

THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 4th DAY OF MAY 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
Jeff Tasker	Councilmember Place 5

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 6:12 p.m.

B. BRIEFING SESSION

1. Town Council Boards and Commissions Liaison Reports.

Mayor Smith stated the Transportation Commission recently conducted a workshop and very good dialogue was exchanged. The next meeting is May 26.

2. Discuss Consent and Regular Items.

Mayor Smith pulled items 5, 6, 7, 10, 11, 12, 13, 14 from the Consent Agenda. She noted Item 20 should have been posted as a public hearing, so it would be added to the May 21 meeting.

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 6:15 p.m.

E. INVOCATION

Pastor John Allen gave the Invocation.

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

Boy Scout Troop 265 led the pledges.

H. PRESENTATIONS

- **Certificates of Achievement - Eagle Scouts**

Mayor Smith presented Certificates of Achievement to Matthew Thiede, Connor Bitton, Christopher Decker, J.C. Fischer, and Scott Owens.

- **Proclamation - Motorcycle Safety and Awareness Month**

Mayor Smith presented a proclamation for Motorcycle Safety and Awareness Month to Elmer McKeegan.

- **Recognition of Canine Officer Rodney Adame and "Bullitt"**

Mayor Smith recognized Canine Officer Rodney Adame and his companion "Bullitt" for winning the "Rookie Dog Narcotic Detector" competition. Bullitt took second place overall in the "Narcotic Detector" competition and won third place in the overall competition.

G. PUBLIC PARTICIPTION

Carol Kohankie, 4312 Lauren Way, Flower Mound

Ms. Kohankie thanked Deputy Mayor Pro Tem Lindsey, Mayor Pro Tem Trotter and Councilmember Tasker for their service to the community. She encouraged the Council to approve Item 5. She stated Morriss Road had been planned to be six lanes for many years. She added that the state had already planned for a flyover at Gerault Road. Every effort would be made to insure safety on Morriss Road.

Carol Ritchie, 1817 Armstrong Drive, Flower Mound

Ms. Ritchie asked the Council to wait to vote on Item 5 until after the Transportation Commission public hearing on May 26.

Lynn Young, 1516 Leese Drive, Flower Mound

Ms. Young stated the widening of Morriss Road would lead to the death of a child. She stated there were four school zones on the length of Morriss Road (four miles). She asked the Council to delay a vote.

Suzie Stroupe, 1405 Long Bow Trail, Flower Mound

Ms. Stroupe read a letter to the Council from James Wells who was not able to attend the meeting. Mr. Wells expressed frustration that Item 5 was on the Consent Agenda. He asked that the Council defer voting on this item until after the new councilmembers are seated. Ms. Stroupe felt this item was not a housekeeping item. She stated many people were getting very involved because of the Morriss Road issue. She asked the Council to delay a vote until after the election.

Leo Gonya, 2217 Shumard Lane, Flower Mound

Mr. Gonya asked the Council to postpone any vote regarding Morriss Road until after the election.

Doris Raimundi, 2004 Widgon Way, Flower Mound

Ms. Raimundi stated citizens **don't** always understand the processes of municipal government. She stated citizens were sending a clear message about the Morriss Road expansion. She asked if there were any other options.

Renee Doyle, 1920 Widgon Way, Flower Mound

Ms. Doyle stated the residents were getting involved and wanted their questions answered. She stated Stop Morriss 6 started because residents did not know what was going on. She stated the Council needed to give more information. Ms. Doyle stated the Morriss March brought many people together. She asked the Council to table Item 5 until after the public hearing on May 26.

Isobel Feldman, 5212 Weathervane Lane, Flower Mound

Ms. Feldman wanted to preserve what the Town had been working for.

Diane Consolino, 2613 Brighton Drive, Flower Mound

Ms. Consolino commented that records requests were not being timely answered and were not accurate. She stated it was inappropriate for Councilmember Tasker to lecture the citizens at the last meeting. When the 31 opportunities were investigated, the information was not accurate. Ms. Consolino stated they were citizens, not children, and the Council should be proud that the citizens were participating.

Bjorn Vandug, 2016 Barton Creek Lane, Flower Mound

Mr. Vandug stated that all the Council had to do was contact one person at Stop Morriss 6 to explain why Item 5 was placed on the Consent Agenda. He stated that might have prevented the Council from being called and emailed all day. He stated that someone had asked for a copy of the Advanced Funding Agreement (AFA) and was told it was not available, however the Town Manager made it public on Friday. He stated the AFA was tied to more projects than just Morriss and Gerault - specifically the Spinks project. He asked what was the rush to get this done now. He encouraged the Council to let the new Council take care of this issue and asked for the item to be tabled.

Carmen Vandug, 2016 Barton Creek Lane, Flower Mound

Ms. Vandug asked the Council to table the vote on the Advanced Funding Agreement until after the public hearing on May 26.

Pattie Harrell, 5032 Timberview Drive, Flower Mound

Ms. Harrell referred to Ordinance No. 61-03 regarding animals in parks. She stated she liked to take her two dogs to Timber Creek Park to play and jump in the pond. She asked the Council to reconsider the ordinance.

Mayor Smith stated this would be reviewed by the Animal Services Board at a future meeting.

Steve Lyda, 3128 Sheryl Drive, Flower Mound

Mr. Lyda stated tomorrow was the last day of early voting and election day would be Saturday, May 9. He reminded everyone to vote. Mr. Lyda thanked Deputy Mayor Pro Tem Lindsey, Mayor Pro Tem Trotter and Councilmember Tasker for their service on the Town Council. He gave his reasons for running for Place 1.

Kim Berg, 2012 Barton Creek Lane, Flower Mound

Mr. Berg thanked Councilmembers Levenick and Tasker for attending a recent debate. He asked the Council to table Item 5 until after the election.

Patsy Mizeur, 1821 Castle Court, Flower Mound, president of Flower Mound Voters For Conservative Spending

Ms. Mizeur stated that candidate Tom Hayden had made the Town's budget and troubled economy the cornerstone of his campaign. She stated in the last 10 years he had formed at least two financial companies. According to the Texas Comptroller of Public Accounts and the Secretary of State both had surrendered or forfeited their charters and were no longer in good standing with the State of Texas. She advised that the voters should do their homework before they went to the polls.

