

THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 20TH DAY OF JULY 2009 IN THE FLOWER MOUND TOWN HALL, LOCATED AT 2121 CROSS TIMBERS ROAD IN THE TOWN OF FLOWER MOUND, COUNTY OF DENTON, TEXAS AT 6:00 P.M.

The Town Council met in a regular meeting with the following members present:

Jody Smith	Mayor
Jean Levenick	Mayor Pro Tem
Steve Dixon	Deputy Mayor Pro Tem
Al Filidoro	Councilmember Place 2
Mike Wallace	Councilmember Place 3
Tom Hayden	Councilmember Place 5

constituting a quorum with the following members of the Town Staff participating:

Harlan Jefferson	Town Manager
Paula Paschal	Town Secretary
Terry Welch	Town Attorney
Kent Collins	Assistant Town Manager
Chuck Springer	Assistant Town Manager/Chief Financial Officer
Kenny Brooker	Police Chief
Eric Metzger	Fire Chief
Doug Powell	Executive Director of Development Services

A. CALL BRIEFING SESSION TO ORDER

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

B. BRIEFING SESSION

1. Town Council Boards and Commissions Liaison Reports.

Mayor Smith announced that the Planning & Zoning Commission discussed the master plan for the Coram Deo Academy and their request for additions to the buildings was approved. She noted that Coram Deo had moved the portable buildings on time.

Councilmember Wallace noted that the Parks, Arts, and Library Services Board met on June 25 and recommended approval of youth sports agreements for basketball and volleyball. He added that the Board of Adjustment was still having quorum issues.

Councilmember Hayden stated the Environmental Conservation Commission had discussed a Town land trust and environmental policies.

2. Discuss Consent and Regular Items - no discussion

3. Discuss Future Agenda Items - no discussion

4. Discuss Council Communications.

Town Manager Harlan Jefferson stated staff was in receipt of responses from several councilmembers regarding compatibility fences near schools, and this topic would be placed on a future Council work session.

C./D. ADJOURN BRIEFING SESSION AND CALL REGULAR MEETING TO ORDER

Mayor Smith adjourned the briefing session and called the regular meeting to order at 6:11 p.m.

E. INVOCATION

Chaplain Phil Cook gave the Invocation.

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

- Flag Ceremony - performed by Boy Scout Troop 709.

G. PUBLIC PARTICIPATION

Steve Lyda, 3128 Sheryl Drive, Flower Mound

Mr. Lyda complimented the Town on its response to the removal of the tornado debris.

Elizabeth Covington, 2845 London Lane, Flower Mound

Ms. Covington welcomed the new councilmembers, and also thanked the Town for their responses to the tornado debris. She was pleased with the fireworks show on July 4. She requested that the Council put a dog park back on the CIP and Parks Master Plan, however she did understand the current economic situation. She stated she would like to begin working on fundraising for a dog park.

Mayor Smith commented that the Town had absorbed the costs of the cleanup and she sent kudos to all the staff who had worked so hard. She noted the dog park was removed from the CIP, however the Town was working on a Parks Master Plan at this time.

Councilmember Filidoro asked Ms. Covington if land was set aside, would her group raise money for a temporary dog park.

Ms. Covington stated they would begin to raise money.

Mayor Smith encouraged Ms. Covington to participate in the focus groups for the Parks Master Plan.

Rick Cleland, 2509 Harvard Drive, Flower Mound

Mr. Cleland congratulated the new councilmembers and thanked them for running positive campaigns. He challenged the members of the Council to email him at least once a month with updates about the Town, particularly Councilmember Filidoro and Mayor Pro Tem Levenick. He asked the local **homeowners'** associations to invite the Town Council to their meetings in an effort to make government open and transparent. He presented copies of his most recent published book to the Mayor, Town Council, Town Manager, and Town Secretary.

Carl Breinenich, 5410 Gregory, Flower Mound

Mr. Breinenich commented on the recent improvements to Kirkpatrick. He understood from staff that the concrete barrier retaining wall on the south side was supposed to extend to Timbercreek, however it had not been built that way. He noted that a telephone line had been dug up and was left hanging on his fence. He also understood that the replacement grass would be sod, but it had actually been sprayed on.

Paul Stone, 709 Lake Bluff Drive, Flower Mound

Mr. Stone sent kudos to the Town for providing a high level of service to the community after the tornado. He thanked the Town for the Independence Day festivities. He thanked the Council and staff for all they did with the Morriss Road issue. Mr. Stone congratulated the Town on being recognized by Forbes Magazine to be ranked 6th in the nation for relocations.

H. PRESENTATIONS

- **Certificate of Achievement - Eagle Scout Nathan Shurtleff**

Mayor Smith and former Councilmember Paul Stone presented a Certificate of Achievement to Eagle Scout Nathan Shurtleff.

- **Proclamation - Recreation and Parks Month**

Mayor Smith read the proclamation for Recreation and Parks Month and presented it to Chuck Jennings, Recreation Superintendent.

I. ANNOUNCEMENTS

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

Mayor Smith stated she and Councilmember Wallace held a meeting with staff regarding green initiatives. She, Mayor Pro Tem Levenick and Councilmember Hayden recently met with the officers of Seniors in Motion. She encouraged adults in the community to be mentors for the youth, as there had been several accidents involving young adults recently.

