

THE FLOWER MOUND TOWN COUNCIL SPECIAL MEETING AND WORK SESSION HELD ON THE 4TH DAY OF FEBRUARY 2008 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
Jeff Tasker	Mayor Pro Tem
Tim Trotter	Deputy Mayor Pro Tem
Joel Lindsey	Councilmember, Place 1
Al Filidoro	Councilmember, Place 2
Laurie Long	Councilmember, Place 4 (left 7:38 p.m.)

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	Chief Financial Officer
Kenny Brooker	Police Chief
Bart Stevenson	Executive Director of Community Services
Doug Powell	Executive Director of Development Services
Tracy Knierim	Executive Director Administrative Services

A. CALL BRIEFING SESSION TO ORDER

Mayor Smith called the briefing session to order at 6:08 p.m.

B. BRIEFING SESSION

1. Mayor and Town Council Liaison Reports

Councilmember Filidoro attended the first Parks, Arts, and Library Services (PALS) Board meeting, and all the members were excited about the new venture.

Mayor Pro Tem Tasker reported the first meeting of the Transportation Commission will be held on February 12.

Deputy Mayor Pro Tem Trotter stated the Community Development Corporation held its first meeting on January 31, where the members reviewed the 5-year Capital Improvement Program and project list. The next meeting will be held on February 20 at 6 p.m.

Mayor Smith reported that the Planning & Zoning Commission discussed the proposed tree ordinance revisions and tabled the item to the next meeting in order to receive answers to several questions.

2. Discuss Pending Issues

a. Council Communications

Town Secretary Paula Paschal reported to the Council that she had contacted the Lewisville Independent School District staff about using school as polling places, and the district did not allow the use of the schools for safety reasons. They did not want to have people in the

building that were not there for school business.

3. **Comments on Consent and Regular Items - no discussion.**

4. **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 6:11 p.m.

E. INVOCATION

Pastor Richard Plunk gave the Invocation.

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

Pastor Plunk led the pledges.

G. PUBLIC PARTICIPATION

Jan Balakian, 5100 Cross Timbers Road, Flower Mound

Ms. Balakian spoke in opposition of smoking in public places and asked the Council to do something progressive by looking at a non-smoking ordinance.

Sylvia Inboden, 2017 Brookville Lane, Flower Mound

Ms. Inboden stated she was a previous smoker and she did not want her children and grandchildren exposed to cigarette smoke in a Flower Mound restaurant. She asked the Council to be proactive by considering a non-smoking ordinance as has already been done by other municipalities.

Constable John Hatzenbuhler

Constable Hatzenbuhler stated he was running for the Constable position for another term and explained his reasons for wanting to run for the position.

Paul Stone, 709 Lake Bluff Drive, Flower Mound

Mr. Stone thanked the Town **Secretary's** Office for a prompt reply to his request for information and noted that many departments provided excellent customer service. He praised the Council for considering the cell phone ordinance on the agenda, and thanked Councilmember Filidoro for bringing this forward. He encouraged candidates in the upcoming elections to read and obey the **Town's** sign ordinance. He asked that the Town Secretary have copies of the ordinance to distribute to the candidates who came to speak in Public Participation.

Jean Levenick, 2716 Gentle Drive, Flower Mound

Ms. Levenick announced she was seeking election to the Town Council and gave her reasons for wanting the position.

Greg Roberson, 3620 Bonanza, Flower Mound

Mr. Roberson stated he had a grievance with Rembert Enterprises and he read the letter he wrote to the Town Council regarding the electronic gates that had not been activated at

Diamond Belle Estates.

John McLemore, 3200 Trailwood Lane, Flower Mound

Mr. McLemore stated he was employed by the Town as a firefighter. He spoke in support of Constable Hatzenbuhler.

Shelia Hodge, 1701 Noble Way, Flower Mound

Ms. Hodge agreed with a ban on smoking. She stated there was an ordinance that needed a little bit of tweaking from the Planning & Zoning Commission. Staff had worked on this for some time and she requested that the Council move it forward. She asked everyone to pray for the soldiers in Iraq.

Carol Kohankie, 4312 Lauren Way, Flower Mound

Ms. Kohankie spoke in favor of a non-smoking ordinance.

H. PRESENTATIONS

- **Proclamation - Dental Health and Children's Dental Health Month**

Mayor Smith presented a proclamation for Dental Health and Children's Dental Health Month - February 2008 - to Molar Man from 6 Day Dental.

