

THE FLOWER MOUND TOWN COUNCIL SPECIAL MEETING AND WORK SESSION HELD ON THE 21ST 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
Jean Levenick	Mayor Pro Tem
Steve Dixon	Deputy Mayor Pro Tem
Mike Wallace	Councilmember Place 3
Tom Hayden	Councilmember Place 5

with the following members absent:

Al Filidoro	Councilmember Place 2
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constituting a quorum with the following members of the Town Staff participating:

Harlan Jefferson	Town Manager
Tammy Follett	Deputy 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 6:01 p.m.

B. BRIEFING SESSION

1. **Town Council Boards and Commissions Liaison Reports** - none
2. **Discuss Consent and Regular Items** - none
3. **Discuss Future Agenda Items** - none
4. **Discuss Council Communications**

Council Communication #10-09 Internet Presence Expansion Proposal

Mr. Michael Ryan, Director of Community Affairs, explained the expansion of the Town's internet presence by utilizing a variety of mass communication, social networking, video and photo distribution, and dedicated message delivery Web sites and services including Face Book, Twitter, blogs and message boards. This proposal is an effort to continue the Town's information distribution network and communication program by expanding the Town's internet presence and communication.

Mr. Ryan further explained how the Town has enhanced communications since 2005 by several means such as implementing utility bill bulletins, posting Town Council and Planning and Zoning Commission agenda packets to the website, creating a Public Hearing page on the website, upgrading the Library, Community Activity Center, and Seniors in Motion websites, upgrading FMTV news show, and adding interactive planning case maps to the website.

The proposal will expand the **Town's** presence on the internet to all citizens regardless of their location. The Town has several websites in addition to the main site which include the CAC, Library, and Seniors In Motion.

Mr. Ryan stated the Town provides a variety of services many citizens are not aware of and staff will continue to explore ways to provide information to and educate the citizens of all services available.

Councilmember Hayden asked how agenda items were put together.

Mr. Jefferson explained agenda items are brought forward by many different means such as federal law, state law, which dictates how tax rates are set, and the timing of public hearings and notices. The **Town's** Charter sets forth certain requirements for the budget time frames for certain actions. Each year, during a strategic planning session, The Town Council establishes goals for the current year as well as a five-year plan. These goals and objectives also dictate how and when items are placed on the agenda. Ordinances that amend a development process, Code Enforcement changes, and Master Plan amendments are also required to be put on the agenda for Council approval.

Mr. Jefferson further explained that many items are reviewed multiple times before final approval. For example, Fire Station No. 5. was discussed in the Capital Improvement Plan and approved in September along with the budget. Financing for the project must be then approved with approval of notice to issue Certificates of Obligation, then award of the design contract, followed by site plan approval and awarding the project.

Complex items are generally submitted under a Council Communication explaining a particular subject with background information and requesting direction on the subject from Council prior to being placed on the agenda. Following a Council Communication, the subject will be placed on a Work Session agenda for discussion and direction, and then go forward to a regular meeting agenda, depending on the direction received.

Development applications are introduced in Executive Development Team meetings which include the Mayor, one councilmember, chair and vice-chair of Planning and Zoning along with staff members, where developers talk about ideas and proposals. If it is Economic Development in nature, the item may be discussed in Closed Session. Some of items may go through certain Boards and Commissions for recommendation prior to Town Council review and approval such as planning items, tree removal permits, and dedicated park fees.

Staff's goal is to post agenda items at least four days prior to the Town Council meeting. Since January of 2008, the shortest time for posting was 72 hours, as required by law. The longest time period was seven days due to holiday schedules. Overall average was 4.25 days posting notice.

Mr. Jefferson explained the cycle of preparing agenda items. Town Council meetings are held on the first and third Monday of each month. The Tuesday following the Council meeting is the beginning of the next cycle. Items are submitted to Finance for funding, Purchasing to ensure procurement laws are met, the Grant Manager if the item involves a grant, and the Town Attorneys Office. This process must be finalized and saved electronically by noon on Thursday. The Town **Secretary's** Office then prepares the preliminary agenda packet and submits it to the Town Managers Office. Between Thursday and the following Wednesday, the items are reviewed and if needed, corrections are made and the agenda items are finalized. On Thursday, the agenda packets are copied, scanned and posted to the bulletin board and website.

C. ADJOURN BRIEFING SESSION

Mayor Smith adjourned the briefing session at 6:27 p.m.

D. CALL SPECIAL MEETING TO ORDER

Mayor Smith called the regular meeting to order at 6:28 p.m.

E. INVOCATION

Chaplain Mike Liles gave the Invocation.

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

Mayor Jody Smith led the pledges.

G. PUBLIC PARTICIPATION

Steve Lyda, 3128 Sheryl Dr.

Mr. Lyda thanked everyone that voted in the May 9, 2009 election and stated the turnout was great considering it was a non-mayoral election. He thanked those who supported him during the election. He described his experience as rewarding. He congratulated Deputy Mayor Pro Tem Steve Dixon and thanked Councilmember Mike Wallace for helping him with his campaign.

