

THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 4TH DAY OF FEBRUARY, 2013, 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
Jimmy Stathatos	Town Manager
Kent Collins	Assistant Town Manager
Gary Sims	Executive Director of Community Services
Doug Powell	Executive Director of Development Services
Kenneth Parr	Director of Public Works

A. CALL BRIEFING SESSION TO ORDER

Mayor Hayden called the briefing session to order at 6:03 p.m.

B. BRIEFING SESSION

1. Town Council Boards and Commissions Subcommittee/Liaison Reports

Mayor Hayden announced there was a reception for the Town Manager this evening and thanked Kroger and Tom Thumb for donating the refreshments.

Councilmember Dixon reported attending the P & Z meeting.

2. Discuss Consent and Regular Items

No discussion.

3. Request Future Agenda Items

Councilmember Dixon suggested Council consider eliminating the briefing session and going right into the meeting given it adds minimal value.

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 6:06 p.m.

E. INVOCATION

Chaplain Mike Liles gave the invocation.

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

Troop 256 (Carter, Henry & Alex) led the pledges.

G. PRESENTATIONS**1. Certificate of Achievement, State and National winners, Marcus High School Latin Club.**

Mayor Hayden presented the following individuals with certificates of achievement for this accomplishment:

Students: Emily Sparks, Neha Sule, Abby Haynes

Teacher: Melisande Santos, Foreign Language Dept. Chair

2. Certificate of Achievement, Capital Congressional Debate Context, Flower Mound High School Speech and Debate Team.

Mayor Hayden presented Flower Mound High School teacher Eric Mears with a certificate of achievement for this accomplishment.

3. Presentation and update from Lewisville Independent School District (L.I.S.D.) official and discussions with the Town Council regarding same.

Mayor Hayden outlined the SMARTGrowth process and the school related element, clarifying that this component is still part of the policy in that the school district is informed when a specific development is coming forward.

Mr. Welch provided an overview related to the adoption of SMARTGrowth, including the school related component.

Carol Kyer, President, LISD Board of Trustees

Ms. Kyer gave background information related to the school's responsibility to provide an education to students from new Flower Mound developments. She pointed out that the school district had a number of studies done this past summer that will allow them to plan for current and future use of LISD facilities. Further, she indicated not being not at liberty to discuss any of the zoning proposals because they have not been formally presented to the board. She outlined the make-up and process associated with the rezoning committee.

Several Councilmembers expressed thanks for her taking time to offer her comments.

Ms. Kyer responded to inquiries from Council related to:

- key drivers associated with the rezoning
- the most effective way to present suggestions to the committee and board
- frequency of LISD dealing with rezoning
- process associated with the committee and upcoming meetings
- potential of rezoning new developments instead of existing neighborhoods

Mayor Hayden recited comments and questions as received from residents for consideration by the board.

Mayor Pro Tem Stephenson read an email dated the 18th from Dr. Waddell to a resident – “we have heard the suggestion that there may be development in the western part of Flower Mound. We have never heard any concrete plans for such development but this week we asked the Town if there were any plans to begin development there. There are none. We have to plan based on what we know. Any impact from developing the west side would not impact us for years, but if there was significant growth there it would make it even more imperative to use the capacity of Forestwood and Shadowridge”. She pointed out that is pretty cut and dry that they didn’t take into account anything that wasn’t on the books and approved right now. That said, she suggested going back to Ms. Sheffield to understand what she means by future development.

H. PUBLIC PARTICIPATION

Gary Buckley, 1809 Doubletree, Flower Mound, TX 75028

Mr. Buckley indicated being displeased with the Atmos easement clearing and the many trees that are in jeopardy of being torn down. He requested the Town work with Atmos for a better resolution.

Bill McGee, 1901 Doubletree, Flower Mound, TX 75028

Mr. McGee stated being displeased with the Atmos easement clearing and the potential negative impact to his property, especially on an adjacent jogging trail.

Vern Olson, 1904 Doubletree Trail, Flower Mound, TX 75028

Mr. Olson indicated he owned his property for 17 years and the trees were in existence at the time he bought his home. He pointed out if it needed special monitoring today; it probably did 15 years ago. Also, he questioned if the landscaping plan included removal of stumps. There is also concern for the negative impact related to property value.

John Hudson Jr., 1409 Amberwood Glen, Flower Mound, TX 75028

Mr. Hudson indicated being concerned about the potential loss of trees and would like to understand more about the situation and the greater impact as well as what are the options and best solutions being considered for those involved.

Joy Bowen, 3706 Dresage Ln, Flower Mound, TX 75022

Ms. Bowen indicated there are unanswered questions related to the LISD redistricting situation related to growth numbers that were provided by the Town to LISD that would impact Liberty, Wellington, Old Settlers, McKamy, and Shadowridge, and the associated development projects. Secondly, she requested the Council mandate that this process be put on hold until the Flower Mound Police Department can assess the safety of the students that would either walk or bike from school to a neighborhood separated by a major traffic artery in both of these proposals. The school crossing guard index needs to be reviewed.

She pointed out the Cross Timbers Conservation District is a Conservation District for a reason. There should be no sewer or development there.

Jeff Roeling, 3009 Yale, Flower Mound, TX

Mr. Roeling indicated he is here to talk about redistricting. He provided some background related to past LISD redistricting attempts. He pointed out the process associated with the formation of the committee. He expressed concern for the kids crossing FM 2499, which LISD was against in 2005.