- **Proclamation - Christian Community Action Day (CCA)**

Mayor Smith presented a proclamation for CCA Day, February 22, 2008, in Flower Mound. Darren Evans, member of the Board of Directors, accepted the proclamation.

I. MAYORAL/COUNCILMEMBER ANNOUNCEMENTS

Councilmember Lindsey passed along compliments he had received for the new landscaped areas along FM 1171 and FM 3040.

Deputy Mayor Pro Tem Trotter encouraged people to donate items to CCA and give to those less fortunate, by donating time or money.

Mayor Smith commented that several community members would be performing in the Friends of the Flower Mound Public Library annual murder mystery on Saturday. The funds would be used to acquire more books for the Library. In response to Mr. Roberson's comments about Rembert Enterprises, she stated the developer expressed a desire to wait until one or two more homes were completed before he activated the gates. This would allow the construction trucks to gain access during building.

Mayor Pro Tem Tasker stated CCA was a fantastic organization that provided a system to help others improve their life. He noted he was glad to be able to watch the Super Bowl at a Flower Mound restaurant.

Councilmember Filidoro thanked Paul Stone for his previous comments. He looked forward to working on the non-smoking ordinance.

Councilmember Long requested her comments to be verbatim. "Given that the filing for the upcoming election is just around the corner, I'd like to take this opportunity to make an announcement: At this time, I do not intend to run for re-election for a 3rd term. I know this may

come as a surprise to many of you, for over the past four years I have enjoyed my time on the Council, made many accomplishments and have proven myself to be a strong representative; but after careful consideration, my family and I have decided that I take a break from my Council seat for a while. Although I consider my time on the Council a great gift, there is no greater gift than the time I spend with my children; and with my son moving onto high school, and my daughter entering middle school, I know there will be many more extracurricular activities and opportunities to share in their lives that I do not wish to sacrifice. So with this announcement, I offer an invitation to the residents of Flower Mound...You are cordially invited to get involved with your local government! You are being given an opportunity to run for an open Town Council seat that will not have an incumbent, and it is my hope that many of you accept this invitation to get involved. If you have the time to devote to this two-year commitment, I know you will find it very rewarding. It is an opportunity that I wish everyone could experience, as it is extremely fulfilling to serve others in this capacity. For those ready to take on the challenge, the first business day to file for a Flower Mound Town Council seat will be February the 11th and filing will continue for 30 days, until March the 10th. Actually, it is my hope that the non-vocal majority play a much more active role within our local government and find their voice, for I have learned that it is here our voices can truly have the greatest impact. As President, Dwight D. Eisenhower stated, "Politics ought to be the part-time profession of every citizen who would protect the rights and privileges of free people. I do plan on running for election again someday, and hope that you provide me the opportunity to serve as your representative once more. Until such time, I will continue my service to my community through my efforts in our local service organizations including: Flower Mound Rotary, Keep Flower Mound Beautiful, Flower Mound Community Emergency Response Team, Woman of Flower Mound, Lakeview Estates I Home Owners Association, Parent Teacher Associations and my church's service programs. As you can see by my long list of continuing service obligations, it is obvious that I will not be turning my back on my community. Given my experience on the Council, I've learned a great deal about the public process and how government works and most importantly, what questions need to be asked. I've come to appreciate the philosophy behind Benjamin Franklin's statement, "It is the first responsibility of every citizen to question authority." So although, I may no longer be considered your representative come this May, I will continue to do my part by staying politically active and join the ranks of "Citizen Stone" as the new and improved "Citizen Long." Again, thank you Flower Mound for the privilege of serving as your representative and for supporting me for the past four years."

J. TOWN MANAGER REPORT

Town Manager Harlan Jefferson stated the Fire Department had been providing mutual aid to other communities and the Town would do more to advertise the burn ban.

K. CONSENT ITEMS

Councilmember Lindsey made a motion to approve by consent, Items 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12. Councilmember Filidoro 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 planning retreat of the Town Council held on January 12, 2008.**

RECOMMENDATION: Approve minutes from a planning retreat of the Town Council held on January 12, 2008.

2. **Consider approval of minutes from a special meeting and work session of the Town**

Council held on January 17, 2008.

RECOMMENDATION: Approve minutes from a special meeting and work session of the Town Council held on January 17, 2008.

