

THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 5TH DAY OF MAY 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
Kent Collins	Town Engineer
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 6:07 p.m.

B. BRIEFING SESSION

1. Mayor and Town Council Liaison Reports

Councilmember Filidoro stated the next Oil and Gas Board of Appeals meeting would be held in June.

Councilmember Long stated staff met with Keep Flower Mound Beautiful representatives and both were working toward resolution of an agreement.

Mayor Pro Tem Tasker stated the SMARTGrowth Commission was preparing a report for the Town Council.

Deputy Mayor Pro Tem Trotter stated the Environmental Conservation Commission's next meeting would be held in June.

Mayor Smith stated the Animal Services Board needed a veterinarian as a member.

2. Discuss Pending Issues

a. Council Communications

- Proposed amendments to the Town's tree ordinance.

Town Manager Harlan Jefferson stated staff had provided a summary of the proposed tree ordinance changes, and a comparison of the recommendations made by the Environmental

Conservation Commission, the Planning & Zoning Commission, and staff. The plan was to bring the proposed ordinance to the May 19 meeting for consideration, however if the Council preferred, they could talk about it at a future work session.

Mayor Smith stated she would rather do the review in a work session environment.

Mr. Jefferson stated it could be added to the May 29 work session agenda.

Councilmember Long asked if there was any reason why the Council could not go through the summary so the community could hear what was being proposed.

The consensus was to move this item to a work session that would be added to the agenda of the May 19 meeting.

3. Comments on Consent and Regular Items

Mayor Pro Tem Tasker asked that the minutes be removed from the Consent Agenda as he was absent from that meeting.

4. Discuss Future Agenda Items

C. ADJOURN BRIEFING SESSION

D. CALL REGULAR MEETING TO ORDER

Mayor Smith called the regular meeting to order at 6:19 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.

The consensus of the Council was to move to Presentations at this time.

H. PRESENTATIONS

Proclamation - Director of Public Works Ken Parr accepted a proclamation for National Transportation Week, May 11-17, 2008.

Proclamation - Several motorcyclists were present to accept a proclamation for Motorcycle Safety and Awareness Month (May 2008).

Presentation - Destination Imagination

Mayor Smith presented proclamations to the Destination Imagination team members from Donald Elementary and the two volunteer managers. The team will be traveling to Tennessee later in the month to compete in the Global World Competition. The members of the team are Justin Suess, Alec Templer, Justin Ansell, Amanda Fleck, Timothy Walker, and Emily

Wells; and the team is managed by volunteers Ellen Templer and Jayne Suess.

Community Activity Center Presentation

Recreation Manager Chuck Jennings and Community Activity Center (CAC) Manager Jason Brown gave a presentation about the opening of the CAC. Charter memberships will be sold until June 20. A VIP grand opening and ribbon cutting will be held that evening. The public grand opening will be June 21. Mayor Smith presented former Councilmember Paul Stone with the first Charter membership card.

G. PUBLIC PARTICIPTION

Barbara Etter, 4401 Trotter Lane, Flower Mound

Ms. Etter made a presentation using a Google Earth map, showing the distances from existing wells to the homes of several members of the Council. She noted all of the homes were in excess of the 1,000 foot minimum setback. She asked for the Council to re-address the ordinance along with a review of the waiver portions.

Steve Gilbreath, 630 Dove Trail, Copper Canyon

Mr. Gilbreath stated he received a response from the Mayor to his email and a copy of the Power Point presentation shown to staff and the Council regarding TMRS. He stated inflation was low, but food, fuel and other things were inflated. The people hit the hardest were retirees on fixed incomes. One of the slides sent to him talked about the benefit that was added for current employees. His research showed there would have not been any additional debt to the Town regarding the yearly COLAs for retirees. He stated Flower Mound was the only municipality that had dropped that benefit. He distributed information to the Town Council.

Mel Rapp, 916 Plantation Drive, De Soto

Mr. Rapp stated he was the Parks and Recreation Director for Flower Mound between 1986 and 1998, and he had many fond memories of those years. Mr. Rapp stated he and others spent many hours in meetings and special events for the Town. He stated he was disappointed that retirees were not contacted about the removal of the COLA benefit. He noted at the City of DeSoto, every retiree was sent a letter about retiree benefits, and many meetings were held. He added that DeSoto hired a consultant to look at the TMRS benefits, and he noted that DeSoto's City Manager said they had a moral obligation to the retirees of that city.

