

THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 20th DAY OF APRIL 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 with the following members present:

Jody Smith	Mayor
Joel Lindsey	Deputy Mayor Pro Tem
Tim Trotter	Mayor Pro Tem
Jean Levenick	Councilmember Place 4
Al Filidoro	Councilmember Place 2

with the following members absent:

Jeff Tasker	Councilmember Place 5
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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
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 6:02 p.m.

B. BRIEFING SESSION

1. Briefing Update - Texas Health Resources Hospital

Cindy Slaydon, Texas Health Resources

Ms. Slaydon gave an update on the Presbyterian hospital. She reviewed the site plan and showed aerial views of the property. She stated they would begin to go vertical next week. They still planned to open in March 2010. Mayor Smith thanked Texas Health Presbyterian Hospital for being the title sponsor for the Wild About Flower Mound Festival.

2. Town Council Boards and Commissions Liaison Reports - none

3. Discuss Consent and Regular Items - none

4. Discuss Future Agenda Items - none

5. Discuss Council Communications

a. #06-09 Legislative Update

- **Address proposed legislation relative to municipal regulation of oil and gas drilling.**

Councilmember Filidoro encouraged citizens to go to the website for the legislature and watch the hearings on HB 2110 and HB 4654. He stated HB 2110 would take away the authority of the Town regarding gas well drilling. He stated the Town would be watching for the

companion senate bill. Councilmember Filidoro stated HB 4654 would also provide for a loss of Town control regarding eminent domain. If there would be any issues, the Town would have to go to Austin and speak to the Railroad Commission.

Mayor Pro Tem Trotter asked if there had been any discussion with sister cities regarding the Barnett Shale.

Town Attorney Terry Welch stated the information just came out in the last week or so. The Texas Municipal League issued a memo in the last couple of weeks. Mr. Welch was not aware of what other cities were doing.

Town Manager Harlan Jefferson attended a legislative update in Austin last week. He noted that the City of Denton was organizing a group of cities that were opposed to the same legislation.

The consensus of the Council was to direct Mr. Jefferson and Mr. Welch to proceed with sending letters of opposition to the legislators. Additionally, resolutions in opposition would be on a future agenda.

Mr. Jefferson stated once the letters were sent, staff would speak to the elected representatives and the person who sponsored the bill (Rep. Hughes).

Mayor Pro Tem Trotter asked staff to make sure the letter gets out publicly so citizens know the Town is involved in this.

Councilmember Levenick asked for a formal response on HB 2110, HB 4654 and HB 4441 from the Town.

Councilmember Filidoro asked staff to notify the Council when the senate bills are filed. He stated he would be available to go to Austin to testify at the committee hearings.

b. #07-09 Environmental Health Services Quarterly Report - no discussion

C. ADJOURN BRIEFING SESSION

D. CALL REGULAR MEETING TO ORDER

Mayor Smith called the regular meeting to order at 6:21 p.m.

E. INVOCATION

Chaplain Phil Cook gave the Invocation.

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

Josh Powell, Boy Scout Troop 1171, led the pledges.

G. PUBLIC PARTICIPATION

Paul LeBon, 2640 Hillside, Highland Village

Mr. LeBon stated on May 2 from 10 a.m. to 2 p.m. people will have the opportunity to dispose of any unexpired medications at the local high schools. He noted the Police

Department had assisted in this effort.

Steve Lyda, 3128 Sheryl Drive, Flower Mound

Mr. Lyda referred to HB 2110 and HB 4654. He stated the gas drilling ordinance was very important to Flower Mound. The introduced legislation would take away the sovereign rights and local control in Flower Mound. He did not believe the Railroad Commission knew what was best for the Town.

Renee Doyle, 1920 Widgon Way, Flower Mound

Ms. Doyle stated she attended the April 6 Council meeting. She addressed the comments made by Councilmember Tasker at the meeting. She stated the citizens relied on the Town Council to make good decisions. She noted she had not received responses to her email from the Mayor and Council. Ms. Doyle stated she would like to see the list of meetings that Councilmember Tasker referred to at the last meeting. She asked the Town to send letters to the **homeowners'** associations when big items are coming up. She stated the Council need ed to work harder in letting residents know what is going on in the Town.

Bjorn Vandug, 2016 Barton Creek Lane, Flower Mound

Mr. Vandug made statements of clarification of comments made by Councilmember Tasker at the April 6, 2009 meeting. He referred to the list of 31 instances in the past 14 months where the public could have spoken about the expansion of Morriss/Gerault. Mr. Vandug stated that out of the 31 meetings, 8 meetings had no reference to the expansion, and 12 meetings referenced Morriss as a location. Mr. Vandug stated to this date there had not been a public session where residents could discuss the expansion. He stated no serious attempt had been made to contact the citizens about the expansion.

