He included photographs of two types of signs being requested and noted they are not much larger than what is allowed. He noted there was a lot of discussion at P & Z regarding the location. He indicated the applicant is requesting to have the signs at the North side of the driveway.

Mayor Hayden opened the Public Hearing at 8:55 p.m.

No one spoke in favor or opposition.

Mayor Hayden closed the Public Hearing at 8:55 p.m.

Mr. Powell responded to questions from Council related to:

- clarification related to the P & Z discussion and their interest to have the sign on the south side
- if the motion meets the applicant's request to have the sign placement on the north side

Deputy Mayor Pro Tem Wise moved to approve a Comprehensive Sign Package (CSP 01-12 - Cross Timbers Village) for the Cross Timbers Village commercial development. Councilmember Webb seconded the motion.

**VOTE ON THE MOTION**

**AYES:** Wise, Dixon, Stephenson, Webb, Levenick.

**NAYS:** None.

11. *Water System Master Plan*

*Public Hearing*

Public Hearing to consider an amendment to the Water System Master Plan component of the Town of Flower Mound Master Plan through the amendment of the 2009 Water System Master Plan. (The Planning and Zoning Commission recommended approval by a vote of 5 to 0 at its August 27, 2012, meeting.)

**Staff Presentation**

Mr. Collins gave a presentation related to background, potential supply strategies, next steps (if approved), and summarized supply gap information.

Mr. Collins responded to questions from Councilmember related to:

- how conservation efforts would affect utility rates

Mayor Hayden opened the Public Hearing at 9:04 p.m.

No one spoke in favor or against the item.

Mayor Hayden closed the Public Hearing at 9:04 p.m.

Mayor Pro Tem Stephenson moved to approve an amendment to the Water System Master Plan component of the Town of Flower Mound Master Plan through the amendment of the 2009 Water System Master Plan. Councilmember Webb seconded the motion.

**ORDINANCE NO. 53-12**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE 2009 WATER MASTER PLAN UPDATE, A COMPONENT OF THE MASTER PLAN, THROUGH THE AMENDMENT OF CHAPTER 4, "MASTER PLAN UPDATE," BY THE AMENDMENT OF SECTION 4.1, "WATER DISTRIBUTION SYSTEM ANALYSIS," BY DELETING EXISTING SECTION 4.1.1, ENTITLED "WATER SUPPLIES," IN ITS ENTIRETY AND REPLACING SAID SECTION WITH A NEW SECTION 4.1.1, ALSO ENTITLED "WATER SUPPLIES"; REPEALING ALL CONFLICTING ORDINANCES, ORDERS, OR RESOLUTIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

**VOTE ON THE MOTION**

**AYES:** Levenick, Webb, Stephenson, Dixon, Wise.

**NAYS:** None.

*Town Council recessed at 9:08 and reconvened at 9:13 p.m.*

12. Consider a request for a Site Plan (SP 04-12 - Lakeside Commerce Center, Phase III) to develop two warehouse buildings. The property is generally located north of Lakeside Parkway, west of Gerault Road, and south of Spinks Road. *(The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its September 10, 2012, meeting.)*

**Staff Presentation**

Mr. Powell provided a presentation identifying the site location (including photos of the area), land use and zoning, background information related to ownership of the land and past concept plans. He pointed out landscaping along Spinks and building elevations.

Councilmember Dixon moved to approve Site Plan (SP 04-12 - Lakeside Commerce Center, Phase III) to develop two warehouse buildings. Deputy Mayor Pro Tem Wise seconded the motion.

**VOTE ON THE MOTION**

**AYES:** Levenick, Webb, Stephenson, Dixon, Wise.

**NAYS:** None.

13. ***Tax Abatement Reinvestment Zone***

***Public Hearing***

**Public Hearing to consider approval of an ordinance establishing a Tax Abatement Reinvestment Zone for commercial-warehouse tax abatement.**

Mayor Hayden opened Items 13 and 14 at the same time.

**Staff Presentation**

Mr. Springer stated item 13 covers the state law requirement and Item 14 covers the incentive component. In addition, he summarized the requirements associated with the proposed incentive agreement and the cost-benefit analysis.

Mr. Springer responded to questions from Councilmembers related to:

- clarification regarding the percentage and time line of abatement
- if what is being proposed similar to what the Town has done previously

Mayor Hayden opened the Public Hearing for Items 13 and 14 at 9:23 p.m.

No one spoke in favor or against the item.

Mayor Hayden closed the Public Hearing for Items 13 and 14 at 9:23 p.m.

Mayor Pro Tem Stephenson moved to approve an ordinance establishing a Tax Abatement Reinvestment Zone for commercial-warehouse tax abatement. Deputy Mayor Pro Tem Wise seconded the motion.