Jelonda Freeman, Nicole Day Spa, 2201 Long Prairie Road

Ms. Freeman stated she was representing Arbor Crossing, southeast quadrant of FM2499 and Dixon Lane. The owners of the businesses are concerned with the construction affecting the businesses and requested the use and display of temporary signage, in particular feather flagged banners. They realize the construction is for the betterment of the businesses, however, the businesses are being affected tremendously with the construction barrels, signage and detoured entrances. Of the four quadrants, they are in the smallest and the others have the larger chain stores to help bring in business. She asked for approval of temporary signage, in good taste, so customers can find them.

Mayor Smith thanked Ms. Freeman and suggested to staff to bring forward a Council Communication to address the matter of temporary signage in this area.

Lorrain Gartner of Cardiovascular Specialists, 5810 Long Prairie Road

Ms. Gartner stated she is a tenant in Arbor Crossing. She stated beside the signage, another issue of concern is vehicles cutting and speeding through their parking lot and expressed concern that patients could be hit.

Paul McArthur, InkStop, 3005 Stanford, Plano, TX

Mr. McArthur stated he managed the InkStop at Dixon and Long Prairie. To provide a perspective to the situation, other stores opened in Lewisville, Frisco, and Garland at the same time as the location in Flower Mound and all of the other locations have thrived, which is not the case at the Flower Mound location. He is happy with what the end result of the construction will provide but asked for assistance during construction with temporary signage.

Bob Butler, 2804 Lakehollow Lane

Mr. Butler congratulated Councilmembers Dixon, Wallace and Hayden on winning their

rages. He asked them to remember when voting, who they were voting for, the people of Flower Mound, not developers. He stated there is a Transportation Commission meeting next Tuesday regarding the Morriss/Gerault widening and asked the Council to take the time to attend the meeting. Mr. Butler also thanked Mr. Jefferson for explaining the agenda process.

Carol Kohankie, 4312 Lauren Way

Ms. Kohankie stated she was in attendance when SPAN requested additional funding which was not granted. In the newspaper, it stated there was an elderly man that was riding a motorized vehicle to get to CCA to get food. She said there needs to be some way, although there is not a social services department, for those who are less blessed. She asked someone to look into finding this man some help in getting to where he needs to go. Ms. Kohankie also congratulated the new councilmembers.

Patti Fennessy, 1804 Castle Court

Ms. Fennessy asked when staff calculates the time for posting an agenda, if it included the day of the meeting.

Mr. Jefferson stated the time counted back from the start time of the meeting. State law requires 72 hours before the start time of the meeting.

Ms. Fennessy stated she appreciated that state law is being followed but when the meeting is held on a Monday, there is not enough time for citizens to ask questions of staff prior to the meeting since two of those days fall on the weekend. She also asked about the procedures for emails being sent to staff to be included in agenda packets. She also asked how it is determined which neighborhoods are included in the fence replacement program.

H. PRESENTATIONS

There were none.

I. ANNOUNCEMENTS

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

Mayor Pro Tem Levenick stated she enjoyed the Public Works Week barbecue and the tour of the new fleet facility. She stated it was nice to see the employees recognized for the hard work they do.

Deputy Mayor Pro Tem Dixon stated he attended two functions, the DATCU ground breaking at the corner of Firewheel and FM2499, and the Chamber of Commerce luncheon which acknowledged the graduates of Leadership Flower Mound. Two of the graduates were Bart Stevenson and Mayor Pro Tem Levenick.

Mayor Smith stated it was National Public Works week and accepted a poster from Mr. Parr on behalf of the Public Works Department.

Mayor Smith stated that she and Mayor Pro Tem Levenick, along with Melissa Glasgow, Director of Economic Development, attended the International Council on Shopping Centers and Retail Economic Development convention held in Las Vegas. They made a lot of contacts with developers, land owners, and many others. She found it amazing that many of the attendees knew about Flower Mound and thanked all the constituents who have made this community a

great place and recognized throughout the country.

J. TOWN MANAGER'S REPORT

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

Mr. Jefferson, in response to the question on how neighborhoods were selected for fence replacement, stated it was through the Community Development Block Grant funding, a federal grant, which can only be used in low income areas. He stated staff has a couple of options that will be brought forward at the next Town Council meeting.

He announced Saturday, May 23, 2009 is Summer Splash Day, the official opening of the outdoor pool at the Community Activity Center (CAC). He stated Phase I expansion improvements at the CAC have been completed which include additional deck space, more shade structures and new play features.

Mr. Jefferson provided an update on the legislative process. The Town teamed with the legislative delegation, Senators Jane Nelson and Chris Harris, House Representative Tan Parker and other elected officials in the area to stop a number of bills the Council was concerned with. All of the bills the Council approved resolutions for opposing died in the house or in committee. The Town received a great deal of support from the residents, other municipalities, Texas Municipal League, which included an enormous amount of emails and phone calls. Staff will continue to monitor.

Mayor Smith thanked Mr. Jefferson and staff for going to Austin and thanked Ms. Tracy Knierim for fielding calls on the issues from the constituents.

Mr. Jefferson informed the Council that Mr. Fred Hill, former house member, will present an overview of the legislative session to the Council in August or September.

