

**THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 1<sup>ST</sup> DAY OF JUNE 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 (arrived 6:25 pm)
Steve Dixon	Deputy Mayor Pro Tem
Al Filidoro	Councilmember Place 2
Mike Wallace	Councilmember Place 3
Tom Hayden	Councilmember Place 5 (arrived 5:30 pm)

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 REGULAR MEETING TO ORDER**

Mayor Smith called the regular meeting to order at 5:04 p.m.

**B./C. CLOSED MEETING/OPEN MEETING**

The Town Council convened into a closed meeting at 5:05 p.m. pursuant to Texas Government Code Section 551.074 to discuss matters relating to personnel, and reconvened into an open meeting at 6:15 p.m. on June 1, 2009 to take action on the items as follows:

**a. Conduct interviews and consider appointments to the Board of Adjustment and Planning and Zoning Commission.**

No action taken.

**D. RECESS REGULAR MEETING AND CALL BRIEFING SESSION TO ORDER**

Mayor Smith recessed the regular meeting and called the briefing session to order at 6:16 p.m.

**E. BRIEFING SESSION**

**1. Town Council Boards and Commissions Liaison Reports**

Mayor Smith stated she was the liaison for the Transportation Commission meeting last week and the meeting was very informative.

**2. Discuss Consent and Regular Items - no discussion**

**3. Discuss Future Agenda Items - no discussion**

**4. Discuss Council Communications**

Mayor Smith reminded the Council to return their budget priority questionnaires, and to give direction to Melissa Glasgow, Economic Development Director, regarding the proposed economic development policy update.

**F. ADJOURN BRIEFING SESSION AND RECONVENE REGULAR MEETING**

Mayor Smith adjourned the briefing session and reconvened the regular meeting at 6:17 p.m.

**G. INVOCATION**

Chaplain Will Langstaff gave the Invocation.

**H. PLEDGE OF ALLEGIANCE TO THE AMERICAN FLAG AND THE TEXAS FLAG**

Chaplain Langstaff led the pledges.

**I. PUBLIC PARTICIPTION**

Richard Plunk, 4205 Lauren Way, Flower Mound

Pastor Plunk congratulated the Planning and Zoning Commission on their decision to extend the time for portable buildings at Creekwood Christian Church.

Tommy Miller, 6411 Frontier Drive, Flower Mound

Mr. Miller spoke in support of Item 9, the site plan for Grace Community Assembly of God Church.

Karen Nail, 6410 Burning Tree Drive, Flower Mound

Ms. Nail spoke in support of Item 9, the site plan for Grace Community Assembly of God Church.

Shirley Miller, 6411 Frontier Drive, Flower Mound

Ms. Miller spoke in support of Item 9, the site plan for Grace Community Assembly of God Church.

Jean Townsend, 1324 Colony Court, Flower Mound

Ms. Townsend spoke in support of Item 9, the site plan for Grace Community Assembly of God Church.

Steven Britz, 2624 Misty Glen Drive, Flower Mound

Mr. Britz spoke in support of Item 9, the site plan for Grace Community Assembly of God Church.

Suzy Britz, 2624 Misty Glen Drive, Flower Mound

Ms. Britz spoke in support of Item 9, the site plan for Grace Community Assembly of God Church.

Jack Gaskill, 3459 Sunnyview Lane, Flower Mound

Mr. Gaskill spoke in support of Item 9, the site plan for Grace Community Assembly of

God Church.

Beth Gaskill, 3459 Sunnyview Lane, Flower Mound

Ms. Gaskill spoke in support of Item 9, the site plan for Grace Community Assembly of God Church.

**J. PRESENTATIONS**

Mayor Smith and the entire Town Council presented a street sign (Jeff Tasker Way) and a crystal clock to former Councilmember Jeff Tasker. Mr. Tasker served as Councilmember Place 1 (2005-2009), Mayor Pro Tem (2007-2008), and Deputy Mayor Pro Tem (2006-2007).