Councilmember Wallace announced that Fiesta Flower Mound (Chamber of Commerce) was scheduled for October 3 at Texas Motor Speedway, noting it was a great way to support the Chamber and area businesses.

Councilmember Hayden recently attended an environmental seminar hosted by Congressman Michael Burgess. He suggested that the Town possibly host something similar in the future.

J. SENIORS IN MOTION REPORT - DENIS TOTH

- **Update on membership, programs, trips, facilities, volunteer activities.**

Denis Toth, 2020 Skelton, Flower Mound, president, Seniors in Motion Program

Mr. Toth made the following presentation to the Town Council.

Mayor, council representatives, good evening. My name is Denis Toth and my address is 2020 Skelton St. I am currently President of the SIM Advisory committee. I thank you for this opportunity to provide you with a review of our Seniors In Motion program, simply referred to as SIM.

VOLUNTEERING

My first area of review deals with our volunteer activities. While President Barack Obama and first lady Michelle Obama have recently announced the "United We Serve" initiative, hoping to increase volunteering in the U.S. we, Seniors in Motion members have been "IN MOTION" since our inception.

Last year I reported the seniors delivered approx. 2,400 volunteer hrs. in the year 2007, (with little emphasis on reporting).

This year I'm pleased to report for 2008 we totaled over 7,400 hrs! (with a little bit better reporting). This total breaks down accordingly--within our own community, 2,200 hrs. The remaining 5,200 hrs. were distributed through out our region.

If you Google '**value of volunteering**' many sites will point out that the Bureau of Labor Statistics, level the value of a volunteer hour at \$20.25. If you only take the 5,200 hrs we generated at areas like Baylor, Lewisville Hospital PediPlace, etc. that comes to a staggering \$105,300 we saved our region! Within our own community, we cook hotdogs, clean & scotchgard CAC chairs etc. for which I put an \$8 value per hr.- 2,200 hrs at \$8 per hour equals an additional \$17,600 plus the aforementioned \$105, 300, equals a grand total of \$122,900!

Some recipients of our service include: Town of Flower Mound, Lewisville & Baylor Grapevine Hosp. Pedi Place, CCA, RSVP, LISD, Denton Theatre, SIM Handyman program, Pinewood Hills, & others. **Let's** not forget the time we spend 'greeting the troops', 'reading to our children', 'collecting food for food banks' and our scholarship program. We also are in the process of establishing a 501(c)(3) fund raising program, to assist with our own future building needs.

We have recently announced a Transportation program in conjunction with RSVP to provide 'Transportation Dependent' FM seniors with complimentary transportation within FM. This may expand depending on the number of volunteers we recruit over time.

MOVING ON-----

MEMBERSHIP

At our current location, membership commenced with approx. 200 members. Within 12 months time our membership grew to approx. 600 according to our Program Spvr. Our largest contributing factor to our growth **is** the CAC!!! However, attendance since we initially occupied our room in the CAC has dwindled.

Let's compare attendance---FMCC (Flower Mound Community Church) vs. CAC. When we left FMCC we averaged 45 to 65 members in attendance. When we started our activities at the CAC we averaged 45 to 55 members. That number now averages about 38! The largest turnout at the FMCC was approx 140. We parked on the grass and stuck the folks in the hallways and narthex. At the CAC our largest turnout has been approx. 85 members. Not only was the parking almost non-existent, we had to pack the members in like sardines! I brought some pictures for you to see our 4th of July party and a MMOW Tuesday. These crowded conditions do **not** lend itself to continuous high attendance.

Who are our members? I'm guessing 75 to 85% are folks from afar, who wanted to move closer to their children and their families. The young residents of our town are responsible for our arrival and we are glad to be here also. We estimate there are approx. 6,000 seniors 65 and older presently residing in FM. We want to be considered and included in the Flower Mound family. I wanted to elaborate on the many values there are to having so many seniors in F.M. but, Paula politely asked me to keep my time under 10 minutes!!!

PROGRAMS

We have quite an array of programs. Our most popular ones include: card games of Hand & Foot, Pinochle and Texas Hold 'Em. Others programs like Dominos, Bunco, Pickleball, and Bingo are equally popular. Horseshoes started recently with a bang but the heat took care of that! Trips to casinos, shopping and plays are most popular.

Metroport meals are always a hit. Our Lunch and Learn programs are fun and informative. Tan

Parker in tandem with TXU recently put on a very informative and well attended program. Our Candidate Forums have become a popular program not to be missed.

We enjoy watching a movie occasionally, however no other activity can be going on in our room at that time! As has been mentioned numerous times in the past, in our small space you can't, effectively run simultaneous programs.

