

**THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 5TH DAY OF NOVEMBER, 2012, IN THE FLOWER MOUND TOWN HALL, LOCATED AT 2121 CROSS TIMBERS ROAD IN THE TOWN OF FLOWER MOUND, COUNTY OF DENTON, TEXAS AT 6:00 P.M.**

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

Tom Hayden	Mayor
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:

Theresa Scott	Town Secretary
Terrence Welch	Town Attorney
Kent Collins	Assistant Town Manager
Chuck Springer	Interim Town Manager/Assistant Town Manager/CFO
Gary Sims	Executive Director of Community Services
Chuck Jennings	Recreation Superintendent
Tommy Dalton	Assistant to the Town Manager

**A. CALL BRIEFING SESSION TO ORDER**

Mayor Hayden called the briefing session to order at 6:00 p.m.

**B. BRIEFING SESSION**

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

Mayor Pro Tem Stephenson reported attending the Animal Services Board meeting as well as the Parks, Arts, and Library Services (PALS) Board.

Councilmember Dixon reported attending the Development Process Review Committee meeting.

Councilmember Levenick reported attending the Planning and Zoning meeting.

**2. Discuss Consent and Regular Items**

Mayor Pro Tem Stephenson requested item 12 be removed from consent.

**3. Request Future Agenda Items**

Mayor Hayden requested a future item to discuss the Town's contracts and the usage of Town fields currently used for sporting events, and more specifically

with the youth football organization. He noted currently the Town has a contract with Driven and commented their membership may be declining, which could provide an opportunity for an alternate organization to use the fields that would have more participants.

Mr. Sims provided the following remarks on the topic:

- Staff is meeting this week with the Town Attorney to discuss options regarding the youth football program agreement currently in place
- There is evidence of a declining membership so staff is exploring options as to whether or not to continue with them and the possibility of termination of the contract. If that does happen:
  - a 30-day notice would go out to the current provider
  - proposals would go out in January 2013
  - interviews would take place in February
  - an exclusive provider agreement for youth football would be written
  - that agreement would be presented to the PALS Board for their recommendation and then forwarded to the Town Manager's office to execute the agreement in March or April

Mayor Hayden stated he appreciated the fact that staff is moving forward and would like it to be a future item.

Mayor Hayden requested a future item to discuss the water main for Oak Drive, and noted it's his understanding that it is on the CIP for 2014/15. He indicated it was brought to his attention that they have had numerous outages of their water and if it was possible that the Town has a more permanent solution sooner than 2014/15. Mayor Hayden requested staff to review that situation and investigate if something could be done sooner.

**C./D. ADJOURN BRIEFING SESSION AND CALL REGULAR MEETING TO ORDER**

Mayor Hayden adjourned the briefing session and called the regular meeting to order at 6:05 p.m.

**E. INVOCATION**

Chaplain Mike Liles gave the invocation.

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

Troop 280 led the pledges.

**G. PRESENTATIONS**

1. Proclamation for Veteran's Day.

Mayor Hayden invited Veterans in the audience to join him by the podium. He read and presented a Veteran's Day Proclamation to Petty Officer First Class R. L. Hopson, Retired Navy.

2. Proclamation for Municipal Court Week.

Mayor Hayden read and presented a Municipal Court Week Proclamation to Judge Bertrand, Lori Gosser and other Municipal Court staff.

3. Presentation from CoServ Charitable Foundation, Dennis Engelke.

Mr. Engelke presented a check in the amount of \$14,887.75 to Fire Chief Eric Metzger for the purchase of one thermal imager and two gas detectors.

**H. PUBLIC PARTICIPATION**

No one spoke during public participation.

**I. ANNOUNCEMENTS**

1. Announce recent and upcoming civic and social events.

Councilmember Webb encouraged everyone to vote in the November 6<sup>th</sup> Election and recited the designated polling locations for all Flower Mound Precincts.

Councilmember Levenick had the following announcements:

- Market Street
  - plans to break ground any day now
  - scheduled for opening in the fall of 2013
- Atmos clearing:
  - tree survey work is beginning this week (Nov 6 – 9<sup>th</sup>) starting in Tour 18
  - prior to the survey work Atmos will be contacting each homeowner in the affected areas to explain the scope of the tree assessment
  - no clearing will be done at this time
  - Atmos and the Town anticipate having a formal tree survey along the gas pipeline completed by the end of November

Mayor Pro Tem Stephenson announced the annual Dorothy's Dash run is this Saturday and encouraged everyone to participate, especially because the proceeds benefit the Lone Star Chapter of the Multiple Sclerosis Society.

Councilmember Dixon announced two Veteran's Day celebrations:

1. Town of Flower Mound and Military Officer's Association of North DFW hosting an open house on November 16<sup>th</sup> at the Shirley Voirin Social Senior Center
2. 14<sup>th</sup> Annual Veteran's Day Celebration on November 11<sup>th</sup> at the Flower Mound High School

Mayor Hayden announced he attended the Mornings with the Mayor this past Saturday at Northshore Park and approximately 30 people attended. He noted some of the comments or suggestions as a result of that event included:

- Appreciation related to the work of Council
  - Request for additional police surveillance at the following locations as it was communicated that vehicles are not stopping at those locations:
    - Stop sign locations: Woodpark and Northshore Blvd and Heather Wood Way and Woodhill and Woodpark
    - There was concern about speeding at Heather Wood Drive heading from south to north and the possibility of putting in an electronic sign that tracks speeds such as what is located on Windsor. He indicated he didn't know what the cost would be for that item, however, he would look into it.
  - There is a lot of trash accumulating behind Northshore Park
  - He read a letter of thanks from Mr. George Peregoy to the Flower Mound Fire Department for their care and assistance for seven years with a family member.
2. Discuss the Town's sister city of New Providence, New Jersey and the community impact as a result of Hurricane Sandy.