Tom Black, 4505 Tour 18 Dr, Flower Mound, TX 75028

Mr. Black offered thanks to Danny Hartz, pointing out Danny assisted with an inspection related to a gas leak situation.

Roger Neumann, Colonel, USAF, 2300 Conroe Ct, Flower Mound, TX 75028

Mr. Neumann expressed his thanks and support for Mr. Fuller representing their community of Lakemont and was available for any questions.

Paul Stone, 709 Lake Bluff, Flower Mound, TX 75028

Mr. Stone announced the Flower Mound Summit Club is having their annual Western Saloon Night on March 2nd at Circle R Ranch.

Billy Fuller, 5700 Ridgemont Dr, Flower Mound, TX 75028

Mr. Fuller indicated he is part of a neighborhood near the Marcus campus and recognized them in the audience (approximately 9 individuals). He stated they support the request for a landscape waiver buffer. He indicated he joins his neighbors in asking the Council to reject the grandfather decision by Town staff if after LISD has received budget bids for the underground utilities work, scrub the budget and if they still can't make that work, they could file for a waiver and get due process at a public hearing.

Lori Salisbury, 1761 Sterling Ln, Lewisville, TX 75067

Ms. Salisbury, Chairman of the Flower Mound Chamber, announced various upcoming Flower Mound Chamber of Commerce events.

Kendra Wagner, 2800 Hastings Way, Flower Mound, TX

Ms. Wagner indicated she lives in a portion of Wellington. She understands they need to rezone, however, no one in their community heard about any of the rezoning until about ten days ago. Other committee members had the information

out to their members in October in time to provide input and their input changed some of those plans. She mentioned having two points: 1) traffic is an issue on FM 2499 and the amount of large commercial trucks and vehicles and the concern that kids are going to attempt to ride bikes across 2499. She pointed out there would be 8 signal lights in which her kids would have to go through. 2) percentage of representation was lacking.

Carol Kohankie, 4312 Lauren Way, Flower Mound, TX 75028

Ms. Kohankie announced an event taking place this Friday at the Library called *Finding our Place Just Right*.

Sherilyn Flick, 3220 Miracle Ln, Flower Mound, TX 75022

Ms. Flick indicated she attended the Mayor's meeting in Wellington. She indicated being concerned about a comment she heard related to running sewer through the Cross Timbers Conservation District. She wanted to point out running sewer in this area is not allowed through that district today.

Mayor Hayden clarified his statement was simply to point out decisions made in the past impact today.

Christine Rountree, 501 Lancashire Dr, Flower Mound, TX 75028

Ms. Rountree asked that comments from Saturday's community meeting with the mayor get posted on the Town's web site for public disclosure. She also inquired who with the Town is responsible for providing growth numbers to the school district and what numbers they were provided for the new developments coming forward.

Shelly Mungiguerra, 3517 Westminister Trl, Flower Mound, TX 75022

Ms. Mungiguerra expressed concern related to redistricting and the lack of background information from the committee members. She indicated they have not been asked for feedback from them.

Mayor Hayden pointed out demographics associated with the LISD study, and asked Mr. Powell to clarify how LISD gets their growth numbers from Flower Mound related to future residential growth.

Mr. Powell stated that LISD, as well as other schools districts, are provided proposed development information. Also, a future land use map is provided which indicates future development and densities. He clarified that in relation to the LISD study (after the draft was made public) staff was asked to verify that the numbers in the document reflected the current approvals for residential development.

There was some discussion related to potential future developments west of Wellington that might have an impact on the school district.

I. ANNOUNCEMENTS

1. Announce recent and upcoming civic and social events.

Councilmember Dixon announced the Chamber Chick-Fil-A Leadercast seminar on May 10th.

Councilmember Webb announced the Summit Club Western Saloon Night on May 2nd which benefits the Denton County Friends of the Family.

Mayor Hayden applauded Flower Mound resident Roy Oteo for collaborating with his neighbors to collectively obtain a bid for fence replacements.

J. TOWN MANAGER'S REPORT

1. Update and status report related to capital improvement projects, and staff report related to ATMOS.

Atmos update:

Mr. Stathatos provided an update in that the Town has been working on the project and the associated importance of saving as many trees as possible. He indicated the Town has conducted a survey independent of Atmos's survey and 575 trees or points have been identified. Simultaneously, Atmos has conducted their survey and they have identified twice that many. Currently staff is importing their data into our GIS system and there will be a technical review over the next two weeks. He indicated Atmos has indicated they are strongly willing to look at a 30 foot easement instead of 50 foot, and perhaps constrict that in areas where it makes sense. He noted the dialogue with Atmos has been constructive and feels positive that they realize how sensitive this issue is and that they will make sure we have a seat at the table.

Councilmember Levenick asked Mr. Stathatos to clarify that the tags people are seeing on the trees in conjunction with the survey has to do with counting, and not necessarily marked for removal.

Mr. Stathatos indicated that is correct.

Mayor Hayden requested interest in the Town independently exploring what is the safest way to monitor a pipeline.

Councilmember Dixon agreed and, in addition, he would like staff to identify what the regulations require Atmos to do (i.e. aerial or foot surveying).