Paul Stone, 709 Lake Bluff Drive, Flower Mound

Mr. Stone noted that the Council served with no pay and he expressed appreciation for the Council's service. He recognized Bob Rheudasil, Flower Mound's first mayor, in the audience. Mr. Stone thanked Deputy Mayor Pro Tem Lindsey, Mayor Pro Tem Trotter and Councilmember Tasker for their service. He noted that the Town Council had become more responsible each year and he asked that those not running for re-election help to keep future Councils in check.

I. ANNOUNCEMENTS

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

Councilmember Filidoro attended a concert by the Voices of Flower Mound last week.

Mayor Pro Tem Trotter announced the ribbon cutting for the Rustic Timbers Trail (under FM 1171) on Thursday, May 7 at 6 p.m. He added this had been a vision for the Town since 1998.

Mayor Smith stated the Mayors' Prayer Breakfast at Lakeland Baptist Church would be held on May 6. She also reminded everyone to vote early or on election day, May 9.

- **Comments from outgoing Councilmember Jeff Tasker - Service on Town Council (not verbatim, but as submitted by Councilmember Tasker for his last meeting)**

FAREWELL COMMENTS

May 4, 2009

Introduction :

In this is my final meeting and I would like to extend my warmest and most sincere farewell to the Mayor, my fellow council members, the Town's staff and the 65,000 citizens of the Town of Flower Mound.

Appreciation and Thank You

Any one who sits in one of these seats owes a great deal of appreciation to numerous people.

Staff

First, I say thank you to the Town's staff. They work tirelessly to provide the Council and the people of our Town with excellent service. I am sure there were times when as a Councilmember I made their jobs more challenging and perhaps even on occasion intolerable. I am quite sure the public relations department will rest easier the night that they no longer have to worry about whom Tasker may have provoked today. I am also sure that the staff members who present before the Council will no doubt be happy to know that there are no more surprise cross examinations on the horizon. In all seriousness, the staff has been excellent and for that I say a heartfelt thank you and congratulations for a job well done.

Council members

Next, I say thank you to my fellow councilmembers and former fellow councilmembers. I recognize that working with me can be at times challenging. I have been described as "seldom wrong but absolutely never in doubt." I can with all sincerity say that most of the people who have held these seats have kept the best interests of the Town at heart at all times. Even when our opinions differed, our goal did not. Even when we disagreed on the method of achieving the goal we agreed on one ideal--bettering our community.

I especially want to say a thank you and farewell to Mr. Lindsey and Mr. Trotter as they too will be leaving their positions in a few weeks. You are our senior-most councilmembers and our Town will feel the loss of your leadership and commitment. I have never doubted for one minute your sincerity and desire to serve the community. Your efforts were many times underappreciated, misinterpreted or unnoticed by the public but I know that they were always well-intended and fully committed. You have selflessly served our Town well and now deserve the admiration and appreciation of its citizens. Only those who have served in this capacity or who have had the courage to place their name on a ballot can fully appreciate the level of commitment and effort that is required to serve in this role. To my fellow laborers I say thank you and congratulations for a job well done.

Mayor

Next I say thank you to our Mayor. This Town is fortunate to have a Mayor who truly loves this Town and its people. Let me assure our citizens that we are the envy of our neighbors when it comes to our Mayor. She leads by example. She has the sophistication to handle complex issues, the intuition to make the complex simple, the values needed to guide the Town through competing interests, the unmatched integrity that provides us the assurance that our government is free from corruption, the self-restraint that allows others to feel comfortable expressing their opinions without fear of retribution, the boundless energy to continue when she is stretched thinner than most people could endure, and the life experiences that imbue her with compassion for all the Town's people. Above all she is one of the most generous persons I have ever known.

She always asks me why I insist on referring to her as Mayor rather than by name. To me, regardless of who fills the seat, we should respect the office of the Mayor and give the individual who happens to hold the position honor due the office. Fortunately, in our case we are blessed with a Mayor whose character equals the ideals of the office she holds. To our Mayor I say thank you for your exemplary leadership and keep up the job you do so well.

My Friends, Neighbors and the Citizens

I now say thank you to our friends, neighbors and citizens. The reason we do what we do is for

you. If you had not encouraged me to run for office, gotten out and voted for me and then supported me, we would not have been able to serve our community. I am particularly indebted to the loyal friends who have worked faithfully with me throughout the past four years. It is for our friends and neighbors that we all serve, and to you all I say thank you for entrusting me with our Town.

My Family and Wife

Lastly, I would like to say thank you to my family. My children have had to watch for secret signs from Dad on the television on Monday nights. A tug on the ear means "I love you" a touch on the nose means "Goodnight." They have been dragged to events just to spend time with dad. I have come home late to learn that one of them had a hard time because he really missed Daddy tonight. I will say that they were disappointed when I told them we would not be able to come up to Town Hall on the weekend to get my mail. They liked to do that because they would come into chambers, sit in the chairs and take turns playing Mayor. Sorry kids, they are taking Daddy's key away.

And finally, I cannot express my gratitude enough to my wife, Kristen. She is not a public person. She does not enjoy the spotlight or the attention that sometimes comes with this position. My wife has had to carry a heavier load while I pursued this effort. I am indebted to her for her sacrifice which made it possible for me to devote the time to the Town. She has been a supporter, a cheerleader, an encourager, a fan and a defender. She takes it harder than I do when I am criticized. She is the first to come to my defense. Just knowing that even when I may make a mess of things or get it wrong, she loves and supports me is what makes this effort possible. Honey, I love you and I thank you for making this possible for me.

Introduction of Advisory Comments:

I should probably stop here and leave it with those **sentiments—but** a never-ending concern for the Town's welfare compels me on an occasion such as this to offer to our citizens and incoming council members some guidance which is the result of much reflection and observation, and which appear to me all important to our harmony and happiness as a town.

My final comments are offered to you with frankness and freedom of expression that you have by now become accustomed to from me and with the assurance that they are offered as advice from a parting friend and colleague who has no personal motive or agenda to achieve.

