

THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING AND WORK SESSION HELD ON THE 2ND DAY OF MARCH 2009 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 and work session with the following members present:

Jody Smith	Mayor
Joel Lindsey	Deputy Mayor Pro Tem
Jean Levenick	Councilmember Place 4
Jeff Tasker	Councilmember Place 5
Al Filidoro	Councilmember Place 2

with the following member absent:

Tim Trotter	Mayor Pro Tem
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constituting a quorum with the following members of the Town Staff participating:

Harlan Jefferson	Town Manager
Paula Paschal	Town Secretary
Terry Welch	Town Attorney
Chuck Springer	Assistant Town Manager/Chief Financial Officer
Kenny Brooker	Police Chief
Eric Metzger	Fire Chief
Kent Collins	Assistant Town Manager
Bart Stevenson	Executive Director of Community Services
Doug Powell	Executive Director of Development Services

A. CALL BRIEFING SESSION TO ORDER

Mayor Smith called the briefing session to order at 6:07 p.m.

B. BRIEFING SESSION

1. Town Council Boards and Commissions Liaison Reports

Councilmember Filidoro stated at the last Planning & Zoning Commission meeting, cases for Flooring America, Country Place Living, and Robertson's Creek (sign request) were discussed.

2. Discuss Consent and Regular Items - no discussion

3. Discuss Future Agenda Items - no discussion

C. ADJOURN BRIEFING SESSION

D. CALL REGULAR MEETING TO ORDER

Mayor Smith called the regular meeting to order at 6:09 p.m.

E. INVOCATION

Chaplain Mike Simpson gave the Invocation.

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

Chaplain Simpson led the pledges.

G. PUBLIC PARTICIAPTION

Jean Sampson, 1008 Forest Vista Drive, Flower Mound

Ms. Sampson asked for an investigation as to why two police officers came to her home after she had made a call to the Public Works staff about standing water on her property.

Mike Wallace, 2913 Trailwood Lane, Flower Mound

Mr. Wallace gave his reasons for wanting to run for Town Councilmember Place 3.

Angie Cox, 7616 Emerson Lane, Flower Mound

Ms. Cox thanked the Council for their service. She announced that the Annual Murder Mystery hosted by the Friends of the Flower Mound Library would be held on March 7 at Celebrations.

Randy Moody, 2608 Russwood Drive, Flower Mound

Mr. Moody expressed concern about the design and style of the proposed gate at the end of Russwood Drive that would be built in conjunction with the 9th Grade Campus on Dixon Lane. He stated the practice field would eventually have lights for nighttime play and this could be disruptive to the surrounding subdivisions. He wanted to know, from the Lewisville Independent School District (LISD), what the ultimate plans would be regarding lights and a public address system. He preferred to have a 6 foot fence than a 4 foot fence (the requirement by Town Code next to dedicated parks).

Todd Brown, 6109 Windridge Lane, Flower Mound

Mr. Brown was concerned with the fencing around the LISD property near his home. He felt the language that was discussed at the Planning & Zoning Commission meeting was too vague. He stated that a 9 foot fence would be required to block the views from the nearby homes. He stated LISD representatives had talked to the neighbors about the fence. Mr. Brown preferred a cement fence.

Mike Quinn, 6105 Windridge, Flower Mound

Mr. Quinn commended the LISD for the negotiations that were taking place. He asked the Council to consider the home values. He stated car lights would be aimed straight toward his property only 25 feet away. He noted that the wrought iron fencing should continue down through the park. Safety was the most important factor. He preferred an 8 foot fence. He stated lights were needed at Dixon Park to lower the potential for inappropriate play at the park.

Albert Gonzales, 6117 Windridge Lane, Flower Mound

Mr. Gonzales stated the primary concern with the 9th Grade Campus was the height of the fence. He preferred an 8 foot cement fence. He stated the buffer zone to the practice field was very small, and the track would be dug down 7 feet.

Judy Byal, 6113 Windridge Lane, Flower Mound

Ms. Byal expressed concerns with the 9th Grade Campus and the athletic fields. She stated most of the affected residents had been there for 9-10 years. She hoped that the losses (monetary, quality of life, and loss of security) would be mitigated. She stated the residents

wanted adequate fencing between their homes and the athletic fields. She was in favor of a berm with a solid fence - preferably a 9 foot precast concrete fence, as it would be secure and maintenance free. Ms. Byal stated it would be totally unacceptable to have anything less than a 9 foot concrete fence.

Mary Ann Andia, 2525 Ruswood Drive, Flower Mound

Ms. Andia stated that property values dropped in the part of the Wellington subdivision that backed up to Flower Mound High School. She stated with the 9th Grade Campus, there would be additional paved roads and buildings, and the **residents'** views would be lost. She stated a wrought iron fence would not provide privacy, and she was in favor of an 8-9 foot solid wall. Ms. Andia stated the residents inside Waterford Park did not receive notification of the hearings. She suggested that the emergency exit to Ruswood be re-directed to FM 407. She asked why the LISD needed a third football stadium. She stated the neighbors were told there would be no bleachers, however if bleachers were going to be installed, a privacy wall was needed.