K. **CONSENT ITEMS**

Mayor Pro Tem Levenick made a motion to approve by consent, Items 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14. Deputy Mayor Pro Steve Dixon 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 May 4, 2009.**

RECOMMENDATION: Approve minutes from a regular meeting of the Town Council held on May 4, 2009.

2. **Consider approval of a resolution approving and authorizing publication of notice of intention to issue Certificates of Obligation, Series 2009, in the principal amount not to exceed \$3,635,000.**

RECOMMENDATION: Approve Resolution No. 15-09 approving and authorizing publication of notice of intention to issue Certificates of Obligation, Series 2009, in the principal amount not to exceed \$3,635,000. The caption of the resolution reads as follows:

RESOLUTION NO. 15-09

3. **Consider approval of a contract with CareNow for Occupational Health Care Services, in the estimated annual amount of \$15,380, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve a contract with CareNow for Occupational Health Care Services, in the estimated annual amount of \$15,380, and authorize the Mayor to execute same on behalf of the Town.

4. **Consider approval of an interlocal agreement between the Town of Flower Mound and the City of Corinth, for the purchase of various goods and services, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve an interlocal agreement between the Town of Flower Mound and the City of Corinth, for the purchase of various goods and services, and authorize the Mayor to execute same on behalf of the Town.

5. **Consider approval of an Extended Warranty Service Agreement for Elevator Equipment with ThyssenKrupp Elevator Corporation, through an interlocal agreement with the Texas Cooperative Purchasing Network, in the estimated amount of \$16,968, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve an Extended Warranty Service Agreement for Elevator Equipment with ThyssenKrupp Elevator Corporation, through an interlocal agreement with the Texas Cooperative Purchasing Network, in the estimated amount of \$16,968, and authorize the Mayor to execute same on behalf of the Town.

6. **Consider approval of eight engineering firms to provide professional engineering services for a two-year term ending May 21, 2011.**

RECOMMENDATION: Approve eight engineering firms to provide professional engineering services for a two-year term ending May 21, 2011. The firms are Halff Associates, Inc., Teague Nall and Perkins, Inc., Kellogg Brown & Root, Inc., Alan Plummer Associates, Inc., Kimley-Horn and Associates, Inc., Nathan D. Maier Consulting, Inc., Lee Engineering, and Freese and Nichols, Inc.

7. **Consider approval of two geotechnical engineering firms to provide professional geotechnical and material testing services for a two-year term ending May 21, 2011.**

RECOMMENDATION: Approve two geotechnical engineering firms to provide professional geotechnical and material testing services for a two-year term ending May 21, 2011. The firms are Kleinfelder and Fugro Consultants.

8. **Consider approval of an ordinance amending Chapter 66, Article V, Section 66-214 of the Code of Ordinances of the Town of Flower Mound relating to prima facie speed limits for specific streets by lowering the prima facie speed limit for Fieldcrest Road to 25 mph.**

RECOMMENDATION: Approve Ordinance No. 18-09 amending Chapter 66, Article V, Section 66-214 of the Code of Ordinances of the Town of Flower Mound relating to prima facie speed

limits for specific streets by lowering the prima facie speed limit for Fieldcrest Road to 25 mph. The caption of the ordinance reads as follows:

ORDINANCE NO. 18-09

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING CHAPTER 66, ARTICLE V, SECTION 66-214 OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS BY REVISING THE LIST OF ENUMERATION OF PRIMA FACIE SPEED LIMITS FOR SPECIFIC STREETS; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

9. Consider approval of an ordinance vacating and abandoning 10 feet of the existing 10-foot utility easement located in the backyard of Lot 69, Block E, Rustic Timbers Phase III Addition. The Rustic Timbers Phase III Addition is generally located east of Morriss Road and south of Cross Timbers.

RECOMMENDATION: Approve Ordinance No. 19-09 vacating and abandoning 10 feet of the existing 10-foot utility easement located in the backyard of Lot 69, Block E, Rustic Timbers Phase III Addition. The Rustic Timbers Phase III Addition is generally located east of Morriss Road and south of Cross Timbers. The caption of the ordinance reads as follows:

ORDINANCE NO. 19-09

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, VACATING AND ABANDONING 10 FEET OF THE EXISTING 10-FOOT UTILITY EASEMENT LOCATED WITHIN THE BACKYARD OF LOT 69, BLOCK E, RUSTIC TIMBERS PHASE III ADDITION, AN ADDITION TO THE TOWN OF FLOWER MOUND, DENTON COUNTY, TEXAS; DETERMINING THAT THERE IS NO CURRENT NOR PROJECTED FUTURE NEED FOR PORTION OF SAID EASEMENT DEPICTED IN EXHIBIT "A"; REQUIRING A HOLD HARMLESS AGREEMENT; PROVIDING A SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE DATE.

10. Consider approval of the purchase of creek bank stabilization and erosion control services associated with the Bakers Branch Stabilization at Doubletree Trail project, at 1800 Doubletree Trail, from Knight Erosion Control, Inc., a sole source provider, in the amount of \$152,308.60.