Comments to New Council:

My initial comments are directed to the remaining and new Council Members:

1. First, identify guiding principals by which you govern and be persistent. When you lead people you owe it to them to determine the political philosophies you hold and consistently apply them without compromise. This is truly the only way we can infuse our government with justice and consistency.
2. Next, resist the temptation to unnecessarily expand the local government by confusing the observation of a need with the obligation of government. Government's role is one that should be limited. Do not give into the temptation to be the answer for all the ills in the community. For as Ronald Reagan said in his inaugural address in 1981, "Government is not the solution to our problem; government is the problem." To this end, do not impose unnecessary regulation on our people or businesses. Also, remember

that people should be voluntarily generous not subjected to compulsory generosity through increased taxes no matter how noble the social cause.

3. Next, know the people. So much is made of listening to the people. I say listening is only a small part of the equation and perhaps the least reliable. More importantly you should learn to know the people of our Town. Spend time with fellow Flower Mounders. Don't just live here--work and play here if you can. Prefer each other. Do not limit your exposure to your small circle of friends or people who agree with you. Attend meetings of groups who do not support you if you can. Get involved in other organizations in Town. Get to know the people so that when you are called upon to make decisions for them and it is 2 AM and no one is here but the Council, you have a pulse of the entirety of the community not just those who happen to be present for a single meeting and who are acting from self-promotion tied to a single issue.
4. Lastly, if you are true to the other principles, you will be able to govern free from the attempted tyranny of the apparent majority. Do not be overly persuaded by the occasional turn out of unusual numbers of people on a particular issue. You are a Councilmember not an unfiltered conduit of public demand. If you fail to abide by your guiding principles, you will be a slave to the loud and most recent. You will be easily swayed and will tend to represent the few rather than the many. Such was not the vision our forefathers had for our government. Alexander Hamilton said, "We are a republican government. Real liberty is never found in despotism or in the extremes of democracy." Remember, you are not required to count heads or take polls you are required to do what is best for the Town as a whole—this is your true and difficult charge.

Comments to the Town:

I now want to speak to the people of our Town.

1. Be proud of our Town. In the recent election cycle for some reason it has become a compulsion for some candidates to denigrate the Town. We have heard about how our Town has lost its position in the community. Some would have you believe that we have been on a downward spiral for the past few years. They mention accolades from years ago and imply that we no longer maintain a high level of respect in the community. That is simply ill-informed. In May 2007 Business Week Magazine rated Flower Mound in the top 25 best affordable suburbs in the South; in July 2008 D Magazine ranked Flower Mound in the Top 10 Suburbs in Dallas; in 2006 Flower Mound ranked fifth in the Cities Ranked and Rated list of best places for families with children; in 2006 D Magazine ranked Flower Mound the 8th best suburb in North Texas; in 2006 Frommers ranked Flower Mound 5th in the Best Places to raise your Family/Top 100 Affordable Communities in the U.S.; and in November 2006 Businessweek.com ranked Flower Mound as one of the top 25 best affordable suburbs in the United States and number 1 in Dallas. So, I for one am proud of our Town and believe it is far more helpful to encourage our children by instilling a sense of community pride.
2. Next, understand the constant and intentional tension that is at the foundation of our Town. As a Council we are frequently reminded to look at our Town's logo to remember our challenge. I would also assert that our Town's mission statement sets up an inherent conflict when it requires us to "preserve the town's unique country atmosphere, heritage and quality of life while cultivating a dynamic economic environment." This is an irreconcilable tension. The tension is acceptable but cannot be ignored. Learn how to embrace the tension and make sure you never demand your leaders eliminate one for

the other. It has always been about balance.

3. Respect the public servants that devote their time and efforts to the Town. I say this as someone who is leaving and no longer has an investment in this issue. I am repeatedly shocked at the suspicion and baseless accusations lodged at the people who serve this Town. Please resist the temptation to immediately assume that the people who serve you are participating in a clandestine conspiracy to profit from their service. Please also understand that the people who sit on this Council and in the Boards and Commissions do not work for you. They are not your employees or the employees of the **Town—they** are public servants. They are your friends and neighbors. This is a position of service and such service should be revered not jeered.
4. Lastly, be civil to each other. I challenge you all to elevate the discourse in our Town. Too many times I see a genuine issue of legitimate debate devolve into accusation and demonization of opponents. I am convinced that a higher level of debate is available to us all. However, this will require a greater commitment to knowledge of each other and of the issues. Give time to learn the facts and evaluate matters before you criticize the positions of your opponents. We will all learn more from well-prepared and reasoned debate than from the accusatory exchange of insults based in ignorance and fear.

Leaving with Integrity.

In making these final comments to you, I do not hold the expectation that they are the complete volume of advice applicable to our Town or that they will have the longstanding impression that I so wish they would, but if you will indulge an exiting member for a moment, I do hope that at the least they may be productive of some partial **benefit—some** occasional **good—that** these remarks may now and then recur to you and provide some guidance borne of experience.

How far in the discharge of my duties I have been guided by these principals is a matter of public record and is to be determined by the people of the Town. However, to my self, the assurance of my own conscience is that I have at least believed myself to be guided by them. I can say that I never cast a single vote with an eye towards public favor or what would make me more or less re-electable. I can say that I did not bow to the tyranny of the apparent majority to the detriment of the actual silent majority. Some people may not agree with my **decisions—that** is to be expected. However, to the people of this Town I can leave this office with a clear conscience and look the Town collectively in the eyes and say to you this day that I made each and every decision with the best interest of the Town now and in the future as my sole standard. This is not to say that I was always correct in my assessment or was free of defect in my analysis. I recognize that such a **standard—while** the appropriate **goal—is** many times difficult to discern and at times not knowable in the short term. Some such endeavors cannot be seen for years to come and the legacy of this Council is not for me to **write—it** is to be formulated after cool reflection by the citizens of this Town after the passage of time and unforeseeable future events.

Closing Comments

The truth is I have a passion for this Town. I love this Town and I have enjoyed serving the Town and its people. It is the hometown for my children. I have greatly enjoyed this period of service and prized the privilege of trying in some way to add to the quality of our lives. The past four years have heartened me with their enriching experiences and have brought me many new and wonderful friendships and neighbors.