Paul Andia, 2525 Ruswood Drive, Flower Mound

Mr. Andia agreed with the comments made by his wife.

Phillip Mitchell, 6121 Andrews Lane, Flower Mound

Mr. Mitchell stated his house was the closest to the new athletic center. He asked for a solid wall so that he could not see and hear the activities. He stated he had only talked once with Randy Barnett with the LISD. He stated the landscape berm needed to be built up.

H. PRESENTATIONS - None

I. ANNOUNCEMENTS

- **Announce recent and upcoming civic and social events**

Councilmember Filidoro stated he recently attended the Fire Department Banquet, the Chamber Banquet, and he looked forward to the Friends of the Library Murder Mystery.

Deputy Mayor Pro Tem Lindsey attended the groundbreaking for Fire Station #4 earlier in the afternoon.

Mayor Smith stated many received awards were presented at the Fire Department Banquet. She congratulated Town Secretary Paula Paschal for being named Citizen of the Year at the Chamber of Commerce Banquet. Mayor Smith noted that a tree was planted at the Community Activity Center in honor of William Spruill, son of Stephani and Gary Spruill. She also announced that on March 8 the **Mayor's** Invitational Golf Tournament would be held in order to fund scholarships at Flower Mound High School.

- **Wild About Flower Mound Festival - no discussion**

J. TOWN MANAGER'S REPORT

- **Update and status report related to capital improvement projects, budget projections, grants, legislation, and regulatory activities.**

Town Manager Harlan Jefferson noted that CoServ had made substantial progress in removing the poles along FM 1171. The Town would continue to work with them to remove

poles at Bruton Orand/FM 1171 and at Glenwick. Staff was continuing communication with AT&T about putting their lines underground at Shiloh and FM 1171. Mr. Jefferson referred to the Stimulus Funding and the American Recovery and Reinvestment Act (funding for cities, counties and states). Funding would be allocated based on Community Development Block Grants. He noted when received, the money had to be spent quickly (about 120 days to award a contract to expend the money). He noted the Town had been working to hasten the commute for residents through Flower Mound, and the DFW Connector was designed to help with that effort. He noted Mayor Smith attended the public hearing last week and submitted comments in support of the project. The 14.4 mile stretch will cost over \$907 million. Construction on the five-year project is planned to begin in late 2009. Eventually, the signal lights near the flyover at Grapevine Mills will be removed. The Town was interested in a flyover at Gerault and FM 2499 along with addressing the signal at the apartment complex in Grapevine. Mr. Jefferson presented a slide of how the DFW Connector would work with the transportation corridors in the Town (FM 2499, Morriss, Garden Ridge). He also mentioned the future improvements to FM 1171, FM 407 and US 377.

K. CONSENT ITEMS

Councilmember Levenick made a motion to approve by consent, Items 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16. Deputy Mayor Pro Tem Lindsey seconded the motion. Each item, as approved by consent, is restated below along with the approved recommendation for each, for the record.

1. **Consider approval of minutes from a regular meeting of the Town Council held on February 16, 2009.**

RECOMMENDATION: Approve minutes from a regular meeting of the Town Council held on February 16, 2009.

2. **Consider approval of canceling the March 16, 2009, regular meeting of the Town Council.**

RECOMMENDATION: Approve canceling the March 16, 2009, regular meeting of the Town Council.

3. **Consider acceptance of Assistance to Firefighters Grant EMW-2008-FF-00270, awarded by the U. S. Department of Homeland Security, for the purpose of hiring additional career firefighters.**

RECOMMENDATION: Approve acceptance of Assistance to Firefighters Grant EMW-2008-FF-00270, awarded by the U. S. Department of Homeland Security, for the purpose of hiring additional career firefighters.

4. **Consider approval of the Comprehensive Annual Financial Report for the fiscal year ended September 30, 2008.**

RECOMMENDATION: Approve the Comprehensive Annual Financial Report for the fiscal year ended September 30, 2008.

5. **Consider approval of the purchase of the Polaris Integrated Library System from Polaris Library Systems in the amount of \$101,955.00, through an existing interlocal**

agreement with the City of Dallas, and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve the purchase of the Polaris Integrated Library System from Polaris Library Systems in the amount of \$101,955.00, through an existing interlocal agreement with the City of Dallas, and authorize the Mayor to execute same on behalf of the Town.

6. Consider approval of a resolution by the Town of Flower Mound, Texas, endorsing certain legislative changes to enhance the competitive electric market supported by Cities Aggregation Power Project, Inc.