Mayor Smith stated the road widening was discussed at many public hearings during the update of the Master Plan and Thoroughfare Plan.

Angie Cox, 7616 Emerson Lane, Flower Mound

Ms. Cox thanked everyone who was involved with the Wild About Flower Mound Festival. She stated it generated much excitement. She announced that the Friends of the Flower Mound Public Library Book Sale would be held on Friday, Saturday, and Sunday. Book prices would range from 25 cents to \$3.

Laurie Long, 2708 Lake Flower Drive, Flower Mound

Ms. Long thanked Councilmember Filidoro for explaining the proposed legislation. She stated she was disappointed that the Council took so long to take action on the legislation. She encouraged the Town to watch HB 4144 (dealing with Master Plans) and to take action if necessary.

Tom Hayden, 4213 Huntwick Lane, Flower Mound

Mr. Hayden spoke in opposition to HB 2110, HB 4144, and HB 4654. He felt HB 4144 was very important for the Town to retain local control over the Master Plan and the SMARTGrowth ordinance. He commended the Council for opposing the bills.

Mayor Smith stated the Town was monitoring over 7,000 bills through staff and legislative consultant Fred Hill (former State Representative).

Paul Stone, 709 Lake Bluff Drive, Flower Mound

Mr. Stone stated he worked for the Small Business Association Assistance Center. He invited the community to the 10th Entrepreneur Business Expo on Wednesday. He commended the Code Enforcement staff regarding election candidate signs. He was disappointed with the

Town's response when he complained about signs he felt were in violation (as they dealt with moving elements on signs). The opinion from the Town Attorney was that they were not in violation. He asked the Council to consider hiring an in-house attorney.

H. PRESENTATIONS

- Proclamation - Support of and Partnership With the 2010 Census

Mayor Smith read the proclamation supporting the efforts of the 2010 Census.

- Resolution from State Representative Tan Parker - Community Activity Center

Mayor Smith acknowledged the resolution from State Representative Tan Parker congratulating the Town on the Community Activity Center in Flower Mound and presented the framed resolution to Bart Stevenson, Executive Director of Development Services.

I. ANNOUNCEMENTS

- Announce recent and upcoming civic and social events

Mayor Smith stated the Wild About Flower Mound Festival was extremely successful, and the Town hopes to have it again next year.

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 gave an update on the soundwalls on FM 2499. The soundwall for Surrey Woods and Estates of Creekwood was nearing completion (end of this month). The soundwall for Northshore and Lakeview Estates was proceeding well (completion anticipated for May/June). TxDOT has started constructing the panels adjacent to The Forums. Mr. Jefferson addressed the matter of citizen communication. He stated about a year ago Lynn and Al Sanchez addressed the Council about this, and subsequently, Mr. Sanchez met with staff. The Town has been working on expanding communication efforts. He displayed information that was now on the website which explains the roles of the boards and commissions. It also includes a glossary. Staff was working on another layer for specific applications. Additionally, updated quarterly dashboards would be included on the website.

Mayor Pro Tem Trotter thanked staff for working on the soundwall projects and added that they looked very attractive.

K. CONSENT ITEMS

Mayor Pro Tem Trotter made a motion to approve by consent. Items 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10. Councilmember Levenick 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 and work session of the Town Council held on April 6, 2009.

RECOMMENDATION: Approve minutes from a regular meeting and work session of the Town

Council held on April 6, 2009.

2. Consider approval of the purchase of unleaded gasoline from Martin Eagle Oil Company, through an interlocal agreement with the City of Fort Worth, in the estimated annual amount of \$265,445.

RECOMMENDATION: Approve the purchase of unleaded gasoline from Martin Eagle Oil Company, through an interlocal agreement with the City of Fort Worth, in the estimated annual amount of \$265,445.

3. Consider approval of the purchase of diesel fuel from Martin Eagle Oil Company, through an interlocal agreement with the City of Fort Worth, in the estimated annual amount of \$135,363.

RECOMMENDATION: Approve the purchase of diesel fuel from Martin Eagle Oil Company, through an interlocal agreement with the City of Fort Worth, in the estimated annual amount of \$135,363.

4. Consider approval of a resolution authorizing the execution of the Trinity River Authority of Texas - Town of Flower Mound Wastewater Transportation Contract.

RECOMMENDATION: Approve Resolution No. 09-09 authorizing the execution of the Trinity River Authority of Texas - Town of Flower Mound Wastewater Transportation Contract. The caption of the resolution reads as follows:

RESOLUTION NO. 09-09

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AUTHORIZING AND DIRECTING THE EXECUTION OF THE TRINITY RIVER AUTHORITY OF TEXAS - TOWN OF FLOWER MOUND WASTEWATER TRANSPORTATION CONTRACT, AND PROVIDING FOR THE EFFECTIVE DATE OF SAID RESOLUTION AND CONTRACT.