When we reflect on the greatness of our political system and our history, there is one principal that set us apart from any other country in the world. It was an act that the King of England said that any man who would do it would be the greatest man on Earth. The man was George Washington and the act was stepping down from the Presidency. In that single moment Mr. Washington modeled for us the peaceful transition of power. It is now my honor to continue in that tradition of restraint by stepping aside to allow an infusion of new ideas and new efforts. As I step back into the ranks of the public, I express my heartfelt thanks to you all and I wish for our Town prosperity, blessing, and harmony.

Thank you.

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 legislation. Since the last Council meeting he had traveled to Austin twice - once with Mayor Smith and once with Councilmember Filidoro. He had met with the Town's legislative consultant, Fred Hill, Representatives Tan Parker, Myra Crownover and Burt Solomans, Senator Jane Nelson, and the chief of staff for Senator Chris Harris. He noted that Mayor Smith testified for SB 5 - supporting non-smoking legislation. Mr. Hill encouraged cities and citizens to send letters and emails to Austin, along with personal visits. Mr. Jefferson noted that the session will end this month. He stated SB 1180, dealing with regulatory takings, was referred to the State Affairs Committee on March 13. It has not been heard by the committee, so the bill is not making any movement. HB 2110, dealing with takings as they relate to oil and gas drilling ordinances, was heard by the Land and Resource Management Committee on April 1. It was sent to the Calendars Committee on April 17, and it has not been sent to the floor yet. HB 4144, dealing with comprehensive development plans, was heard by the Land and Resource Management Committee on April 22, and it was still pending in the committee. HB 4441, relating to a regulatory commission of the state and their ability to establish standards for pipelines and certain facilities, was referred to the State Affairs Committee and has not been heard. HB 4654, relating to the authority of a county or municipality to regulate the drilling of oil or gas wells, was heard by the Energy Resource Committee on April 15, and was left pending.

Mayor Smith thanked Mr. Jefferson and Councilmember Filidoro for going to Austin.

Councilmember Filidoro commended Mr. Jefferson on the number of contacts he made at the State Capitol, and on how many people acknowledged Mr. Jefferson.

K. CONSENT ITEMS

Mayor Smith removed Items 5, 6, 7, 10, 11, 12, 13, and 14 from the Consent Agenda and moved them to Regular Items.

Councilmember Levenick made a motion to approve by consent, Items 1, 2, 3, 4, 8, and 9. Mayor Pro Tem Trotter 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 April 20, 2009.

RECOMMENDATION: Approve minutes from a regular meeting of the Town Council held on April 20, 2009.

2. Consider approval of a proposal to be submitted to the Texas Comptroller of Public Accounts for a Tobacco Compliance Grant to help defray costs associated with compliance, education, and enforcement of tobacco regulations; acceptance of money if the grant is awarded; and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve a proposal to be submitted to the Texas Comptroller of Public Accounts for a Tobacco Compliance Grant to help defray costs associated with compliance, education, and enforcement of tobacco regulations; acceptance of money if the grant is awarded; and authorize the Mayor to execute same on behalf of the Town.

3. Consider approval of Bid No. 8209-B Three Half-Ton Extended Cab Pick-Up Trucks to Baby Jack II Automotive, Ltd., in the amount of \$57,975.

RECOMMENDATION: Approve Bid No. 8209-B Three Half-Ton Extended Cab Pick-Up Trucks to Baby Jack II Automotive, Ltd., in the amount of \$57,975.

4. Consider approval of a Youth Sports Facility Agreement with the DRIVEN Youth Football League for facility usage from June 1, 2009, through May 31, 2010, with the option of 4 one-year renewal terms, and authorization for the Mayor to execute same on behalf of the Town. (The Parks, Arts and Library Services Board recommended approval by a vote of 6 to 0 at its April 9, 2009, meeting.)

RECOMMENDATION: Approve a Youth Sports Facility Agreement with the DRIVEN Youth Football League for facility usage from June 1, 2009, through May 31, 2010, with the option of 4 one-year renewal terms, and authorize the Mayor to execute same on behalf of the Town.

5. Consider approval of an Advance Funding Agreement (AFA) with the State of Texas, acting by and through the Texas Department of Transportation (TxDOT), for the use of surplus tolling revenue from the SH 121 Subaccount to construct portions of Flower Mound Road, Garden Ridge Boulevard, Morriss/Gerault, and Spinks Road; and authorization for the Mayor to execute same on behalf of the Town.

This item was moved to Regular Items.

6. Consider approval of three Interlocal Cooperative Agreements with Denton County for the construction of Spinks Road Phase IV, Dixon Lane and Flower Mound Road, and authorization for the Mayor to execute same on behalf of the Town.

This item was moved to Regular Items.

7. Consider approval of the award of Bid No. 2309-B Spinks Road Phase IV, to the lowest responsible bidder, Ed Bell Construction Company, in the amount of \$4,877,461.00, and authorization for the Mayor to execute same on behalf of the Town.

This item was moved to Regular Items.

8. Consider approval of an ordinance amending Chapter 34, "Environment," Article II, "Weeds and Grass and Unsightly or Unsanitary Matter," Division 2, "Weeds, Grass and Other Vegetation," of the Code of Ordinances by adding a new Section 34-52 entitled "Public Medians and Rights-of-Way," establishing maintenance standards for contractors for rights-of-way within the Town.