Councilmember Levenick asked for an update for the resident out west that had an exposed pipeline and if this has been taken care of by Atmos as indicated at that time.

Mayor Hayden commented to his knowledge this was not taken care of as a month ago.

Mr. Stathatos indicated he would follow up and update Council.

Capital Improvement Projects update:

Mr. Stathatos provided an update on the following projects:

- Wichita Trail and June 11th is the proposed date for substantial completion

2. Discuss Council Communications

- a. CC 03-13 – Sustainability plan update

There was agreement by Council to hold a discussion on this item until February 18th as recommended by Mr. Stathatos.

K. CONSENT ITEMS

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

1. Consider approval of the minutes from a Joint Town Council and Transportation Commission work session held on January 17, 2013.

RECOMMENDATION: Move to approve the minutes from a Joint Town Council and Transportation Commission work session held on January 17, 2013.

2. Consider approval of the minutes from a special meeting of the Town Council held on January 22, 2013.

RECOMMENDATION: Move to approve the minutes from a special meeting of the Town Council held on January 22, 2013.

3. Consider approval of an ordinance ordering the May 11, 2013, general election for the purpose of electing Council Member Place 1, Council Member Place 3, and Council Member Place 5, for two-year terms each.

RECOMMENDATION: Move to approve an ordinance ordering the May 11, 2013, general election for the purpose of electing a Council Member Place 1, Council Member Place 3, and Council Member Place 5, for two-year terms each.

ORDINANCE NO. 06-13

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, ORDERING A GENERAL TOWN ELECTION TO BE HELD ON THE 11th

DAY OF MAY 2013, FOR THE PURPOSE OF ELECTING THREE COUNCIL MEMBERS, PLACES 1, 3, AND 5, FOR TWO-YEAR TERMS EACH; PROVIDING FOR ELECTION OFFICERS; DESIGNATING THE PLACES AND MANNER OF HOLDING SAID ELECTION; AND PROVIDING FOR THE POSTING AND PUBLICATION OF NOTICE.

4. **Consider approval of three grant applications to the Texas A&M Forest Service for fire training tuition reimbursement; acceptance of money if grant is awarded; and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Move to approve three grant applications to be submitted to the Texas A&M Forest Service for fire training tuition reimbursement, the acceptance of money if grant is awarded and authorize the Mayor to execute same on behalf of the Town.

5. **Consider approval of Change Order No. 3 for a contract decrease of \$33,914.60, final acceptance of the Timber Creek Road and Valley Ridge Boulevard 20-inch Water Line projects, authorization for final payment to John Burns Construction Company of Texas, Inc., in the amount of \$32,194.25; and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Move to approve Change Order No. 3 for a contract decrease of \$33,914.60, final acceptance of the Timber Creek Road and Valley Ridge Boulevard 20-inch Water Line projects, authorize final payment to John Burns Construction Company of Texas, Inc., in the amount of \$32,194.25; and authorize the Mayor to execute same on behalf of the Town.

6. **Consider approval of the award of Bid No. 2013-26-B, to Durable Specialties, Inc., for the construction of the FM 1171 at Tour 18 (Temporary) signal project, in the amount of \$33,340.00; and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Move to approve the award of Bid No. 2013-26-B, with Durable Specialties, Inc., for the construction of the FM 1171 at Tour 18 (Temporary) signal project, in the amount of \$33,340.00; and authorize the Mayor to execute same on behalf of the Town

7. **Consider final acceptance of the FM 407 12-inch Water Line project, and authorization for final payment to Wilson Contractor Services, LLC, in the amount of \$21,248.85.**

RECOMMENDATION: Move to approve final acceptance of the FM 407 12-inch Water Line project, and authorize final payment to Wilson Contractor Services, LLC, in the amount of \$21,248.85.

8. Consider approval of a Professional Services Agreement with Schrickel, Rollins and Associates, Inc., to provide professional engineering services for the Jakes Hilltop Parking Lot project, in the amount of \$34,700.00, and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Move to approve a Professional Services Agreement with Schrickel, Rollins and Associates, Inc., to provide professional engineering services for the Jakes Hilltop Parking Lot project, in the amount of \$34,700.00, and authorize the Mayor to execute same on behalf of the Town.

9. Consider approval of a Professional Services Agreement with Lee Engineering, L.L.C., to provide professional engineering services for the FM 2499 at Lakeside Intersection Improvement project, in the amount of \$50,000.00, and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Move to approve a Professional Services Agreement with Lee Engineering, L.L.C., to provide professional engineering services for the FM 2499 at Lakeside Intersection Improvements project, in the amount of \$50,000.00, and authorize the Mayor to execute same on behalf of the Town.

10. Consider approval of Change Order No. 1 for a contract increase of \$1,014.00, final acceptance of the Twin Coves Park Sewer System project, authorization for final payment to John Burns Construction Company of Texas Inc., in the amount of \$41,236.00; and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approval of Change Order No. 1 for a contract increase of \$1,014.00, final acceptance of the Twin Coves Park Sewer System project, authorize final payment to John Burns Construction Company of Texas Inc., in the amount of \$41,236.00; and authorize the Mayor to execute same on behalf of the Town.

11. Consider final acceptance of the Western Elevated Storage Tank project, and authorization for final payment to Landmark Structures Management, Inc., in the amount of \$223,244.62.