3. **Consider approval of an ordinance adopting tariffs that reflect rate adjustments consistent with the settlement agreement between the Atmos Cities Steering Committee and Atmos Energy Corp., Mid-Tex Division.**

RECOMMENDATION: Approve Ordinance No. 05-08 adopting tariffs that reflect rate adjustments consistent with the settlement agreement between the Atmos Cities Steering Committee and Atmos Energy Corp., Mid-Tex Division. The caption of the ordinance reads as follows:

ORDINANCE NO. 05-08

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, ("TOWN") APPROVING A SETTLEMENT AGREEMENT BETWEEN THE ATMOS CITIES STEERING COMMITTEE AND ATMOS ENERGY CORP., MID-TEX DIVISION ("ATMOS MID-TEX" OR "THE COMPANY") REGARDING THE COMPANY'S STATEMENT OF INTENT TO CHANGE GAS RATES IN ALL CITIES EXERCISING ORIGINAL JURISDICTION; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE SETTLEMENT AGREEMENT AND FINDING THE RATES TO BE SET BY THE ATTACHED TARIFFS TO BE JUST AND REASONABLE; ADOPTING A SAVINGS CLAUSE; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND LEGAL COUNSEL.

4. **Consider approval of an ordinance amending Chapter 14, "Building and Building Regulations," Article II, of the Code of Ordinances of the Town of Flower Mound, by amending Section 14-31, "International Building Code Adopted," and by amending Section 14-32, "Amendments to the International Building Code," by adopting the 2006 edition of the International Building Code with amendments.**

RECOMMENDATION: Approve Ordinance No. 06-08 amending Chapter 14, "Building and Building Regulations," Article II, of the Code of Ordinances of the Town of Flower Mound, by amending Section 14-31, "International Building Code Adopted," and by amending Section 14-32, "Amendments to the International Building Code," by adopting the 2006 edition of the International Building Code with amendments. The caption of the ordinance reads as follows:

ORDINANCE NO. 06-08

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING CHAPTER 14, "BUILDINGS AND BUILDING REGULATIONS," ARTICLE II, OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, BY AMENDING SECTION 14-31, ENTITLED "INTERNATIONAL BUILDING CODE ADOPTED," BY AMENDING SECTION 14-32, ENTITLED "AMENDMENTS TO INTERNATIONAL BUILDING CODE," AND BY ADOPTING THE 2006 EDITION OF THE INTERNATIONAL BUILDING CODE; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING

A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

5. Consider approval of an ordinance amending Chapter 14, "Building and Building Regulations," Article III, of the Code of Ordinances of the Town of Flower Mound, by amending Section 14-71, "International Plumbing Code Adopted," and by amending Section 14-72, "Amendments to International Plumbing Code," by adopting the 2006 edition of the International Plumbing Code and by adopting the 2006 edition of the International Fuel Gas Code together with amendments to such codes.

RECOMMENDATION: Approve Ordinance No. 07-08 amending Chapter 14, "Building and Building Regulations," Article III, of the Code of Ordinances of the Town of Flower Mound, by amending Section 14-71, "International Plumbing Code Adopted," and by amending Section 14-72, "Amendments to International Plumbing Code," by adopting the 2006 edition of the International Plumbing Code and by adopting the 2006 edition of the International Fuel Gas Code together with amendments to such codes. The caption of the ordinance reads as follows:

ORDINANCE NO. 07-08

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING CHAPTER 14, "BUILDINGS AND BUILDING REGULATIONS," ARTICLE III, OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TO PROVIDE FOR ADOPTION OF THE INTERNATIONAL PLUMBING CODE, 2006 EDITION, AND THE INTERNATIONAL FUEL GAS CODE, 2006 EDITION, BY AMENDING SECTION 14-71, ENTITLED "INTERNATIONAL PLUMBING CODE AND FUEL GAS CODE ADOPTED," AND BY AMENDING SECTION 14-72, ENTITLED "AMENDMENTS TO INTERNATIONAL PLUMBING CODE AND INTERNATIONAL FUEL GAS CODE"; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

6. Consider approval of an ordinance amending Chapter 14, "Building and Building Regulations," Article IV, of the Code of Ordinances of the Town of Flower Mound, by amending Section 14-101, "International Mechanical Code Adopted," and by amending Section 14-102, "Amendments to the International Mechanical Code," by adopting the 2006 edition of the International Mechanical Code with amendments.