Deputy Mayor Pro Tem Wise announced having spoken to Mayor Horn of New Providence, New Jersey and reported on how they are doing in the aftermath of Hurricane Sandy. He noted when the Mayor was asked what could the Town do he mentioned there was a community event on Thursday at their shelter (in which they have been getting 100 – 200 people visit their shelter every day; with about 50 people staying overnight).

Mayor Hayden asked members of Council to give some thought as to what could be done to assist them. He also encouraged Flower Mound citizens to come forward with ideas as to what could be done to support this community that went through the hurricane.

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

1. Update and status report related to capital improvement projects

Mr. Springer provided the following updates:

- For the green ribbon funding, there is significant progress associated with the plantings being installed on FM 1171 and they should be finished in the next couple of weeks.
- Slurry seal work will begin Wednesday on some Flower Mound streets, with High Road being the major road this work is being done on. This information has been communicated through the Town's web site. He noted the roads would be reduced to one lane with the use of flagmen directing traffic.

Mayor Pro Tem Stephenson noted Council is increasingly getting complaints about the web site regarding navigation for information, broken links, and missing

information and questioned if the current method being used is working for web site management.

Mr. Springer responded by asking Council to route those calls to him regarding any concerns related to the web site so they can be addressed internally. He mentioned steps being taken to maintain the web site as well as opportunities that exist for the public to find out more information about navigating through the Town's web site.

2. Discuss Council Communications

CC 32-12 – Benchmark Cities

Mr. Springer noted the request for staff to make some adjustments in the area of benchmark cities came from Council during the budget process.

In the communication staff recommended to eliminate Plano and Irving and add Highland Village and Keller. He noted having heard back from three Councilmembers that were in agreement, with a fourth member being in agreement, however, recommended potentially dropping one of the other cities that was listed. He noted the benchmark cities mainly impact the Town during the budgeting process.

Mayor Hayden asked which city was recommended to be dropped.

Mr. Springer responded Rowlett.

Mayor Hayden asked was there a suggestion to add one.

Mr. Springer responded there was not. He pointed out some of the other communities that were looked at when considering recommendations, which included Mansfield, Little Elm, Cedar Hill, and Corinth.

Councilmember Dixon asked if there was a need to add another community in the event Rowlett was eliminated.

Mr. Springer responded no, that number is simply where the Town was before.

Councilmember Dixon commented that of the cities recited none are a good match. For that reason he indicated it would be his preference to simply take Rowlett off and leave it at that.

Mayor Hayden asked Councilmember Dixon why would you want to take Rowlett off.

Councilmember Dixon responded a review of the metrics didn't match up with Flower Mound other than population.

There was Council consensus to remove Rowlett from the list of benchmark cities and keep the original recommendation to remove Plano and Irving, replacing it with Highland Village and Keller.

**CC 33-12 – Environmental Services Quarterly Reports**

Mr. Springer noted this communication was for informational purposes only.

**CC 34-12 – Hometown Heroes**

Mr. Springer noted there is direction from Council to move forward, however, there are some policy issues that need to be brought forward to Council in terms of location of the banners, time frames, etc. in order to move forward with the program.

Mr. Dalton noted the purpose of the banner program is to elevate Flower Mound service members in the community. He gave a presentation which included:

- background information
- program details
- banner examples
- what survey cities do for Veterans
- estimated cost of \$125 - \$276 each (30 x 84 inches).
- current banner placement locations
- evaluated programs
  - options matrix for areas in which direction from Council is needed for implementation. He indicated it is recommended to use of an application process for the program.

The following program components were presented with Council's choices circled within the slide below:

PROGRAM COMPONENT	OPTION
<b>A. Process</b>	
1. Application	a. Yes b. No
2. Eligibility	a. Active Duty only b. Active Duty and Veterans c. Other
3. Application Fee	a. No cost b. Recover cost of Banner/hardware (-\$125 - \$270) c. Other
4. Application Deadline	a. None b. Specified Timeframe (e.g. January 1 - May 1) c. Other
5. Conclusion	a. Proclamation during Council meeting b. Retirement during Veterans Day ceremony c. Other
6. Renewal	a. Renewal option i. Mirror program display timeframe with fee ii. Mirror program display timeframe w/o fee iii. Other b. No renewal option
<b>B. Placement</b>	
1. Placement	a. Pre-determined by the Town Council i. Community Activity Center ii. Lakeside Business District Area iii. Other b. Chosen by applicant
<b>C. Display</b>	
1. Timeframe	a. Any three months b. Between May 1 and November 11 (Veterans Day) c. Minimum six months and no longer than one year d. Other
<b>D. Priority</b>	
1. Program Priority	a. Living Local has priority b. Homeland Hero program has priority c. Other
<b>E. Partnership</b>	
1. Program Partnerships	a. Seek partnership opportunities b. Town exclusive program c. Other

There was Council consensus regarding the above referenced program components, with the following remarks or conditions:

- Applications: take applications throughout the year, however, put a deadline as to when the applications need to be received for the display to be produced. From that point it would be a first come/first serve situation.
- Conclusion: at a Council meeting unless there is a huge influx coming forward, then consideration will need to be given for other times. Also do something at the Veteran's Day celebration. Once a family decides they no longer want to participate, present the family with the banner once it's been taken down for the last time.
- Placement: chosen by applicant based on if the pole is already equipped with hardware.
- Priority: assess the applications received and decide later if limits are needed.
- Partnerships: seek partnership opportunities, however, not to the point where company information, such as a logo, would need printed on the banner as a condition of participation.