RECOMMENDATION: Approve Resolution No. 06-09 by the Town of Flower Mound, Texas, endorsing certain legislative changes to enhance the competitive electric market supported by Cities Aggregation Power Project, Inc. The caption of the resolution reads as follows:

RESOLUTION NO. 06-09

A RESOLUTION OF THE TOWN OF FLOWER MOUND, TEXAS, ENDORSING CERTAIN LEGISLATIVE CHANGES TO ENHANCE THE COMPETITIVE ELECTRIC MARKET SUPPORTED BY CITIES AGGREGATION POWER PROJECT, INC.

7. Consider approval of an agreement with Halff Associates, Inc., to provide professional engineering design services and professional real property negotiation and appraisal services for the Dixon Lane project, from Crestside Drive to FM 2499, in the amount of \$263,540.00, and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve an agreement with Halff Associates, Inc., to provide professional engineering design services and professional real property negotiation and appraisal services for the Dixon Lane project, from Crestside Drive to FM 2499, in the amount of \$263,540.00, and authorize the Mayor to execute same on behalf of the Town.

8. Consider approval of the award of Bid No. 2409-B Twin Coves/North Lake Highlands I Water Improvements to Dowager Utility Construction, LTD, in the amount of \$489,911.00, and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve the award of Bid No. 2409-B Twin Coves/North Lake Highlands I Water Improvements to Dowager Utility Construction, LTD, in the amount of \$489,911.00, and authorize the Mayor to execute same on behalf of the Town.

9. Consider approval of a Professional Services Agreement with Kleinfelder Central, Inc., to provide geotechnical and material testing services associated with the construction of Dixon Lane from Chinn Chapel Road to west of FM 2499, in the amount of \$24,000.00, and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve a Professional Services Agreement with Kleinfelder Central, Inc., to provide geotechnical and material testing services associated with the construction of Dixon Lane from Chinn Chapel Road to west of FM 2499, in the amount of \$24,000.00, and authorize the Mayor to execute same on behalf of the Town.

10. Consider approval of a Professional Services Agreement with Kleinfelder Central, Inc., to provide geotechnical and material testing services associated with the

construction of Fire Station No. 4, in the amount of \$60,000.00, and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve a Professional Services Agreement with Kleinfelder Central, Inc., to provide geotechnical and material testing services associated with the construction of Fire Station No. 4, in the amount of \$60,000.00, and authorize the Mayor to execute same on behalf of the Town.

- 11. Consider approval of Change Order No. 2 for the FM 1171 Water Booster Pump Station project, amending the contract with Red River Construction Company, for an increase in the amount of \$16,431.00, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve Change Order No. 2 for the FM 1171 Water Booster Pump Station project, amending the contract with Red River Construction Company, for an increase in the amount of \$16,431.00, and authorize the Mayor to execute same on behalf of the Town.

- 12. Consider approval of the award of Bid No. 4109-B Asbestos Abatement, Structural Demolition, and Site Clean-Up for the Wilson-Carmel Tract Clean-up project to The Marcon Group, Inc., dba Marcon Construction, in the amount of \$139,050.00, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve the award of Bid No. 4109-B Asbestos Abatement, Structural Demolition, and Site Clean-Up for the Wilson-Carmel Tract Clean-up project to The Marcon Group, Inc., dba Marcon Construction, in the amount of \$139,050.00, and authorize the Mayor to execute same on behalf of the Town.

- 13. Consider approval of an agreement with Halff Associates, Inc., to provide professional engineering design services for the FM 1171 Left Turn Lanes (Riverwalk) project, in the amount of \$25,000.00, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve an agreement with Halff Associates, Inc., to provide professional engineering design services for the FM 1171 Left Turn Lanes (Riverwalk) project, in the amount of \$25,000.00, and authorize the Mayor to execute same on behalf of the Town.

- 14. Consider approval of the purchase and installation of playground equipment at Jake's Hilltop Park from Child's Play, Inc., for the Hilltop Playground project in the amount of \$139,569.00, through the Texas Local Government Purchasing Cooperative.**

RECOMMENDATION: Approve the purchase and installation of playground equipment at Jake's Hilltop Park from Child's Play, Inc., for the Hilltop Playground project in the amount of \$139,569.00, through the Texas Local Government Purchasing Cooperative.

- 15. Consider approval of the purchase and installation of playground equipment at Northshore Park and Rustic Timbers Park from GameTime, for the Northshore Playground project and the Rustic Timbers Playground project in the amount of \$244,383.20, through the U.S. Communities Government Purchasing Alliance.**

RECOMMENDATION: Approve the purchase and installation of playground equipment at Northshore Park and Rustic Timbers Park from GameTime, for the Northshore Playground project and the Rustic Timbers Playground project in the amount of \$244,383.20, through the

U.S. Communities Government Purchasing Alliance.