RECOMMENDATION: Approve Ordinance No. 08-08 amending Chapter 14, "Building and Building Regulations," Article IV, of the Code of Ordinances of the Town of Flower Mound, by amending Section 14-101, "International Mechanical Code Adopted," and by amending Section 14-102, "Amendments to the International Mechanical Code," by adopting the 2006 edition of the International Mechanical Code with amendments. The caption of the ordinance reads as follows:

ORDINANCE NO. 08-08

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING CHAPTER 14, "BUILDINGS AND BUILDING REGULATIONS," ARTICLE IV, OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TO PROVIDE FOR ADOPTION OF THE INTERNATIONAL MECHANICAL CODE, 2006 EDITION, BY AMENDING SECTION 14-101, ENTITLED "INTERNATIONAL MECHANICAL CODE ADOPTED," AND BY AMENDING SECTION 14-102, ENTITLED "AMENDMENTS TO INTERNATIONAL MECHANICAL CODE"; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION;

AND PROVIDING AN EFFECTIVE DATE.

7. Consider approval of an ordinance amending Chapter 14, "Building and Building Regulations," Article V, of the Code of Ordinances of the Town of Flower Mound, by amending Section 14.601, "International Energy Conservation Code Adopted," by amending Section 14.602, "Amendments to the International Energy Conservation Code," and by amending Section 14.603, "Board of Appeals," by adopting the 2006 edition of the International Energy Conservation Code with amendments.

RECOMMENDATION: Approve Ordinance No. 09-08 amending Chapter 14, "Building and Building Regulations," Article V, of the Code of Ordinances of the Town of Flower Mound, by amending Section 14.601, "International Energy Conservation Code Adopted," by amending Section 14.602, "Amendments to the International Energy Conservation Code," and by amending Section 14.603, "Board of Appeals," by adopting the 2006 edition of the International Energy Conservation Code with amendments. The caption of the ordinance reads as follows:

ORDINANCE NO. 09-08

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING CHAPTER 14, "BUILDINGS AND BUILDING REGULATIONS," ARTICLE XV, OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TO PROVIDE FOR ADOPTION OF THE INTERNATIONAL ENERGY CONSERVATION CODE, 2006 EDITION, BY AMENDING SECTION 14-601, ENTITLED "INTERNATIONAL ENERGY CONSERVATION CODE ADOPTED," BY AMENDING SECTION 14-602, ENTITLED "AMENDMENTS TO INTERNATIONAL ENERGY CONSERVATION CODE," AND BY AMENDING SECTION 14-603, ENTITLED "BOARD OF APPEALS;" REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

8. Consider approval of an ordinance amending Chapter 14, "Building and Building Regulations," Article XIV, of the Code of Ordinances of the Town of Flower Mound, by amending Section 14-571, "International Residential Code Adopted," and by amending Section 14-572, "Amendments to International Residential Code," by adopting the 2006 International Residential Code with amendments.

RECOMMENDATION: Approve Ordinance No. 10-08 amending Chapter 14, "Building and Building Regulations," Article XIV, of the Code of Ordinances of the Town of Flower Mound, by amending Section 14-571, "International Residential Code Adopted," and by amending Section 14-572, "Amendments to International Residential Code," by adopting the 2006 International Residential Code with amendments. The caption of the ordinance reads as follows:

ORDINANCE NO. 10-08

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING CHAPTER 14, "BUILDINGS AND BUILDING REGULATIONS," ARTICLE XIV, OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TO PROVIDE FOR ADOPTION OF THE INTERNATIONAL RESIDENTIAL CODE, 2006 EDITION, BY AMENDING SECTION 14-571, ENTITLED "INTERNATIONAL RESIDENTIAL CODE ADOPTED," BY AMENDING SECTION 14-572, ENTITLED "AMENDMENTS TO INTERNATIONAL RESIDENTIAL CODE," AND BY AMENDING SECTION 14-573, ENTITLED "BOARD OF APPEALS;" REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE;

PROVIDING A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

9. Consider approval of an agreement with Halff Associates, Inc., to provide professional engineering design services and professional real property negotiation and appraisal services for Dixon Lane, from Chinn Chapel Road to an existing four-lane section, in the amount of \$101,427.00, and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve an agreement with Halff Associates, Inc., to provide professional engineering design services and professional real property negotiation and appraisal services for Dixon Lane, from Chinn Chapel Road to an existing four-lane section, in the amount of \$101,427.00, and authorize the Mayor to execute same on behalf of the Town.