#### CC 35-12 – Community Garden Recommendations

Mr. Springer provided background information and noted the PALS Board recommended to continue planning for the community garden at the Green Acres Memorial Farm Park and to keep it on the current CIP that is scheduled for a 5 year time frame with 4B dollars for between 2017 and 2022. He indicated the purpose for the communication coming forward

has to do with questions from one council member and to identify if there is interest from Council to move forward with the timing associated with the community garden. He pointed out there have been some concerns from the adjacent neighborhood regarding the use of that park for this purpose and the associated impact.

Mayor Hayden confirmed that is his understanding of the situation as well and there needs to be public hearings about the community garden as those homeowners will want to express those concerns regarding potential traffic generated from it, as well as other issues.

Mayor Pro Tem Stephenson commented that the Green Acres Farm location was fairly remote and questioned if the committee considered an alternative more central location.

Mr. Sims responded the committee discussed Green Acres Park because it's in the Master Plan. This location was well-liked primarily due to availability of existing storage and access to utilities, in addition to having a large enough area to have a sufficient size garden. The primary focus was to determine if there was an interest to have a community garden in Flower Mound, and it came back overwhelming as being something that was wanted.

Mayor Pro Stephenson noted the problem with the survey is it didn't state the trade off – there was no ranking such as skate park versus community garden or dog park versus community garden. Putting it at Green Acres brings up concerns and access is an issue.

Mayor Hayden stated he would like to discuss at a future Council work session and invite those in the surrounding neighborhood to attend.

**K. CONSENT ITEMS**

Councilmember Dixon moved to approve by consent Items 1 – 11, and 13. Deputy Mayor Pro Tem Wise seconded the motion. Each item, as approved by consent, is restated below along with the approved recommendation, and if applicable, the Ordinance or Resolution caption for each, for the record.

1. **Consider approval of the minutes from a regular meeting of the Town Council held on October 1, 2012.**

**RECOMMENDATION:** Move to approve the minutes from a regular meeting of the Town Council held on October 1, 2012.

2. **Consider approval of the minutes from a special meeting of the Town Council held on October 8, 2012.**

**RECOMMENDATION:** Move to approve the minutes from a special meeting of the Town Council held on October 8, 2012.

3. **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 October 15, 2012.**

**RECOMMENDATION:** Move to approve 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 October 15, 2012.

4. **Consider approval of the minutes from a work session of the Town Council held on October 18, 2012.**

**RECOMMENDATION:** Move to approve the minutes from a work session of the Town Council held on October 18, 2012.

5. **Consider approval of the White's Branch segment of the FM 1171 to HWY 377 Water Line Phase I project; authorization for final payment to Wilson Contractor Services, LLC, in the amount of \$18,641.51, and final acceptance.**

**RECOMMENDATION:** Move to approve the White's Branch segment of the FM 1171 to HWY 377 Water Line Phase I project; authorize final payment to Wilson Contractor Services, LLC, in the amount of \$18,641.51, and final acceptance.

6. **Consider approval of Change Order No. 2 for the FM 1171 Water Line Relocations, amending the contract with UtiliTex Construction, L.L.P., for an increase of \$24,848.35; and authorization for the Mayor to execute same on behalf of the Town.**

**RECOMMENDATION:** Staff recommends approval of Change Order No. 2 for the FM 1171 Water Line Relocations, amending the contract with UtiliTex Construction, L.L.P., for an increase of \$24,848.35; and authorize the Mayor to execute same on behalf of the Town.

7. **Consider approval of an Interlocal Cooperation Agreement with Denton County for the provision of Library Services, for the benefit of the citizens of Denton County, and authorization for the mayor to execute same on behalf of the Town.**

**RECOMMENDATION:** Move to approve an Interlocal Cooperation Agreement with Denton County for the provision of Library Services, for the benefit of the citizens of Denton County, and authorize the Mayor to execute same on behalf of the Town.

8. Consider approval of the sale and consumption of alcoholic beverages (beer and wine) at Bakersfield Park, during the Independence Fest.

**RECOMMENDATION:** Move to approve the sale and consumption of alcoholic beverages (beer and wine) at Bakersfield Park, during the Independence Fest.

9. Consider approval of the award of Bid No. 2013-4-B for the purchase of 22 solar recyclables compactors, at the unit prices bid, to Waste Management using Texas Commission on Environmental Quality grant funds.

**RECOMMENDATION:** Move to approve the award of Bid No. 2013-4-B for the purchase of 22 solar recyclables compactors, at the unit prices bid, to Waste Management using Texas Commission on Environmental Quality grant funds.

10. Consider approval of an ordinance amending the Town of Flower Mound's Annual Budget for the fiscal year beginning on October 1, 2012, and ending on September 30, 2013, as adopted by Ordinance No. 40-12, for adjustments to the Seizure Fund.