**K. ANNOUNCEMENTS**

- **Announce recent and upcoming civic and social events - no announcements**

**L. TOWN MANAGER'S REPORT**

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

Town Manager Harlan Jefferson gave an update on the legislative session. All bills that the Town was opposing did die. He expressed appreciation to the legislative delegation (Rep. Tan Parker, Rep. Myra Crownover, lobbyist Fred Hill, Sen. Chris Harris, and Sen. Jane Nelson). He stated the group would work over the next two years to be ready for the 2011 Legislative Session. Mr. Jefferson stated that TxDOT would be transitioning traffic on FM 2499 Section 3 to the new western lanes during the next couple of weeks. He noted that the Transportation Commission did make a recommendation to the Town Council regarding the Morriss/Gerault expansion. A public hearing would be conducted at the June 15 Council meeting. Mr. Jefferson reviewed the phasing for The River Walk project. He stated Phase 1 would include retail, general office, medical office, the hotel, and the hospital. Phase 2 would add general office, retail and multifamily. The Transportation Impact Analysis actually grouped Phase 1 and 2 together but none of the retail had been submitted in terms of their applications. He noted the hospital was under construction. The medical office building was close to being submitted. For the multifamily, the request had been submitted for 307 units. Mr. Jefferson stated the developers paid \$143,000 for the engineering and design of the improvements for the Oak Street Lift Station and another \$822,000 for the eventual construction. All of those improvements have to be operational for the hospital to receive the Certificate of Occupancy. He added that the hospital planned to be open in March 2010. Regarding roadway improvements, at the site plan approval of the hospital, \$337,000 was required to be paid to the Town, and it will be used primarily for turn lane and median break improvements. Another \$290,000 had already been paid regarding the multi-family site plan. The open space and river walk amenity would require to be paid for by the developer. In addition, the developer would be required to pay \$1,388 per residential unit up to the first 630 units.

**M. CONSENT ITEMS**

Deputy Mayor Pro Tem Dixon made a motion to approve by consent. Items 1, 2, 3, 4, 5, 6, and 7. Councilmember Wallace seconded the motion. Each item, as approved by consent, is restated along with the approved recommendation for each, for the record.

- 1. Consider approval of canceling the July 6, 2009 regular meeting of the Town Council.**

**RECOMMENDATION:** Approve canceling the July 6, 2009 regular meeting of the Town Council

2. **Consider approval of the engagement letter with Pattillo, Brown & Hill, L.L.P., to perform external auditing services for the fiscal year ending September 30, 2009, and authorization for the Mayor to execute same on behalf of the Town.**

**RECOMMENDATION:** Approve the engagement letter with Pattillo, Brown & Hill, L.L.P., to perform external auditing services for the fiscal year ending September 30, 2009, and authorize the Mayor to execute same on behalf of the Town.

3. **Consider approval of the purchase of self-contained breathing apparatus equipment from Municipal Emergency Services, Inc., through an interlocal agreement with the City of Fort Worth, in the amount of \$77,031.36.**

**RECOMMENDATION:** Approve the purchase of self-contained breathing apparatus equipment from Municipal Emergency Services, Inc., through an interlocal agreement with the City of Fort Worth, in the amount of \$77,031.36.

4. **Consider approval of an addendum to the agreement for internet connectivity with Time Warner Business Class, in the annual amount of \$22,680, and authorization for the Mayor to execute same on behalf of the Town.**

**RECOMMENDATION:** Approve an addendum to the agreement for internet connectivity with Time Warner Business Class, in the annual amount of \$22,680, and authorize the Mayor to execute same on behalf of the Town.

5. **Consider approval of a joint proposal to be submitted to the U. S. Department of Justice under the Recovery Act: Edward Byrne Memorial Justice Assistance Grant Program, approval of a Memorandum of Understanding for Interlocal Agreement, and authorization for the Mayor to execute same on behalf of the Town.**

**RECOMMENDATION:** Approve a joint proposal to be submitted to the U. S. Department of Justice under the Recovery Act: Edward Byrne Memorial Justice Assistance Grant Program, approval of a Memorandum of Understanding for Interlocal Agreement, and authorize the Mayor to execute same on behalf of the Town.