Jan Thompson, 914 Hillside Lane, Flower Mound

Ms. Thompson thanked Councilmember Laurie Long for her service on the Council. She hoped the citizens would consider environmental issues during the election.

Peggie Kimberlin, 3400 Mesa Drive, Flower Mound

Ms. Kimberlin thanked Councilmember Long for her service. She stated Councilmember Long had not been swayed by any outside sources and had the **citizens' interests** at heart.

Enya He, 1316 Lakehurst Drive, Flower Mound

Ms. He stated she had been searching for common sense in the community. She asked how much development cost in terms of traffic and environmental issues.

Carol Kohankie, 4312 Lauren Way, Flower Mound

Ms. Kohankie stated she was troubled with the comparison of Steve Dixon and Al Filidoro on **Mr. Dixon's** website.

Jan Balekian, 5100 Cross Timbers, Flower Mound

Ms. Balekian announced a fundraiser for St. Jude's Hospital on May 31 at the Flower Mound Pumpkin Patch. The event was in conjunction with Chili's. A \$5 donation would be accepted at the gate.

Patti Fennessey, 1804 Castle Court, Flower Mound

Ms. Fennessey thanked the Town for putting the candidate debate on the cable channel. She stated she would like to see other boards and commissions meetings on the television. She expressed appreciation to Councilmember Long for her accomplishments while on Town Council, noting she always returned phone calls and emails.

Sylvia Inboden, 2017 Brookville Lane, Flower Mound

Ms. Inboden stated she had talked to many people over the last four weeks, and they indicated they wanted a hospital in Flower Mound. She stated the hospital wanted to be on the River Walk site, not in the Lakeside Business District. She stated the River Walk project was a unique opportunity to create a downtown, and the developer was a citizen that loved the Town. She spoke in favor of electing Steve Dixon and Jean Levenick.

Jean Levenick, 2716 Gentle Drive, Flower Mound

Ms. Levenick stated she was running for Town Council Place 4 and encouraged everyone to vote. She gave her reasons for running for Council.

Patsy Mizeur, 1821 Castle Court, Flower Mound

Ms. Mizeur, president of Flower Mound Voters For Conservative Spending, expressed her opinion of gas drilling in Flower Mound, stating residents had a right to sign leases.

I. MAYORAL/COUNCILMEMBER ANNOUNCEMENTS

Deputy Mayor Pro Tem Trotter stated it was great to see Mel Rapp this evening. He stated Flower Mound had citizens who were passionate about many topics. He encouraged everyone to talk to the candidates directly and find out what was going on in Flower Mound.

Mayor Pro Tem Tasker congratulated the members of the Destination Imagination team from Donald Elementary. He encouraged people to take the time to read the ordinance for oil and gas drilling.

Councilmember Long congratulated the Donald Elementary School Destination Imagination team. She thanked the citizens who purchased books at the Friends of the Flower Mound Library book sale. She encouraged everyone to get to know the candidates and then vote. She thanked the citizens who acknowledged her during Public Participation and she thanked the citizens of the Town for providing her the opportunity to serve on the Town Council.

Councilmember Filidoro acknowledged motorcycle safety, noting he was a rider himself. Regarding Code Enforcement, he stated he had ridden around the town with resident Ron Caron and noted areas of concern. Councilmember Filidoro referred to an article in the Flower Mound Leader last week about the cell phone ban in school zones and the related fines. He stated some residents received tickets and the fine/court costs were too high. Councilmember Filidoro stated the Town Manager had taken care of the situation.

Mayor Smith encouraged everyone to look at the March 5, 2007 agenda packet at the oil and gas drilling ordinance. At that time, she had stated the ordinance would be reviewed

annually. She clarified that the Town was not making a great deal of money on drilling. Mayor Smith stated politics in Flower Mound was alive. She thanked Jean Levenick for gathering information for the recent Mayor's Resident Advisory Group meeting regarding Code Enforcement. Mayor Smith stated staff had recently held a successful meeting with the Keep Flower Mound Beautiful representatives. She also announced that on May 16-17, she and her husband were supporting a Relay For Life Team, benefiting the American Cancer Society.