RECOMMENDATION: Move to approve final acceptance the Western Elevated Storage Tank project, and authorize final payment to Landmark Structures Management, Inc., in the amount of \$223,244.62.

VOTE ON MOTION

AYES: Webb, Levenick, Stephenson, Dixon, Wise

NAYS: None

Council recessed at 7:52 p.m. and reconvened at 8:05 p.m.

L. REGULAR ITEMS

12. Consider a request for a Development Plan (DP 04-12 - Canyon Falls) to develop a residential subdivision. The property is generally located north of F.M. 1171 and west of U.S. 377. *(The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its January 28, 2013, meeting.)*

Mayor Hayden opened items 12 and 13 at the same time.

Staff Presentation

Mr. Powell provided a presentation identifying or noting the following:

- project location
- land use
- photographs
- development plan, including the County and fire station site, as well as the two school sites for Argyle ISD
- park locations within the development
- the Town has been working on water and sewer in that area
- no comments have been received as part of this application
- the three approximate locations of the trees that are being requested to be removed, as well as the type and condition of those trees

Council Discussion

Mr. Powell responded to questions from Council related to:

- schools and SMARTGrowth review

Councilmember Webb moved to approve a request for a Development Plan (DP 04-12 - Canyon Falls) to develop a residential subdivision and acceptance of Park Land Dedication of 14.2128 acres of land and Park Development Fees in the amount of \$587,124.00. Councilmember Levenick seconded the motion.

VOTE ON MOTION

AYES: Wise, Dixon, Stephenson, Levenick, Webb

NAYS: None

13. Public Hearing to consider an application for a tree removal permit for the removal of three specimen trees on property proposed for development as Canyon Falls. The property is generally located west of Highway 377 and north of FM 1171. *(The Environmental Conservation Commission recommended approval by a vote of 4 to 0 at its January 3, 2013, special meeting).*

Mayor Hayden opened the Public Hearing at 8:12 p.m.

No one spoke in favor or opposition.

Mayor Hayden closed the Public Hearing at 8:12 p.m.

Deputy Mayor Pro Tem Wise moved to approve the requested permit for the removal of three specimen trees on property proposed for development as Canyon Falls, generally located west of Highway 377 and north of FM 1171. Councilmember Dixon seconded the motion.

VOTE ON THE MOTION

AYES: Webb, Levenick, Stephenson, Dixon, Wise

NAYS: None

14. **Public Hearing to consider a request for a Comprehensive Sign Package (CSP 03-12 - Lantana Animal Hospital) for a veterinary hospital (inside pens). The property is generally located at 4110 Justin Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its January 28, 2013, meeting.)**

Staff Presentation

Mr. Powell provided a presentation identifying or noting the following:

- location of the property
- land use and zoning
- signage waiver request
- no correspondence was received regarding this item

Mayor Hayden opened the Public Hearing at 8:16 p.m.

No one spoke in favor or opposition.

Mayor Hayden closed the Public Hearing at 8:16 p.m.

Councilmember Dixon moved to approve a request for a Comprehensive Sign Package (CSP 03-12 - Lantana Animal Hospital) for a veterinary hospital (inside pens). Deputy Mayor Pro Tem Wise seconded the motion.

VOTE ON THE MOTION

AYES: Wise, Dixon, Stephenson, Levenick, Webb

NAYS: None

15. **Public Hearing to consider a request for rezoning (Z 05-12 – Bella Strada, Phase 2) from Industrial District-1 (I-1) uses to Single-Family District-10 (SF-10) uses, and to consider adopting an ordinance providing for said amendment. The property is generally located north of Spinks Road and west of Gerault Road. (*The Planning***

and Zoning Commission recommended approval by a vote of 6 to 0 at its January 28, 2013, meeting.)

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

Staff Presentation

Mr. Powell provided a presentation identifying or noting:

- land use is residential, however, zoning is industrial 1
- new property to the west
- photographs of the site and adjacent property
- development plan, including street connections
- only one comment was received from the property owner to the west inquiring what is proposed

Councilmember Levenick inquired as to whether the industrial goes away or if it is staying.

Mr. Powell responded it is staying, however, the remainder of the property that is vacant and currently zoned Industrial 1 will go away.

Mayor Hayden asked where the students within that development will be going to school and were there any issues regarding education facilities as it pertains to SMARTGrowth.

Mr. Powell responded based on proximity most likely Bluebonnet and Shadowridge, as well as Flower Mound School, and he pointed out the current process is to inform LISD of new development applications.

Mayor Hayden opened the Public Hearing at 8:21 p.m.

Public Participation

Drew Convery, 709 Saddleback Ln, Flower Mound, TX

Mr. Convery asked how many LISD students would there be within this development.

Mayor Hayden closed the Public Hearing at 8:22 p.m.

In response to Mr. Convery's question, Mr. Powell reiterated the process is to inform LISD in that they send them the plan, which includes the lots. What is provided from LISD is an acknowledgement that they have received the information. They do not provide the Town with the calculation or estimated student count. He noted this process has occurred for this project.

Council Deliberation

Mayor Pro Tem Stephenson asked Mr. Powell to talk about the exception to the

access management policy and where it is on the map, and the associated reasoning for the reduction. In addition, she asked for confirmation that there is not a traffic flow issue.