6. **Consider approval of a Professional Services Agreement with Alan Plummer Associates, Inc., to provide engineering services for the preparation of an Operation and Maintenance Manual for the Oak Street Phase II Lift Station and Force Main project in the amount of \$18,000.00, and authorization for the Mayor to execute same on behalf of the Town.**

**RECOMMENDATION:** Approve a Professional Services Agreement with Alan Plummer Associates, Inc., to provide engineering services for the preparation of an Operation and Maintenance Manual for the Oak Street Phase II Lift Station and Force Main project in the amount of \$18,000.00, and authorize the Mayor to execute same on behalf of the Town.

7. **Consider approval of a resolution authorizing the Mayor to execute a proposal to be submitted to the Office of the Governor, Criminal Justice Division, for a grant to fund the purchase of Incident-Based Reporting Software for the Flower Mound Police**

**Department; and acceptance of money if the grant is awarded.**

**RECOMMENDATION:** Approve Resolution No. 16-09 authorizing the Mayor to execute a proposal to be submitted to the Office of the Governor, Criminal Justice Division, for a grant to fund the purchase of Incident-Based Reporting Software for the Flower Mound Police Department; and acceptance of money if the grant is awarded. The caption of the resolution reads as follows:

**RESOLUTION NO. 16-09**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AUTHORIZING THE FILING OF A PROJECT APPLICATION WITH THE OFFICE OF THE GOVERNOR, CRIMINAL JUSTICE DIVISION; AUTHORIZING THE MAYOR TO ACT ON BEHALF OF THE TOWN OF FLOWER MOUND IN ALL MATTERS RELATED TO THE APPLICATION; AND AGREEING THAT IN THE EVENT OF LOSS OR MISUSE OF CRIMINAL JUSTICE DIVISION FUNDS, THE FUNDS WILL BE RETURNED TO THE CRIMINAL JUSTICE DIVISION IN FULL.**

**VOTE ON THE MOTION**

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

**N. REGULAR ITEMS**

- 8. Consider a request for a Site Plan (SP 05-09 - Fire Station No. 5) to develop a fire station with an exception to the access management policy and criteria, regarding Auxiliary Lanes Required, contained in the Town's Engineering Design Criteria and Construction Standards adopted through Chapter 32 of the Code of Ordinances. The property is located at 1200 Gerault Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its May 11, 2009, meeting.)**

**Staff Presentation**

Doug Powell, Executive Director of Development Services, stated the subject property was part of the Carmel/Wilson property that was undergoing a Master Plan for park improvements next to the ballfields at Gerault Park. The land use was park and the zoning was agricultural (Planned Development 44). He stated the building would have a similar design to Fire Station #4. He noted that staff did not feel that the deceleration lane was needed for this site. Staff received no correspondence in support or in opposition to the request.

**Questions from the Governing Body and Answers**

Councilmember Hayden asked for clarification that the original cost was over \$3 million.

Town Manager Harlan Jefferson responded that the original cost was \$3.77 million, however the cost had risen to about \$5 million. The cost increase was attributable to site work as the building had to be moved farther back from the roadway to get on level land (\$650,000); the addition of an extra bay (about \$400,000); a sewer connection along Spinks (\$200,000); and

the addition of fiber optics.

### **Council Deliberation**

Mayor Pro Tem Levenick moved to approve Site Plan SP 05-09 - Fire Station No. 5 - to develop a fire station with an exception to the access management policy and criteria, regarding Auxiliary Lanes Required, contained in the Town's Engineering Design Criteria and Construction Standards adopted through Chapter 32 of the Code of Ordinances. Councilmember Filidoro seconded the motion.