RECOMMENDATION: Approve Ordinance No. 14-09 amending Chapter 34, "Environment," Article II, "Weeds and Grass and Unsightly or Unsanitary Matter," Division 2, "Weeds, Grass and Other Vegetation," of the Code of Ordinances by adding a new Section 34-52 entitled "Public Medians and Rights-of-Way," establishing maintenance standards for contractors for rights-of-way within the Town. The caption of the ordinance reads as follows:

ORDINANCE NO. 14-09

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING CHAPTER 34, "ENVIRONMENT," ARTICLE II, "WEEDS AND GRASS AND UNSIGHTLY OR UNSANITARY MATTER," DIVISION 2, "WEEDS, GRASS AND OTHER VEGETATION," OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY ADDING A NEW SECTION 34-52 ENTITLED "PUBLIC MEDIANS AND RIGHTS-OF-WAY," AND PROVIDING THAT SECTIONS 34-53-34-70 ARE "RESERVED"; MAKING FINDINGS; PROVIDING FOR A PENALTY OF A FINE NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

9. Consider approval of the Texas Commission on Environmental Quality Agreed Order Docket No. 2008-1725-MWD-E, and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve the Texas Commission on Environmental Quality Agreed Order Docket No. 2008-1725-MWD-E, and authorize the Mayor to execute same on behalf of the Town

10. Consider approval of a resolution opposing House Bill 2110, of the 81st Texas Legislature, relating to the applicability of the Private Real Property Rights Preservation Act to certain governmental actions.

This item was moved to Regular Items.

11. Consider approval of a resolution opposing House Bill 4144, of the 81st Texas Legislature, relating to a municipality's comprehensive development.

This item was moved to Regular Items.

12. Consider approval of a resolution opposing House Bill 4441, of the 81st Texas Legislature, relating to the authority of the Railroad Commission of Texas to establish standards regarding certain pipelines and appurtenant facilities.

This item was moved to Regular Items.

13. Consider approval of a resolution opposing House Bill 4654, of the 81st Texas

Legislature, relating to the authority of a county or municipality to regulate the drilling of oil and gas wells.

This item was moved to Regular Items.

14. Consider approval of a resolution opposing House Bill 1180, of the 81st Texas Legislature, relating to regulatory takings.

This item was moved to Regular Items.

VOTE ON THE MOTION

AYES: Levenick, Lindsey, Trotter, Tasker, Filidoro

NAYS: None

L. REGULAR ITEMS

Mayor Smith opened Items 5, 6, and 7.

5. Consider approval of an Advance Funding Agreement (AFA) with the State of Texas, acting by and through the Texas Department of Transportation (TxDOT), for the use of surplus tolling revenue from the SH 121 Subaccount to construct portions of Flower Mound Road, Garden Ridge Boulevard, Morriss/Gerault, and Spinks Road; and authorization for the Mayor to execute same on behalf of the Town. (This item was removed from the Consent Agenda.)
6. Consider approval of three Interlocal Cooperative Agreements with Denton County for the construction of Spinks Road Phase IV, Dixon Lane and Flower Mound Road, and authorization for the Mayor to execute same on behalf of the Town. (This item was removed from the Consent Agenda.)
7. Consider approval of the award of Bid No. 2309-B Spinks Road Phase IV, to the lowest responsible bidder, Ed Bell Construction Company, in the amount of \$4,877,461.00, and authorization for the Mayor to execute same on behalf of the Town. (This item was removed from the Consent Agenda.)

Mayor Smith commented that to even apply for the funding, the projects had to be already planned and the Town had gone through the public process.

Town Manager Harlan Jefferson mentioned that for years the Town has had a desire to maintain the current tax rate, at the very least. This had been done by controlling expenditures and looking for creative ways to locate revenue resources. The third way was locating funding from sources outside of Flower Mound. Mr. Jefferson stated a revenue source was the Texas State Highway 121, which was the Advanced Funding Agreement (AFA) on the agenda. He stated this was to fund many state roads, including FM 407, FM 1171 and SH 377. There was also state funding directly for portions of FM 1171 and FM 2499 - about \$40 million. He noted that the Texas Department of Transportation (TxDOT) was under sunset review this year (every 12 years). He stated TxDOT had been noting for a number of years that they would not have enough funding to expand the roadways they were responsible for. They were also saying that they did not have enough funding for maintaining the roadways they were responsible for. Flower Mound was ahead of the curve because there was state funding for Flower Mound state roadways. In 1997 General Obligation bonds were approved to encourage TxDOT to start

construction on FM 1171 and FM 2499.

Mr. Jefferson stated the AFA would provide funding for Flower Mound Road, Garden Ridge Road, Morriss/Gerault widening, and Spinks Road. He stated it would have been the **Town's** preference to bring the projects separately. Spinks Road had already been bid. Flower Mound Road and Garden Ridge Road were approved in the 1997 bond election. In addition to the 1997 items, many of the items were funded through TRIP 04 Funding (county bond election in 2004), and those included Spinks, Flower Mound Road, Garden Road and Dixon. The Regional Toll Revenue projects, including Morriss Road, were on the Capital Improvement Plan when the budget was adopted last year. There were hearings through the budget process and discussions had been held for quite some time. Mr. Jefferson stated the Town will receive about \$26 million between the AFA and the local agreement with Denton County. If the Town had to issue bonds, and pay them back over 20 years, the true cost would be somewhere between \$40 million and \$50 million. The Town wanted to keep the tax rate low, so staff was continually looking for other revenue sources. He added the Town had been talking about the AFA for several years. In the FAQ document that was produced in March, there was a paragraph stating that the Town Council would consider the AFA within two months. Mr. Jefferson stated he met with the organizers of Stop Morriss 6 and staff talked in depth about the AFA. He did not think staff's action was a surprise to any of the citizens after having had that meeting. Mr. Jefferson stated the driving force of the AFA was Spinks Road (since the Town went out for bid in February). He believed Flower Mound was the first municipality to get this funding and Spinks Road would be the first project. He noted there was a great deal of flexibility in the AFA, and the Town would have 10 years to spend the money. Additionally, the Town could use its own design and environmental regulations. The interest income could be used for cost overruns. If the money is not used for the projects that were selected, the Town will have to give the money back plus the interest earned.

Mr. Jefferson stated staff asked the Regional Transportation Council (RTC) and TxDOT if the agreement could be re-negotiated after execution. They said it could be re-negotiated, but it would take two months to make a change. He stated the projects could be done in phases. The impact of delaying the vote in the current challenging economic environment was that the state legislature could decide to hold on to the funds to cover some of their own projects. The Town desired to secure funding as soon as possible. Professor Weinstein from UNT recommended taking money whenever it is offered.