J. YOUTH ACTION COUNCIL REPORT

Brooke Davis and Megha Pulianda noted the Youth Action Council and the Town of Flower Mound sponsored the Rock The Mound concert in April. They thanked the Town for the support received, and hoped the concert would become a tradition.

K. TOWN MANAGER REPORT

Town Manager Harlan Jefferson stated a separate information line, 972.874.6555, had been set up for Code Red, and he encouraged everyone to sign up. Mr. Jefferson stated when the cell phone ordinance (in school zones) was brought forward, the Police Chief made a recommendation of \$75 for the fine. The Municipal Court Judge actually sets the amounts of fines, and as a result there was miscommunication about this, and people were charged \$150 plus court costs. On May 1, the Judge issued an order setting the fine at \$75, other than for aggravated offenses. He stated the Town would issue courtesy checks for those who were issued fines of \$150.

Mayor Smith announced that Super Bowl XLV would be held at the new Dallas Cowboys Stadium in Irving in February 2011.

L. CONSENT ITEMS

Deputy Mayor Pro Tem Trotter made a motion to approve by consent. Items 2, 3, 4, 5, 6, 7, 8, and 9. Mayor Pro Tem Tasker seconded the motion. Each item, as approved by consent, is restated below along with the approved recommendation for each, for the record.

- 1. Consider approval of minutes from a regular meeting of the Town Council held on April 21, 2008.**

This item was removed from the Consent Agenda by Mayor Pro Tem Tasker.

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

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

- 3. 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 Timber Way,**

Timber Trail, Timberland Parkway, and Timber Park Drive to 25 mph.

RECOMMENDATION: Approve Ordinance No. 30-08 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 Timber Way, Timber Trail, Timberland Parkway, and Timber Park Drive to 25 mph. The caption of the ordinance reads as follows:

ORDINANCE NO. 30-08

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 PUBLICATIOIN; AND PROVIDING AN EFFECTIVE DATE.

4. **Consider the award of Bid #2408-B FM 2499 Section 2 Sound Wall Phase 1 - Estates at Creekwood and Surrey Woods, to the lowest responsible bidder, PremierCrete Products, LLC, in the amount of \$118,690.50, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve the award of Bid #2408-B FM 2499 Section 2 Sound Wall Phase 1 - Estates at Creekwood and Surrey Woods, to the lowest responsible bidder, PremierCrete Products, LLC, in the amount of \$118,690.50, and authorize the Mayor to execute same on behalf of the Town.

5. **Consider approval of an agreement between the Town of Flower Mound and Archer Western Contractors, Ltd., in regards to the Western Pump Station project, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve an agreement between the Town of Flower Mound and Archer Western Contractors, Ltd., in regards to the Western Pump Station project, and authorize the Mayor to execute same on behalf of the Town.

6. **Consider approval of an agreement with Kimley-Horn Associates, Inc. to provide professional engineering design services associated with the Lusk Lane 20-inch Water Line and Waketon Road 16-inch Water Line projects in the amount of \$107,900.00, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve an agreement with Kimley-Horn Associates, Inc. to provide professional engineering design services associated with the Lusk Lane 20-inch Water Line and Waketon Road 16-inch Water Line projects in the amount of \$107,900.00, and authorize the Mayor to execute same on behalf of the Town.

7. **Consider approval of Amendment No. 3 to the FY 2007-2008 Capital Improvement Program.**

RECOMMENDATION: Approve Amendment No. 3 to the FY 2007-2008 Capital Improvement Program.

8. **Consider approval of Change Order No. 5 and final acceptance of the project for the**

construction of Spinks Road Phase II, from Aberdeen to Gerault Road, amending the contract with RKM Utility Services, Inc., for a decrease in the amount of \$45,994.80; acceptance of the project; authorization for final payment to RKM Utility Services, Inc., in the amount of \$79,708.79; and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve Change Order No. 5 and final acceptance of the project for the construction of Spinks Road Phase II, from Aberdeen to Gerault Road, amending the contract with RKM Utility Services, Inc., for a decrease in the amount of \$45,994.80; acceptance of the project; authorize final payment to RKM Utility Services, Inc., in the amount of \$79,708.79; and authorize the Mayor to execute same on behalf of the Town.