### **VOTE ON THE MOTION**

**AYES:** Filidoro, Dixon, Levenick, Wallace, Hayden

**NAYS:** None

- 9. Consider a request for a Site Plan (SP 50-08 Grace Community Assembly of God) to develop a classroom addition, with an exception to Section 82-303, Compatibility setback, of the Code of Ordinances, and an exception to the access management policy and criteria, regarding driveway spacing, contained in the Town's Engineering Design Criteria and Construction Standards adopted through Chapter 32 of the Code of Ordinances. The property is located at 2525 Forest Vista Drive. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its May 11, 2009, meeting.)**

### **Staff Presentation**

Doug Powell, Executive Director of Development Services, stated the site was located north of The Mound. The existing temporary buildings would be removed as part of the construction of the new buildings. He stated the existing buildings would be somewhat wrapped by the new buildings. Mr. Powell noted that there was an adjacent residential neighborhood east of the church property. The applicant had requested an exception to the driveway spacing and setback criteria. Staff did receive a letter of petition in opposition from the neighbors on the adjacent residential street, and several emails in support.

### **Applicant's Presentation**

Von Beougher, G&A Consultants, 111 Hillside, Lewisville

Mr. Beougher stated the request included two exceptions. The first was for a new driveway off Forest Vista. Town Code called for a spacing of 250 feet, and the requested driveway was at about 200 feet. He stated the church was an off-peak user and would not impact rush hour traffic. The second request was for a setback exception from the new building to the property line. The church was impacted by the **Town's** recent change to the Code which required that a two story building had to have a setback ratio of 5:1. He stated the two story building was the same height as the existing one story building (35 feet). The two story section was needed in order to get the classroom space that was necessary in order to remove the portable buildings. Mr. Beougher stated they did have a neighborhood meeting in January and only one person attended, with no opposition to the request. He stated there would be no windows on the easterly side of the building facing the neighbors.

### **Questions from the Governing Body and Answers**

Mayor Pro Tem Levenick asked on which property line the fence between the church

property and the residences was located.

Pastor Richard Plunk responded that the fence was on the homeowners' property line. He stated the church was trying to get rid of the portable buildings, and the new buildings would be used for educational space. He stated the detention pond and the playground would remain on the property.

Councilmember Hayden referred to the petition list and asked if the applicant had any interaction with those residents.

Mr. Powell commented that the Town sent certified letters to the adjacent property owners.

Pastor Plunk responded that they did invite the neighbors to an ice cream social. Only one resident came and he was in favor of the requests.

### Council Deliberation

Councilmember Wallace moved to approve a request for a Site Plan (SP 50-08 Grace Community Assembly of God) to develop a classroom addition, with an exception to Section 82-303, Compatibility setback, of the Code of Ordinances, and with an exception to the access management policy and criteria, regarding driveway spacing, contained in the Town's Engineering Design Criteria and Construction Standards adopted through Chapter 32 of the Code of Ordinances. Councilmember Hayden seconded the motion.

### VOTE ON THE MOTION

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

- 10. Consider approval of a resolution authorizing the adoption of an Amendment to the Program Years 2005-2009 Consolidated Plan for Housing and Community Development under Flower Mound's Community Development Block Grant Program; and authorization for the Mayor to execute same on behalf of the Town and submit to the U. S. Department of Housing and Urban Development.**

### Staff Presentation

Assistant Town Manager/Chief Financial Officer Chuck Springer stated the Town was going to receive additional stimulus funds - approximately \$57,000 in Community Development Block Grant (CDBG) Funds. The Town was given certain deadlines in terms of amending the plan to designate the expenditure of the funds. He showed the areas of Flower Mound that would qualify for CDBG funds. The current CDBG project was located on the west side of the Town (Sunrise Circle). Staff was proposing that the additional funds be used east of Morriss and north of FM 1171 (Census Block 0217.073). Staff proposed to use \$57,499 of additional stimulus funding, and \$23,410 would remain in the CDBG funds. This totaled \$80,909 for a proposed fence replacement project. Mr. Springer stated this would be a voluntary program. The CDBG Amended Plan would contain the following:

Sunrise Circle Paving	\$181,592
Fence Replacement	80,909
Planning and Administration	24,589

Transportation Services	<u>10,000</u>
TOTAL	\$297,090

Mr. Springer stated a public hearing and neighborhood meeting were held on the projects. He noted the Town had to notify HUD of the planned project by June 5, 2009 in order to receive the additional funding. Once HUD approves the amended plan and funding is received, the Town has to obligate 50% of the additional funds within 120 days. The plan can be amended. Other options for the funding were sidewalk improvements and minor home repairs administered through a contracted agency (like Christian Community Action).