RECOMMENDATION: Approve the purchase of creek bank stabilization and erosion control services associated with the Bakers Branch Stabilization at Doubletree Trail project, at 1800 Doubletree Trail, from Knight Erosion Control, Inc., a sole source provider, in the amount of \$152,308.60.

11. Consider approval of a Professional Services Agreement with Kleinfelder Central Inc., to provide geotechnical and material testing services associated with the construction of Spinks Road Phase IV, from Garden Ridge Blvd. to Duncan Lane, in the amount of \$75,000.00, and authorization for the Mayor to execute same on the 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 Spinks Road Phase IV, from Garden Ridge Blvd. to Duncan Lane, in the amount of \$75,000.00, and authorize the Mayor to execute same on the behalf of the Town.

12. Consider the award of Bid No. 9009-B, for the CDBG - Sunrise Circle Paving Improvements project, Phase III, to the lowest responsible bidder, NAE Enterprises, Inc., in the amount of \$143,053.75, and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve the award of Bid No. 9009-B, for the CDBG - Sunrise Circle Paving Improvements project, Phase III, to the lowest responsible bidder, NAE Enterprises, Inc., in the amount of \$143,053.75, and authorize the Mayor to execute same on behalf of the Town.

13. Consider approval of an ordinance amending the Code of Ordinances, Chapter 70: Utilities by replacing Article VI, entitled "Water Conservation" in its entirety with a new Article VI, entitled "Water Conservation."

RECOMMENDATION: Approve Ordinance No. 20-09 amending the Code of Ordinances, Chapter 70: Utilities by replacing Article VI, entitled "Water Conservation" in its entirety with a new Article VI, entitled "Water Conservation." The caption of the ordinance reads as follows:

ORDINANCE NO. 20-09

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE CODE OF ORDINANCES, CHAPTER 70: UTILITIES BY REPLACING ARTICLE VI, ENTITLED "WATER CONSERVATION," IN ITS ENTIRETY WITH A NEW ARTICLE VI, ENTITLED "WATER CONSERVATION;" PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

14. Consider approval of a Professional Services Agreement with Kimley-Horn and Associates, Inc., to provide professional engineering services for the Wichita Trail Phase I Lift Station and Force Main project, in the amount of \$105,800.00, and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve a Professional Services Agreement with Kimley-Horn and Associates, Inc., to provide professional engineering services for the Wichita Trail Phase I Lift Station and Force Main project, in the amount of \$105,800.00, and authorize the Mayor to execute same on behalf of the Town.

VOTE ON THE MOTION

AYES: Hayden, Wallace, Levenick, Dixon
NAYS: None
ABSENT: Filidoro

L. REGULAR ITEMS

15. **RP 03-09 - Rheudasil Farms**
 Public Hearing to consider a request for a Replat (RP 03-09 - 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 5 to 0 at its April 27, 2009, meeting.)

Staff Presentation

Doug Powell, Executive Director of Development Services, stated this item was on the

agenda because it was a gated community with private streets and was a public hearing because it was a replat of property that was zoned residentially.

Questions from the Governing Body and Answers

There were none.

Questions and Answers from the Public OR Public Comments

Carol Kohankie, 4312 Lauren Way

Ms. Kohankie stated this property was owned by Bob Rhuedasil, Flower Mound's first mayor. She gave some history about Mr. Rhuedasil and complimented him. She would like to see this project go forward very quickly.

Staff Comments

There were none.

Close Public Hearing

Council Deliberation

Councilmember Wallace moved to approve the request for a Replat RP 03-09 - Rhuedasil Farms - to create a residential subdivision. Deputy Mayor Pro Tem Dixon seconded the motion.

VOTE ON THE MOTION

AYES: Dixon, Levenick, Wallace, Hayden
NAYS: None
ABSENT: Filidoro

16. SUP/SP 379-09 - Alden Montessori

Public Hearing to consider a request for a Specific Use Permit (SUP/SP 379-09 - Alden Montessori) to permit a day care center, and to consider adopting an ordinance providing for said amendment. The property is located at 4010 Justin Road. (The Planning and Zoning Commission recommended approval by a vote of 5 to 0 at its April 27, 2009, meeting.)

Staff Presentation

Doug Powell, Executive Director of Development Services, stated this property was located directly west of the Animal Control facility on FM407. A playground is proposed to replace where there is existing parking. At the Planning and Zoning meeting, there was a lot of discussion about getting the children from the building across the drive aisle to the play area. A revised plan was submitted by the applicant showing a cross walk to be installed and a tubular fence along FM 407 to provide a barrier from the road.

Councilmember Hayden asked if the concerns about the playground have been addressed.

Mr. Powell stated the real concern was the safety of the children. The revised plan

addressed some of the concerns.

Mr. Jay Rising, G&A Consultants, gave a presentation showing the location of the school, the paving that would remain as parking, and the retaining wall that will surround the playground and elevate it from natural grade. The cross walk has been extended to the east to define more of an area where the children would be. He stated the playground would be naturally built into the landscape, low lying climbing features and trails. The retaining wall would be two to three feet tall surrounding the entire playground and would be built up from the existing pavement grade and would provide a barrier from cars if one were to come off of FM407.

Questions from the Governing Body and Answers

Councilmember Wallace asked the consultant to take the Council through the process of moving the group of kids from the building to the playground and how the cones would be set out.