16. **Consider approval of Change Order No. 18 for construction of the Flower Mound Community Activity Center, amending the contract with Ratcliff Constructors, L.P., for an increase in the amount of \$380,000.00, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve Change Order No. 18 for construction of the Flower Mound Community Activity Center, amending the contract with Ratcliff Constructors, L.P., for an increase in the amount of \$380,000.00, and authorize the Mayor to execute same on behalf of the Town.

VOTE ON THE MOTION

AYES: Levenick, Lindsey, Tasker, Filidoro
NAYS: None
ABSENT: Trotter

L. REGULAR ITEMS

17. **RP 05-08 Franklin Hills Addition**
Public Hearing to consider a request for a Replat (RP 05-08 - Franklin Hills Addition) to create one residential lot with an exception to Section 90-302, Concrete streets, as authorized by Section 90-301, Exception to street standards, of the Code of Ordinances. The property is located at 3216 and 3208 Lakewood Lane. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its February 9, 2009, meeting.)

Staff Presentation

Doug Powell, Executive Director of Development Services, stated the developer had requested to not make improvements to Lakewood Lane. Staff did not receive any correspondence on this matter.

Questions from the Governing Body and Answers - None

Public Comments - None

Close Public Hearing

Council Deliberation

Councilmember Levenick moved to approve Replat RP 05-08 - Franklin Hills Addition, to create one residential lot, with an exception to Section 90-302, Concrete Streets, as authorized by Section 90-301, Exception to street standards, of the Code of Ordinances. Councilmember Filidoro seconded the motion.

VOTE ON THE MOTION

AYES: Filidoro, Tasker, Lindsey, Levenick
NAYS: None

ABSENT: Trotter

Mayor Smith opened Items 18, 19 and 20.

18. **Public Hearing to consider a tree removal permit for the removal of two specimen trees on property proposed for development as Flooring America. This property is generally located north of Bob White Lane and west of FM 2499. (The Environmental Conservation Commission recommended approval by a vote of 3 to 0 at their January 6, 2009, meeting).**
19. **ZPD 07-08 Flooring America
Public Hearing to consider a request for rezoning (ZPD 07-08 - Flooring America) from Agricultural District (A) to Planned Development District-109 (PD-109) with Retail District-1 (R-1) and Office (O) uses and to consider adopting an ordinance providing for said amendment. The property is located at 3001 Long Prairie Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its February 23, 2009, meeting.)**
20. **SP 38-08 Flooring America
Consider a request for a Site Plan (SP 38-08 - Flooring America) to develop one retail building, subject to the terms and conditions in the attached Development Agreement and authorization for the Mayor to execute same on behalf of the Town. The property is located at 3001 Long Prairie Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its February 23, 2009, meeting.)**

Staff Presentation

Doug Powell, Executive Director of Development Services, stated the subject site was located on FM 2499 north of Bob White Lane. He showed a picture of Specific Plan Area (SPA) 2, the connector street, and the vicinity for Calloway's, Firewheel Village (DATCU), and Angel Vet. He showed the site plan for the retail building (Flooring America). Mr. Powell stated the Environmental Conservation Commission (ECC) recommended approval of the removal of the two trees. He noted the site did not have access onto Bob White Lane at this time. A temporary drive was shown on the property line. Staff had been working on an amendment to SPA 2 proposing two additional drive cuts and this location is one of them.

Questions from the Governing Body and Answers - None

Public Comments

Sharon Gentry, 2750 Bob White Lane, Flower Mound

Ms. Gentry had concerns about signage and lighting. The developer had assured her that he planned for subdued signage, however the restriction wording was omitted from the proposed ordinance. She presented pictures of the signs at Angel Vet at night, noting that some of the nearby homeowners had complained. She asked for the signage restrictions to be placed in the zoning ordinance.

Mayor Smith stated there was a lack of monument signs in SPA 2.

Deputy Mayor Pro Tem Lindsey was disappointed with the signs for Angel Vet.

Mr. Powell stated when Planned Development (PD) 64 was created it included Angel Vet and it also created a new concept plan. He stated the subject property would be subject to the SPA requirements and would have the additional signage standards.

Councilmember Levenick moved to approve a tree removal permit for the removal of two specimen trees on property proposed for development as Flooring America. Councilmember Tasker seconded the motion.