FACILITIES

The plan for the seniors to occupy the 'Golden Lounge' looked great and carried high expectations. We had maxed out our space at the FMCC. With a 2,000 sf. room at the CAC and as was stated 'you most likely will have a run of the entire CAC most of the year, including the 3,000 sf. across the hall!!!! it appeared it was 'good planning. Who would have guessed we'd grow so quickly!!! Who would have guessed the CAC would be so popular so soon as to need most all of the space with-in the building!!! Our 'net' space with-in the Golden Lounge is approx. 1,650 sf. Less than what we had at the FMCC. **It is important to consider** that approx. 50% of our members who are couples (approx 65% of our entire membership) are a 1 car family. It can become frustrating when one member of that family wants to attend a program starting at 9 a.m. and the other wants to do an activity starting at 11 a.m. and the first person then wants to go shopping immediately after conclusion of their program!!! So instead they can decide to go to another community's senior center where they can both partake in programs simultaneously!!! Our program is competing with a profit center for additional space!! Fundamentally, it is difficult to administer a viable senior program within a community recreation center.

Parking for our average attendance is adequate. However during summer, when the pool opens, parking becomes a problem. Our 'Limited Mobility' parking during the CAC busy hours is being used by various attendees, not just seniors.

SUMMARY

Our program is grappling with problems of adequate space, both parking and building. Publicity and support are often an issue we confront. On the positive side, very recently officers of SIM Advisory committee meet with several members of staff and town council members to exchange constructive ideas on how to move our program forward. Doug Brown, along with Jack Jones, had a productive meeting with Community Affairs Director, Michael Ryan, to help put our publicity on a higher plain. Communication is the key here and we anticipate more like discussions. Our proposed stand alone senior center currently is scheduled under the TIRZ area----years 2013 to 2018!! **That's** like an eternity to most seniors!! Money now is a major issue for us, as it is for many FM projects, but we've been in line for some time, just ask Shirley Voirin! Our goal is to progressively move upward towards our own center. What I'm referring to is that if we have to wait for a TIRZ location under the present projection, we must continuously move forward as necessary to provide an adequate senior center until we reach D day! The town has discussed various ways we can do that within the near future and we have some of our own!

The up coming Parks Master Plan hopefully will assist in our endeavor. This is a most important project for our town. I'm asking all citizens of Flower Mound, young and senior, to express your needs, wants and expectations in the surveys and forums to be announced soon. Town council representatives, please look favorably on our attempts to arrive at our home before the 2013/2018 timeline!! We will continue to serve our community in any way possible. All we ask our citizens for is **help** in our quest to have our own center where we can call it home, not just a room.

Mayor and council folks, thanks you for your service to our citizens. Thanks for your attention.

J. TOWN MANAGER'S REPORT

- **Update and status report related to operational issues, capital improvement projects, budget projections, grants, legislation, storm debris cleanup and regulatory activities.**

Town Manager Harlan Jefferson stated the bids for Fire Station #5 came in at \$4,983,000 (\$900,000 under budget). Regarding the July 4th fireworks show, several changes had been made in the program and staff was still concerned about debris on the southern end of the stadium. The celebration will be relocated to Bakersfield Park next year. He referred to the tornado on June 10 and stated the warning system did go off twice during the event. Staff deserved great kudos for the cleanup of the debris. He thanked the citizens for their patience during the cleanup.

L. CONSENT ITEMS

Deputy Mayor Pro Tem Dixon made a motion to approve by consent. Items 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 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 special meeting and work session of the Town Council held on May 21, 2009.**

RECOMMENDATION: Approve minutes from a special meeting and work session of the Town Council held on May 21, 2009.

- 2. Consider approval of minutes from a regular meeting of the Town Council held on June 15, 2009.**

RECOMMENDATION: Approve minutes from a regular meeting of the Town Council held on June 15, 2009.

- 3. Consider approval of a Local Agreement with the Tarrant County Criminal District Attorney's Office and the Flower Mound Police Department, regarding disposition of contraband seized and forfeited under Chapter 59 of the Texas Code of Criminal Procedure, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve a Local Agreement with the Tarrant County Criminal District Attorney's Office and the Flower Mound Police Department, regarding disposition of contraband seized and forfeited under Chapter 59 of the Texas Code of Criminal Procedure, and authorize the Mayor to execute same on behalf of the Town.

- 4. Consider approval of an Interlocal Cooperation Agreement with Denton County for the assessment and collection of ad valorem taxes for the period beginning October 1, 2009, and ending September 30, 2010, subject to renewal for an additional one-year term, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve an Interlocal Cooperation Agreement with Denton County for the assessment and collection of ad valorem taxes for the period beginning October 1, 2009, and ending September 30, 2010, subject to renewal for an additional one-year term, and authorize the Mayor to execute same on behalf of the Town.

- 5. Consider approval of an agreement with Solutions for Local Control, LLC for**

legislative consulting services from July 2009 through January 2011, and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve an agreement with Solutions for Local Control, LLC for legislative consulting services from July 2009 through January 2011, and authorize the Mayor to execute same on behalf of the Town.

- 6. Consider approval of Change Order No. 19, final acceptance for the construction of the Flower Mound Community Activity Center and final payment to the Contractor, Ratcliff Constructors, L.P., in the amount of \$56,123.76, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve Change Order No. 19, final acceptance for the construction of the Flower Mound Community Activity Center and final payment to the Contractor, Ratcliff Constructors, L.P., in the amount of \$56,123.76, and authorize the Mayor to execute same on behalf of the Town.