10. Consider the award of Bid #208 Submersible Pumps associated with Wastewater Rehab & Improvements project, to the lowest responsible bidder, ITT Flygt Corporation, for a total expenditure of \$87,551.80.

RECOMMENDATION: Approve the award of Bid #208 Submersible Pumps associated with Wastewater Rehab & Improvements project, to the lowest responsible bidder, ITT Flygt Corporation, for a total expenditure of \$87,551.80.

11. Consider approval of Amendment No. 6 to the contract with Jacobs Facilities, Inc. to provide additional professional engineering design services for the Flower Mound Community Activity Center in the amount of \$16,310.00, and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve Amendment No. 6 to the contract with Jacobs Facilities, Inc. to provide additional professional engineering design services for the Flower Mound Community Activity Center in the amount of \$16,310.00, and authorize the Mayor to execute same on behalf of the Town.

12. Consider approval of an agreement with Teague Nall and Perkins to provide professional engineering design services associated with the 2008 Street Reconstruction projects, in the amount of \$127,350.00, and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve an agreement with Teague Nall and Perkins to provide professional engineering design services associated with the 2008 Street Reconstruction projects, in the amount of \$127,350.00, and authorize the Mayor to execute same on behalf of the Town.

VOTE ON THE MOTION

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

L. REGULAR ITEMS

13. Consider approval of an ordinance amending Chapter 66, "Traffic and Vehicles," of the Code of Ordinances of the Town of Flower Mound by adding a new article VIII, "Use of Hand-Held Mobile Telephones Prohibited in Certain Locations," and a new

section 66-301, "Use of Hand-Held Mobile Telephones Prohibited in Active School Zones"; providing for a penalty of a fine not to exceed two hundred dollars for each offense, providing a severability clause; and providing an effective date.

Staff Presentation

Police Chief Kenneth Brooker gave the following presentation.

Questions from the Governing Body and Answers

Councilmember Filidoro thanked Chief Brooker for getting him the information about this topic so quickly. He stated he was not in favor of legislation just for **legislation's** sake. He noted that the report from the school crossing guards about how people drive through the school zones while talking on cell phones was alarming, and he strongly supported this ordinance.

Deputy Mayor Pro Tem Trotter stated there were many citizens who were not aware of this proposed ordinance. He clarified that the school crossing guards would not issue citations.

Chief Brooker stated the Town already had a process in place where if someone witnessed a traffic violation they could go to Municipal Court and file a case. If the registration information was available for the license plate number, a letter would be sent to the owner that it a report had been made that a violation occurred. He noted that talking on hand held phones was prohibited only during active school zone hours.

Deputy Mayor Pro Tem Trotter asked about the research that had been done. He noted there was no record of an accident in a school zone due to cell phone use. He asked if the department had received complaints from crossing guards.

Chief Brooker stated he was not aware of any.

Deputy Mayor Pro Tem Trotter referred to the cities of Highland Park and University Park where ordinances had already been passed. He asked if they were using the guards to monitor cars as they drove through the zones.

Chief Brooker stated the Code of Criminal Procedure provided that a law enforcement officer had to witness an offense in order to issue a citation.

Councilmember Lindsey stated the ordinance made sense, and he would like to see no teenagers with cell phones, and texting outlawed. He noted there was much public debate in Highland Park and University Park, and he desired to have the same type of input from Flower Mound citizens.

Councilmember Long clarified that **hands-free** use of phones would not be prohibited. She commented that she was amazed at the number of people who use cell phones while driving. She stated she would be in agreement with having a public hearing.

Mayor Pro Tem Tasker stated some of those he had spoken with had expressed concern that the crossing guards would be more concerned with writing down license plate numbers than watching kids cross the street. He hoped they would use discretion to put the kids' safety first. He did not believe this was an over-regulation of liberties. He stated it would be a good **teaching moment for kids - obey the law because it was the law.**

Mayor Smith stated the proposed ordinance was presented at the Mayor's Resident Advisory Group meeting earlier in January. All were in favor except one.

Councilmember Filidoro noted that Superintendent Dr. Jerry Roy, on behalf of the Lewisville Independent School District, was in favor.

Council Deliberation

Councilmember Filidoro moved to approve Ordinance No. 11-08 amending Chapter 66, "Traffic and Vehicles," of the Code of Ordinances of the Town of Flower Mound by adding a new article VIII, "Use of Hand-Held Mobile Telephones Prohibited in Certain Locations," and a new section 66-301, "Use of Hand-Held Mobile Telephones Prohibited in Active School Zones. Councilmember Long seconded the motion.