Mr. Jefferson stated the charge to the Transportation Commission did not relate to the AFA. The **Council's** charge to the commission was to evaluate the project and address **citizens'** concerns (safety, aesthetics, crime, speed limit). He stated it would be unusual for the Council to default to a board or commission regarding an agreement. Mr. Jefferson stated the cost estimates had been updated and \$3 million had been added for the flyover at Gerault and FM 2499. He estimated that the Town would have enough funding for any cost overruns. He stated Flower Mound was in a great position to fund the project without local taxpayer dollars. Mr. Jefferson stated the Town did receive the Open Records Requests, and staff did reply within the timeframe set out by the Public Information Act. Regarding the request for a copy of the AFA, whenever the Town was negotiating an agreement and it is in draft form, the Town is not required to distribute that agreement. As a practice the Town does not distribute documents like that before the Town Council has had a chance to see it. He noted that residents could review the agenda packet at the same time as the Council **as it was posted on the Town's website.**

Deputy Mayor Pro Tem Lindsey understood the concerns of the residents. He asked Mr. Jefferson to explain why the item was on the Consent Agenda.

Mr. Jefferson stated the decision was his. He stated if the Spinks Road bid was not awarded by the end of May, the Town would have to re-bid the project. He noted the City of Lewisville had already awarded Spinks from Duncan to where it would almost connect with SH 121. The urgency for Flower Mound was to improve traffic flow. Additionally, he felt Wild About Flower Mound would have been better attended if people could have parked closer to the event. Once Spinks is open there will be another way in/out to Bakersfield Park. He stated he was not aware of anyone challenging the funding agreement until he received emails.

Mayor Pro Tem Trotter thanked all who came and for being involved. He stated this was a unique opportunity to get a large amount of money from the state, noting that the Town was behind on many street improvements. He stated the Transportation Commission would still have a public hearing on May 26, and the new Council would have a public hearing. This vote provided the funding mechanism for the four projects. Mayor Pro Tem Trotter assured everyone that the Council heard the voices of the citizens. He stated the future Council would not move forward with the project until all were heard and understood the project. To deny the agenda item on the funding possibility was cheating everyone in the Town that might need to use a Morriss/Gerault corridor. He was in support of the item.

Mayor Pro Tem Trotter moved to approve an Advance Funding Agreement (AFA) with the State of Texas, acting by and through the Texas Department of Transportation (TxDOT), for the use of surplus tolling revenue from the SH 121 Subaccount to construct portions of Flower Mound Road, Garden Ridge Boulevard, Morriss/Gerault, and Spinks Road; and authorize the Mayor to execute same on behalf of the Town. Deputy Mayor Pro Tem Lindsey seconded the motion.

VOTE ON THE MOTION

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

Deputy Mayor Pro Tem Lindsey moved to approve three Interlocal Cooperative Agreements with Denton County for the construction of Spinks Road Phase IV, Dixon Lane and Flower Mound Road, and authorize the Mayor to execute same on behalf of the Town. Councilmember Levenick seconded the motion.

VOTE ON THE MOTION

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

Councilmember Filidoro moved to approve the award of Bid No. 2309-B Spinks Road Phase IV, to the lowest responsible bidder, Ed Bell Construction Company, in the amount of \$4,877,461.00, and authorize the Mayor to execute same on behalf of the Town. Deputy Mayor Pro Tem Lindsey seconded motion.

VOTE ON THE MOTION

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

10. Consider approval of a resolution opposing House Bill 2110, of the 81st Texas Legislature, relating to the applicability of the Private Real Property Rights

Preservation Act to certain governmental actions. (This item was removed from the Consent Agenda.)

Mayor Smith commented that many of the bills were not moving at this time.

Deputy Mayor Pro Tem Lindsey moved to approve Resolution No. 10-09 opposing House Bill 2110, of the 81st Texas Legislature, relating to the applicability of the Private Real Property Rights Preservation Act to certain governmental actions. Councilmember Tasker seconded the motion. The caption of the resolution reads as follows:

RESOLUTION NO. 10-09

A RESOLUTION OF THE TOWN OF FLOWER MOUND, TEXAS, OPPOSING HOUSE BILL 2110, OF THE 81ST TEXAS LEGISLATURE, RELATING TO THE APPLICABILITY OF THE PRIVATE REAL PROPERTY RIGHTS PRESERVATION ACT TO CERTAIN GOVERNMENTAL ACTIONS.

VOTE ON THE MOTION

AYES: Levenick, Lindsey, Trotter, Tasker, Filidoro

NAYS: None

11. **Consider approval of a resolution opposing House Bill 4144, of the 81st Texas Legislature, relating to a municipality's comprehensive development. (This item was removed from the Consent Agenda.)**

Councilmember Levenick moved to approve Resolution No. 11-09 opposing House Bill 4144, of the 81st Texas Legislature, relating to a municipality's comprehensive development. Mayor Pro Tem Trotter seconded the motion. The caption of the resolution reads as follows:

RESOLUTION NO. 11-09

A RESOLUTION OF THE TOWN OF FLOWER MOUND, TEXAS, OPPOSING HOUSE BILL 4144, OF THE 81ST TEXAS LEGISLATURE, RELATING TO A MUNICIPALITY'S COMPREHENSIVE DEVELOPMENT.

VOTE ON THE MOTION

AYES: Filidoro, Tasker, Trotter, Lindsey, Levenick

NAYS: None

12. **Consider approval of a resolution opposing House Bill 4441, of the 81st Texas Legislature, relating to the authority of the Railroad Commission of Texas to establish standards regarding certain pipelines and appurtenant facilities. (This item was removed from the Consent Agenda.)**

Councilmember Filidoro moved to approve Resolution No. 12-09 opposing House Bill 4441, of the 81st Texas Legislature, relating to the authority of the Railroad Commission of Texas to establish standards regarding certain pipelines and appurtenant facilities.

Councilmember Tasker seconded the motion. The caption of the resolution reads as follows:

RESOLUTION NO. 12-09

A RESOLUTION OF THE TOWN OF FLOWER MOUND, TEXAS, OPPOSING HOUSE BILL 4441, OF THE 81ST TEXAS LEGISLATURE, RELATING TO THE AUTHORITY OF THE RAILROAD COMMISSION OF TEXAS TO ESTABLISH STANDARDS REGARDING CERTAIN PIPELINES AND APPURTENANT FACILITIES.