- 7. Consider approval of final acceptance for the FM 1171 Water Booster Pump Station project and final payment to the contractor, Red River Construction Company, in the amount of \$28,896.87, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve final acceptance for the FM 1171 Water Booster Pump Station project and final payment to the contractor, Red River Construction Company, in the amount of \$28,896.87, and authorize the Mayor to execute same on behalf of the Town.

- 8. Consider approval of Change Order No. 1 for the construction of Fire Station No. 4, amending the contract with C.R. Reynolds, Inc., for an increase in the amount of \$21,130.87, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve Change Order No. 1 for the construction of Fire Station No. 4, amending the contract with C.R. Reynolds, Inc., for an increase in the amount of \$21,130.87, and authorize the Mayor to execute same on behalf of the Town.

- 9. 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 limits for Brighton Drive and Cripple Creek Drive to 25 mph.**

RECOMMENDATION: Approve Ordinance No. 24-09 amending Chapter 66, Article V, Section 66-214 of the Code of Ordinances of the Town of Flower Mound relating to prima facie speed limits for specific streets by lowering the prima facie speed limits for Brighton Drive and Cripple Creek Drive to 25 mph. The caption of the ordinance reads as follows:

ORDINANCE NO. 24-09

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

10. Consider approval of Addendum No. 1 to the contract with Halff Associates, Inc., to provide professional engineering services associated with Garden Ridge Blvd. Phase III from FM 3040 to Spinks Rd., in the amount of \$24,963.00, and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve Addendum No. 1 to the contract with Halff Associates, Inc., to provide professional engineering services associated with Garden Ridge Blvd. Phase III from FM 3040 to Spinks Rd., in the amount of \$24,963.00, and authorize the Mayor to execute same on behalf of the Town.

11. Consider approval of Change Order No. 1 for construction of the 2009 Trail Connectors and Extensions project, amending the contract with Ratliff Hardscape, Ltd., for an increase in the amount of \$34,777.25, and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve Change Order No. 1 for construction of the 2009 Trail Connectors and Extensions project, amending the contract with Ratliff Hardscape, Ltd., for an increase in the amount of \$34,777.25, and authorize the Mayor to execute same on behalf of the Town.

12. Consider approval of Amendment No. 5 to the Fiscal Year 2008-2009 Capital Improvement Program.

RECOMMENDATION: Approve Amendment No. 5 to the Fiscal Year 2008-2009 Capital Improvement Program.

VOTE ON THE MOTION

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

M. REGULAR ITEMS

Mayor Smith opened Items 13 and 14.

13. Consider approval of an ordinance authorizing the issuance of the Town of Flower Mound, Texas, Certificates of Obligation, Series 2009, in the amount of \$3,635,000, and resolving other matters incident and related thereto.
14. Consider approval of an ordinance authorizing the issuance of the Town of Flower Mound, Texas, General Obligation Refunding Bonds, Series 2009, in the approximate amount of \$4,665,000, and resolving other matters incident and related thereto.

Staff Presentation

Jason Hughes and Boyd London, First Southwest Company

Mr. Hughes and Mr. London gave the following presentation.

Questions from the Governing Body and Answers

Councilmember Hayden asked about the selling concession.

Mr. Hughes responded for the CO's it was \$24,012.28 and for the refunding bonds it was \$28,946.46.

Councilmember Hayden asked how many companies bid on the issuance, and Mr. Hughes responded two.

Council Deliberation

Deputy Mayor Pro Tem Dixon moved to Ordinance No. 25-09 authorizing the issuance of the Town of Flower Mound, Texas, Certificates of Obligation, Series 2009, in the amount of \$3,635,000, and resolving other matters incident and related thereto. Mayor Pro Tem Levenick seconded the motion. The caption of the ordinance reads as follows:

ORDINANCE NO. 25-09

AN ORDINANCE AUTHORIZING THE ISSUANCE OF "TOWN OF FLOWER MOUND, TEXAS, CERTIFICATES OF OBLIGATION, SERIES 2009"; PROVIDING FOR THE PAYMENT OF SAID CERTIFICATES OF OBLIGATION BY THE LEVY OF AN AD VALOREM TAX UPON ALL TAXABLE PROPERTY WITHIN THE TOWN AND A LIMITED PLEDGE OF THE NET REVENUES DERIVED FROM THE OPERATION OF THE TOWN'S WATERWORKS AND SEWER SYSTEM; PROVIDING THE TERMS AND CONDITIONS OF SUCH CERTIFICATES AND RESOLVING OTHER MATTERS INCIDENT AND RELATING TO THE ISSUANCE, PAYMENT, SECURITY, SALE AND DELIVERY OF SAID CERTIFICATES, INCLUDING THE APPROVAL AND EXECUTION OF A PAYING AGENT/REGISTRAR AGREEMENT AND THE APPROVAL AND DISTRIBUTION OF AN OFFICIAL STATEMENT PERTAINING THERETO; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON THE MOTION

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

Council Deliberation

Councilmember Wallace moved to Ordinance No. 26-09 authorizing the issuance of the Town of Flower Mound, Texas, General Obligation Refunding Bonds, Series 2009, in the approximate amount of \$4,665,000, and resolving other matters incident and related thereto. Councilmember Filidoro seconded the motion. The caption of the ordinance reads as follows:

ORDINANCE NO. 26-09

AN ORDINANCE AUTHORIZING THE ISSUANCE OF "TOWN OF FLOWER MOUND, TEXAS, GENERAL OBLIGATION REFUNDING BONDS, SERIES 2009"; SPECIFYING THE TERMS AND FEATURES OF SAID BONDS; LEVYING A CONTINUING DIRECT ANNUAL AD VALOREM TAX FOR THE PAYMENT OF SAID BONDS; PROVIDING FOR THE

REDEMPTION OF CERTAIN OUTSTANDING OBLIGATIONS OF THE TOWN; AND RESOLVING OTHER MATTERS INCIDENT AND RELATED TO THE ISSUANCE, SALE, PAYMENT AND DELIVERY OF SAID BONDS, INCLUDING THE APPROVAL AND EXECUTION OF A PAYING AGENT/REGISTRAR AGREEMENT, A PURCHASE AGREEMENT AND A ESCROW AGREEMENT AND THE APPROVAL AND DISTRIBUTION OF AN OFFICIAL STATEMENT; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON THE MOTION

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

Mayor Smith opened items 15, 16, and 17.

15. Consider approval of an Interlocal Agreement with the Lewisville Independent School District for a land swap, and to relocate and reconstruct certain facilities to accommodate said land swap, and authorization for the Mayor to execute same on behalf of the Town.
16. RP 01-09 - Edward S. Marcus High School Addition Public Hearing
Public Hearing to consider a request for a Replat (RP 01-09 - Edward S. Marcus High School Addition) to create a non-residential subdivision, with an exception to Section 98-1026, Minimum front yard setback, of the Code of Ordinances, along Morriss Road. The property is located at 5707 Morriss Road. (The Planning and Zoning Commission recommended approval by a vote of 5 to 0 at its June 22, 2009, meeting.)
17. SP 01-09 Edward S. Marcus High School Stadium Site Plan
Public Hearing to consider a request for a Site Plan (SP 01-09 - Edward S. Marcus High School Stadium) to develop a football stadium and athletic fields for soccer, track, football, and other school uses, as well as a field house and accessory buildings and structures, with an exception to Section 82-302, Compatibility buffer, an exception to Section 90-423, Underground utilities, and an exception to the access management policy and criteria, regarding driveway spacing, contained in the Town's Engineering Design Criteria and Construction Standards adopted through Chapter 32 of the Code of Ordinances, subject to the terms and conditions in the attached Interlocal Agreement and authorization for the Mayor to execute same on behalf of the Town. The property is located at 5707 Morriss Road. (The Planning and Zoning Commission recommended approval by a vote of 4 to 1 at its June 22, 2009, meeting.)

Staff Presentation

Executive Director of Development Services Doug Powell stated there had been some changes to the request since the Planning & Zoning (P&Z) Commission meeting. The Town's water tank was not owned by the school district, and he showed slides of the subject property. Mr. Powell stated the current plat showed a 25 foot setback on Morriss. And the Town's regulations required a 40 foot setback. The district was requesting the existing setback distance. Because the right-of-way (ROW) was over 150 feet, the Town could grant an exception. Mr. Powell stated the first item for consideration was a land swap around and near the water tower. He stated the school district had worked extensively with Town staff to make

sure the land swap did not affect operations nor the cell tower carriers on the top of the tower. The overall site plan showed new driveways, the existing buildings, new buildings and the stadium. He stated one of the exceptions was to the Town's compatibility standards. To the west of the property was a residential neighborhood. He stated the applicant was going to provide the 25 foot landscaping and trees, however schools are required to have a four foot chain link fence. The applicant was asking to keep the existing wooden fence and not construct the chain link fence. Another exception was regarding the existing power lines along the access drive. The Town required overhead utilities to be underground, and was asking for an exemption to that requirement. Mr. Powell stated the first driveway to the north of Waketon did not meet Town spacing requirements. He stated the entire site was subject to a Traffic Impact Analysis (TIA), and he felt the exception was somewhat warranted based on the new use. He stated the practice fields would be re-located to make way for parking. He noted that the P&Z required an offsite parking agreement with Trietsch Memorial United Methodist Church by the time the Certificate of Occupancy was issued. He stated the parking area along the western edge would be paved with asphalt instead of gravel, along with the fire lane/access road from Waketon to Dixon.

Councilmember Filidoro had concerns with the look of the stadium from Morriss Road.

Mr. Powell showed the stadium elevations, noting that a driver on Morriss Road would be able to see underneath the bleachers. A single- story building for concessions would be located under the bleachers.

Applicant's Presentation

Michael Perry, Executive Director of Construction, Lewisville Independent School District (LISD)

Mr. Perry introduced the design team: Brad Gillispie and Christian Gournay (SHW Architects) and Von Beougher (G&A Consultants).

Brad Gillispie and Christian Gournay, SHW Architects

Mr. Gillispie and Mr. Gournay showed the overall site plan for Marcus High School. The main school was located on the north side of the property. The bulk of the project was south of the school. The field house would be north of the stadium and the practice field would be south of the stadium. They showed the landscape buffer between the residential neighborhood and the school property. More trees would be added to the existing trees in the buffer. They discussed the hooded left turn on northbound Morriss, a left turn on northbound Morriss to Waketon, a left and right turn off Waketon, a right turn from westbound Waketon to northbound Eastland, and the two turn lanes on the northern part of the site. They stated the home side of the stadium would have a two-story press box on the west side of the field. The buildings (concessions and restrooms) under the bleachers were 100% brick. They stated a driver would not be able to see through the bleachers. Additionally, they were trying to buffer the zone between Morriss Road and the bleachers.