Discussion on the Motion

Mayor Smith asked if there could be a review date.

Town Attorney Terry Welch stated the Council could direct staff to come back after a certain period of time for a review.

Councilmember Lindsey asked that staff work with the Police Chief on a public information campaign.

Deputy Mayor Pro Tem Trotter stated this was a good ordinance, however he was just concerned that the citizens did not know about the ordinance. He was in agreement with a review time.

Town Manager Harlan Jefferson stated the Police Department would not write the first citation until April 8, 2008.

Councilmember Filidoro stated the signs would be important and would be up through the summer. He asked for a review of this at the end of the year.

Councilmember Long asked if the LISD would help with the education about the ordinance, including sending flyers to all the students.

Mayor Pro Tem Tasker had no problem with a sunset provision.

Councilmember Lindsey stated he was not asking for a sunset provision - only public information on the front end.

The caption of the ordinance reads as follows:

ORDINANCE NO. 11-08

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING CHAPTER 66, "TRAFFIC AND VEHICLES," OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, BY ADDING A NEW ARTICLE VIII, "USE OF HAND-HELD MOBILE TELEPHONES PROHIBITED IN CERTAIN LOCATIONS," AND A NEW SECTION 66-301, "USE OF HAND-HELD MOBILE TELEPHONES PROHIBITED IN ACTIVE SCHOOL ZONES"; PROVIDING FOR A PENALTY OF A FINE NOT TO EXCEED TWO HUNDRED DOLLARS (\$200.00) FOR EACH OFFENSE; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON THE MOTION

AYES: Filidoro, Long, Tasker, Trotter, Lindsey

NAYS: None

NAYS: None
ABSENT: Long

15. **SUP 366-07 North Texas Emergency Pet Clinic**
Public Hearing to consider a request for a Specific Use Permit (SUP 366-07 North Texas Emergency Pet Clinic), to permit a 4,016 square foot veterinary hospital with inside pens within an existing retail center, and to consider adopting an ordinance providing for said Specific Use Permit. The 3.22-acre property, zoned Planned Development 12 (PD 12) with Retail 2 (R 2) uses, is located at 2311 Cross Timbers Road, Suite 319. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its January 14, 2008 meeting.)

Staff Presentation

Doug Powell, Executive Director of Development Services, stated the request was for a Specific Use Permit for a veterinary hospital. He noted staff had received one email in opposition.

Applicant's Presentation

Dr. Denise Smith, owner of Main Street Veterinary Hospital, 4100 Kirkpatrick, Flower Mound

Dr. Smith stated this emergency clinic was a cooperative effort of veterinarians from several cities for hospital care for their pets. The location was next to Sprouts on FM 1171. She stated since the hospital would be open after hours, the traffic flow would be small. She stated they would not board any animals, and they would be released the following morning. Patients would not be routinely walked outside. Pets that had been euthanized would be kept in a freezer. Dr. Smith stated this would be a top-notch facility with state-of-the-art equipment. She added that the facility would be able to handle orphaned animals over night.

Public Comments

Paul Stone, 709 Lake Bluff Drive, Flower Mound

Mr. Stone spoke in favor of the proposed ordinance, adding this was a great service for Flower Mound and the surrounding communities.

Mary Beth Soto, Pin Oak Court, Flower Mound

Ms. Soto stated currently there was no place to care for animals at night in the area, and she was glad to have a place in the Town for this.

Dr. Laura Schwab, 1900 S. Garden Ridge, Flower Mound

Dr. Schwab stated this facility would be a benefit for the residents.

Dr. Sara Breeding, 6060 Long Prairie Road, Flower Mound

Dr. Breeding stated patients currently had to drive to Denton, Carrollton or Southlake for emergencies, and this facility would be much more convenient.

Dr. Matt Morrison, Lewisville

Dr. Morrison stated clients had difficulty getting to emergency hospitals. This would be a great idea for Flower Mound residents and those of the surrounding communities.

Close Public Hearing

Council Deliberation

Councilmember Lindsey asked if there would be another clinic that would offer 24 hour care in Flower Mound.

Mr. Powell responded yes, at a future date.

Councilmember Filidoro stated this type of facility was important for pets, and he liked the cooperative venture with several veterinarians working together.