VOTE ON THE MOTION

AYES: Levenick, Lindsey, Tasker, Filidoro
NAYS: None
ABSENT: Trotter

Councilmember Filidoro moved to approve a request for rezoning (ZPD 07-08 - Flooring America) from Agricultural District (A) to Planned Development District-109 (PD-109) with Retail District-1 (R-1) and Office (O) uses, and to adopt Ordinance No. 09-09 providing for said amendment. Deputy Mayor Pro Tem Lindsey seconded the motion. The caption of the ordinance reads as follows:

ORDINANCE NO. 09-09

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 FROM AGRICULTURAL DISTRICT (A) TO PLANNED DEVELOPMENT DISTRICT NO. 109 (PD-109) FOR OFFICE DISTRICT (O) AND RETAIL DISTRICT-1 (R-1) USES, ON APPROXIMATELY 2.018 ACRES OF LAND IN THE J. R. WIZWELL SURVEY, ABSTRACT NO. 1346, IN ACCORDANCE WITH THE TOWN'S MASTER PLAN 2001 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: Filidoro, Tasker, Lindsey, Levenick
NAYS: None
ABSENT: Trotter

Councilmember Tasker moved to approve a Site Plan (SP 38-08 - Flooring America) to develop one retail building, subject to the terms and conditions in the attached Development Agreement and authorize the Mayor to execute same on behalf of the Town. Councilmember Filidoro seconded the motion.

VOTE ON THE MOTION

AYES: Levenick, Lindsey, Tasker, Filidoro
NAYS: None
ABSENT: Trotter

Mayor Smith opened Items 21 and 22.

21. **Public Hearing to consider a tree removal permit for the removal of four specimen trees on property proposed for development by the Lewisville Independent School District (LISD) as the Marcus Ninth Grade Center. The property is generally located north of Dixon Lane and east of FM 2499. (The Environmental Conservation Commission recommended approval by a vote of 3 to 0 at their January 6, 2009, meeting).**
22. **SP 49-08 Marcus Ninth Grade Center**
Consider a request for a Site Plan (SP 49-08 - Marcus Ninth Grade Center) to develop athletic fields and accessory buildings with a partial waiver to Section 82-302, Compatibility buffer, of the Code of Ordinances. The property is located at 2800 Dixon Lane. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its February 9, 2009, meeting.)

Staff Presentation

Doug Powell, Executive Director of Development Services, showed the location of the Marcus Ninth Grade Center along Dixon Lane, along with the baseball field and practice field/track. He noted the emergency access drive would have a locked fence. The Planning & Zoning Commission (P&Z) recommended a solid wood fence. Mr. Powell noted that the Lewisville Independent School District (LISD) had been working with the neighbors.

Questions from the Governing Body and Answers

Councilmember Filidoro asked if consensus had been reached or if there were still open items.

Mr. Powell responded there had been very little discussion between the property owners and staff since the P&Z meeting, therefore he was not sure consensus had been reached. Staff had heard that the LISD thought there had been resolution. He noted a school was only required to put up a 4 foot chain link fence along the property line and then setback 25 feet of buffer. The first building could not be any closer than 60 feet. LISD was requesting a 4 foot high tubular fence rather than chain link.

Deputy Mayor Pro Tem Lindsey stated some neighbors wanted a masonry fence, some said wrought iron would be acceptable, and some wanted a concrete fence on a berm. He asked for an explanation of how the standard of a 4 foot chain link came to be, and what options were available for the Council to consider.

Mr. Powell stated the standard for the compatibility setback for screening requirements specified a 4 foot chain link fence for schools. LISD wanted to provide a higher standard and more security by using tubular steel. Mr. Powell stated the standard was put into the Code of Ordinances many years ago.

Deputy Mayor Pro Tem Lindsey recommended that staff go back and look at that requirement.

Applicant's Presentation

Von Beougher, G&A Consultants, 111 Hillside Drive, Lewisville, representing the LISD

Mr. Beougher stated in order to build the new stadium at Marcus High School (MHS), the existing baseball field and the track facilities had to be moved to the 9th Grade Campus. LISD hoped to open the 9th Grade Campus in 2013. Included would be a practice football field and an 8 lane regulation track. He noted there were 4 specimen trees that they could not plan around, and the ECC approved the removal of those trees. Mr. Beougher stated LISD re-designed the site twice to save as many trees as possible. The baseball field would be put on the west side of the site, away from the neighbors. He stated the closest area to a property line was 104 feet. No sanitary sewer was available yet, therefore they would utilize an aerobic system in the interim. LISD planned to connect to the **Town's** sanitary sewer system when the 9th Grade Campus was built. He referred to the access drive on the west side of the property. They needed to have a third point of access due to the size of the 9th Grade Campus and planned to connect at Russwood. Prior to the new access, a sliding or swinging 6 foot locked gate was planned to be located at Russwood. In the future, they may use an Opticom gate. He noted that G&A was the engineers when Bluebonnet Elementary School was being built, and there had been discussion about the 4 foot chain link fence at that time. The LISD standard was now a 6 foot chain link fence. The plan was to put up a six foot tubular steel fence from where the park starts down the east line, except for the last 35 feet of the building line, and that remaining part would have a 4 foot fence, as per the Code.