Jeri Albanesi, owner of the school, used the power point presentation to explain the type of system that would be used. She also owns another school in Farmers Branch for 16 years and the system is similar. It has a lot of special features with flashing lights, bright yellow cones, including lights on top of the stop sign. This system is used at other schools they own. There would be crossing guards, and a teacher will walk with the children.

Deputy Mayor Pro Tem Dixon referred to the letter from Dr. Montgomery who was opposed to the playground being an eyesore and asked for clarification of its description and its slope to the north part to retention pond.

Mr. Rising stated the wall was slightly taller at the south side of the playground as compared to the north side. The natural topography slopes north which would create a shielding effect at eye level.

Deputy Mayor Pro Tem Dixon clarified most of the amenities, which are not a typical swing set and slide, would be facing towards the north side and the line of sight from FM407 would be the earth and grass and the view looking north from the retention pond would see the playground.

Deputy Mayor Pro Tem Dixon stated another concern from Dr. Montgomery was the traffic flow. At the Planning and Zoning, the walkway was discussed. He asked the owner if they planned to add striping in addition to the cones.

Ms. Albanesi stated there was an existing cross walk that ran north/south and they would add another one to run east/west.

Deputy Mayor Pro Tem Dixon asked about the final concern from Dr. Montgomery regarding the playground consuming more parking spaces and asked the consultant to speak to that from an engineering standpoint.

Mr. Rising stated with the type of school that it is, most of the parking would be very brief pick up and drop off during off peak hours. There would be no long term parking or overflow.

Ms. Albanesi stated there were less parking spaces at their other school. The parents bring the children into the building to sign them in or out. There would be no long lines of cars waiting to pick up children. Peak time would be around 8:30 a.m. and at 3:30 p.m. for a very

short period of time.

Mayor Smith asked how many times throughout the day would the children be going to the playground.

Ms. Albaesi stated the younger children would go out around 10:30 a.m. until 11:00 a.m. The primary age children would rotate through with the older children who would go out in the afternoon. There would not be any children at the playground during the peak drop off and pick up times.

Questions and Answers from the Public OR Public Comments

There were none.

Close Public Hearing

Council Deliberation

Mayor Pro Tem Levenick moved to approve Specific Use Permit SUP/SP 379-09 - Alden Montessori - to permit a day care center, and adopt Ordinance No. 21-09 providing for said amendment, subject to the following conditions:

1. The attached site plan, landscape plan and elevations, labeled Exhibit "A," 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. If a certificate of occupancy application has not been submitted to the Town's Building Inspections Division for consideration within six months 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.
3. Staff parking shall be limited to parking spaces along the southern property line.

Councilmember Wallace seconded the motion. The caption of the ordinance reads as follows:

ORDINANCE NO. 21-09

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 1.105 ACRES OF LAND IDENTIFIED AS LOT 6 OF JERNIGAN HEIGHTS (4010 JUSTIN ROAD) FROM RETAIL DISTRICT 2 (R-2) USES TO RETAIL DISTRICT 2 (R-2) USES SUBJECT TO SPECIFIC USE PERMIT NO. 379 (SUP-379) FOR A DAY CARE CENTER, 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: Hayden, Wallace, Levenick, Dixon
NAYS: None
ABSENT: Filidoro

17. **Public Hearing to 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. (This item was tabled at the May 4, 2009 meeting.)**

Staff Presentation

Edith Marvin, Town Engineer, stated this was a 2009 update to the Waste Water Master Plan. This update would bring the Town forward from the current Wastewater Master Plan adopted in 1999. It was previously discussed at two work sessions - the Planning and Zoning Commission on January 12, 2009 and Town Council on January 22, 2009. It was a Public Hearing at the April 13, 2009 Planning and Zoning Commission with a recommendation of approval by a vote of 6 to 0.

Jim Wright, Kellogg, Brown and Root (KBR), gave a power point presentation on how the plan was developed and the process of updating the Wastewater Master Plan. Due to the length of the presentation, a copy is on file in the Town Secretary's Office.

Mr. Wright stated there were a few existing systems that could become obsolete as they were 30 years old. They took a proactive position, using comprehensive methodology so when the systems do become obsolete, the Town would have alternatives. He stated the previous Master Plan did not address the Denton Creek District nor did it address Prairie Vista, whereas the current Master Plan does. The previous Master Plan proposed a new interceptor system called Simmons Line which would be expensive. Based on the modeling and updated information to the current Master Plan, the upgrades would be to existing pipes that are in place which would be a significant savings.

Questions from the Governing Body and Answers

Councilmember Hayden asked what the inputs were that go into creating the model.

Troy Hotchkiss, KBR, stated there was a lot of input that goes into creating the model. In the previous Master Plan, there were a lot of assumptions made due to the lack of data but with the new Master Plan, there was a huge volume of data which included flows, pipeline sizes, locations, land use, populations, and many other things. The biggest change from the previous Master Plan was looking at how the system reacted to storm flows. When it rains, it infiltrates into the system which invariably ends up driving how systems are designed. The Town, earlier in the decade, invested in a significant metering program with ten locations. The rain is metered every five to fifteen minutes and measures how the system performed by flow and depth in correlation to time. There were also three rain gages installed around the Town. A storm can be watched and it can be determined how much it rained, how intense it was, how long it rained and the total volume of rain. Having that type of data is very useful to a model that calibrates to what is actually happening in the field.