Councilmember Filidoro moved to approve Specific Use Permit SUP 366-07 - North Texas Emergency Pet Clinic - to permit a 4,016 square foot veterinary hospital with inside pens within an existing retail center, and adopt Ordinance No. 13-08 providing for said Specific Use Permit, subject to the following conditions:

1. The attached site plan, labeled Attachment "B(1)," an exhibit to the Specific Use Permit, shall be developed as approved, except that minor changes outlined in Section 82-37 of the Land Development Regulations may be approved as set forth in that section.
2. All manure and other excrement shall be disposed of in such a manner so as to prevent it from becoming a public nuisance.
3. It shall be unlawful for any owner or operator of the facility to allow an animal to produce odors or unclean conditions sufficient to create a public nuisance.
4. The veterinary hospital (inside pens) shall be wholly enclosed in a building that is treated acoustically so that noise generated by the enterprise is not perceptible at any bounding property line.
5. If a certificate of occupancy application has not been submitted to the Town's Building Inspection Division for consideration within six months of approval of the ordinance, the zoning for this property, including 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.

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

ORDINANCE NO. 13-08

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 A 3.22 ACRE TRACT OF LAND LOCATED AT 2311 CROSS TIMBERS ROAD, NORTH TEXAS EMERGENCY PET CLINIC, FROM PLANNED DEVELOPMENT DISTRICT 12 (PD 12) WITH RETAIL DISTRICT -2 (R-2) USES TO PLANNED DEVELOPMENT DISTRICT 12 (PD 12) WITH RETAIL DISTRICT-2 (R-2) USES SUBJECT TO SPECIFIC USE PERMIT NO. 366 (SUP 366) TO PERMIT A VETERINARY HOSPITAL WITH INSIDE PENS, IN ACCORDANCE WITH THE TOWN'S MASTER PLAN 2001 AND IN ACCORDANCE WITH SPECIFIC REQUIREMENTS STATED HEREIN AND EXHIBITS ATTACHED HERETO; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY;

PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON THE MOTION

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

Mayor Smith opened items 16, 17, and 18.

16. LDR 01-07 Single Family District 5

Public Hearing to consider an amendment to the Land Development Regulations (LDR 01-07), by amending Chapter 98 of the Code of Ordinances, entitled "Zoning," through the amendment of Article I "In General" through the amendment of Article III "District Regulations" by the creation of a new Division 8-A entitled "SF-5 Single-Family District-5" and the enactment of related ordinances necessary to establish the specific parameters and standards for said District, through the amendment of Subdivision II "Regulations" of Division 2 "Uses" of Article IV "Supplementary District Regulations" by the amendment of Section 98-952 entitled "Use Classification" by adding the SF-5 Single-Family District-5 to the appropriate areas of the table, through the amendment of Division 3 "Dimensional Regulations" of Article IV "Supplementary District Regulations" by the amendment of Section 98-1021 entitled "Schedule of Residential Dimensional Regulations" by adding the SF-5 Single-Family District-5 and its dimensional regulations to the table, and by the amendment of Section 98-1022 entitled "Schedule of Nonresidential Dimensional Regulations" by adding the SF-5 Single-Family District-5 and its dimensional regulations to the table and consider adopting an ordinance providing for said zoning amendment. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its January 14, 2008 meeting.) At the request of the applicant and the concurrence of the Town, this application is being postponed to the February 18, 2008, Town Council meeting so that the details of the proposed development agreement may be finalized between the applicant and the Town.

Deputy Mayor Pro Tem Trotter made a motion to postpone Item 16 to the February 18, 2008 Town Council meeting. Mayor Pro Tem Tasker seconded the motion.

VOTE ON THE MOTION

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

17. MPA 05-06 Canyon Falls

Public Hearing to consider a request to amend Section 2.0 Area Plans, specifically the Denton Creek Area Plan of Master Plan 2001 (MPA 05-06 Canyon Falls), to adopt the revised Denton Creek Area Plan, and to consider adopting an ordinance providing for said amendment. The 626-acre property, zoned Interim Holding (IH), is located north of Cross Timbers Road between Interstate 35W and State Highway 377. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its January 14, 2008 meeting.) At the request of the applicant and the concurrence of the Town, this application is being postponed to the February 18, 2008, Town Council meeting so that the details of the proposed development

agreement may be finalized between the applicant and the Town.