Ron Stewart, Environs Group, 111 Hillside, Lewisville

Mr. Stewart stated four trees equaled 108 inches, and LISD would mitigate twice that amount. He stated LISD was required to put in 72 trees even though they had excess credits, noting this was the first project using the new tree ordinance. Mr. Stewart stated there was an existing swale through the center of the site. They would remove all mesquite trees and any trees with thorns. They were requesting a waiver on the west side. The area was Master Planned for Office uses and there was a residence to the west and they would be required to meet the standards for that use. They were proposing to keep the 25 foot buffer and chain link fence, and requesting to not put trees along the west side at this time. The next waiver request was on the north side, where they planned to put the chain link fence and a 25 foot buffer. Because of the existing trees and considering that the future zoning was SPA 6, they did not see a need to put landscaping in that area. The next waiver dealt with the mobile home park, and the owner was in agreement with the chain link fence. Mr. Stewart requested to remove the third waiver as they would be meeting all aspects of the Code. They were proposing a tubular 6 foot fence along the east property line except for the lowest 35 feet along Dixon.

Mr. Beougher commented they had not yet decided if the gate at Russwood should be swinging or sliding.

Mr. Stewart stated a swinging gate would open faster than a sliding gate.

Randy Barnett, SHW Group, Plano

Mr. Barnett stated he had spoken with the owners on the property line, noting LISD had upgraded from a wood fence to tubular steel fencing at the back of the homes. He hoped to reach consensus with the homeowners about what type of fence they wanted.

Councilmember Levenick asked if the six properties had fences now.

Mr. Barnett responded yes, but they varied per each property.

Mr. Beougher stated there was a 7 foot drop from Russwood down to the track. The homes were higher than the property elevation at the back side of their lots. He noted the track

would be constructed on a 4-5 foot fill.

Deputy Mayor Pro Tem Lindsey asked Mr. Beougher to address lights.

Mr. Beougher responded they were proposing four small lights for security. They also would be constructing a flat area for a rolling bleacher-type structure.

Councilmember Levenick asked for the distance between the pad and the east property line.

Mr. Beougher stated that distance was over 300 feet.

Councilmember Levenick asked if the track would be a competition track.

Mr. Beougher stated it would be used in the interim as a competition track, however competitions would be moved back to the new MHS stadium, upon completion. The new baseball field would remain as the varsity baseball field.

Councilmember Filidoro asked about the future plan for lighting.

Mr. Barnett stated there was no intention to ever put stadium lighting on the property. If they did, they would have to come back to the Town Council for approval.

Deputy Mayor Pro Tem Lindsey asked about the fencing down the property line.

Mr. Powell stated the Town had a requirement for tubular steel fencing adjacent to parks. This should help eliminate people crossing in inappropriate areas.

Deputy Mayor Pro Tem Lindsey stated he liked consistency, and asked if the Town could tighten the standards before Phase 2 commenced.

Mr. Powell responded the LISD would be bound by the current standards for Phase 2.

Councilmember Filidoro asked for clarification about the fencing.

Mr. Beougher stated the LISD was offering to use tubular steel along the park, to maintain uniformity. Six homeowners had several different types of fences. He noted that a **masonry fence was not within the school district's budget.**

Public Comments

Carol Kohankie, 4312 Lauren Way, Flower Mound

Ms. Kohankie stated the Environmental Conservation Commission approved the tree removal permit, and she commended the applicant for an imaginative layout and for saving so many trees. She stated she could hear kids on the playground at Flower Mound Elementary School, and it was a happy sound.

Randy Moody, 2608 Russwood, Flower Mound

Mr. Moody was in favor of removing more trees in order to move the track/field away from the property line.

Close Public Hearing

Council Deliberation

Councilmember Levenick moved to approve a tree removal permit for the removal of four specimen trees on property proposed for development by the Lewisville Independent School District (LISD) as the Marcus Ninth Grade Center. Councilmember Tasker seconded the motion.

VOTE ON THE MOTION

AYES: Filidoro, Tasker, Lindsey, Levenick
NAYS: None
ABSENT: Trotter

Council Deliberation

Mayor Smith summarized that the LISD was proposing a 6 foot tubular steel fence, and the Town standard was only a 4 foot chain link fence.

Deputy Mayor Pro Tem Lindsey stated he was frustrated with the Town's regulations for a 4 foot chain link fence. He felt the residents would benefit more from landscaping. The Town could not make LISD put up a masonry wall, however he would rather see a tubular steel fence instead of a chain link fence.

Councilmember Filidoro felt the six property owners and the developer should have gotten together to look at this.

Councilmember Tasker was also disappointed with the standard and hoped for a correction soon. He noted the 6 foot tubular steel fence was an upgrade from a four foot chain link fence. He understood the desire for a soundwall, but the Town could not force LISD to do that. He was in favor of the request.