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

Mr. Beougher addressed the waiver requests, noting that the Town standards required a four foot chain link fence.

Deputy Mayor Pro Tem Dixon stated some of the communications from residents indicated that they wanted the chain link fence in addition to their wooden privacy fence.

Mr. Beougher stated when the practice fields were put in during 2004-2005, the thinking was that the chain link fence would be installed but not right next to the wood fence, and

perhaps that might stop some of the soccer balls or footballs from hitting the wooden fence. However, kids would have to jump the fence to get the balls, and mowing equipment would not fit. A four foot fence was installed with gaps in it so that people could get between the two fences. His plans showed to remove the existing four foot chain link fence and not install the new chain link fence. The next waiver was a request to allow the existing platted 40 foot building line to remain. The current regulations required a 60 foot building line on a street with 120 feet of ROW (Morriss). Mr. Beougher stated they tried to get a street to line up with Kirkpatrick as a driveway into the stadium, however they were proposing to put one about halfway between Kirkpatrick and Waketon. It would be located at about 295 feet instead of 360 feet from Waketon. The final waiver request was for the existing overhead utilities to remain, noting it would cost about \$1 million to put the lines underground.

Questions from the Governing Body and Answers

Mayor Smith asked if the driveway between Waketon and Kirkpatrick would remain open at all times.

Mr. Beougher stated they planned to leave them open, however if it becomes an issue, a gate could be put in at a later date.

Councilmember Wallace asked if the price had been determined to put the section of utilities along Waketon underground.

Mr. Beougher responded no, and that they had only asked for the price of all the utility lines.

Mayor Pro Tem Levenick asked if they could use the power lines across the street.

Mr. Beougher stated they could not because there were two different providers.

Mayor Pro Tem Levenick asked about ingress/egress on the property, noting it was not easy to maneuver in the parking lots.

Mr. Beougher stated they were adding a hooded left into the driveway from the south. He stated there was a large gas meter in front of the building. They planned for a deceleration lane south of Dixon to enter the school property. He noted that East Glen will be overlaid from Dixon to where the tennis courts are located.

Councilmember Hayden asked for the parking ratio.

Mr. Beougher stated they would meet or exceed the standards. He estimated close to 2600 (1 space to 3.75 seats) with the additional parking at Trietsch and the 9th grade campus.

Councilmember Hayden asked what types of trees would be planted.

Mr. Beougher stated 3 inch caliper trees like live oaks, maples, and burr oaks would be planted, and they were not opposed to varying the trees.

Mayor Pro Tem Levenick asked if the applicant could verify that the wooden fence was all eight feet.

Mr. Perry stated he walked the property and was pretty sure it was all 8 feet.

Councilmember Wallace asked if the width of East Glen was to Town code.

Mr. Beougher stated it would be widened to three lanes (36 feet). The Town required 26 feet.

Councilmember Filidoro was still concerned with the **façade on the visitors' side**.

Mr. Perry stated there would be a finished product (skinned) on the bleachers. One would be able to see columns but not bleachers.

Councilmember Filidoro wanted the area to be closed up.

Mr. Perry stated it was designed like other super structures and stadiums in the area and across the nation. He stated the brick concessions dressed up the look. Closing in the area could bring about lighting, ventilation, sprinkling, etc. concerns.

Public Comments

Paul Stone, 709 Lake Bluff Drive, Flower Mound

Mr. Stone reminded everyone that Morriss Road would be a six lane road eventually. When comparing it to other facilities, no other stadiums abutted another road. He had no objection to using ornamental steel, and he encouraged the applicant to make it look nice.

Audrey Burton, 5708 Ridgemont, Flower Mound

Ms. Burton expressed concern that kids will drive recklessly and go through the wooden fence. She stated it would take a long time for the trees to mature. She was also concerned about parking in her neighborhood with parents picking up kids after games.

Petra Kirchstein, 2400 Conroe Court, Flower Mound

Ms. Kirchstein stated most neighbors were not aware of the project. She was concerned with the landscape barrier. She wanted the campus to be at the same standards as Flower Mound High School. She stated the utilities should be moved underground, and had concerns with drainage and flooding issues.

Kevin Davis, 5904 Ridgemont, Flower Mound

Mr. Davis stated he would rather have a cement barrier instead of the chain link fence.

Billy Fuller, 5700 Ridgemont, Flower Mound

Mr. Fuller stated the project was being put on property probably not big enough to handle it. He was concerned about noise, light, dust, and traffic. He had collected signatures from 38 neighbors with the same concerns. He asked the Council to direct the LISD to negotiate with the Lakemont Subdivision residents regarding their concerns.

Closed Public Hearing

Council Deliberation

Councilmember Filidoro asked about the **applicant's** communications with the neighborhood.