Deputy Mayor Pro Tem Trotter moved to postpone Item 17 to the February 18, 2008 Town Council meeting. Mayor Pro Tem Tasker seconded the motion.

VOTE ON THE MOTION

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

18. ZPD 08-06 Canyon Falls

Public Hearing to consider a request for rezoning (ZPD 08-06 Canyon Falls) from Interim Holding (IH) to Planned Development District 98 (PD 98) with Residential and Commercial uses, and to consider adopting an ordinance providing for said zoning amendment. The 626-acre property Master Planned Denton Creek District, is located north of Cross Timbers Road between Interstate 35 and SH 377. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its January 14, 2008 meeting.) At the request of the applicant and the concurrence of the Town, this application is being postponed to the February 18, 2008, Town Council meeting so that the details of the proposed development agreement may be finalized between the applicant and the Town.

Deputy Mayor Pro Tem Trotter made a motion to postpone Item 18 to the February 18, 2008 Town Council meeting. Mayor Pro Tem Tasker seconded the motion.

VOTE ON THE MOTION

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

19. LDR 15-07 Platting Requirements

Public Hearing to consider an amendment to the Land Development Regulations (LDR 15-07 Platting Requirements) by amending Chapter 90 of the Code of Ordinances and to consider adopting an ordinance providing for said amendment. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its January 14, 2008 meeting.)

Doug Powell, Executive Director of Development Services, stated this was part of the update to the Code of Ordinances to bring platting requirements up to date. He noted this was discussed at a previous work session.

Comments from Public **None**

Close Public Hearing

Council Deliberation

Deputy Mayor Pro Tem Trotter moved to approve an amendment to the Land Development Regulations (LDR 15-07 Platting Requirements) by amending Chapter 90 of the Code of Ordinances and adopt Ordinance No. 14-08 providing for said amendment. Tasker

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

ORDINANCE NO. 14-08

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY AMENDING SUBPART B, CHAPTER 90 OF THE CODE OF ORDINANCES, ENTITLED "SUBDIVISIONS" THROUGH THE AMENDMENT OF ARTICLE III, ENTITLED "PLATS" THROUGH THE AMENDMENT OF DIVISION 1, ENTITLED "GENERALLY" BY THE AMENDMENT OF SELECTED PROVISIONS OF SECTIONS 90-91 THROUGH 90-94, THROUGH THE AMENDMENT OF DIVISION 2 ENTITLED "REVIEW PROCEDURES" BY THE AMENDMENT OF SELECTED PROVISIONS OF SECTIONS 90-121 AND 90-124 AND THE ADOPTION OF A NEW SECTION 90-127 ENTITLED "EASEMENTS AFTER APPROVAL OF RECORD PLAT" AND A NEW SECTION 90-128 ENTITLED "VACATING PLAT," AND THROUGH THE AMENDMENT OF DIVISION 3, ENTITLED "REPLATS AND PLAT AMENDMENTS" BY THE AMENDMENT OF SELECTED PROVISIONS OF SECTIONS 90-151 AND 90-152; REPEALING ALL CONFLICTING ORDINANCES, ORDERS, AND RESOLUTIONS; providing a severability clause; PROVIDING FOR A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON THE MOTION

AYES: Filidoro, Tasker, Trotter, Lindsey

NAYS: None

ABSENT: Long

M. COORDINATION OF CALENDARS AND FUTURE AGENDAS/MEETINGS

- February 18 regular meeting
- February 21 work session
- March 3 regular meeting
- Due to Spring Break, cancel March 17 regular meeting, no work session on March 20, and have a special meeting and work session on March 27

N./O. CLOSED/OPEN SESSION

The Town Council convened into closed session at 8:12 p.m. on February 4, 2008, pursuant to Texas Government Code Sections 551.071, 551.072, 551.074, and 551.087 to discuss matters relating to consultation with Town Attorney, pending litigation, real property, personnel, and economic development negotiations and reconvened into open session at 11:03 p.m. on February 4, 2008, 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 James H. Downey, Patricia F. Downey v. Town of Flower Mound, Cause No. 2008-60014-393, pending in the 393rd Judicial District Court of Denton County, Texas.

No action taken.

- d. Discuss and consider appointments to the Environmental Conservation Commission.

No action taken.

P. ADJOURNMENT

Mayor Smith adjourned the meeting at 11:04 p.m. on February 4, 2008, and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

JODY SMITH, MAYOR

ATTEST:

PAULA J. PASCHAL, TOWN SECRETARY

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