Councilmember Levenick thanked the residents for coming to the meeting. She agreed with Councilmember Tasker about the upgraded fence.

Mr. Barnet commented that the existing fences would be removed and replaced with the new fence.

Mr. Welch noted that there was no need to exempt the third requested waiver (of the 4).

Deputy Mayor Pro Tem Lindsey moved to approve Site Plan SP 49-08 - Marcus Ninth Grade Center with a 6 foot tubular steel vehicle gate at the emergency access point to the property, a 6 foot tubular steel fence along the eastern property boundary, and the requested waivers (three). Councilmember Tasker seconded the motion.

VOTE ON THE MOTION

AYES: Levenick, Lindsey, Tasker, Filidoro
NAYS: None
ABSENT: Trotter

23. ZPD 01-09 Robertson's Creek
Public Hearing to consider a request for rezoning (ZPD 01-09 - Robertson's Creek) to amend Planned Development District-95 (PD-95) by amending the comprehensive sign standards of PD-95 to allow additional signage and a possible monument sign for Buildings 6, 7, and 8 within this retail development, and to consider adopting an ordinance providing for said amendment. The retail development is located at 5801 Long Prairie Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its February 23, 2009, meeting.)

Staff Presentation

Doug Powell, Executive Director of Development Services, stated this was an amendment to the Planned Development, specifically for signs. There was a series of three buildings that were interior to the site. The businesses desired to have signs on the rear of the buildings, just as they were on the front.

Applicant's Presentation

Spencer Shytles, representing Inland Continental Property Management

Mr. Shytles stated the businesses needed signage on the back of the buildings for more visibility. He noted the great deal of construction on FM 2499.

Questions from the Governing Body and Answers

Deputy Mayor Pro Tem Lindsey commented that the plan the Town Council approved for Robertson's Creek had greenery and ivies along the shells of the buildings. He stated that should the request be approved tonight, the greenery would need to be added to the buildings.

Mr. Shytles stated his client was not the original owner but would take that information back to him.

Public Comments - None

Close Public Hearing

Council Deliberation

Mayor Smith stated she would really like to see the ivies on the buildings.

Councilmember Filidoro moved to approve a request for rezoning ZPD 01-09 - Robertson's Creek to amend Planned Development District-95 (PD-95) by amending the comprehensive sign standards of PD-95 to allow additional signage for Buildings A, B, and C within this retail development, and to consider adopting Ordinance No. 10-09 providing for said amendment. Deputy Mayor Pro Tem Lindsey seconded the motion. The caption of the ordinance reads as follows:

ORDINANCE NO. 10-09

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 AMENDING ORDINANCE NO. 22-06 ON APPROXIMATELY 48.98 ACRES IN

THE S. WAKEFIELD SURVEY, ABSTRACT NO. 1380, THE JESSE WATKINS SURVEY, ABSTRACT 1324, AND THE EDWIN MARSH SURVEY, ABSTRACT 834, AND BEING ALL OF THE ROBERTSON'S CREEK ADDITION ZONED PLANNED DEVELOPMENT DISTRICT NO. 95 (PD-95) FOR RETAIL DISTRICT-2 (R-2) USES AND COMMERCIAL DISTRICT-2 (C-2) USES THROUGH THE AMENDMENT OF EXHIBIT "C," ENTITLED DESIGN STANDARDS," BY AMENDING PARAGRAPH C, "MISCELLANEOUS STANDARDS," TO ADD A NEW SUBPARAGRAPH (3)(C) ALLOWING FOR SIGNAGE ON THE REAR FACADES OF BUILDINGS A, B, AND C AS REFLECTED ON THE CONCEPT PLAN ATTACHED TO ORDINANCE NO. 22-06 AS EXHIBIT "D," IN ADDITION TO SUCH OTHER SIGNAGE AS MAY BE ALLOWED BY THE CODE OF ORDINANCES, IN ACCORDANCE WITH SPECIFIC REQUIREMENTS STATED HEREIN AND EXHIBITS ATTACHED HERETO; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON THE MOTION

AYES: Filidoro, Tasker, Lindsey, Levenick
NAYS: None
ABSENT: Trotter

24. **SUP/SP 378-08 Country Place Living**
Public Hearing to consider a request for a Specific Use Permit (SUP/SP 378-08 - Country Place Living) to permit a nursing/congregate care facility, with an exception to Section 82-302, Compatibility buffer, of the Code of Ordinances and to consider adopting an ordinance providing for said specific use permit. The property is located at 3128 Wager Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its February 23, 2009, meeting.)

Staff Presentation

Doug Powell, Executive Director of Development Services, stated the property had frontage on Wager Road and was located on the southwest corner of Kirkpatrick and Garden Ridge. Most of the big trees would remain with the construction. The applicant had requested a waiver for the compatibility buffer on the southern property line and the property owner to the south agreed with the waiver.

