

**THE FLOWER MOUND TOWN COUNCIL SPECIAL MEETING AND WORK SESSION HELD ON THE 27<sup>th</sup> DAY OF MARCH 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

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
Eric Metzger	Fire 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 6:06 p.m.

**B. BRIEFING SESSION**

**1. Mayor and Town Council Liaison Reports**

Deputy Mayor Pro Tem Trotter stated the Oil and Gas Board meeting was well attended last week, and noted that many times when variances are requested, they are not designed to **make a site fit - but to make it better.**

Mayor Pro Tem Tasker stated the Transportation Commission held a work session on the River Walk project. They also considered a Master Plan change with regard to two streets in the Master Thoroughfare Plan.

Councilmember Long stated the main topic at the Environmental Conservation Commission meeting was the River Walk project. She noted that the members of the Commission were concerned because they did not actually get to vote on the project. She stated the Commission was concerned with the trees and urban forest. The Commission wanted to have more "say" in the decision making process.

Councilmember Filidoro stated the Parks, Arts and Library Services Board talked about the River Walk at Central Park at the last meeting and there was much participation from the audience. The Board chose to table their portion of the River Walk recommendation.

Mayor Smith commented that the River Walk at Central Park team had done at least ten work sessions so far. The primary reason was to solicit input from citizens. She stated the

Council was receiving emails and telephone calls. The team had met with the Environmental Conservation Commission and Parks, Arts, and Library Services Board chairmen. Many questions and concerns had been addressed. She noted the two Boards would see the presentation again.

**2. Discuss Pending Issues**

**a. Council Communications**

Town Manager Harlan Jefferson referred to the Council Communication regarding the public input process for the 08-09 budget. He had heard a strong preference for a Town Hall budget meeting in mid-June and staff would also invite community organizations. He stated staff would proceed with that option. Another communication - the budget priority questionnaire - was prepared consistent with the visioning retreat. He asked the Council to let him know if there was a strong preference for the old format. He noted the deadline for submittal was April 21. Lastly, a communication had been sent out regarding the expansion of merchant credit card services. Staff proposed to be able to take Master Card and VISA in addition to Discover.

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

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

**C. ADJOURN BRIEFING SESSION**

**D. CALL SPECIAL MEETING TO ORDER**

Mayor Smith called the regular meeting to order at 6:17 p.m.

**E. INVOCATION**

Chaplain Mike Liles gave the Invocation.

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

Mayor Smith led the pledges.

**G. PUBLIC PARTICIPTION**

Mark Walker, 3310 Juniper Street, Flower Mound

Mr. Walker thanked Councilmember Long for her public service. He noted he had previously talked to the Council about wind power, and added that he had spoken to a Lewisville resident about his turbine that had been erected. Mr. Walker stated in Flower Mound, a new zoning category would have to be created to provide for wind power. He referred to an article in Newsweek (March 17) about a couple in Colleyville building a wind turbine. Mr. Walker stated there were many good things with the River Walk project, including the hospital and smaller housing for the elderly. He expressed concern with the height of the buildings and the increase in traffic in the middle of the Town. He stated the creek that will fill the River Walk could go from a trickle to overflowing in less than an hour. He stated there would have to be some control over the water flow.

Chris Barham, 4601 St. Claire Court, Flower Mound

Mr. Barham expressed concern about the River Walk project and noted there was much

more information to absorb. He felt it was a good development and that continued communication was critical. The preservation of nature was a concern and wanted to make sure all the studies were done to handle the environmental issues. He stated he wanted to see a balance between nature and growth in the Town. He expressed concern with the expedited process and did not want that to get in the way of a quality development. He asked the Council to make sure the Master Plan and SMARTGrowth were followed. He asked for more open citizen forums and more interactive public hearings.

Alfredo Sanchez, 4805 Dominion Court, Flower Mound

Mr. Sanchez stated he had been appointed by his homeowner association to keep track of projects in the Town, particularly those near his neighborhood - Post Oak Park, Coram Deo, and Green Acres Farm. Regarding the River Walk presentation at the Parks, Arts and Library Services (PALS) Board meeting, he stated it was an arrogant presentation. Those in attendance were told this was Cole McDowell's property and the trees were his. Mr. Sanchez stated no tree survey had been done. He stated he did not know work sessions were public. He stated the Town should have a link on the website to River Walk.