Mr. Gillispie stated in April, staff recommended addressing the public. They walked

through the neighborhood and distributed a packet of information about the project. They never heard any direct responses from the homeowners. Mr. Gillispie spoke on the telephone with the president of the HOA.

Councilmember Wallace was concerned about people parking along Morriss Road.

Assistant Town Manager Kent Collins stated the police would handle the traffic for football games, and he did not believe they would allow that type of parking to occur. He stated the Town could put up signs on temporary skids for those events.

Mayor Pro Tem Levenick asked if Flower Mound High School (FMHS) had chain link fences adjacent to homeowners along with privacy fences.

Mr. Beougher stated FMHS did not have the four foot chain link fence.

Deputy Mayor Pro Tem asked if there would be a curb on the area where the gravel parking lots were located.

Mr. Perry confirmed there would be a curb.

Mayor Pro Tem Dixon agreed with the gaps in the chain link fence so kids can get in/out and the area can be maintained. He added that if the parking lot is not gravel, kids **won't** try to spin out so much. He asked if the existing fence could simply be extended. He asked about the landscaping.

Mr. Perry stated LISD's intent was to lace the buffer with deciduous trees. He was not opposed to making every fourth tree an evergreen. Mr. Perry commented that if the bleachers were enclosed an attic space would be created. They would work on a way to make the stadium look better, perhaps by using an X-brace with some type of design in steel.

Mr. Powell noted that any flooding issues would be addressed with the asphalt, and all water will be in pipes.

Councilmember Hayden asked if the chain link fence was to keep kids out or autos.

Mayor Smith commented that the barrier was to keep kids from going over the curb.

Councilmember Hayden commented about the pipe fence at Grapevine Lake.

Mr. Perry responded that the LISD agreed, however the Town requires the four foot chain link fence. He noted that the chain link fence did not help with headlights. He proposed putting in the curb and a wheel stop.

Mayor Pro Tem Levenick stated it was important for the Town to keep going forward with the goal of burying the lines.

Mayor Smith asked about the LISD's rules on lights, noise, etc.

Mr. Perry stated the stadium lights were 100% shuttered. The band music should not be a problem as they were not changing their schedule.

Deputy Mayor Pro Tem Dixon asked about the motorcycle training safety course that

was being held on the parking lot.

Mr. Perry stated the LISD had encouraged them to seek space elsewhere.

Councilmember Wallace moved to approve an Interlocal Agreement with the Lewisville Independent School District for a land swap, and to relocate and reconstruct certain facilities to accommodate said land swap, and authorize the Mayor to execute same on behalf of the Town. The motion was seconded by Mayor Pro Tem Levenick.

VOTE ON THE MOTION

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

Councilmember Filidoro moved to approve Replat RP 01-09 - Edward S. Marcus High School Addition - to create a non-residential subdivision, with an exception to Section 98-1026, Minimum front yard setback, of the Code of Ordinances, along Morriss Road. Councilmember Wallace seconded the motion.

VOTE ON THE MOTION

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

Councilmember Wallace moved to approve Site Plan SP 01-09 - Edward S. Marcus High School Stadium - to develop a football stadium and athletic fields for soccer, track, football and other school uses, as well as a field house and accessory buildings and structures, with an exception to Section 82-302, Compatibility buffer, an exception to Section 90-423, Underground utilities, and an exception to the access management policy and criteria, regarding driveway spacing, contained in the Town's Engineering Design Criteria and Construction Standards adopted through Chapter 32 of the Code of Ordinances, and grant additional height, subject to the terms and conditions in the attached Interlocal Agreement and authorize the Mayor to execute same on behalf of the Town. Further, the site plan shall reflect on the east elevation of the stadium, fronting Morriss Road, some sort of ornamental steel and ornamentation to be approved by the Town at the time of approval of a building permit for any vertical construction. Additionally, concrete wheel stops shall be placed in all parking lots adjacent to residentially zoned areas. Deputy Mayor Pro Tem Dixon seconded the motion.

Deputy Mayor Pro Tem Dixon stated staff had done a good job working with LISD and working with the citizens. He was pleased with the quality trees, paved parking, the drive spacing between Waketon and Kirkpatrick, and the wheel stops.

Councilmember Filidoro agreed with Mayor Pro Tem Levenick on the underground utilities, noted that the LISD didn't even plan for it. He stated the Council needed to have a discussion on this issue soon.

VOTE ON THE MOTION

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

N. COORDINATION OF CALENDARS AND FUTURE AGENDAS/MEETINGS

Meetings would be held on August 3, 13, 17, 20, and 27, 2009.

O. RECESS REGULAR MEETING AND CALL WORK SESSION TO ORDER

Mayor Smith recessed the regular meeting and called the work session to order at 9:27 p.m.

18. Discuss proposed updates and renewal of the Economic Development Incentive Policy.

Director of Economic Development Melissa Glasgow gave the following presentation.

Discussion on Proposed Updates

Councilmember Filidoro asked if there was a differentiator within the survey cities.

Ms. Glasgow stated it all depended on the project. Many companies check websites first to see demographics about a municipality and their incentive policy.

Town Manager Harlan Jefferson commented that cities with extensive transportation systems have an advantage, and some cities have 4A monies.