Questions from the Governing Body and Answers

Jack West, 7255 Lake Park Drive, Dallas

Mr. West stated he was the founder and CEO of County Place Living, headquartered in Irving. He stated the company developed, operated, and was the only national franchisor of assisted living residences (small footprints). He stated the facility would be a group home with eight bedrooms and ten bathrooms. Staff would be at the facility 24 hours a day, 7 days a week, and a nurse would be on duty. They were making this a prototype for other facilities in Texas.

Public Comments

Carol Kohankie, 4312 Lauren Way, Flower Mound

Ms. Kohankie asked if there was an age restriction or could someone younger, who was mentally or physically challenged, live in the facility.

Mr. West stated they were licensed by the Department of Disability. The facility was an assisted living residence and was age-restricted.

Close Public Hearing

Council Deliberation

Councilmember Tasker moved to approve a Specific Use Permit SUP/SP 378-08 - Country Place Living - to permit a nursing/congregate care facility, with an exception to Section 82-302, Compatibility buffer, of the Code of Ordinances, and adopt Ordinance No. 11-09 providing for said specific use permit, subject to the following conditions:

1. The attached site plan and elevations, labeled Attachment C(1), an exhibit to the Specific Use Permit, shall be developed as approved, except that certain minor changes outlined in Section 82-37 of the Town's Land Development Regulations may be approved as set forth in that section.
2. A waiver to Section 82-302, Compatibility buffer, of the Code of Ordinances is hereby granted, specifically excepting the landscaping and wall requirements of this section from being constructed along the southern property line.
3. If a building permit application has not been submitted to the Town's Building Inspections Division for consideration within one year of approval of the ordinance, the Specific Use Permit described herein will be a matter that will be automatically placed upon a subsequent Planning and Zoning Commission agenda for consideration as a Town-initiated zoning change under normal zoning amendment procedures.

Deputy Mayor Pro Tem Lindsey seconded the motion. The caption of the ordinance reads as follows:

ORDINANCE NO. 11-09

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 1.45 ACRES OF LAND IN THE M J OWENS SURVEY, ABSTRACT NO. 981 FROM AGRICULTURAL DISTRICT (A) USES, TO AGRICULTURAL DISTRICT (A) USES SUBJECT TO SPECIFIC USE PERMIT NO. 378 (SUP-378) FOR A NURSING/CONGREGATE CARE FACILITY, IN ACCORDANCE WITH THE TOWN'S MASTER PLAN 2001 AND SPECIFIC REQUIREMENTS STATED HEREIN AND EXHIBITS ATTACHED HERETO; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON THE MOTION

AYES: Levenick, Lindsey, Tasker, Filidoro
NAYS: None
ABSENT: Trotter

M. RECESS REGULAR MEETING AND CALL WORK SESSION TO ORDER

Mayor Smith recessed the regular meeting at 8:41 p.m. and called the work session to order at 8:53 p.m.

N. WORK SESSION ITEM

25. Discussion of the solid waste franchise including automated recycling program options.

Geri Harwell, Allied Waste

Ms. Harwell introduced the agenda item and the appropriate guests.

Judy Kenney, Recycle Bank Program

Ms. Kenney gave a presentation that, due to the length, is on file in the Town Secretary's Office.

Councilmember Filidoro asked if they would take plastic bags and Styrofoam.

Ms. Kenney stated they worked with whatever the hauler takes, and not many programs take Styrofoam.

Ms. Harwell stated the proposal from several years ago was not a comparison for the new pricing structure. She stated they were replacing carts faster now, as the life cycle was about 10 years. The proposed program would require new dedicated trucks.

Councilmember Filidoro asked if the Town would be paying for carts, trucks, marketing, etc.

Ms. Harwell stated that many of the commodities were not making money.

Councilmember Filidoro stated he would want to see the breakdown on the new rate structure, and if Allied was getting a benefit from recyclables.

Town Manager Harlan Jefferson stated staff was just looking for direction from the Council and if staff should begin to work with Allied and the RecycleBank. He noted that in a previous survey of the residents, about 73% of the nearly 1000 responses were not willing to pay for the recycling polycarts.

Ms. Harwell stated Allied was just showing the program and wanted to sit down with staff and work through some of the issues.

Councilmember Tasker noted that the citizens had spoken and they did not want to pay for polycarts for recyclables. However, he was very much in agreement with the program if it **didn't cost anything**.

Mayor Smith and Councilmember Levenick stated they wanted to look into this program.

Ms. Harwell noted they had a tremendous expense with the polycarts.

O. ADJOURN WORK SESSION AND RECONVENE REGULAR MEETING

PAULA J. PASCHAL, TOWN SECRETARY