Lynn Sanchez, 4805 Dominion Court, Flower Mound

Ms. Sanchez stated she attended the last PALS Board meeting, and the River Walk project was not on the agenda (the parks and trails for the project were on the agenda). She stated the presenter was enthusiastic about the project. A member of the Environmental Conservation Commission talked about the old trees and he said their hands were tied when the River Walk project came to them. She had a concern with parking, as it appeared some will be paid parking and some will not. She stated it was frustrated to hear the board members saying their hands were tied. She suggested the Town use FMTV to tell the citizens about the River Walk project and other areas about the Town.

Marilyn Jenkins, 6716 Raintree Place, Flower Mound (provided verbatim comments)

"Hello, my name is Marilyn Jenkins. I live at 6716 Raintree Place in Flower Mound. I am here this evening as a result of the P&Z meeting on Monday. Former Councilman Paul Stone and I challenged the P&Z commission to hold a public hearing- a town wide public hearing to discuss River Walk. As you can tell from the people who have spoken before there isn't enough information. What information out there is sketchy, people are having difficulty actually with the video presentation. Some of the meetings are not being broadcast so there is a break in communications between the town and the people. So I would like to encourage the Town Council to hold a town wide meeting, broadcast it like we used to with all the placards and everything out in the street so that we can ask questions of you as well as Mr. McDowell, the developer. The workshops have obviously not been promoted very well. I used to volunteer at this town and I'm getting my information from other sources. I had no idea that these workshops were even going on and that we could get information from the workshops. So if I don't know, and some of the people here in the town don't know, and they are new, we definitely have a disconnect in the town. I'd also like to ask a question. Nobody seems to be able to give me an answer as to who is going to anchor the River Walk other than the hospital and we don't know if that contract has been inked. I've heard everything all over the map, so I'm wondering about what is going to bankroll this thing. It came to me in the middle of the night, perhaps it's gas wells. So I'm going out on a limb, if you take the size of the gas well site, the pad site, I know what the land is worth out there - divide that into a billion dollars because that is what that project is going to be worth. You could easily build between 10 and 15 wells on that site to bankroll this project. I'd like to know if anybody can ask Mr. McDowell how many wells he's planning on drilling out there, where they are, and if that's the case, what does it do to neighbors to the north and to the west. So I'm just reiterating that there are a lot of questions that I think that the city needs to know, the town citizens need to know, and I'd appreciate it if you would

take up Paul's and my challenge to please hold a public meeting. And I appreciate the phone call Jody - I know that there is effort on trying to get in touch with the heads of the boards, but I think it's really time to bring it to the public. Let's put everything at rest. Let's get some good clean answers."

Virginia Jellison, 2705 Lake Ville Lane, Flower Mound

Ms. Jellison stated she was a candidate for Town Council Place 4. She expressed concern with how businesses are handled. She stated a developer wanted to build in the floodplain, the Town was considering a Central Business District zoning classification, and there was a possibility of tall buildings in the project. She was concerned with park land dedication, a Traffic Impact Analysis, a floodplain analysis, and SMARTGrowth. She stated if too many waivers were granted, the Town might lose the balance. She stated she was an advocate for attracting new development, however the lack of consistency was what hurts Flower Mound's reputation.

Alton Bowman, 6524 Orchard Drive, Flower Mound

Mr. Bowman stated he was a member of the Environmental Conservation Commission, and he asked the Town Council to support the proposed tree ordinance. He noted staff had worked very hard on the proposed ordinance. He asked if the ordinance was approved, how valid would it be if there were waivers for economic development. He felt rules and laws should be the same for everyone.

#### **H. PRESENTATIONS**

**None**

#### **I. MAYORAL/COUNCILMEMBER ANNOUNCEMENTS**

Deputy Mayor Pro Tem Trotter stated it was difficult to discuss the River Walk project because it had not come before the Planning & Zoning Commission (P&Z) and Town Council yet. He stated a project of this magnitude was similar to Canyon Falls in the western part of the Town. Deputy Mayor Pro Tem Trotter stated the Council agreed to have a number of work sessions at the board/commission levels so they would not be blind-sighted, and this would make for a smooth process for all. He stated there had not been one public hearing on the item yet and not one vote taken by the P&Z and Council - only work sessions have been held so far. He stated the work sessions were for the boards and commissions to understand the scope of what is going before them. He added when the application comes before the Town Council, it would go through the same public hearing process just like any other application. The public will be given opportunities to speak at public hearings. He encouraged everyone to continue speaking to the Council or boards, or sending emails.