VOTE ON THE MOTION

AYES: Levenick, Lindsey, Trotter, Tasker, Filidoro

NAYS: None

- 13. Consider approval of a resolution opposing House Bill 4654, of the 81st Texas Legislature, relating to the authority of a county or municipality to regulate the drilling of oil and gas wells. (This item was removed from the Consent Agenda.)**

Mayor Pro Tem Trotter moved to approve Resolution No. 13-09 opposing House Bill 4654, of the 81st Texas Legislature, relating to the authority of a county or municipality to regulate the drilling of oil and gas wells. Councilmember Levenick seconded the motion. The caption of the resolution reads as follows:

RESOLUTION NO. 13-09

A RESOLUTION OF THE TOWN OF FLOWER MOUND, TEXAS, OPPOSING HOUSE BILL 4654, OF THE 81ST TEXAS LEGISLATURE, RELATING TO THE AUTHORITY OF A COUNTY OR MUNICIPALITY TO REGULATE THE DRILLING OF OIL AND GAS WELLS.

VOTE ON THE MOTION

AYES: Filidoro, Tasker, Trotter, Lindsey, Levenick

NAYS: None

- 14. Consider approval of a resolution opposing House Bill 1180, of the 81st Texas Legislature, relating to regulatory takings. (This item was removed from the Consent Agenda.)**

Councilmember Filidoro moved to approve Resolution No. 14-09 opposing House Bill 1180, of the 81st Texas Legislature, relating to regulatory takings. Councilmember Tasker seconded the motion. The caption of the resolution reads as follows:

RESOLUTION NO. 14-09

A RESOLUTION OF THE TOWN OF FLOWER MOUND, TEXAS, OPPOSING SENATE BILL 1180, OF THE 81ST TEXAS LEGISLATURE, RELATING TO REGULATORY TAKINGS.

VOTE ON THE MOTION

AYES: Levenick, Lindsey, Trotter, Tasker, Filidoro

NAYS: None

The Council took a break from 8:26 p.m. - 8:36 p.m.

Mayor Smith opened Items 15 and 16.

15. **Z 13-07 - Rheudasil Farms**
Public Hearing to consider a request for rezoning (Z 13-07 - Rheudasil Farms) from Agricultural District (A) to Single-Family District-10 (SF-10) and to consider adopting an ordinance providing for said amendment. The property is generally located south of Flower Mound Road and west of Gerault Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its April 13, 2009, meeting.)

16. **DP 10-07 Rheudasil Farms**
Consider a request for a Development Plan (DP 10-07 - Rheudasil Farms) to create a residential subdivision. The property is generally located south of Flower Mound Road and west of Gerault Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its April 13, 2009, meeting.)

Staff Presentation

Doug Powell, Executive Director of Development Services, stated the applicant desired to keep most of the trees on the property. The street would be private and would follow the newly adopted street standards. He noted that staff received emails in support and in opposition.

Questions from the Governing Body and Answers None

Public Comments

Carol Kohankie, 4312 Lauren Way, Flower Mound

Ms. Kohankie stated this was a beautiful project and was what Flower Mound was all about.

Applicant's Presentation:

Bobby Dollack, 111 Hillside Drive, Lewisville, G&A Consultants

Mr. Dollack stated the subdivision would be a green development with only eight residential lots. He stated he was happy to be able to do this project for Flower Mound's first mayor, Bob Rheudasil. Leadership Park would be open to the public and maintained by the **homeowners'** association. Additionally it would include a historical area with plaques of former mayors and councilmembers. This would be a very environmentally friendly subdivision.

Close Public Hearing

Council Deliberation

Mayor Pro Tem Trotter stated he was happy to be involved in this decision as this was an incredible project. The applicant was preserving history and trees. He hoped many more of these projects would come forward.

Councilmember Filidoro stated Rheudasil Farms would provide a blueprint to work with for future green streets.

Mayor Smith hoped Mr. Rheudasil would move back into Flower Mound.

Councilmember Tasker thanked Mr. Rheudasil for his leadership by example. He was quite pleased with Leadership Park.

Councilmember Levenick moved to approve a request for rezoning Z 13-07 - Rheudasil Farms - from Agricultural District (A) to Single-Family District-10 (SF-10) and to adopt Ordinance No. 15-09 providing for said amendment. Lindsey seconded the motion. The caption of the ordinance reads as follows:

ORDINANCE NO. 15-09

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 ON APPROXIMATELY 3.727 ACRES OF LAND IN THE W. H. GIBSON SURVEY, ABSTRACT NO. 464, FROM AGRICULTURAL DISTRICT (A) USES TO SINGLE-FAMILY DISTRICT-10 (SF-10) USES, IN ACCORDANCE WITH THE TOWN'S MASTER PLAN 2001 AND CHAPTER 98 OF THE TOWN'S CODE OF ORDINANCES, ENTITLED "ZONING"; 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, Trotter, Lindsey, Levenick
NAYS: None

Deputy Mayor Pro Tem Lindsey moved to approve the request for a Development Plan DP 10-07 - Rheudasil Farms - to create a residential subdivision, accept Park Development Fees in the amount of \$11,104.00, and cash in lieu of land in the amount of \$13,016.64 to satisfy the requirements of the Park Land Dedication Ordinance. Councilmember Filidoro seconded the motion.

VOTE ON THE MOTION

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

Mayor Smith opened Items 17, 18 and 19.

17. **Public Hearing to consider approval of an application for a tree removal permit for the removal of two specimen trees on property proposed for development as the Westside Professional Center. The property is generally located north of Windsor Drive and west of FM 2499. (The Environmental Conservation Commission recommended approval by a vote of 5 to 0 at its April 7, 2009, meeting).**

18. **ZPD 09-08 - Westside Professional Center**
Public Hearing to consider a request for rezoning (ZPD 09-08 - Westside Professional Center) from Agricultural District (A) to Planned Development District-108 (PD-108) for Office District (O) uses with an exception to Section 82-302, Compatibility buffer, and an exception to Section 82-303, Compatibility setback, of the Code of Ordinances, and to consider adopting an ordinance providing for said amendment. The property is located at 4451 Long Prairie Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its April 13, 2009, meeting.)
19. **DP 03-08 - Westside Professional Center**
Consider a request for a Development Plan (DP 03-08 - Westside Professional Center) to develop a non-residential subdivision. The property is located at 4451 Long Prairie Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its April 13, 2009, meeting.)