Mr. Powell responded by pointing out on the map the existing driveway for the industrial use and the new access point for the residential and noted those spacings now conflict with the Town's standards. In fact, it allows a second access point that will help with fire and emergency services.

Mr. Collins verified there is not an issue from a traffic flow or access standpoint.

Councilmember Webb moved to approve a request for rezoning (Z 05-12 – Bella Strada, Phase 2) from Industrial District-1 (I-1) uses to Single-Family District-10 (SF-10) uses, and adopt an ordinance providing for said amendment. Deputy Mayor Pro Tem Wise seconded the motion.

ORDINANCE NO. 03-13

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 CHANGING THE ZONING ON APPROXIMATELY 7.35 ACRES OF LAND SITUATED IN THE W. H. GIBSON SURVEY, ABSTRACT NO. 464, FROM INDUSTRIAL DISTRICT-1 (I-1) USES TO SINGLE-FAMILY DISTRICT-10 (SF-10) USES IN ACCORDANCE WITH THE TOWN'S MASTER PLAN AND IN ACCORDANCE WITH CHAPTER 98 OF THE TOWN'S CODE OF ORDINANCES, ENTITLED "ZONING"; 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: Webb, Levenick, Stephenson, Dixon, Wise

NAYS: None

- 16. Consider a request for a Development Plan (DP 06-12 - Bella Strada, Phase 2) to create a residential subdivision, with an exception to the access management policy and criteria, regarding driveway spacing, contained in the Town's Engineering Design Criteria and Construction Standards adopted through Chapter 32 of the Code of Ordinances. The property is generally located north of Spinks Road and west of Gerault Road. *(The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its January 28, 2013, meeting.)***

Deputy Mayor Pro Tem Wise moved to approve a request for a Development Plan (DP 06-12 - Bella Strada, Phase 2) to create a residential subdivision, with an exception to the access management policy and criteria, regarding driveway spacing, contained in the Town's Engineering Design Criteria and Construction Standards adopted through Chapter 32 of the Code of Ordinances, and acceptance

of cash, in the amount of \$9,858.00, in lieu of Park Land Dedication and Park Development Fees in the amount of \$26,372.00. Councilmember Dixon seconded the motion.

VOTE ON THE MOTION

AYES: Wise, Dixon, Stephenson, Levenick, Webb

NAYS: None

17. Consider a request for an amended Site Plan (SP 15-12 - Edward S. Marcus HS 9th Grade Campus) to further develop an existing school site, with an exception to Section 82-302, Compatibility buffer, of the Code of Ordinances, and a request for additional height pursuant to Section 98-1031(d), Additional height, of the Code of Ordinances. The property is generally located west of Morriss Road and north of Waketon Road. *(The Planning and Zoning Commission recommended approval by a vote of 5 to 1 at its January 28, 2013, meeting.)*

Staff Presentation

Mr. Powell providing a presentation identifying or noting:

- additional public comment is being provided to Council that was not included in the P & Z packet
- Detailed location
- Land use and zoning are appropriate
- Site plan which included existing buildings, proposed buildings, under construction, and proposed parking
- Landscape plan – north
 - Noting LISD worked with the neighborhood to put in an 8 foot board on board fence along the western property line, and they are going to change some of the parking and provide additional landscaping.
- 9th grade campus elevations
- A graphic of the existing and new utility lines.

Mayor Hayden asked Mr. Welch to explain why this development doesn't constitute needing an exception from the Town ordinance to bury the utilities.

Mr. Welch responded stating that when the stadium came in an exception was received about the utilities at the location. The exception goes to the utilities and not to the property. The property doesn't receive an exception from underground utilities – a utility line does. When there is an extension of the utility line, under the ordinance that would need to be underground, except if an exception is granted by the Council. In this situation the existing utilities received that exception three to four years ago, and they do not need a further exception. The new utility extensions are going underground so they are in conformance with the ordinance so no exception is necessary.

Councilmember Levenick asked for clarification that, in effect, there will be less overhead power lines than there are right now.

Mr. Powell responded that is correct.

Applicant Presentation

Michael Perry, Lewisville Independent School District, 1597 S Edmonds Ln, Lewisville, TX 75067

Mr. Perry indicated Mr. Powell covered many of the points in the presentation; however, he was available for questions.

Mr. Perry responded to questions from Council related to:

- with regard to the maintenance and upkeep of the fence, it would be the responsibility of the homeowner's association (per their agreement with them)
- financial benefit for using board on board versus masonry (didn't have those numbers available)
- how location will be designed to act as a separate center given it is on site with the existing high schools

Mr. Powell responded to questions from Council related to:

- minimal additional parking is being added

Mayor Pro Tem Stephenson moved to approve an amended Site Plan (SP 15-12 - Edward S. Marcus HS 9th Grade Campus) to further develop an existing school site, with an exception to Section 82-302, Compatibility buffer, of the Code of Ordinances, and a request for additional height pursuant to Section 98-1031(d), Additional height, of the Code of Ordinances. Councilmember Webb seconded the motion.

VOTE ON THE MOTION

AYES: Webb, Levenick, Stephenson, Dixon, Wise

NAYS: None

18. **Public Hearing to consider a request for a Replat (RP 17-12 - Victory Park Addition) to create three (3) lots and abandon easements, subject to the terms and conditions in the attached First Amended Development Agreement and authorization for Mayor to execute same on behalf of the Town. The property is generally situated south of FM 407 (Justin Road) and between Country Meadow Drive on the west and Morriss Road on the east. (*The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its January 28, 2013, meeting.*)**

Mayor Hayden opened items 18 and 19 at the same time.