Councilmember Long announced the Rock The Mound concert on April 4 at Bakersfield Park. Also, the Town and KFMB would be hosting the Spring Trash Off on April 5 at 8:30 a.m. at Home Depot. The Environmental Fair will last until 2 p.m. She noted that the deadline for registering to vote for the May 10 election was April 10. Councilmember Long stated she had received much feedback from residents regarding the River Walk project. She stated the schedule of meetings was set on the Town's website. Some of the issues that concerned residents were SMARTGrowth and the number of waivers, the Master Plan, the height of the buildings, floodplains, and park dedication issues.

Councilmember Lindsey stated the River Walk development was a big project. The Council and staff set up a process where the public and the boards and commissions could get

more information than normal. The intent was not to keep the public out of the process.

Councilmember Filidoro stated he continued to receive calls about oil and gas ordinances. He encouraged residents to be specific with their concerns and issues, educate themselves, band together and get as much information as possible. He added that any contract was a negotiation between parties.

Mayor Smith stated the process for the River Walk project was above and beyond. There had been no meetings where decisions have been made, and public hearings would be held before any votes taken. Mayor Smith expressed condolences to Gary and Stephani Spruill over the loss of their son, William Bradley Spruill.

#### **J. TOWN MANAGER REPORT**

Town Manager Harlan Jefferson stated staff would be happy to talk with Mr. Sanchez about changes to the webpage. He noted there had been changes in the proposed schedule for the River Walk project, as the developer requested to go back to the Environmental Conservation Commission on April 1. Therefore all dates for any consideration had been removed from the webpage at this time. Regarding the cell phone ban ordinance in active school zones, the Town was in the midst of a 10-day grace period. The Citizens on Patrol had identified as many as 100 violations in several zones and those drivers will receive courtesy letters. Mr. Jefferson announced that the Town was pre-selling charter memberships for the Community Activity Center.

#### **K. CONSENT ITEMS**

Deputy Mayor Pro Tem Trotter made a motion to approve by consent, Items 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11. Councilmember Lindsey 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 March 3, 2008.**

**RECOMMENDATION:** Approve minutes from a regular meeting of the Town Council held on March 3, 2008.

- 2. Consider approval of the Comprehensive Annual Financial Report for the fiscal year ended September 30, 2007.**

**RECOMMENDATION:** Approve the Comprehensive Annual Financial Report for the fiscal year ended September 30, 2007.

- 3. Consider approval of a resolution repealing the Trinity River Authority of Texas - Denton Creek Wastewater Transportation System (Towns of Argyle, Flower Mound and Northlake Project) Contract.**

**RECOMMENDATION:** Approve Resolution No. 07 -08 repealing the Trinity River Authority of Texas - Denton Creek Wastewater Transportation System (Towns of Argyle, Flower Mound and Northlake Project) Contract. The caption of the resolution reads as follows:

#### **RESOLUTION NO. 07-08**

**A RESOLUTION REPEALING THE TRINITY RIVER AUTHORITY OF TEXAS - DENTON CREEK WASTEWATER TRANSPORTATION SYSTEM (TOWNS OF ARGYLE, FLOWER MOUND AND NORTHLAKE PROJECT) CONTRACT, AND PROVIDING FOR AN EFFECTIVE DATE OF SAID RESOLUTION.**

4. Consider approval to accept a Sub-Recipient award in the amount of \$1,286.50 from the Office of the Governor, Division of Emergency Management under the Homeland Security Grant Program, and authorization for the Mayor to execute same on behalf of the Town.

**RECOMMENDATION:** Approve acceptance of a Sub-Recipient award in the amount of \$1,286.50 from the Office of the Governor, Division of Emergency Management under the Homeland Security Grant Program, and authorize the Mayor to execute same on behalf of the Town.