Staff Presentation

Doug Powell, Executive Director of Development Services, showed the site outline for Westside Professional Center. Located within Specific Plan Area (SPA) 4, this would be a continuation of Windsor Office Park. Mr. Powell showed the development plan with the locations of the buildings, noting that the buildings were aligned in order to save several specimen trees. Two specimen trees were planned for removal. He noted that the adjacent property owner had questions about the tree line.

Questions from the Governing Body and Answers None

Applicant's Presentation

Alan Ridinger, Ridinger and Associates, Lewisville

Mr. Ridinger stated they were saving six out of eight specimen trees. Some of the buildings were slightly smaller in order to save specimen trees. He stated a wet detention pond would be located on the property. Ken Hodge had talked to the adjacent property owners (Mr. Shu), and he indicated that he was in favor of the request.

Public Comments None

Close Public Hearing

Council Deliberation

Councilmember Filidoro moved to approve an application for a tree removal permit for the removal of two specimen trees on property proposed for development as the Westside Professional Center. Councilmember Tasker seconded the motion.

VOTE ON THE MOTION

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

Councilmember Filidoro moved to approve a request for rezoning ZPD 09-08 - Westside Professional Center from Agricultural (A) to Planned Development District-108 (PD-108) for Office District (O) uses with an exception to Section 82-302, Compatibility buffer, and an exception to Section 82-303, Compatibility setback, of the Code of Ordinances, and to adopt Ordinance No. 16-09 providing for said amendment. Councilmember Tasker seconded the motion. The caption of the ordinance reads as follows:

ORDINANCE NO. 16-09

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) USES TO PLANNED DEVELOPMENT DISTRICT NO. 108 (PD-108) FOR OFFICE DISTRICT (O) USES, ON APPROXIMATELY 5.788 ACRES OF LAND IN THE C. CHACON SURVEY, ABSTRACT NO. 299, 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: Levenick, Lindsey, Trotter, Tasker, Filidoro

NAYS: None

Mayor Pro Tem Trotter moved to approve a request for a Development Plan DP 03-08 - Westside Professional Center to develop a non-residential subdivision. Deputy Mayor Pro Tem Lindsey seconded the motion.

VOTE ON THE MOTION

AYES: Filidoro, Tasker, Trotter, Lindsey, Levenick

NAYS: None

20. **Consider approval of an ordinance amending the Wastewater System Master Plan component of the Town of Flower Mound Master Plan 2001, through the adoption of the 2009 Wastewater System Master Plan and certain amendments to Section 9.0, Wastewater Plan, of the Master Plan 2001.**

Councilmember Tasker moved to table this item to the special meeting on May 21, 2009. Councilmember Filidoro seconded the motion.

VOTE ON THE MOTION

AYES: Levenick, Lindsey, Trotter, Tasker, Filidoro

NAYS: None

21. **Public Hearing to consider an ordinance amending Chapter 18, "Businesses," of the**

Code of Ordinances by creating a new Article IX, "Sale of Alcoholic Beverages" and establishing business hours for alcohol sales.

Staff Presentation

Town Secretary Paula Paschal stated the Council had directed staff to draft an ordinance that would allow for extended hours for the sale of alcohol in restaurants in Flower Mound. She stated the Town was one of four cities in the survey cities that did not have extended hours. Ms. Paschal stated in 2007 the Town conducted a local option election, and the proposed ordinance would incorporate the wording from the ballot that was approved, and it would also be codified into the Code of Ordinances. She stated she had received no correspondence regarding this item.

Questions from the Governing Body and Answers None

Public Comments **None**

Close Public Hearing

Council Deliberation

Deputy Mayor Pro Tem Lindsey stated he was not in favor of the ordinance, but did desire to have a public hearing. He felt that the number of drunk driving cases could rise with the extended hours for the sale of alcohol.

Councilmember Levenick did not agree with the portion of the ordinance that read "**the** Town Council has determined that it would be beneficial to the economic prosperity of the restaurants in Flower Mound and the health, welfare and safety of its citizens to allow for extended hours for the sale of alcoholic beverages in **restaurants.**" She stated this would take away from what Flower Mound really is, and she did not support the ordinance.

Councilmember Filidoro stated the Town had spent a considerable amount of time working on a vision for the Central Business District, and in that district had talked about wanting night life and a place for the community to congregate. He stated he had spoken with restaurant personnel in Southlake and Legacy Village and they asked him why would their restaurants want to come to a community with a disadvantage.

Mayor Pro Tem Lindsey appreciated those thoughts. He stated because Flower Mound was many years away from development in the River Walk, he did not feel comfortable with approving this now.

Mayor Pro Tem Trotter moved to approve an ordinance amending Chapter 18, "Businesses," of the Code of Ordinances by creating a new Article IX, "Sale of Alcoholic Beverages" and establishing business hours for alcohol sales. Councilmember Filidoro seconded the motion.

VOTE ON THE MOTION

AYES: Filidoro, Trotter
NAYS: Tasker, Lindsey, Levenick

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

- Mayor Smith reviewed that special meetings would be held on May 14 and 21, and the May 18 meeting had been cancelled.

N./O. CLOSED/OPEN MEETING

The Town Council convened into a closed meeting at 9:24 p.m. on May 4, 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 10:03 p.m. on May 4, 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 Tasker moved to authorize the Mayor to execute two quitclaim deeds for the transfer of right-of-way generally along Cardinal Drive. Councilmember Filidoro seconded the motion.

VOTE ON THE MOTION

AYES: Filidoro, Tasker, Trotter, Lindsey, Levenick

NAYS: None

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

No action taken.

P. ADJOURN REGULAR MEETING

Mayor Smith adjourned the regular meeting at 10:05 p.m. and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

JODY A. SMITH, MAYOR

ATTEST:

PAULA J. PASCHAL, TOWN SECRETARY

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