ORDINANCE NO. 39-12

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, DESIGNATING A CERTAIN AREA AS A TAX ABATEMENT REINVESTMENT ZONE FOR COMMERCIAL-WAREHOUSE TAX ABATEMENT, WITHIN THE TOWN OF FLOWER MOUND, TEXAS; ESTABLISHING THE BOUNDARIES THEREOF AND OTHER MATTERS RELATED THERETO; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.

VOTE ON THE MOTION

AYES: Wise, Dixon, Stephenson, Webb, Levenick.

NAYS: None.

14. *Tax Abatement Agreement*

*Public Hearing*

Public Hearing to consider approval of a Tax Abatement Agreement with CRP Oakmont Flower Mound, L.L.C., to provide for incentives for the economic development of Flower Mound, and authorization for the Mayor to execute same on behalf of the Town.

Councilmember Webb moved to approve a Tax Abatement Agreement with CRP Oakmont Flower Mound, L.L.C. to provide for incentives for the economic development of Flower Mound, and authorize the Mayor to execute same on behalf of the Town. Councilmember Dixon seconded the motion.

VOTE ON THE MOTION

AYES: Levenick, Webb, Stephenson, Dixon, Wise.

NAYS: None.

15. Consider approval of Bid No. 76-12-B, for the construction of the Bakersfield Park Water Line project, to Four Star Excavating, Inc., in the amount of \$130,403.25; and authorization for the Mayor to execute same on behalf of the Town.

**Staff Presentation**

Mr. Collins provided a presentation identifying the location of the project, and associated bid summary.

Councilmember Dixon moved to approve the award of Bid No. 76-12-B, for the construction of the Bakersfield Park Water Line project, to Four Star Excavating, Inc., in the amount of \$130,403.25; and authorize the Mayor to execute same on behalf of the Town. Deputy Mayor Pro Tem Wise seconded the motion.

VOTE ON THE MOTION

AYES: Wise, Dixon, Stephenson, Webb, Levenick.

NAYS: None.

16. Consider approval of an ordinance adopting the budget for the fiscal year beginning on October 1, 2012, and ending on September 30, 2013, and making appropriations for each fund and department.

**Staff Presentation**

Mr. Springer stated he has one presentation for all of the budget items and his presentation included:

- Summary of debt service and tax rates
- tax rate comparisons with other cities
- general fund projections
- decision packages that have been added
- additional general fund changes
- personnel additions
- utility fund working capital
- storm water utility fund working capital
- special revenue funds expenditures
- Crime Control & Prevention District budget
- Fire Control & Prevention District budget
- Proposed CIP budget
- required budget and tax rate adoption language
- required publishing language

Mr. Jefferson responded to questions from Councilmembers related to:

- Oak Street water line repairs and the timing in relation to the CIP
- How staff decides the order for repairs or replacements in relation to water lines throughout Town

Councilmember Dixon moved to approve an ordinance adopting the budget for the fiscal year beginning on October 1, 2012, and ending on September 30, 2013, and making appropriations for each fund and department. In addition, he moved to ratify the property tax revenue increase reflected in the FY 2012-2013 budget. Councilmember Levenick seconded the motion.

**ORDINANCE NO. 40-12**

**AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, ADOPTING AND APPROVING THE BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2012, AND ENDING SEPTEMBER 30, 2013, AND MAKING APPROPRIATIONS FOR EACH FUND AND DEPARTMENT; ESTABLISHING A SINKING FUND FOR EXISTING TOWN FINANCIAL OBLIGATIONS; PROVIDING FOR THE LEVYING AND COLLECTION OF A SUFFICIENT TAX TO PAY THE INTEREST ON SUCH SINKING FUND OBLIGATIONS; REPEALING CONFLICTING ORDINANCES; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.**

**VOTE ON THE MOTION**

**AYES: Levenick, Webb, Stephenson, Dixon, Wise.**

**NAYS: None.**

17. Consider approval of an ordinance fixing and levying municipal ad valorem taxes for the fiscal year beginning on October 1, 2012, and ending on September 30, 2013, and for each fiscal year thereafter until otherwise provided, at the rate of \$0.4497 per \$100 assessed valuation on all taxable property within the corporate limits of the Town of Flower Mound as of January 1, 2012.

Councilmember Webb moved to adopt a tax rate of \$0.4497 per \$100, which is effectively a 0.93 percent decrease in the tax rate. Deputy Mayor Pro Tem Wise seconded the motion.