5. 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 Colony Street, Hartford Drive and Sagebrush Drive east of Morriss Road to 25 mph.

**RECOMMENDATION:** Approve Ordinance No. 21-08 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 Colony Street, Hartford Drive and Sagebrush Drive east of Morriss Road to 25 mph. The caption of the ordinance reads as follows:

**ORDINANCE NO. 21-08**

**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.**

6. Consider approval of the purchase of six Video Image Vehicle Detection Systems including installation hardware for the Advanced Traffic Management System from Paradigm Traffic Systems, Inc., in the amount of \$104,430.00 .

**RECOMMENDATION:** Approve the purchase of six Video Image Vehicle Detection Systems including installation hardware for the Advanced Traffic Management System from Paradigm Traffic Systems, Inc., in the amount of \$104,430.00.

7. Consider approval of a resolution authorizing the execution of a Local Project Advance Funding Agreement with the Texas Department of Transportation, for the installation of a temporary traffic signal at FM 2499 and Windsor Drive, at a cost of \$47,355.00 as part of the FM 2499 roadway reconstruction project.

**RECOMMENDATION:** Approve Resolution No. 08-08 authorizing the execution of a Local Project Advance Funding Agreement with the Texas Department of Transportation, for the installation of a temporary traffic signal at FM 2499 and Windsor Drive, at a cost of \$47,355.00 as part of the FM 2499 roadway reconstruction project. The caption of the resolution reads as

follows:

**RESOLUTION NO. 08-08**

**A RESOLUTION BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS AUTHORIZING THE MAYOR TO SIGN THE LOCAL PROJECT ADVANCE FUNDING AGREEMENT WITH THE TEXAS DEPARTMENT OF TRANSPORTATION FOR THE INSTALLATION OF A TEMPORARY TRAFFIC SIGNAL AT FM 2499 AND WINDSOR DRIVE AS PART OF THE FM 2499 ROADWAY RECONSTRUCTION PROJECT; AND PROVIDING FOR AN EFFECTIVE DATE.**

- 8. Consider approval of the purchase of Community Activity Center fitness equipment in the amount of \$104,846.17, with \$59,592.67 being paid to Life Fitness and \$45,253.50 being paid to Fitco.**

**RECOMMENDATION:** Approve the purchase of Community Activity Center fitness equipment in the amount of \$104,846.17, with \$59,592.67 being paid to Life Fitness and \$45,253.50 being paid to Fitco.

- 9. Consider approval of park projects to be funded with the 4B Sales Tax for Fiscal Year 2007-2008 (The Community Development Corporation approved this item by a vote of 7 to 0 at its February 20, 2008, meeting).**

**RECOMMENDATION:** Approve park projects to be funded with the 4B Sales Tax for Fiscal Year 2007-2008.

- 10. Consider approval of the purchase and installation of playground equipment at Cortadera Park and Possum Park from Child's Play for the Cortadera Playground Equipment Project and the Possum Playground Equipment Project in the amount of \$165,353.50.**

**RECOMMENDATION:** Approve the purchase and installation of playground equipment at Cortadera Park and Possum Park from Child's Play for the Cortadera Playground Equipment Project and the Possum Playground Equipment Project in the amount of \$165,353.50.

- 11. Consider approval of the purchase and installation of playground equipment, concrete perimeter curb, accessibility ramp, and walkways at Wilkerson Park from GameTime for the Wilkerson Playground Equipment Project in the amount of \$142,613.28.**

**RECOMMENDATION:** Approve the purchase and installation of playground equipment, concrete perimeter curb, accessibility ramp, and walkways at Wilkerson Park from GameTime for the Wilkerson Playground Equipment Project in the amount of \$142,613.28.