**RECOMMENDATION:** Move to approve an ordinance amending the Town of Flower Mound's Annual Budget for the fiscal year beginning on October 1, 2012, and ending on September 30, 2013, as adopted by Ordinance No. 40-12, for adjustments to the Seizure Fund.

**ORDINANCE NO. 56-12**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE TOWN'S BUDGET FOR THE FISCAL YEAR BEGINNING ON OCTOBER 1, 2012, AND ENDING ON SEPTEMBER 30, 2013, AS ADOPTED BY ORDINANCE NO. 40-12, BY PROVIDING FOR ADJUSTMENTS TO THE SEIZURE FUND; PROVIDING THAT EXPENDITURES FOR SAID FISCAL YEAR SHALL BE MADE IN ACCORDANCE WITH SAID BUDGET, AS AMENDED; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

11. Consider approval of the award of Bid No. 2013-3-A Pulverized Quicklime to Texas Lime Company, at the unit price bid, in the estimated annual amount of \$51,840.00.

**RECOMMENDATION:** Move to approve the award of Bid No. 2013-3-A Pulverized Quicklime to Texas Lime Company, at the unit price bid, in the estimated annual amount of \$51,840.00.

*Item 12 removed from Consent by Mayor Pro Tem Stephenson.*

13. Consider approval of an Agreement with SGR Executive Search for services related to an executive search for a Town Manager and authorize the Mayor to execute all necessary documents with SGR Executive Search.

**RECOMMENDATION:** Move to approve the attached Agreement with SGR Executive Search to provide services relative to an executive search for a Town Manager and authorize the Mayor to execute all necessary documents with SGR Executive Search.

**VOTE ON MOTION**

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

**NAYS:** None.

**L. REGULAR ITEMS**

*Item 12 removed from Consent by Mayor Pro Tem Stephenson.*

12. Consider approval of a resolution authorizing the Mayor to request an exemption from the mandates of SB 898 to the State Energy Conservation Office.

Staff Presentation

Mr. Springer provided background information noting this program began in 2001 and carried on in 2007 and 2011. They require the reporting of energy usage as well as a 5% reduction every year in energy uses. The reason for this item is to try and meet federal requirements for certain counties in terms of the Clean Air Act. The recent law calls for the ability to apply for an exemption if you have made all of the reasonable changes that are financially viable to reduce energy. He noted the Town is requesting that exemption. He pointed out that in Exhibit A it states what the Town has done in terms of making reductions and Exhibit B lists all the projects. The Town went through a process to evaluate energy efficient projects and the Town received an additional \$600,000 in funding from the Energy Department during the stimulus program and identified what are the measures we could take that would bring back a return on investment in ten years. We're at a point now where as we make replacements we increase the energy efficiencies. Some examples are roof replacements, and as we replace air condition and heating units we replace them with more efficient units. He noted Exhibit D tracks demonstrates where energy usage is tracked on a monthly basis at the various facilities.

Mayor Pro Tem Stephenson asked has the Town ever asked for this exemption before.

Mr. Springer responded no, it's new under the new reporting requirement and in the past the Town simply reported energy usage. The Bill requires you to make an effort at 5% a year. He noted it's difficult to reduce your energy usage when you are adding additional facilities (such as with the Fire Departments).

Mayor Pro Tem Stephenson commented it sounds like it's reasonable to do the exemption and noted one of the things she's found in similar programs is that if you at least institute an audit every three to five years, where you take a fresh look at everything, you'll find something. She indicated being okay with the exemption as long as the Town doesn't get in a habit of applying for it every year just because.

Mr. Springer pointed out that Exhibit E is the Town's facilities energy management and water conservation program that the Town follows. In that document it states the energy evaluation process used for new facilities or replacements.

Mayor Pro Tem Stephenson moved to approve a resolution authorizing the Mayor to request an exemption from the mandates of SB 898 to the State Energy Conservation Office. Councilmember Webb seconded the motion.

**RESOLUTION NO. 19-12**

**A RESOLUTION BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AUTHORIZING THE MAYOR TO REQUEST AN EXEMPTION CERTIFICATE FROM THE STATE ENERGY CONSERVATION OFFICE THROUGH THE FILING OF A SIGNED SENATE BILL 898 REPORT CERTIFYING THE JUSTIFICATION FOR THE EXEMPTION FROM THE REQUIREMENTS OF TEXAS HEALTH AND SAFETY CODE § 388.005, AS AMENDED BY SENATE BILL 898 OF THE 82<sup>ND</sup> LEGISLATIVE SESSION OF 2011, STATE OF TEXAS AND PROVIDING AN EFFECTIVE DATE.**

**VOTE ON MOTION**

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

**NAYS: None.**

**14. RP 11-12 – Post Oak, West**

***Public Hearing***

Public Hearing to consider a request for a Replat (RP 11-12 - Post Oak, West) to create two residential lots, with an exception to Section 90-302, Concrete streets, as authorized by Section 90-301, Exceptions to street standards, of the Code of Ordinances, and an exception to Section 90-423, Underground utilities, of the Code of Ordinances. The property is generally located at 3801 Post Oak Road. ***(The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its October 22, 2012, meeting.)***

**Staff Presentation**

Mr. Powell provided a presentation noting the property location, land use and zoning, photographs of the site (noting the overhead utility lines). He pointed out the plat shows there is an existing lot and the applicant would like to sub divide it into two lots. He indicated the new lots would meet the Town's regulations and

standards, with the exception of the street, as Post Oak Road is not built to the Town's standards. He indicated that normally that action could be handled by P & Z, however, they also have an overhead utility line running through the back part of the property. He noted the back up in the packet shows the estimated cost for burying that line. This is why the item is before you – due to the overhead utility line. He noted staff has not received any correspondence from the public on the matter.