Staff Presentation

Mr. Powell providing a presentation identifying or noting:

- site location, including the retail component
- land use and zoning
- photographs of the site
- replat lots
- an agreement has been reached with the adjacent property owners related to the trees in that they will remain, except for those that have to be removed to improve the drainage (which is desired by the neighbors)
- minimal comments have been received

Applicant Presentation

Chas Fitzgerald, Wilbow Corporation

Mr. Fitzgerald pointed out there are still some typos and tweaks needed in the development agreement such as the ownership entities, and they will work with Mr. Welch to get a cleaned up version

Mayor Hayden opened the Public Hearing for items 18 and 19 at 8:56 p.m.

No one spoke in favor or opposition.

Mayor Hayden closed the Public Hearing for items 18 and 19 at 8:56 p.m.

Councilmember Dixon moved to approve a request for a Replat (RP 17-12 - Victory Park Addition) to create three (3) lots and abandon easements, subject to the terms and conditions in the attached Development Agreement, and authorize the Mayor to execute same on behalf of the Town. Deputy Mayor Pro Tem Wise seconded the motion.

VOTE ON THE MOTION

AYES: Wise, Dixon, Stephenson, Levenick, Webb

NAYS: None

19. **Public Hearing to consider a request for a Replat (RP 19-12 - Waterford Park Estates, Phase III) to create a residential subdivision. The property is generally located south of FM 407 (Justin Road) and between Country Meadow Drive to the west and Morriss Road to the east. (*The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its January 28, 2013, meeting.*)**

Councilmember Dixon moved to approve a request for a Replat (RP 19-12 - Waterford Park Estates, Phase III) to create a residential subdivision. Councilmember Levenick seconded the motion.

VOTE ON THE MOTION

AYES: Webb, Levenick, Stephenson, Dixon, Wise

NAYS: None

20. Public Hearing to consider a request for a Master Plan Amendment to amend Section 1.0, Land Use Plan (MPA 05-12 - Saddle Oaks Addition Phase 2), of the Master Plan to change the current land use designation from Estate Residential uses to Low Density Residential uses, and to consider adopting an ordinance providing for said amendment. (*The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its January 14, 2013, meeting.*) (*This item was postponed at the January 22, 2013, Town Council meeting.*)

Mayor Hayden opened items 20 and 21 at the same time.

Staff Presentation

Mr. Powell providing a presentation identifying or noting:

- a name revision is in the works as it's a separate development and the expectation is that when it comes back from platting it will have a different name.
- location (aerial) -north side of Cross Timbers Road and between Lusk Lane to the west and Trotter Lane to the east.
- land use and zoning
- photographs of the site
- part of their development includes a buffer along FM 1171 and noted what is unique about the property is there are parcels that will remain agricultural and the balance of the property would have the smaller lots at 20,000 square feet.
- existing trails that bound the property on the north and south side and there was some discussion about that at P & Z public hearings
- some discussion at P & Z related to the existing buildings and use of the property
- drainage was discussed on both the west and north side and pointed out that what you have before you is the master plan and the zoning and the next phase is the development plan which starts the engineering process and that is where the drainage analysis would occur.
- 49 lots is the maximum number of lots in the PD standards

Mr. Powell responded to questions from Council related to:

- reasoning this development is being considered a Master Plan Amendment
- the ordinance requirements in relation to half acre and one acre lots
- the potential of 15,000 square foot lots based on how the ordinance is written, and noted there is no mechanism to have a minimum lot size, however, they have limited the number of lots to 36.
- if the site would have sewer, and if so, is it located in the Cross Timbers Conservation District. It is in the Cross Timbers Conservation protection area, which is not part of the Cross Timbers Conservation District.

Mr. Stathatos pointed out staff is sensitive to the drainage concerns and will make sure they are addressed.

Applicant Presentation

Jeff Crannell, 2570 FM 407, Highland Village, TX

Mr. Crannell gave a presentation noting or outlining:

- under the one acre zoning the ordinances does allow for this conservation district, which allows for one acre lots to be reduced to 20,000 square feet with a certain percentage of open space. The plan is meticulously designed to meet every requirement except one of the one acre lot conservation district zoning. The one issue is that they are not deeding this land to a privately held or conservation district and that it is going to be held by the homeowner association. These are x lots where they will not be built upon – we may bring back a gazebo, a small horse barn, or perhaps an equestrian center. If we proceed past this point then we determine exactly what, where, and how the open space is developed. At this point what we are asking for is exactly what your land use plan shows except the one difference is that we are not wanting to put this into a conservation district, however, into an HOA controlled document, as well as a city controlled piece of land, which means we have to come back before Council to do anything but mow this land. In addition, with regard to maintenance of the landscaping, that would be done by the HOA.
- the surrounding neighbors in Saddle Oaks One like this plan because of the buffer and what is being preserved with the specimen trees as well as the view corridor along 1171
- they have met and will be meeting with adjacent neighbors to discuss drainage improvements, view corridors, and open spaces
- sanitary sewer connection to the north and sized properly for the development
- 46 acres and 49 lots

Mr. Crannell responded to questions and comments from Council related to:

- if HOA would be completely new, or folded into an existing one
- how open spaces will be maintained prior to a plan being made
- suggested don't label it a "conservation district" because people are thinking that is what they are getting
- general concern about how the HOA will manage the open space
- how will they address the drainage issues
- opinion of transition from one acre to half acre lots
- has he met with residents to the east and west of the property

Mayor Hayden opened the Public Hearing for items 20 and 21 at 9:44 p.m.