Councilmember Wallace asked if the 2001 Master Plan Land Use Map, which was

updated in 2006, created the Prairie Vista District changing from two acre to one acre minimum was staggered into the latest revision as well as any Master Plan amendments that have taken place since 1999 to present.

Mr. Hotchkiss stated that was correct.

Councilmember Wallace asked for the description of a packaged treatment plan.

Mr. Hotchkiss stated by comparison to the Town's, which is very large, with a lot of concrete, moving parts and multiple buildings, a package plant was essentially a micro plant, everything shrunk down into a package, usually sole sourced through one vendor.

Councilmember Wallace asked about the septic systems becoming obsolete and what would the indications be of that occurring and the likelihood of those systems failing and perhaps creating contamination to Grapevine Lake.

Mr. Hotchkiss stated that would take a condition assessment. When those systems were installed in that era, they would not come close to meeting current standards.

Kent Collins, Assistant Town Manager, stated in order to bring Council up to speed regarding the Twin Coves/North Lake Highlands issue, said similar concerns have been expressed with smaller lots and onsite sewer facilities. Staff would be engaging with an engineering firm to perform an on-site study of that area to identify if there were any evidence of any type of overland flows, untreated sewer or wastewater discharges in the bar ditches across land, which are adjacent to the lake. This same type of analysis could be done in some of the older neighbors to determine if there was a problem with the systems. Staff believes a lot of the systems, if there were problems, that newer on-site facilities can fit on smaller lots and still be effective at treating the effluent onsite.

Mr. Jefferson stated in response to Prairie Vista, in addition to the density change from two acre lots to one acre lots, Prairie Vista wasn't planned to have sewer at all in the 2001 Plan. At that time, it was part of the Cross Timbers, since then it was moved out in 2006. He also stated, regarding the model, and the number of meter stations, staff continued to test the model to make sure it matched up with reality. When there were major rain events, staff could go back and look at what the model showed compared to what should have happened during the events

Mayor Smith asked for an overview of how the CIP is developed as well as the possible funding for the projects that are the nine to ten year out projects

Mr. Collins stated KBR has completed what was asked of them which was to put together a priority list which was done in five year horizons. For the Town, it provides the needs that the models show and staff would take that forward with systems and observations and identify those needs on an annual basis and would also identify what the immediate needs were. It would be an updated working model to use to look at various lines when developments come in as the Town continues to build out according to the Master Plan and it would track those impacts on certain lines. KBR has provided a good five-year incremental snapshot of the priorities. Staff will review the priorities on an annual basis.

Councilmember Hayden asked what it would ultimately cost to implement the plan.

Mr. Jefferson explained that within the CIP, the first five years are solid estimates. The

first year is what was approved and worked into the budget. Beyond five years is a holding place.

Councilmember Hayden stated several residents were concerned that there would be additional capacity in the Cross Timbers preservation areas.

Mr. Collins stated the Master Plan did not add any wastewater capacity or sewer capacity in the Cross Timbers Conservation Development District. The only areas the consultant was asked to look and provide options were to the areas that were previously identified to be served by the wetlands treatment system. The service areas would not be changed.

Deputy Mayor Pro Tem Dixon asked about the two alternatives, the packaged treatment plant and the Trinity River Authority (TRA). He asked what were the pros and cons of each.

Mr. Hotchkiss explained to build a packaged plant would require going through the state process to obtain a discharge permit. TRA already has a plant at Denton Creek which would only require a service agreement to use their treatment plant.

Questions and Answers from the Public OR Public Comments

Carol Kohankie, 4312 Lauren Way

Ms. Kohanie stated she had a personal experience in the house she was raised in which had neither sewer nor septic on waterfront property and cautioned to keep in mind EPA mandates. Grapevine water rights are owned by the City of Highland Park, and she is certain everything is being watched very carefully.

Steve Lyda, 3128 Sheryl Dr.

Mr. Lyda asked, in regards to the package treatment plant, would there ever be a desire to leave the TRA system in the Denton Creek District if the package was built, and what opportunities would there be to renegotiate the contract with TRA if the Town were to use that option in both districts.

Mr. Jefferson stated the contract the Town has with TRA was engaged in phases. Phase I, Segment A would be construction of the trunk system across the lake parallel to Highway 377, and Segment B would be a trunk line that runs down 377 from the lift station in southwest Flower Mound. Phase II would be a segment that would service Canyon falls. All the funds would have to be contributed by July 1 of this year. If the other communities, North Lake and Argyle contribute theirs, the Town has already signed a letter authorizing TRA to issue debt on the Town's behalf. Additionally, the Town is pursuing a grant through the Texas Water Development Fund. The Town is committed to Phase I and Phase II at about 4 million dollars each.