**ORDINANCE NO. 41-12**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, FIXING AND LEVYING MUNICIPAL AD VALOREM TAXES FOR THE FISCAL YEAR BEGINNING ON OCTOBER 1, 2012, AND ENDING ON SEPTEMBER 30, 2013, AND FOR EACH FISCAL YEAR THEREAFTER UNTIL OTHERWISE PROVIDED, AT A RATE OF \$0.4497 PER ONE HUNDRED DOLLARS (\$100) ASSESSED VALUATION ON ALL TAXABLE PROPERTY WITHIN THE CORPORATE LIMITS OF THE TOWN AS OF JANUARY 1, 2012; DIRECTING THE ASSESSMENT THEREOF TO PROVIDE REVENUES FOR THE PAYMENT OF CURRENT EXPENSES AND TO PROVIDE AN INTEREST AND SINKING FUND ON ALL OUTSTANDING DEBTS OF THE TOWN; PROVIDING FOR DUE AND DELINQUENT DATES TOGETHER WITH PENALTIES AND INTEREST; REPEALING CONFLICTING ORDINANCES; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.**

**VOTE ON THE MOTION**

**AYES:** Wise, Dixon, Stephenson, Webb, Levenick.

**NAYS:** None.

18. Town Council acting as the Board of Directors for the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District to consider approval of a resolution adopting the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District budget for the fiscal year beginning on October 1, 2012, and ending on September 30, 2013.

The Town Council, acting as the Board of Directors for the Fire Control, Prevention, and Emergency Medical Services District, Deputy Mayor Pro Tem Wise moved to approve a resolution adopting the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District budget for the fiscal year beginning on October 1, 2012, and ending on September 30, 2013. Councilmember Levenick seconded the motion.

**RESOLUTION NO. 14-12**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, ACTING AS THE BOARD OF DIRECTORS OF THE TOWN OF FLOWER MOUND FIRE**

**CONTROL, PREVENTION, AND EMERGENCY MEDICAL SERVICES DISTRICT, ADOPTING AND APPROVING THE BUDGET FOR THE TOWN OF FLOWER MOUND FIRE CONTROL, PREVENTION, AND EMERGENCY MEDICAL SERVICES DISTRICT FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2012, AND ENDING SEPTEMBER 30, 2013; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.**

**VOTE ON THE MOTION**

**AYES: Levenick, Webb, Stephenson, Dixon, Wise.**

**NAYS: None.**

19. **Town Council acting as the Board of Directors for the Town of Flower Mound Crime Control and Prevention District to consider approval of a resolution adopting the Town of Flower Mound Crime Control and Prevention District budget for the fiscal year beginning on October 1, 2012, and ending on September 30, 2013.**

The Town Council, acting as the Board of Directors for the Crime Control and Prevention District, Deputy Mayor Pro Tem Wise moved to approve a resolution adopting the Town of Flower Mound Crime Control and Prevention District budget for the fiscal year beginning on October 1, 2012, and ending on September 30, 2013. Councilmember Dixon seconded the motion.

**RESOLUTION NO. 15-12**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, ACTING AS THE BOARD OF DIRECTORS OF THE TOWN OF FLOWER MOUND CRIME CONTROL AND PREVENTION DISTRICT, ADOPTING AND APPROVING THE BUDGET FOR THE TOWN OF FLOWER MOUND CRIME CONTROL AND PREVENTION DISTRICT FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2012, AND ENDING SEPTEMBER 30, 2013; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.**

**VOTE ON THE MOTION**

**AYES: Wise, Dixon, Stephenson, Webb, Levenick.**

**NAYS: None.**

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

Mayor Hayden announced there is a Town Council work session this coming Thursday and on Saturday Council will be interviewing for Boards and Commission.

**R./S. CLOSED/OPEN MEETING**

The Town Council convened into a closed meeting at 9:48 p.m. on September 17, 2012, 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 10:45 p.m. on September 17, 2012, to take action on the items as follows:

- a. Discuss and consider economic development incentives.

Councilmember Webb moved to authorize the Mayor to execute an amended Chapter 380 Partnership Agreement with Elmer C. Powell on behalf of the Town. Deputy Mayor Pro Tem Wise seconded the motion.

**VOTE ON THE MOTION**

**AYES:** Levenick, Webb, Stephenson, Dixon, Wise.

**NAYS:** None.

- b. Discuss and consider acquisition and/or lease of real property for municipal purposes and all matters incident and related thereto.

No action taken.

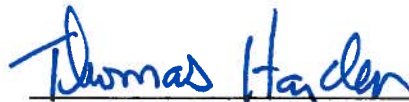
- c. Discuss and consider appointments to the Animal Services Board, Board of Adjustment, Oil and Gas Board of Appeals, Community Development Corporation, Environmental Conservation Commission, Parks, Arts and Library Services Board, Public Arts Committee, Planning & Zoning Commission, SMARTGrowth Commission, Tax Increment Reinvestment Zone Number One (TIRZ #1), and Transportation Commission.

No action taken

**T. ADJOURN REGULAR MEETING**

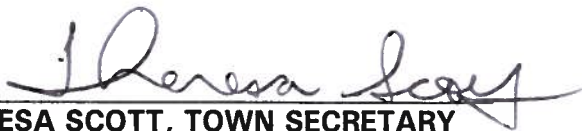
Mayor Hayden adjourned the meeting at 10:49 p.m. on Monday, September 17, 2012, and all were in favor.

TOWN OF FLOWER MOUND, TEXAS



THOMAS E. HAYDEN, MAYOR

ATTEST:



THHERESA SCOTT, TOWN SECRETARY

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