Public Participation

Paul Zappia, Keller Williams Realty, 2611 Cross Timbers, Flower Mound, TX

Mr. Zappia spoke in favor of the project. He had the following questions:

- what is the price range of these homes going to be if approved
- do we know the builders and what their thoughts are on this

- the time frame when construction would actually start
- I understand the minimum square footage build would be 1,800 square feet and I know that the homes in the current Saddle Oaks subdivision I believe start at 3,500 or 4,000 square feet so it would be a significant difference

Mr. Crannell responded to Mr. Zappia's questions related to the approximate price range of the homes by stating they don't have a price range. The lots will be starting in the \$200,000s, so the homes would be starting in the \$600,000s. The time frame would be approximately another six months.

Mayor Hayden closed the Public Hearing for items 20 and 21 at 9:46 p.m.

There was an in depth discussion and concern related to the potential future use of the open space within the district, as well as how it will be managed or maintained. Mayor Pro Tem Stephenson inquired of Mr. Welch if there is something that Council can do in the zoning Ordinance to say that it has to be in keeping with something that is in character that was historically in this area, or something similar, so that we're not leaving it wide open.

Mr. Welch indicated that could be included within the development agreement. There are permitted uses in the agricultural areas permitted by the zoning Ordinance as it now exists. If Council were to desire to add or take out some of those uses that would be permitted since this is a PD. Mr. Powell pointed out where that information can be found within the packet and Council would have the option to go through that list and strike uses to offer Council comfort in understanding what would happen with that property.

Mayor Hayden asked Mr. Welch if he has proposed language ready.

Mr. Welch responded this is what the applicant would propose and the agricultural uses in those green areas – the only permitted uses would be an accessory use with any development and crop agriculture. All of the other agricultural uses would be deleted, as would specific uses and temporary uses.

Mayor Hayden asked Mr. Crannell if he had any questions or concerns about that.

Mr. Crannell responded no, that is the intent and exactly what they are looking for.

Councilmember Dixon commented that list is very restrictive and wanted to make sure he was okay with that.

Mr. Welch noted one miscellaneous standard was added – the x lots may be used for homeowner association functions and events.

Mr. Crannell commented he is in agreement with the amendment and the restriction.

Councilmember Webb moved to approve a request for a Master Plan Amendment to amend Section 1.0, Land Use Plan (MPA 05-12 - Saddle Oaks Addition Phase 2), of the Master Plan to change the current land use designation from Estate Residential uses to Low Density Residential uses, and adopt an ordinance providing for said amendment. Councilmember Dixon seconded the motion.

ORDINANCE NO. 04-13

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING SECTION 1.0 LAND USE PLAN 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 ESTATE DENSITY USES TO LOW DENSITY RESIDENTIAL USES ON APPROXIMATELY 46.17 ACRES OF LAND SITUATED IN THE WILLIAM MALONE SURVEY, ABSTRACT NO. 855, THE JOHN W. MALONE SURVEY, ABSTRACT NO. 857, AND THE STUCKI ADDITION; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON THE MOTION

AYES: Wise, Dixon, Stephenson, Webb

NAYS: Levenick

21. **Public Hearing to consider a request for rezoning (ZPD 01-11 - Saddle Oaks Addition Phase 2) from Agricultural District (A) uses to Planned Development District No. 115 (PD-115) with Single-Family District-15 (SF-15) uses and Agricultural District (A) uses, and to consider adopting an ordinance providing for said amendment. *(The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its January 14, 2013, meeting.) (This item was postponed at the January 22, 2013, Town Council meeting.)***

Councilmember Webb moved to approve a request for rezoning (ZPD 01-11 - Saddle Oaks Addition Phase 2) from Agricultural District (A) uses to Planned Development District No. 115 (PD-115) with Single-Family District-15 (SF-15) uses and Agricultural District (A) uses, and adopt an ordinance providing for said amendment with the modification to Exhibit C, Development Standards, to reflect that agricultural uses – the only permitted uses are accessory use and crop agriculture. All other permitted uses in the draft ordinance are not allowed and there should be no specific uses or temporary uses permitted in the agricultural zoning district and with the addition of a new miscellaneous standard E. to be numbered item number 6. The x lots may be used for homeowner association functions and events. Councilmember Dixon seconded the motion.