**VOTE ON THE MOTION**

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

**L. REGULAR ITEMS**

- 12. Consider approval of an ordinance amending the Code of Ordinances, specifically**

**Chapter 54, "Parks and Recreation" Article II, Division 1, Section 54-31 "Glass Containers and Alcoholic Beverages" by adding a new exception (3) to subsection (c) "Exceptions." (The Parks, Arts and Library Services Board recommended approval of the ordinance by a vote of 6 to 4 at its February 28, 2008, meeting.)**

### **Staff Presentation**

Jack Jones, Director of Parks and Recreation, stated the current ordinance did not allow for the consumption of alcoholic beverages in Town parks. In order to do so, the Code of Ordinances must be amended, particularly at the Community Activity Center (CAC). The proposed ordinance provided for special requirements, including a \$500 deposit, one off-duty Flower Mound police officer for every 150 people, and a waiver of liability. He stated the Parks, Arts, and Library Services (PALS) Board recommended approval by a vote of 6-4. The opposition was in regard to allowing alcohol in the Community Activity Center. He noted the Town would not be serving, providing or selling alcohol - it would be brought in by the renters of the Center. He noted that the City of Lewisville allows the consumption of alcohol at their City Hall and at the Hedrick House.

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

Councilmember Lindsey asked if all the survey cities had been contacted.

Mr. Jones stated they only contacted certain ones, but would do a complete survey if necessary.

Councilmember Lindsey stated he did not see any information about children being around the alcohol.

Mr. Jones stated they could put in special rules regarding dates and times. He noted the multipurpose room was near the tot drop area. Alcohol would not be removed from the multipurpose room. Mr. Jones commented that the PALS Board members who voted against the proposed ordinance were concerned about liability. They also did not want alcohol at Gerault Park because of Andre Gerault's memory.

Councilmember Long asked about other cities that had approved this, and if it was allowed in an isolated room or was there a stand-alone building. She commented that someone might have had too much to drink and fall into the pool or say something inappropriate to a child. She preferred to see the alcohol in a separate building.

Mr. Jones stated Plano had a special events center where they allow beverages. Keller, Rowlett, and Denton do allow the consumption of alcoholic beverages in their recreation center.

Councilmember Filidoro stated he had spoken with PALS Board members, and Andre Gerault was against alcohol and that was part of their opposition. He asked if staff had determined how much more money would be generated with the inclusion of alcohol.

Mr. Jones estimated \$2000 - \$3000 a year.

Mayor Smith commented that the Town hoped to promote cultural arts at the CAC. Some people preferred to have wine during an art show or symphony or concert.

Deputy Mayor Pro Tem Trotter recalled the scope of the CAC, adding this was a focused

item from the 2002 bond package. This was an area that was a gathering point for the community - not a ball field. It was an outreach to the community, not a revenue generator. The Town wanted this to be a point where the community could come together for social functions, and he felt the Council needed to be able to provide the option for the CAC. He stated it was important to recoup the 50% of revenue stream that the CAC was costing the taxpayers. He stated if this was helping the facility to become a community center, he could look past the few events that might want alcohol in a particular room at the center.

Councilmember Lindsey stated when the Council talked about having alcohol at the Wild About Flower Mound Festival, they were careful to have controls in place. He felt there should be more discussion about hours and controls at the CAC. He did not think alcohol sales was the burning issue for the CAC. He stated he would like to see if there is a demand over the six months, and then address it at a later date.

Councilmember Long stated she had concerns that the consumption would be inside a building that was a community center, and many children would visit the center. She asked if this would be putting profit over safety. She asked staff to look at an isolated building as she was not in favor of this at this location. She suggested that art shows be done in Town Hall. She felt this matter was not an urgency.

Mayor Pro Tem Tasker asked if a set of operating rules for the CAC had been prepared.

Mr. Jones responded no.

Mayor Pro Tem Tasker stated he would like to see the set of rules of operation for the CAC and then look at the alcohol issue at that time. He stated he voted in favor of alcohol at the Festival, but the Town was putting that event on. He had no moral objection, but the logistics did not seem to be where they should be, adding he would not be voting in favor at this point.

Councilmember Filidoro stated staff had indicated that there were not many calls for rental space that provided for alcohol consumption. He noted the Mayor had a good point about the art shows, etc. He stated he **didn't** have a problem with enabling this as an option to see how the rentals fall out. He agreed with Councilmember Lindsey to allow some time to see if there was any interest.

### **Council Deliberation**

Mayor Smith summarized that the Council wanted to see the operation guidelines, hours of operation, possible hours of serving liquor, a floorplan where it might be allowed, and where a police officer would be stationed. This item could be reviewed again after the CAC opens.