- 9. Consider award of the construction contract for Bid #2108-B 2008 Street Reconstruction - Churchill Drive Project, from FM 1171 to Oxford Lane, to Goteck Enterprises, LLC, in the amount of \$326,111.50, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve the construction contract for Bid #2108-B 2008 Street Reconstruction - Churchill Drive Project, from FM 1171 to Oxford Lane, to Goteck Enterprises, LLC, in the amount of \$326,111.50, and authorize the Mayor to execute same on behalf of the Town.

VOTE ON THE MOTION

AYES: Lindsey, Trotter, Tasker, Long, Filidoro

NAYS: None

M. REGULAR ITEMS

- 1. Consider approval of minutes from a regular meeting of the Town Council held on April 21, 2008. (This item was removed from the Consent Agenda by Mayor Pro Tem Tasker.)**

Mayor Pro Tem Tasker was absent from the April 21 meeting, and desired to abstain from the vote.

Deputy Mayor Pro Tem Trotter moved to approve the minutes from a regular meeting of the Town Council held on April 21, 2008. Councilmember Long seconded the motion.

VOTE ON THE MOTION

AYES: Filidoro, Long, Trotter, Lindsey

NAYS: None

ABSTAIN: Tasker

Mayor Smith opened Items 10, 11 and 12.

- 10. Public Hearing to consider a request to amend the Chapter 380 Partnership Agreement with Hines Interests Limited Partnership providing for incentives for the economic development of Flower Mound and the Lakeside Business District, and authorization for the Mayor to execute same on behalf of the Town.**

11. **MPA 01-08 Lakeside Resort and Residences**
Public Hearing to consider a request to amend Section 1.0 Land Use Area Plan Districts and Section 2.0 Area Plans - Lakeside Business District (MPA 01-08 - Lakeside Resort and Residences), of Master Plan 2001, to allow for residential uses within a hotel development or a mixed-use development, and to consider adopting an ordinance providing for said amendment. (The Planning and Zoning Commission recommended approval by a vote of 4 to 2 at its April 14, 2008, meeting.)
12. **ZPD 02-08 Lakeside Resort and Residences**
Public Hearing to consider a request for rezoning (ZPD 02-08 - Lakeside Resort and Residences), to amend Planned Development District-39 (PD-39) with Commercial District-2 (C-2) uses to add Multi-family (MF) as an allowable use on approximately 2 acres of land within the site, and to consider adopting an ordinance providing for said amendment. The 9.0-acre site, zoned Planned Development District-39 (PD-39) with Commercial District-2 (C-2) uses, is located at 2900 Lakeside Parkway. (The Planning and Zoning Commission recommended approval by a vote of 4 to 2 at its April 14, 2008, meeting.)

Staff Presentation

Doug Powell, Executive Director of Development Services, stated Travis Overall with Hines asked that the items be tabled, as he was not able to travel from Houston for this meeting . He asked that they be moved to the June 2, 2008 meeting.

Mayor Smith stated she had heard concerns from other councilmembers about the ability to tie this zoning solely to the 9-acre site.

Town Attorney Terry Welch stated a draft motion was ready for the next meeting, and the language read as follows: Move to approve a request to amend Section 1.0 Land Use Area Plan Districts and Section 2.0 Area Plans Lakeside Business District, MPA 01-08, Lakeside Resort and Residences and Master Plan 2001 to allow for residential uses in the form of a luxury condominium tower within a four star hotel development to be located at 2900 Lakeside Parkway on an approximate 9-acre tract with an approximate 2-acre portion of the tract to be utilized for such luxury condominium tower and to adopt an ordinance providing for said amendment. He also noted the elevations of the other drawings that were submitted to the Town would be attached as an amendment to the Chapter 380 agreement.

Councilmember Lindsey moved to table Items 10, 11, and 12 to the June 2, 2008 meeting. Mayor Pro Tem Tasker seconded the motion.

VOTE ON THE MOTION

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

N. COORDINATION OF CALENDARS AND FUTURE AGENDAS/MEETINGS

- May 19 - regular meeting and canvass of the election
- May 29 - budget work session

O./P. CLOSED/OPEN MEETING

The Town Council convened into a closed meeting at 8:08 pm on May 5, 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 8:17 p.m. on May 5, 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.

Q. ADJOURN REGULAR MEETING

Mayor Smith adjourned the regular meeting at 8:18 p.m. on May 5, 2008 and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

JODY SMITH, MAYOR

ATTEST:

PAULA PASCHAL, TOWN SECRETARY