Mayor Hayden commented he never like the idea of granting exceptions for utility lines, other than in a situation in which only one individual is impacted.

Mayor Hayden opened the Public Hearing at 7:21 p.m.

### **Public Participation**

No one spoke in support or opposition.

Mayor Hayden closed the Public Hearing at 7:21 p.m.

Deputy Mayor Pro Tem Wise moved to approve a request for a Replat (RP 11-12 - Post Oak, West) to create two residential lots, with an exception to Section 90-302, Concrete streets, as authorized by Section 90-301, Exceptions to street standards, of the Code of Ordinances, and an exception to Section 90-423, Underground utilities, of the Code of Ordinances. Mayor Pro Tem Stephenson seconded the motion.

### **VOTE ON THE MOTION**

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

**NAYS:** None.

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

### **15. MPA 11-12 – Canyon Falls -Denton Creek District Public Hearing**

Public Hearing to consider a request to amend Section 1.0, Land Use Plan and Section 2.0, Area Plans (MPA 11-12 - Canyon Falls), of the Master Plan to change the current land use designation on approximately 37.9 acres of land from Medium Density Residential to High Density Residential and to change the current land use designation on approximately 19.4 acres of land from High Density Residential to Medium Density Residential; and to delete the two maps identified as "Denton Creek District - Option 1" and "Denton Creek District - Option 2" on pages 2.8 and 2.9 of the Master Plan and replace such maps with one new map identified as "Denton Creek District", and to consider adopting an ordinance providing for said amendment. The property is generally located north of FM 1171 between Interstate 35W and U.S. 377. *(The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its October 22, 2012, meeting.)*

### Staff Presentation

Mr. Powell provided a presentation noting or identifying:

- Location of the property
  - Denton Creek District in far western Flower Mound
  - 1200 acres (Flower Mound and Northlake and Argyle ETJ)
- Photographs of the site
- Master plan for the area
- Request is to swap medium to high density lots within the development. The number of lots aren't changing, just the location of the higher density lots.
- Notices were sent out to property owners within 200 feet and representatives from Sunrise Circle came to the P & Z meeting because they thought the notice indicated their property was going to be rezoned. It was clarified at the meeting that it was not. The only other correspondence was from Robert First who was in agreement with the proposed change.

Mr. Powell invited the applicant, Bret Pedigo, to the podium.

Mayor Hayden stated "before you begin I would like to make a comment and you might have the opportunity to answer some of these questions as you go through your presentation - in Flower Mound we have three major development going on: Lakeside, River Walk, and Canyon Falls. Several months ago a company called Wheelock purchased Canyon Falls. Several times I've asked them to come before Council and give a presentation about who Wheelock is, a general scope of overall Canyon Falls, and so far they haven't. I want to make it clear that in Flower Mound we like to know what is going on. One of the things we don't want to do is piece mill changes here and there without understanding the total scope of who Wheelock is, what it is they want to achieve, any changes, etc. I hope the next time I see Canyon Falls before Council it's for an informational session to tell us what's happening at Canyon Falls in general, who Wheelock is and things like that".

Bret Pedigo, Mannaland, 800 East Campbell Rd. #120, Richardson, TX

Mr. Pedigo responded he agrees and part of his presentation is to give an update on that. He indicated they are going fast and furious and they have hired a landscape architect group to come in and help sell the vision for the neighborhood. They have been hesitant to come in because they didn't want to come in and say one thing and do another. They wanted to come in with a full package. They would like to come to a future meeting where it's not taking care of clean up items and purely informational. That would be an opportunity to ask questions about Wheelock or about Mannaland as their position as the local development partner.

Mayor Hayden commented "that's fine but you might want to do that sooner than later because you might have another item that you want to bring before

Council regarding Canyon Falls, and I'm going to suggest it probably won't be there until you come in and talk to Council about who Wheelock is and what the long term plans are for the development".

Mr. Pedigo gave a presentation outlining where they are in relation to schedule and what they are trying to achieve in relation to the change being requested. He noted they are trying to be consistent with the adjacent land uses.

His presentation noted or identified the following regarding Canyon Falls:

- Wheelock purchased the property in July of 2012.
- Five quality builders have been identified and they are in the process of finalizing contracts.
- Mesa Design group has been selected for the neighborhood master plan, and in the next 30 days Council should be seeing that presentation.
- Next steps after tonight's clean up item over the next 30 – 60 days includes going to the Oil & Gas Board of Appeals for the gas well setback component in a few weeks; then development plan review process, and at that point the first phase would be identified.
- Overall concept plan (demonstrated on a map)
- There will be a nice size entry feature for Canyon Falls at FM 1171 to create a sense of arrival at different stages in the neighborhood and landscape planners are working on creating that environment in that as you drive through the neighborhood you will see those elements along the way through the development, which could include trailheads or other amenities accented such as the natural beauty of the creek.
- Master plan area
- The request for the SF5 and SF10 change request comes from their planners and relates to:
  - development influences such as the high school, power lines running through the property, and adjacent lots in Northlake
  - need to look at the topography and make sure the overall use fits the neighborhood Development influences (price points, commercial and mixed use sites, power lines)
  - based on the natural constraints the property can't get to the 972 lots that were originally planned without this change.