Mayor Pro Tem Tasker moved to table this item indefinitely awaiting further information from staff. Councilmember Lindsey seconded the motion.

### **VOTE ON THE MOTION**

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

### **M. COORDINATION OF CALENDARS AND FUTURE AGENDAS/MEETINGS**

- April 7 - Councilmember Lindsey will be absent
- April 21 - Mayor Pro Tem Tasker will be absent
- July 7 - will address at a future date

The Council agreed to move to the work session at this time and Mayor Smith recessed the special meeting at 7:42 p.m.

**Q. CALL WORK SESSION TO ORDER**

Mayor Smith called the work session to order at 7:42 p.m.

**R. WORK SESSION ITEMS**

**13. Present and discuss a draft of proposed Town financial policies.**

Chief Financial Officer Chuck Springer gave the following presentation.





Councilmember Lindsey asked about advantages of adopting the policies and what the rating agencies liked to see.

Mr. Springer stated the rating agencies looked at debt ratio, fund balances, that a municipality adopted realistic policies, and to show progress.

Town Manager Harlan Jefferson stated the rating agencies cared more that cities had a plan than reasonable ratios.

Councilmember Lindsey asked how policies could be amended, and Mr. Springer responded it would take Council action.

Councilmember Long addressed rate adjustments for water/wastewater. If the Town increased rates, it was almost counter intuitive - the higher the cost, the lesser amount of usage. She asked how the Town looked at that to find the balance.

Mr. Springer stated the Town had a rate structure where the more water used, the higher the rate. Projections were based on this along with a spreadsheet. The Town wanted to make incremental changes along with inflation.

The consensus of the Council was to move forward with these policies.

**14. Discuss proposed amendments to the Town's tree ordinance, Chapter 94, "Vegetation."**

Jared Martin, Environmental Review Analyst, gave the following presentation.























Mayor Smith understood from the Environmental Conservation Commission (ECC) Chair , Gerald Robinson, that the Town was losing its tree canopy.

Mr. Martin stated that was a concern. The goal was to promote a 35% tree canopy across the Town. That was the goal of the tree mitigation requirement. Mr. Martin referred to the ECC urban forest definition (all trees and associated vegetation located within an urban area). He stated this could be planted, natural, healthy, unhealthy, and even unwanted growth. The Planning & Zoning Commission (P&Z) revised definition was “**all** planted trees and naturally occurring tree stands and associated vegetation in and around the Town that are managed to **provide the community with a continuing level of environmental, economic and social benefits.**”

Deputy Mayor Pro Tem Trotter stated the ECC recommended a definition of urban forest. He asked Mr. Martin to differentiate the Market Street site from the trees at FM 1171 and Bruton Orand.

Mr. Martin responded the two sites, without taking the Codes into consideration, were not much different. He noted the Bruton Orand site has had a residence on it for a long time, so from a habitat standpoint there is a difference on that site.

Deputy Mayor Pro Tem Trotter recalled that there was an urban forest designation on the Market Street site that was protected. Now the definition of urban forest would protect every site in the Town.

Mr. Martin stated the Master Plan called out areas for a tree preservation and urban forest zone. He stated it was trying to call out areas within the **Town's** urban forest that were special preservation zones, and they had a special value attached to them.

Councilmember Long stated the purpose of this was to state there was value in tree preservation and preserving the canopy throughout the Town.

Town Attorney Terry Welch commented, looking at both recommendations from the ECC and P&Z, if two trees were put together it would become an urban forest.

Councilmember Long referred to Attachment 1, Page 1, Item 1, and stated that gave value to trees the same as the definition of urban forest. She felt the rationale for trying to make a definition was because there had been issues with the definition in the past.

Deputy Mayor Pro Tem Trotter felt the definitions diluted the remaining urban forest in the Town.

Councilmember Filidoro commented if the urban forest was everywhere, then it was nowhere.

Mayor Smith stated it appeared the urban forest definition did not make any sense and it should be deleted.

Mr. Martin stated urban forestry was protecting the trees and making sure they flourish.

Mayor Pro Tem Tasker clarified that Mr. Martin had explained that the urban forest really had no impact on the operation of the rest of the ordinance.