Councilmember Hayden stated he would like to see tax rates on the survey information, as many tax rates were much higher than other cities. He commented that the Town needed to create ways to get more jobs in Flower Mound and possibly give abatements.

Ms. Glasgow stated the **Town's** incentives were based on the amount of revenue generated. In Flower Mound, revenue was generated by property taxes.

Councilmember Filidoro stated the Town might want to consider looking at the money multiplier affect in the Town.

Ms. Glasgow stated that for every application submitted, she ran a cost benefit analysis that looks at the projected revenues, the property tax revenues that would be generated, sales tax, and the cost of the incentive to be offered. Other multipliers were built into the model that the Town did not consider (franchise taxes). She stated the Town was very conservative with the analysis.

Town Attorney Terry Welch stated some cities tie employment to a percentage of a tax abatement or rebate with a 380 agreement. This provided more flexibility.

Mr. Jefferson stated the Town needed some type of policy because sometimes companies ask and they have to wait until staff talks to the Council.

Councilmember Hayden asked what the realistic probability was of someone bringing in a company with 300-400 jobs. He stated the Town needed to target job creation.

Deputy Mayor Pro Tem Dixon asked if a written policy with an employment "kicker" might be an enticement.

Ms. Glasgow stated it depended on the type of jobs that would be offered, and it would not hurt.

Councilmember Wallace stated if the Town continued to do the same thing, it will get the same results. Improvements needed to be made and the Town should be more aggressive. He supported what was being proposed.

Councilmember Hayden stated the grid needed to be lowered a little bit. Staff should find out how built out the different cities were. He also suggested increasing the percentages as compared to the number of jobs created and/or the level of jobs.

Councilmember Filidoro stated it would be good to know how many people have jobs now.

Ms. Glasgow commented that the maximum abatement was 75%. She stated if the jobs percentages were increased and the base percentages remained the same, the Town could provide more credit for jobs and still stay within the 75%.

Assistant Town Manager Chuck Springer clarified to leave the percentages alone on values. He stated that the number of jobs as compared to percentages could be listed as follows: 25-50 jobs - 5%, 50-100 - 10%, 100-250 - 15%, 500+ - 20%. The salary factor/percentage would be based on the overall average salary of a company at \$40,000.

P. ADJOURN WORK SESSION AND RECONVENE REGULAR MEETING

Mayor Smith adjourned the work session and reconvened the regular meeting at 10:30 p.m.

N./O. CLOSED/OPEN MEETING

The Town Council convened into a closed meeting at 10:31 p.m. on July 20, 2009 pursuant to Texas Government Code Sections 551.071, 551.072, 551.074, and 551.087 to discuss matters relating to consultation with Town Attorney, real property, personnel, and economic development negotiations and reconvened into an open meeting at 12:05 a.m. on July 21, 2009 to take action on the items as follows:

a. Discuss and consider economic development incentives.

No action taken.

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

Councilmember Wallace moved to approve the purchase of right-of-way, in association with the Wichita Trail Ph. II (Simmons to Skillern) project, west of Simmons and east of Skillern, and the Wichita Trail Phase 1 Lift Station and Force Main project, from Deacon Investment Company, Thomas Rayburn Denver, Stanley and Bonnie Pace, and Michael and Lisa McBride, not to exceed the settlement amount, plus closing costs, authorize the Assistant Town Manager, or his designee, to execute all documents at closing on behalf of the Town; and authorize the Town Attorney, or his designee, to file condemnation proceedings against the property owner(s) in the event a settlement cannot be reached. Councilmember Filidoro seconded the motion.

VOTE ON THE MOTION

AYES: Hayden, Wallace, Levenick, Dixon, Filidoro

NAYS: None

Mayor Pro Tem Levenick moved to approve the purchase of right-of-way, in association with the Flower Mound Road Project, from Deacon Investments and Charles E. King, not to exceed the settlement amounts, plus closing costs, and authorize the Assistant Town Manager, or his designee, to execute all documents at closing on behalf of the Town; and authorize the Town Attorney, or his designee, to file condemnation proceedings against the property owner(s)

in the event a settlement cannot be reached. Councilmember Wallace seconded the motion.

VOTE ON THE MOTION

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

- c. **Discuss Red Oak Sabine LP, Red Oak Gas LP, Red Oak Gas Operating Company LP, Red Oak Gas II LP vs. the Town of Flower Mound, and the Flower Mound Oil and Gas Board of Appeals, Cause No. 2008-10189-16, pending in the 16th Judicial District Court of Denton County, Texas.**

No action taken.

- d. **Discuss and consider appointments to the Animal Services Board, Community Development Corporation, Board of Adjustment, Planning and Zoning Commission, and Tax Increment Reinvestment Zone #1 Board.**

Animal Services Board

Deputy Mayor Pro Tem Dixon moved to appoint Christine Hastings to Place 2 with a term expiring September 30, 2010. Councilmember Filidoro seconded the motion.

VOTE ON THE MOTION

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

P. ADJOURN REGULAR MEETING

Mayor Smith adjourned the regular meeting at 12:09 a.m. on July 21, 2009, and all were in agreement.

TOWN OF FLOWER MOUND, TEXAS

JODY A. SMITH, MAYOR

ATTEST:

PAULA J. PASCHAL, TOWN SECRETARY

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