There was some discussion regarding the use of bike lanes for the roads within the development and Mr. Pedigo pointed out there are some differences with regard to what the PD documents state and what regulations state and they are working through that conflict.

Councilmember Dixon inquired if the adjacent Northlake lots are SF5.

Mr. Pedigo responded yes, their zoning classifications are different, but yes those are planned to be equal to an SF5 lot

Councilmember Dixon stated so it's more consistent with that general area within the development.

Mr. Pedigo responded correct and he pointed out the areas on a map that will be flood plain which are isolated and could easily be changed without it being a net effect to the other property.

Councilmember Dixon stated so the consistencies of the new area where you want to move the SF10s are near flood plain which would be considered open space.

Mr. Pedigo responded that is correct.

Councilmember Webb asked for confirmation that the number of SF10 lots & SF5 lots stays the same; however, is just getting shifting to another location, and likewise, the number of SF5 lots remains the same, however, shifting to another location.

Mr. Pedigo responded yes.

Councilmember Webb asked in relation to where the SF5s are going, is it correct in that it is a larger piece of land.

Mr. Pedigo responded yes, it is as far as acreage, however, as far as the number of lots that are going into each one of those the net effect is the same number.

Mayor Hayden opened the Public Hearing for items 15 and 16 at 7:45 p.m.

### **Public Participation**

No one spoke in support or opposition.

Mayor Hayden closed the Public Hearing for items 15 and 16 at 7:45 p.m.

Councilmember Levenick moved to approve a request to amend Section 1.0, Land Use Plan, and Section 2.0, Area Plans (MPA 11-12 - Canyon Falls), of the Master Plan to change the current land use designation on approximately 37.9 acres of land from Medium Density Residential to High Density Residential and to change the current land use designation on approximately 19.4 acres of land from High Density Residential to Medium Density Residential; and to delete the two maps identified as "Denton Creek District - Option 1" and "Denton Creek District - Option 2" on pages 2.8 and 2.9 of the Master Plan and replace such maps with one new map identified as "Denton Creek District", and adopt an ordinance providing for said amendment. Deputy Mayor Pro Tem Wise seconded the motion.

ORDINANCE NO. 57-12

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING SECTION 1.0 LAND USE PLAN AND SECTION 2.0 AREA PLANS OF THE MASTER PLAN BY AMENDING ORDINANCE NO. 24-01, IN PART, WHICH ADOPTED THE MASTER PLAN, SPECIFICALLY TO CHANGE THE CURRENT LAND USES REFLECTED ON THE LAND USE PLAN MAP FROM MEDIUM DENSITY RESIDENTIAL USES TO HIGH DENSITY RESIDENTIAL USES ON APPROXIMATELY 37.9 ACRES OF LAND, AND FROM HIGH DENSITY RESIDENTIAL USES TO MEDIUM DENSITY RESIDENTIAL USES ON APPROXIMATELY 19.4 ACRES OF LAND SITUATED IN THE M.E.P. & P.R.R. SURVEY, ABSTRACT NUMBER 922, THE J. WILBURN SURVEY, ABSTRACT NUMBER 1416, THE F. THORNTON SURVEY, ABSTRACT NUMBER 1244, AND THE W. LOVE SURVEY, ABSTRACT NO. 728, AND THROUGH THE AMENDMENT OF THE DENTON CREEK DISTRICT AREA PLAN BY DELETING THE TWO ALTERNATE AREA PLANS IDENTIFIED AS DENTON CREEK DISTRICT - OPTION 1 AND DENTON CREEK DISTRICT - OPTION 2 ON PAGES 2.8 AND 2.9 OF THE MASTER PLAN AND REPLACING SUCH AREA PLANS WITH ONE NEW AREA PLAN IDENTIFIED AS DENTON CREEK DISTRICT; ALLOWING FOR THE DEVELOPMENT OF THE DENTON CREEK DISTRICT IN CONFORMITY TO SAID AREA PLAN; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON THE MOTION

AYES: Webb, Levenick, Stephenson, Dixon, Wise

NAYS: None.

16. **ZPD 09-12 - Canyon Falls**

**Public Hearing**

Public Hearing to consider a request for rezoning (ZPD 09-12 - Canyon Falls) to amend Planned Development District No. 98 (PD-98) by amending Ordinance No. 19-08 to change the zoning on approximately 37.9 acres of land from Single-Family District-10 (SF-10) uses to Single-Family District-5 (SF-5) uses, to change the zoning on approximately 19.4 acres of land from Single-Family District-5 (SF-5) uses to Single-Family District-10 (SF-10) uses, and to change the zoning exhibit attached to said ordinance to remove Option 1 as a development option and require the property to be developed only in accordance with Option 2 subject to the foregoing revisions, and to consider adopting an ordinance providing for said amendment. The property is generally located north of FM 1171 between Interstate 35W and U.S. 377. *(The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its October 22, 2012, meeting.)*

Councilmember Webb moved to approve a request for rezoning (ZPD 09-12 - Canyon Falls) to amend Planned Development District No. 98 (PD-98) by amending Ordinance No. 19-08 to change the zoning on approximately 37.9 acres of land from Single-Family District-10 (SF-10) uses to Single-Family District-5 (SF-5) uses, to change the zoning on approximately 19.4 acres of

land from Single-Family District-5 (SF-5) uses to Single-Family District-10 (SF-10) uses, and to change the zoning exhibit attached to said ordinance to remove Option 1 as a development option and require the property to be developed only in accordance with Option 2 subject to the foregoing revisions, and adopt an ordinance providing for said amendment. Councilmember Dixon seconded the motion.