**Questions from the Governing Body and Answers**

Councilmember Hayden asked if a hedge along a chain link fence could be redone.

Executive Director of Community Services, Bart Stevenson, stated the Town would want to leave as much vegetation as possible.

Councilmember Hayden noted that the Transportation Commission's recommendation on the Morriss Road project called for consistency up and down Morriss Road. He asked if the Town should wait and see if something happened regarding the design of Morriss Road.

Mr. Springer stated the Town would use a standard for the fence - board on board with a standard stain.

Town Manager Harlan Jefferson stated staff had treated these as two separate projects. He stated the CDBG funding had specific deadlines. He added that the plan could be amended, but the Town could not afford to wait until June 15 to choose a project.

Councilmember Wallace suggested possibly amending the plan to add funding for transportation for the elderly.

**Council Deliberation**

Deputy Mayor Pro Tem Dixon moved to approve Resolution 17-09 authorizing the adoption of an Amendment to the Program Years 2005-2009 Consolidated Plan for Housing and Community Development under Flower Mound's Community Development Block Grant Program; and authorize the Mayor to execute same on behalf of the Town and submit to the U. S. Department of Housing and Urban Development. Mayor Pro Tem Levenick seconded the motion. The caption of the resolution reads as follows:

**RESOLUTION NO. 17-09**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, PROVIDING FOR THE ADOPTION OF AN AMENDMENT TO THE PROGRAM YEARS 2005-2009 CONSOLIDATED PLAN FOR HOUSING AND COMMUNITY DEVELOPMENT UNDER THE COMMUNITY DEVELOPMENT BLOCK GRANT.**

**VOTE ON THE MOTION**

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



**O. COORDINATION OF CALENDARS AND FUTURE AGENDAS/MEETINGS**

- June 15 regular meeting
- June 18 work session, if needed
- July 6 regular meeting cancelled

**P./Q. CLOSED/OPEN MEETING**

The Town Council convened into a closed meeting at 7:21 p.m. on June 1, 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 10:41 p.m. on June 1, 2009 to take action on the items as follows:

- a. **Conduct interviews and consider appointments to the Board of Adjustment and Planning and Zoning Commission.**

Deputy Mayor Pro Tem Dixon moved to make the following appointments to the Planning & Zoning Commission: move Dave Johnson from Alternate Place 8 to Regular Place 7, term ending September 30, 2009; appoint Bryan Webb to Regular Place 7 (moved from the Board of Adjustment), term ending September 30, 2009; and to appoint Jim Ward to Alternate Place 8 (moved from Board of Adjustment), term ending September 30, 2010. Councilmember Filidoro seconded the motion.

**VOTE ON THE MOTION**

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

Councilmember Wallace moved to move Carlos Cabre from the Alternate 8 position on the Board of Adjustment to Regular Place 5, term ending September 30, 2010. Mayor Pro Tem Levenick seconded the motion.

**VOTE ON THE MOTION**

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

- b. **Discuss and consider economic development incentives.**

No action taken.

- c. **Discuss and consider acquisition and/or lease of real property for municipal purposes and all matters incident and related thereto.**

No action taken.

**R. ADJOURN REGULAR MEETING**

Mayor Smith adjourned the regular meeting at 10:44 p.m. on June 1, 2009, and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

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JODY A. SMITH, MAYOR

ATTEST:

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PAULA J. PASCHAL, TOWN SECRETARY

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