Ken Magnuson, 1712 Homestead

Mr. Magnuson stated he had not been involved in the process but asked about the flow calculations that were done to calculate what the capacity needs would be in the future. He asked if issues had been addressed that were being addressed in California, with reduction of flow by separating grey water from actual sewage content. He also stated the other issue would be capacity of mains if the calculations were based on maximum capacity anticipated in the future at peak utilization and asked if there would be a process by which they could use a lift

station and build storage capacity. His last concern was the issue of rainwater discharge entering in and being co-mingled with sewage. He stated all major metropolitan areas that have addressed this issue in the past found it was a bad idea. He asked what the magnitude was and would that be a critical factor that would change the requirements for lift stations or sizes of mains.

Mr. Hotchkiss stated the separation of grey water from sewer water, which would typically be a collection system, has been done with reclaimed water. In Tokyo and Hong Kong, they actually separated grey water from sewer water which was exceptionally expensive. Their density was so high it was cost effective for them. Regarding stormwater inflows, there were areas that had combined systems that actually ran storm and sewer into one pipe.

Mr. Hotchkiss stated the program the Town has in place is in great shape, the Town has fairly low impact of storm water coming into the system.

Mr. Collins stated the Town has a permit from TECO for the reuse of the 1.5mgd, the effluent from the waste water treatment plant. It is not being used due to the cost of the infrastructure compared to the cost the water that we already buy from Upper Trinity Regional Water District (UTRWD).

Mayor Smith stated if the reuse water would be used for parks and irrigations in our medians.

Melissa Northern, 4601 Portsmouth Ct.

Ms. Northern asked about the micro plants being a sole source vendor and if the Town had a list of vendors.

Mr. Hotchkiss stated that when a package plant is designed, it is one source of responsibility to provide all the equipment, start-up and training.

Mr. Collins clarified that it is not a sole source for contracting purposes. The package plant would be purchased from one vendor. This was not on the plan and there were no vendors identified.

Marsha Gavitt, 6501 Meadow Crest Lane

Ms. Gavitt asked if there was anything in the proposal that would facilitate gas drilling operations or to accommodate a proposed school site in Cross Timbers that would have to have sewer.

Mayor Smith stated the school has not brought forward any proposals for a school site.

Patti Fennesy, 1804 Castle Court

Ms. Fennesy asked what the percentage rate was of the low rate of infiltration.

Mr. Hotchkiss stated it varied by the location of the system, the age and type of pipe, whether it was in a creek or not and that it was very type specific. For an average flow, usually during the day, depending on the size and type of the area, the peaking factor would be between three and a half and four and a half. The Town averaged three. They were able to look at a huge amount of data and compared to most cities, the Town is better than most.

Ms. Fennesy asked for clarification of the grey water being reused.

Mr. Collins stated the Town had a contract with UTRWD to purchase treated water. The Town does not use a quantity of it but pays a portion for that cost. The cost of purchasing the water is cheaper than if the Town would put in the infrastructure to deliver treated effluent.

Close Public Hearing

Council Deliberation

Councilmember Wallace moved to approve Ordinance No. 22-09 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. Mayor Pro Tem Levenick seconded the motion. The caption of the ordinance reads as follows:

ORDINANCE NO. 22-09

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING MASTER PLAN 2001, BY AMENDING ORDINANCE NO. 24-01 IN PART, WHICH ADOPTED MASTER PLAN 2001, THROUGH THE AMENDMENT OF SECTION 9.0 WASTEWATER PLAN THROUGH THE DELETION AND REPLACEMENT OF EXISTING SECTION 9.0 WASTEWATER PLAN WITH A NEW SECTION 9.0 WASTEWATER PLAN; DECLARING AND MAKING FINDINGS REGARDING THE ADOPTION OF, AND ADOPTING THE 2009 WASTEWATER MASTER PLAN UPDATE AS A COMPONENT OF MASTER PLAN 2001; REPEALING ALL CONFLICTING ORDINANCES, ORDERS, OR RESOLUTIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON THE MOTION

AYES: Dixon, Levenick, Wallace, Hayden
NAYS: None
ABSENT: Filidoro

M. RECESS SPECIAL MEETING AND CALL WORK SESSION TO ORDER

Mayor Smith recessed the special meeting and called the work session to order at 8:27 p.m.

N. WORK SESSION ITEM

18. Discuss the Town Council's FY 2009-2010 Budget Priorities.

Chuck Springer, Assistant Town Manager/CFO and Mr. Collins gave the following power point presentation.

Mr. Springer stated this was the first look at the budget after receiving the preliminary assessed values in May. The final assessed values would be received on July 25, 2009. He informed the Council that a budget questionnaire would be sent to them electronically. This document would assist the Town Manager in putting together the priorities of the Council for the budget.

Councilmember Hayden asked how much additional revenue would be created by increasing ambulance fees.

Mr. Springer stated ambulance revenues were projected in the current fiscal year to be approximately \$550,000 and with the proposed increase for next year, it would be projected at \$600,000.

Mr. Springer stated there were no changes proposed to the health insurance plan and no increase proposed in the budget to employee contributions, however, the Town's contribution could increase one to three percent.