**ORDINANCE NO. 58-12**

**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, BY AND THROUGH THE AMENDMENT OF ORDINANCE NO. 19-08, WHICH ORDINANCE ZONED APPROXIMATELY 626 ACRES OF LAND IN THE M.E.P. & P. R.R. SURVEY, ABSTRACT NO. 922, F. THORNTON SURVEY, ABSTRACT NO. 1244, J. WILBURN SURVEY, ABSTRACT NO. 1416 AND THE W. LOVE SURVEY, ABSTRACT NO. 728, AS PLANNED DEVELOPMENT DISTRICT NO. 98 (PD-98) WITH SINGLE-FAMILY DISTRICT-10 (SF-10) USES, SINGLE-FAMILY DISTRICT-5 (SF-5) USES, COMMERCIAL DISTRICT-1 (C-1) USES, CAMPUS COMMERCIAL DISTRICT (CC) USES, AND RECREATIONAL DISTRICT (REC) USES, BY CHANGING THE ZONING WITHIN PLANNED DEVELOPMENT DISTRICT NO. 98 (PD-98) ON APPROXIMATELY 37.9 ACRES OF LAND FROM SINGLE-FAMILY DISTRICT-10 (SF-10) USES TO SINGLEFAMILY DISTRICT-5 (SF-5) USES, BY CHANGING THE ZONING ON APPROXIMATELY 19.4 ACRES OF LAND FROM SINGLE-FAMILY DISTRICT-5 (SF-5) USES TO SINGLE-FAMILY DISTRICT-10 (SF-10) USES, AND BY DELETING THE ZONING EXHIBITS IDENTIFIED AS OPTIONS 1 AND 2 ATTACHED TO ORDINANCE NO. 19-08 AND REPLACING SAID ZONING EXHIBITS WITH ONE NEW ZONING EXHIBIT, AMENDING SECTION 4 OF ORDINANCE NO. 19-08 TO REQUIRE THE PROPERTY TO BE DEVELOPED IN ACCORDANCE WITH THE NEW ZONING EXHIBIT, THE TOWN'S MASTER PLAN AND SPECIFIC REQUIREMENTS STATED HEREIN AND EXHIBITS ATTACHED HERETO; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

**VOTE ON THE MOTION**

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

**NAYS: None.**

- 17. Consider approval of a Professional Services Contract with Promoter Line, Inc., to provide professional event production and planning services for the 2013 Independence Fest, in an amount not-to-exceed \$177,500.00; and authorization for the Mayor to execute same on behalf of the Town.**

**Staff Presentation**

Mr. Jennings provided a presentation identifying background information related to Promoter Line, including their scope of services and associated cost. He noted due to the size and scope of the event which is expected to host

12,000 plus attendees, staff is requesting the professional services of Promoter Line to assist in the planning and operating of that festival.

Deputy Mayor Pro Tem Wise asked Mr. Jennings what is the maximum capacity Bakersfield Park can handle?

Mr. Jennings responded 12 – 15,000 is within the range.

Councilmember Levenick asked when did Wild About Flower Mound change to Independence Fest.

Mr. Jennings responded in 2011 when it was combined with the 50<sup>th</sup> anniversary.

Councilmember Levenick asked do you know what that was done.

Mayor Hayden responded to her question by stating it was done to combine resources to offer a larger production for the 50<sup>th</sup> Anniversary.

Councilmember Webb asked if it is essentially the same contract the Town has had in the past.

Mr. Jennings responded yes.

Councilmember Webb commented having noticed "there were limitations to liability regarding the entertainment to where if something happened where they can't make it there would be no refunds on that. My guess is that's a significant piece of the contract and I was wondering if there is any way we could mitigate that risk with an insurance policy where if somebody had to cancel the Town would not be out the dollars".

Mr. Jennings responded there are insurance policies for those types of situations; however, due to the costs involved it was not considered, however, the venues were not as significant either initially. He asked Mr. Thompson to come forward and speak on that topic.

Jerry Thompson, President, Promoter Line, 4444 Timber Crest, Grapevine, TX  
There is insurance available (business interruption policy) for situations where the headliner cancels in which you can buy a policy on that runs about 20% of the cost and it's not cost effective. He suggested it would be better to have rain out insurance. If the headline does cancel you have a better bet of rescheduling someone else. In these cases the performer would not keep the entire amount of money. You might be out travel expenses. They write into their agreement within their terms and dollars are not expended until 30 days prior to the event, with the balance not being paid until the show is performed.

Mr. Thompson responded to questions about how the entertainers are selected and the types of performers that could be obtained at the Town's current price point, as well as the next level should the Town opt to doing so in the future.

Councilmember Levenick moved to approve a Professional Services Contract with Promoter Line, Inc., to provide professional event production and planning services for the 2013 Independence Fest, in an amount not-to-exceed \$177,500.00; and authorize the Mayor to execute same on behalf of the Town. Mayor Pro Tem Stephenson seconded the motion.