ORDINANCE NO. 05-13

AN ORDINANCE 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 CHANGING THE ZONING ON APPROXIMATELY 46.17 ACRES OF LAND SITUATED IN THE WILLIAM MALONE SURVEY, ABSTRACT NO. 855, THE JOHN W. MALONE SURVEY, ABSTRACT NO. 857, AND THE STUCKI ADDITION FROM AGRICULTURAL DISTRICT (A) USES TO PLANNED DEVELOPMENT DISTRICT-115 (PD-115) WITH SINGLE-FAMILY DISTRICT-15 (SF-15) USES AND AGRICULTURAL DISTRICT (A) USES IN ACCORDANCE WITH THE TOWN'S MASTER PLAN AND IN ACCORDANCE WITH CHAPTER 98 OF THE TOWN'S CODE OF ORDINANCES, ENTITLED "ZONING"; 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: Webb, Stephenson, Dixon, Wise

NAYS: Levenick

- 22. Consider approval of the award of Bid No. 2013-25-B, to XIT Paving and Construction, Inc., for the construction of the Chinn Chapel Road Phase I project, in the amount of \$2,348,782.28; and authorization for the Mayor to execute same on behalf of the Town.**

Staff Presentation

Mr. Collins gave a presentation identifying or noting:

- Project summary
 - Widen Chinn Chapel Road to a four lane undivided arterial from FM 407 to Waketon, which includes a round-a-about at Dixon Lane
- Project was bid with an alternate for culvert crossing to include arched and boxed culvert
 - The cost difference was \$142,585, noting the arch culvert was bid as the base and it was more expensive than the box
 - The agenda item is written for award of the arch top crossing
- Bid summary
 - \$2,348,782.28
- Photographs of arched culverts versus boxed culverts

Mr. Collins responded to questions and comments from Council related to:

- timing
- clarification related to box and arch culverts and exception to design criteria for the box culverts
- visibility of the culverts
- rock headwalls
- the budgeted amount for this project and the prospect of additional cost in the future

- if any additional property is needed to acquire
- source of funding
- how traffic will be handled during construction

There was in depth Council discussion related to the impact of box versus arch culverts and the substantial difference in cost.

Councilmember Webb asked Mr. Welch what Council needs to do to save \$142,000. Can we approve it with the box or is clean-up work in the ordinance needed.

Mr. Welch responded there is the ability to do that tonight by lowering the dollar amount, and provide an exception to the engineering standard.

Councilmember Levenick moved to approve the award of Bid No. 2013-25-B, with XIT Paving and Construction, Inc., for the construction of the Chinn Chapel Road Phase I project, in the amount of \$2,206,196.78 with an exception to the applicable engineering design standards relative to culverts; 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: Webb, Levenick, Stephenson, Dixon, Wise

NAYS: None

- 23. Consider approval of the award of Competitive Sealed Proposal No. 2013-29-B for the construction of the Operations and Maintenance Facility to CF Jordan Construction, LLC, in the amount of \$6,273,000.00; and authorization for the Mayor to execute same on behalf of the Town.**

Staff Presentation

Mr. Parr gave a presentation identifying or noting:

- award summary
- site location
- historical background information
- site plan
- building elevations
- architectural features match the fleet building
- staff that the building will be serving
- types of uses that will be incorporated into the facility
- bid method used to award the contract and various factors that were considered
- total budget for the project
- proposed contract award

Mr. Parr responded to questions or comments from Council related to:

- the number of employees that currently work at the existing building and how many are anticipated for the future building
- what will remain south of the old facility
- if the traffic trailer will be abandoned with the onset of the new building
- condition of the existing building
- C.F. Jordan had the 4th lowest bid, however, scored perfect on all of the intangibles
- What groups were represented on the contractor selection committee

Mayor Pro Tem Stephenson moved to approve the award of Competitive Sealed Proposal No. 2013-29-B for the construction of the Operations and Maintenance Facility to CF Jordan Construction, LLC, in the amount of \$6,273,000.00; and authorize the Mayor to execute same on behalf of the Town. Councilmember Levenick seconded the motion.

VOTE ON THE MOTION

AYES: Wise, Dixon, Stephenson, Levenick, Webb

NAYS: None

M. COORDINATION OF CALENDARS AND FUTURE AGENDAS/MEETINGS

Mayor Pro Tem Stephenson requested that for the first meeting in March, once the proposals from LISD are more concrete, to have a discussion of a potential Resolution to LISD on the rezoning efforts.

Ms. Scott pointed out there will be two members of Council unavailable for the February 18th meeting and asked if there was interest by Council to reschedule.

Mr. Welch elaborated on the legal component related to the notices associated with the public hearing.

There was agreement to having a special meeting on February 21, 2013.

N./O. CLOSED/OPEN MEETING

The Town Council convened into a closed meeting at 10:45 p.m. on February 4, 2013, 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 11:45 p.m. on February 4, 2013, to take action on the items as follows:

- a. Discuss and consider economic development incentives.

No action taken.

- 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.

- 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 Presiding Judge, Alternate Judge, and addition of second Alternate Judge position.

Councilmember Levenick moved to appoint Alison J. Grant as an alternate municipal judge, and I further move to authorize the Mayor to execute letter agreements with the President Judge, Greg Bertrand, Alternate Judge Victor Rivera, and Alternate Judge Alison J. Grant. Councilmember Dixon seconded the motion.

VOTE ON THE MOTION

AYES: Webb, Levenick, Stephenson, Dixon, Wise

NAYS: None

P. ADJOURN REGULAR MEETING

Mayor Hayden adjourned the meeting at 11:46 p.m. on February 4, 2013, and all were in favor.

TOWN OF FLOWER MOUND, TEXAS



THOMAS E. HAYDEN, MAYOR

ATTEST:



THERESA SCOTT, TOWN SECRETARY