5. Consider approval of the purchase of creek bank stabilization and erosion control services associated with the River Hill Creek Bank Stabilization project from Knight Erosion Control, Inc., a sole source provider, in the amount of \$20,758.00.

RECOMMENDATION: Approve the purchase of creek bank stabilization and erosion control services associated with the River Hill Creek Bank Stabilization project from Knight Erosion Control, Inc., a sole source provider, in the amount of \$20,758.00.

6. Consider approval of the purchase of creek bank stabilization and erosion control services associated with the Garden Ridge Bridge Reinforcement project from Knight Erosion Control, Inc., a sole source provider, in the amount of \$174,644.00.

RECOMMENDATION: Approve the purchase of creek bank stabilization and erosion control services associated with the Garden Ridge Bridge Reinforcement project from Knight Erosion Control, Inc., a sole source provider, in the amount of \$174,644.00.

7. Consider approval of the award of Bid No. 5509-B 2009 Trail Connectors and

Extensions to Ratliff Hardscape, Ltd., in the amount of \$188,831.80, and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve the award of Bid No. 5509-B 2009 Trail Connectors and Extensions to Ratliff Hardscape, Ltd., in the amount of \$188,831.80, and authorize the Mayor to execute same on behalf of the Town.

- 8. Consider approval of Amendment No. 1 to the Professional Services Agreement with Freese and Nichols, Inc., to provide additional design phase services, and eliminate bidding and construction phase services associated with the Service Center Operations and Maintenance Facility project in the amount of \$51,227.69, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve Amendment No. 1 to the Professional Services Agreement with Freese and Nichols, Inc., to provide additional design phase services, and eliminate bidding and construction phase services associated with the Service Center Operations and Maintenance Facility project in the amount of \$51,227.69, and authorize the Mayor to execute same on behalf of the Town.

- 9. Consider approval of a Professional Services Agreement with Halff Associates, Inc., to provide professional engineering design services for five park projects in the amount of \$37,208.00, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve a Professional Services Agreement with Halff Associates, Inc., to provide professional engineering design services for five park projects in the amount of \$37,208.00, and authorize the Mayor to execute same on behalf of the Town.

- 10. Consider approval of Amendment No. 3 to the Fiscal Year 2008-2009 Capital Improvement Program.**

RECOMMENDATION: Approve Amendment No. 3 to the Fiscal Year 2008-2009 Capital Improvement Program.

VOTE ON THE MOTION

AYES: Levenick, Lindsey, Trotter, Filidoro

NAYS: None

ABSENT: Tasker

L. REGULAR ITEMS

There were none.

1. **M.** approvminutes acknowledging that a quorum of the Town Council was not present at the November 11, 2008 Chamber of Commerce Leadership Flower Mound Session.

COORDINATION OF CALENDARS AND FUTURE AGENDAS/MEETINGS

- May 4 meeting - Council will consider resolutions of opposition to the bills that would not be beneficial to the Town.

N./O. CLOSED/OPEN MEETING

The Town Council convened into a closed meeting at 7:07 p.m. on April 20, 2009 pursuant to Texas Government Code Sections 551.071, 551.072, 551.074 and 551.087 to discuss matters relating to consultation with Town Attorney, real property, personnel, and economic development negotiations and reconvened into an open meeting at 8:31 p.m. on April 20, 2009 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.**

Councilmember Levenick moved to approve the purchase of approximately 21.77 acres of property for the purpose of constructing the West Windsor roadway extension and proposed park amenities from Tao Shu, Chun Hsing Shu and Hsiao Hsueh Shu, and authorized the Mayor, or her designee, to execute the Real Estate Purchase and Sale Agreement and all documents at closing on behalf of the Town. Councilmember Filidoro seconded the motion.

VOTE ON THE MOTION

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

Deputy Mayor Pro Tem Lindsey moved to approve a gas lease between the Town of Flower Mound and Williams Production-Gulf Coast Company, L.P. ("Williams") for a 1.5303 acre tract of land, parcel #R11610, located on Raintree Drive. Mayor Pro Tem Trotter seconded the motion.

VOTE ON THE MOTION

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

- c. **Discuss Red Oak Sabine LP, Red Oak Gas LP, Red Oak Gas Operating Company LP, Red Oak Gas II LP vs. the Town of Flower Mound, and the Flower Mound Oil and Gas Board of Appeals, Cause No. 2008-10189-16, pending in the 16th Judicial District Court of Denton County, Texas.**

No action taken.

- d. **Discuss and consider contracts for Municipal Court Judges.**

No action taken.

S. ADJOURN REGULAR MEETING

Mayor Smith adjourned the regular meeting at 8:33 p.m.

TOWN OF FLOWER MOUND, TEXAS

JODY A. SMITH, MAYOR

ATTEST:

PAULA J. PASCHAL, TOWN SECRETARY