**VOTE ON THE MOTION**

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

**NAYS: None.**

18. **Consider approval of the second reading of an ordinance granting a non-exclusive gas franchise to Atmos Energy Corporation; and authorization for the Mayor to execute same on behalf of the Town.**

**Staff Presentation**

Mr. Springer provided a presentation noting that tonight is the 2<sup>nd</sup> reading as required by the Town Charter. He continued his presentation by providing franchise history, proposed franchise information, and existing franchise agreement comparisons.

Councilmember Dixon commented so far he has been pleased with reports he has received regarding Atmos' cooperation in reviewing the Atmos pipeline that goes through Flower Mound related to the trees. He asked Mr. Springer if he shares that same view in that Atmos is working in good faith with Flower Mound and doing what they agreed to do when they came in and made a presentation a couple weeks ago.

Mr. Springer indicated yes, they have been pleased with their cooperation thus far, however, he clarified that the franchise agreement being considered is separate from the pipeline situation.

Deputy Mayor Pro Tem Wise moved to approve the second reading of an ordinance granting a non-exclusive gas franchise to Atmos Energy Corporation; and authorize the Mayor to execute same on behalf of the Town. Councilmember Levenick seconded the motion.

**ORDINANCE NO. 59-12**

**AN ORDINANCE GRANTING TO ATMOS ENERGY CORPORATION, A TEXAS AND VIRGINIA CORPORATION, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE TO CONSTRUCT, MAINTAIN, AND OPERATE PIPELINES AND EQUIPMENT IN THE TOWN OF FLOWER MOUND, DENTON COUNTY, TEXAS, FOR THE TRANSPORTATION, DELIVERY, SALE, AND DISTRIBUTION OF GAS IN, OUT OF, AND THROUGH SAID TOWN FOR ALL**

PURPOSES; PROVIDING FOR THE PAYMENT OF A FEE OR CHARGE FOR THE USE OF THE PUBLIC RIGHTS-OF-WAYS; AND PROVIDING THAT SUCH FEE SHALL BE IN LIEU OF OTHER FEES AND CHARGES, EXCEPTING AD VALOREM TAXES; AND REPEALING ALL PREVIOUS GAS FRANCHISE ORDINANCES.

**VOTE ON THE MOTION**

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

**NAYS:** None.

19. Consider approval of the second reading of an ordinance granting a non-exclusive electric franchise to Denton County Electric Cooperative, Inc., d/b/a CoServ Electric; and authorization for the Mayor to execute same on behalf of the Town.

**Staff Presentation**

Mr. Springer provided a presentation offering franchise history, proposed franchise information, and existing franchise agreement comparisons.

Mayor Hayden asked how long have those percentage levels been in place?

Mr. Springer responded the 4 – 5 percent levels have been for the last decade.

Mayor Hayden asked if the franchise fees being paid are standard for municipalities.

Mr. Springer responded yes.

Councilmember Webb moved to approve the second reading of an ordinance granting a non-exclusive electric franchise to Denton County Electric Cooperative, Inc., d/b/a CoServ Electric; and authorize the Mayor to execute same on behalf of the Town. Mayor Pro Tem Stephenson seconded the motion.

**ORDINANCE NO. 60-12**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, GRANTING TO DENTON COUNTY ELECTRIC COOPERATIVE, INC., D/B/A COSERV ELECTRIC, ITS SUCCESSORS AND ASSIGNS, THE NON-EXCLUSIVE RIGHT TO USE AND OCCUPY RIGHTS-OF-WAY WITHIN THE TOWN OF FLOWER MOUND FOR THE CONSTRUCTION AND OPERATION OF AN ELECTRIC TRANSMISSION AND DISTRIBUTION SYSTEM; PRESCRIBING CONDITIONS GOVERNING THE USE OF THE PUBLIC RIGHTS-OF-WAY; PROVIDING FOR COMPENSATION THEREFOR, PROVIDING FOR AN EFFECTIVE DATE AND A TERM OF SAID FRANCHISE, PROVIDING FOR WRITTEN ACCEPTANCE OF THIS FRANCHISE; FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC; AND PROVIDING FOR SEVERABILITY.**

**VOTE ON THE MOTION**

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

**NAYS:** None.

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

No discussion.

**N./O. CLOSED/OPEN MEETING**

The Town Council convened into a closed meeting at 8:10 p.m. on November, 5, 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 12:21 a.m. on November 6, 2012, to take action on the items as follows:

- a. Discuss and consider purchase, exchange, lease or value of real property for municipal purposes and all matters incident and related thereto.

No action taken.

- b. Discuss and consider economic development incentives.

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.

- d. Consultation with Town Attorney regarding legal issues relative to franchise agreement with utility provider and contract utilities.

No action taken.

- e. Discuss and consider duties of Town Secretary, and all matters incident and related thereto.

No action taken.

- f. Discuss and consider hiring of the Town Manager position and all matters incident and related thereto.

No action taken.

**P. ADJOURN REGULAR MEETING**

Mayor Hayden adjourned the meeting at 12:23 a.m. on the 6<sup>th</sup> day of November, 2012, and all were in favor.

**TOWN OF FLOWER MOUND, TEXAS**



**THOMAS E. HAYDEN, MAYOR**

**ATTEST:**



**THERESA SCOTT, TOWN SECRETARY**

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