Mr. Martin stated there was not a measurable criteria.

Mayor Pro Tem Tasker stated all it did was cause confusion. It only invited ambiguity and abuse of the ordinance. He stated he would not support an urban forest definition. He stated he would like to see Recital 3 in the P&Z recommendation and Recital 2 in the ECC recommendation removed. He stated they did not make sense.

Councilmember Long felt the rationale was because they recognized there was ambiguity in the Master Plan definition. She felt they were trying to help make an urban forest definition mean something because others were struggling with it. Maybe there was something unique about the identified zones. Maybe it was the ancient trees and the large size of the post oaks. She felt the trees had value and the Town should try to preserve that.

Deputy Mayor Pro Tem Trotter asked if the ECC was recommending to never build in an area with an urban forest. He asked how they were applying the ordinance.

Councilmember Filidoro stated he would like to have an urban forest definition, however the problem was that not everyone had the same ideas for a definition.

Mayor Pro Tem Tasker stated the problem was that it was not used anywhere else in the ordinance. He asked what consideration was given to the land that was still available in Flower Mound, and what kind of tree coverage was on the existing open space.

Mr. Martin stated staff looked at a few development sites that were currently proposed but not yet approved. On a heavily treed site to the west there could be a large group of dense trees, however sometimes trees were not very big. He did not know if the ordinance would have a huge affect regarding specimen trees. It was possible for protected trees. There were sites where there is a rare stand of large trees (Chinn Chapel and FM 407). Had the proposed ordinance been in effect, it could have a significant affect on buildable area of that particular site.

Mayor Pro Tem Tasker stated the land use map showed what can go where. He asked if an analysis had been done on the current uses for land, that had not yet been developed. He asked if staff had taken into consideration how much land would be impacted.

Mr. Martin responded yes. The Lakeside Business District had Planned Development zoning on much of the area, however it would fall under the current ordinance. He stated there were not many trees in the Denton Creek District. The Cross Timbers Protection Area would be most impacted. If done properly, it would promote conservation development districts.

Mayor Pro Tem Tasker stated if the Town could promote conservation in the Cross Timbers, rather than just punish for development. He asked if a tree had to be mitigated for if it was in a detention or retention area. He asked if any members of the development community had helped with the draft ordinance.

Mr. Martin stated they would not be penalized if they saved the trees. If someone built a pond and took out trees, they would have to mitigate for the trees. Another option would be to do underground detention. Mr. Martin stated he received feedback from only one person from the development community. He commented that no stakeholders group was utilized.

Mayor Pro Tem Tasker stated that the impetus of the proposed changes came from the ECC, not the Town Council. He asked what the current tree canopy was in Flower Mound.

Mr. Martin stated the American Forests study looked at satellite imagery and they came

back with 28%. The Town used an aerial photo (2001) approach and the number was between 31% and 32%.

Mayor Pro Tem Tasker asked if there was a distinction drawn between residential and commercial.

Mr. Martin replied no, however it could be determined.

Mayor Pro Tem Tasker asked if there were any projections of tree canopy with the current ordinance in the next five years.

Mr. Martin stated staff could probably do that type of calculation.

Mayor Pro Tem Tasker asked for clarification if someone put in multiple trees, wouldn't it make a larger canopy, and Mr. Martin responded yes.

Mayor Pro Tem Tasker asked if the Town knew that the tree canopy was declining.

Mr. Martin stated they had enough evidence since 1995 that it was going down somewhat.

Mayor Pro Tem Tasker clarified that residents can cut down trees in their yard with no penalty. He referred to #9 on the ECC list and #10 on the P&Z list, and stated the entire Town was not country. He saw no language about fostering a vibrant economic environment. He stated the Town Council's job was to balance country and economic development. He stated he would like to reach out to the development community some more, and have additional discussion about the impact on development. He had many reservations with the proposed ordinance.

Deputy Mayor Pro Tem Trotter stated the main goal was not the urban forest - it was to maintain tree canopy. He suggested having mitigation for protected trees, like specimen trees.

Mr. Martin stated some of the changes cleared up regulatory issues from staff's perspective. The buildable area requirements were clarified.

Deputy Mayor Pro Tem Trotter commented it would have been an easier acceptance if there had been a recommendation for amendments rather than a new tree ordinance.