Mr. Springer explained the compensation in the General Fund. The Town made a concerted effort over the last three to four fiscal years to bring compensation up to the fiftieth percentile of the survey cities. Sworn police and fire personnel were previously brought up to the fiftieth percentile with an added 3% factor to maintain the market. For all of the other range type plans, they were brought up to market. The numbers presented are only a market increase to bring up to the fiftieth percentile, not the market plus 3%. It was not anticipated the survey cities would increase much in their overall compensation plans. Some cities were having discussions on across the board cuts in terms of compensation. The market adjustment would occur on October 1st. For 2009-2010 the General Fund is estimated at \$132,000 annualized. For sworn fire and police, if they meet certain criteria in their annual performance evaluation, would be eligible for step, which would be estimated at about \$233,000. On an annualized basis, since it occurs on the anniversary date, is more like \$400,000.

Mr. Springer stated a full compensation plan which would include market, step, and some type of merit based pay for those in a range plan would be about \$600,000. On an annualized basis, because the steps and merit increases are based on anniversary date, the annualized cost would be approximately \$1,000,000.

Mr. Springer reviewed the Decision Packages and stated these were requests for additional programs and/or services.

Councilmember Hayden asked how much it would cost for a one percent increase in raises for personnel.

Mr. Springer stated every one percent would be approximately \$300,000. An inflationary or merit adjustment of 3.5% to 4% would be approximately \$1,000,000 on an annual basis.

Councilmember Hayden stated he hated to see that there was not more that could be done for the employees.

Mr. Springer stated staff shared the same concerns as they spent the last three years rebuilding the Town's compensation program bringing it back to full compensation, but it was challenging with the current economic situation.

Councilmember Wallace asked if the proposed numbers meant that the pay employees

were currently paid today would be the same pay they would be receiving three years from now, with no merit increase or market adjustment.

Mr. Jefferson stated when staff prepared the budget, they took the approach to under promise and over deliver. The goal was that what was presented would be the worse case scenario and depending upon the assessed valuations received in July, improvements could be made. He stated on a positive note, the Town was not looking at any layoffs. Of course the employees want an increase, but they do not have to worry about losing their jobs.

Councilmember Hayden asked what the sales tax was projected for the next year.

Mr. Springer stated it was projected to be down approximately 4.5% from last year, about \$6.6 million, and the projection for next year would be 3% growth.

Mr. Springer stated in terms of overall options and impacts, one of the questions on the budget questionnaire, was what funds were available beyond the base services. There were three options for Council to provide direction; 1) Fund compensation increase or reoccurring decision packages. This would increase future costs and could cause reduction next year; 2) Fund one-time decision packages. This would not increase future costs; or 3) Increase the Fund Balance. This would maintain the greatest flexibility for future years.

Councilmember Wallace asked how staff would handle disagreement between the Council regarding responses to the priority questionnaire and how would a consensus be reached.

Mr. Springer stated the responses would be evaluated and based upon a general direction staff would proceed. If there were various directions, staff would bring the directions back to Council at a work session for further discussion.

Mr. Springer stated a Town Hall Budget meeting was scheduled for June 25, 2009, to present the citizens with a similar type presentation on the preliminary budget. Following the meeting a Council Communication would be sent based on the feedback received during that meeting.

Mr. Collins reviewed the Capital Improvement Project (CIP) Budget for the next fiscal year. The CIP contains the following project types: Street Construction, Street Reconstruction, Traffic Signals, Facilities, Parks, Water, Storm Water and Sewer. Each project type is listed on a separate sheet within the capital budget.

Councilmember Wallace asked if the CIP included things such as a traffic light at Waketon and Rigby or would that be in a different budget category.

Mr. Collins stated it would go in a different budget category and explained the process of how lights are budgeted and approved through decision packages. Requests are collected and evaluated each year, and if a need was determined, it would be included in a list within the decision package. Once approved, although the Town pays for the light, staff would coordinate with the franchise utility as they would do the actual installation.

O. ADJOURN WORK SESSION AND RECONVENE SPECIAL MEETING

Mayor Smith adjourned the work session and reconvened the special meeting at 9:37 p.m.

P. COORDINATION OF CALENDARS AND FUTURE AGENDAS/MEETINGS

- July 6, 2009 Regular Meeting will be cancelled.

Q./R. CLOSED/OPEN MEETING

The Town Council convened into a closed meeting at 9:39 p.m. on May 21, 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 11:45 p.m. on May 21, 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.

No action taken.

c. Discuss and consider appointments to the Planning and Zoning Commission.

No action taken.

d. Discuss and consider contracts for Municipal Court Judges.

Deputy Mayor Pro Tem moved to authorize the Mayor to execute contracts for the Municipal Judge and Alternate Municipal Judges through June 30, 2011, subject to the terms discussed in closed session. Councilmember Wallace seconded. Vote 4-0-1.

VOTE ON THE MOTION

AYES: Hayden, Wallace, Levenick, Dixon
NAYS: None
ABSENT: Filidoro

S. ADJOURN REGULAR MEETING

Mayor Smith adjourned the special meeting at 11:46 p.m.

TOWN OF FLOWER MOUND, TEXAS

JODY A. SMITH, MAYOR

ATTEST:

TAMMY FOLLETT, DEPUTY TOWN SECRETARY