Councilmember Long asked how often someone waived all mitigation with regard to park land dedication.

Town Manager Harlan Jefferson responded that he did not recall it had ever happened.

Councilmember Long stated the intent of parkland dedication was to allow for balance. She stated as residential units are added in the Town, the Town wanted to provide for a balance so that so much of the open space land and parkland were not lost. She was grateful that the ECC recognized the problems with the tree ordinance, and she added that the members were appointed by the Council. Councilmember Long stated thousands of trees were being removed in the Town, and the ECC recognized that because they deal with these issues regularly at their meetings. She stated the ECC made a recommendation to the Town Council, and she thanked them for bringing it forward. Councilmember Long stated if the Council had a process that worked successfully with parkland, it could be mirrored with the tree ordinance. She stated

developers were still developing even with the parkland dedication ordinance. She stated if the Council was going to change the ordinance, they must change the buildable area portion, because there was no balance. She felt the existing ordinance was providing an incentive to overbuild. She asked that the ordinance be moved forward for a vote at the next meeting. Councilmember Long stated the intent of preservation was to preserve as much open space as possible and keep the Town what it was. She stated the Town should be increasing tree canopy, not just preserving it at the 35% level. She stated with development, pollution was increased, and the Council had to consider the health, safety and welfare for the residents. She felt there needed to be something in the ordinance that provided for open space for trees. Councilmember Long stated she did not want to over-burden developers, however the current ordinance promoted more concrete.

Mayor Smith stated the buildable area mitigation was a wonderful idea. The problem was that there were standards in the Town that actually takes property away from the developer so it is not usable.

Mayor Pro Tem Tasker stated the proposed ordinance did not take into consideration the realities of business - it only addressed conservation. He felt that developers' feedback should be taken into consideration.

Mayor Smith stated the Council made a mistake that this was not initiated by Council. She stated it was hard to do a work session with two recommendations (ECC and P&Z). She was not ready to bring this forward for a vote. She stated everyone wanted to protect native or established trees. She commented that park land dedication only occurred with residential. She noted that trees were important to developers too.

Councilmember Long stated the P&Z and ECC wanted this ordinance to move forward. She stated there was consensus about removing the urban forest from where it was in the ordinance.

Mayor Pro Tem Tasker felt there was a great deal more information that needed to be given.

Deputy Mayor Pro Trotter stated it was probably not healthy to bring this forward at this time. He suggested that each member of the Council dissect this, review the 1993 ordinance, the two recommendations, and then the Council could make recommendations. He asked for another work session.

Mayor Pro Tem Tasker stated the Council should only act when there was a necessity for an ordinance. He questioned if the tree ordinance needed to be addressed. He asked for an analysis on what the tree canopy is going to be in the next few years under the current ordinance.

Mayor Smith stated the current ordinance was 15 years old already. Roads were being widened throughout the Town. She asked if there was an opportunity for businesses to do mitigation on another piece of property. She stated hopefully a land trust will provide another important tool. She suggested that she and two councilmembers meet with the Town Manager to work on this. She also suggested a stakeholders group and summarized that the Council would look at this at a later date.

**S. ADJOURNMENT - WORK SESSION**

Mayor Smith adjourned the work session at 10:11 p.m. on March 27, 2008 and all were in favor. The special meeting was reconvened at 10:11 p.m.

**N./O. CLOSED/OPEN MEETING**

The Town Council convened into a closed meeting at 10:11 pm on March 27, 2008 pursuant to Texas Government Code Sections 551.071, 551.072, and 551.087 to discuss matters relating to consultation with Town Attorney, pending litigation, real property, and economic development negotiations and reconvened into an open meeting at 11:53 p.m. on March 27, 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 James Curtis Sanford and Susan Sanford v. Town of Flower Mound, Cause No. 2006-20344-158, pending in the 158<sup>th</sup> Judicial District Court of Denton County, Texas.

No action taken.

**P. ADJOURN SPECIAL MEETING**

Mayor Smith adjourned the special meeting at 11:54 p.m. on March 27, 2008 and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

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JODY SMITH, MAYOR

ATTEST:

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PAULA J. PASCHAL, TOWN SECRETARY

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