

THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING, TOWN OF FLOWER MOUND FIRE CONTROL, PREVENTION, AND EMERGENCY MEDICAL SERVICES DISTRICT SPECIAL MEETING, AND TOWN OF FLOWER MOUND CRIME CONTROL AND PREVENTION DISTRICT SPECIAL MEETING HELD ON THE 17th DAY OF AUGUST 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
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 6:03 p.m.

B. BRIEFING SESSION

1. Town Council Boards and Commissions Liaison Reports.

Mayor Smith stated the Planning & Zoning Commission recommended approval of the plans for the new family life center at Trietsch Memorial United Methodist Church.

2. Discuss Consent and Regular Items - no discussion

3. Discuss Future Agenda Items - no discussion

4. Discuss Council Communications - no discussion

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

Mayor Smith adjourned the briefing session and called the regular and special meetings to order at 6:04 p.m.

E. INVOCATION

Chaplain Mike Simpson gave the Invocation.

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

Chaplain Simpson led the Pledges.

G. PUBLIC PARTICIPTION

Kurt Buehler, 2950 Scenic Drive, Flower Mound

Mr. Buehler asked for the Council to consider an ordinance for a wind turbine on his property. He distributed information to the Council and provided a sample ordinance.

Mayor Smith noted that staff was working on environmental issues and she asked that this topic be included for the work session in November.

Shirley Voirin, 1905 Woodhill, Flower Mound

Ms. Voirin stated the Seniors In Motion idea went back to the early 1990's, where the seniors met at Mayflower Congregational Church. In 1993 the seniors wanted a building of their own and she still had the initial drawing. It would have cost only \$100,000 at that time. She stated the seniors program needed more space and she began talking with Mayor Smith. Together they developed a strategy and ran an ad in the newspaper about the meeting. 16 people answered the ad, and the first meetings were held at the **mayor's** home. This past April, Seniors In Motion (SIM) celebrated their 4th anniversary. She asked the Council to vote in favor of the Orchard Flower Subdivision, which would provide housing for seniors. She stated many seniors wanted to live in smaller homes. Ms. Voirin stated the Parks, Arts and Library Services (PALS) Board approved park funds in lieu of land for the subdivision and marked an amount for a senior center from the subdivision. She thanked staff and Council for the tools to help seniors become successful.

Charlie Carr, 1012 Big Canyon, Flower Mound, FMYSA president

Mr. Carr noted that the AAYBA tournament was held in Flower Mound in July, with 370 teams participating. He added that FMYSA spent \$75,000-\$80,000 from last **year's** tournament on the ballfields. At this time, they were still deciding what to do with the funding from this year, adding that FMYSA planned to spend about \$8,000 on the concession stand at Bakersfield.

H. PRESENTATIONS - no presentations

I. ANNOUNCEMENTS

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

Councilmember Wallace stated the groundbreaking of Fire Station #5 on Spinks Road was held earlier in the afternoon.

Councilmember Filidoro stated he would be participating in the Chamber of **Commerce's** Leadership Flower Mound Program, and there were still spaces open.

Mayor Smith announced that Congressman Michael Burgess had scheduled a Town Hall meeting at Trietsch Memorial United Methodist Church on Tuesday, August 18 at 7 p.m.

- **Memories of John Thomas**

Mayor Smith commented that Parks, Arts, and Library Services (PALS) Board member John Thomas passed away on August 9, 2009. She asked Paul Stone to say a few words.

Paul Stone, 709 Lake Bluff Drive, Flower Mound

Mr. Stone read an article he submitted to The News Connection that was published last week, praising Mr. Thomas for his many contributions to his family, the community, the Jaycees and the Summit Club.

J. TOWN MANAGER'S REPORT

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

Town Manager Harlan Jefferson stated the Town had been notified that US News and World Report ranked Flower Mound the #9 city for pet lovers.

Mayor Smith stated the Town might revisit the dog park within the Parks Master Plan update.

K. CONSENT ITEMS

Mayor Pro Tem Levenick made a motion to approve by consent. Items 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 22. Deputy Mayor Pro Tem Dixon 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 and work session of the Town Council held on July 20, 2009.**

RECOMMENDATION: Approve minutes from a regular meeting and work session of the Town Council held on July 20, 2009.

- 2. Consider approval of minutes from a regular meeting of the Town Council held on August 3, 2009.**

RECOMMENDATION: Approve minutes from a regular meeting of the Town Council held on August 3, 2009.

- 3. Consider approval of canceling the September 7, 2009, regular meeting of the Town Council and calling a special meeting on September 8, 2009.**

RECOMMENDATION: Approve canceling the September 7, 2009, regular meeting of the Town Council and calling a special meeting on September 8, 2009.

- 4. Consider approval of a resolution casting the Town of Flower Mound's vote for Olive Stephens as a member of the Board of Managers of the Denco Area 9-1-1 District for a two-year term beginning October 1, 2009.**

RECOMMENDATION: Approve Resolution No. 24-09 casting the Town of Flower Mound's vote for Olive Stephens as a member of the Board of Managers of the Denco Area 9-1-1 District for a two-year term beginning October 1, 2009. The caption of the resolution reads as follows:

RESOLUTION NO. 24-09

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS,

CASTING THE TOWN OF FLOWER MOUND'S VOTE FOR OLIVE STEPEHNS AS A MEMBER OF THE BOARD OF MANAGERS OF THE DENCO AREA 9-1-1 DISTRICT FOR A TWO-YEAR TERM BEGINNING OCTOBER 1, 2009; AND PROVIDING FOR AN EFFECTIVE DATE.

5. Consider approval of an ordinance adopting Atmos Energy Corp., Mid-Tex Division's rate tariffs that reflect the negotiated rate change pursuant to the Rate Review Mechanism process.

RECOMMENDATION: Approve Ordinance No. 27-09 adopting Atmos Energy Corp., Mid-Tex Division's rate tariffs that reflect the negotiated rate change pursuant to the Rate Review Mechanism process. The caption of the ordinance reads as follows:

ORDINANCE NO. 27-09

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

6. Consider approval of an ordinance establishing the 2009 certified appraisal roll.

RECOMMENDATION: Approve Ordinance No. 28-09 establishing the 2009 certified appraisal roll. The caption of the ordinance reads as follows:

ORDINANCE NO. 28-09

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, APPROVING THE 2009 APPRAISAL ROLL; REPEALING CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

7. Consider accepting the submission of the certified collection rate of 100 percent for the fiscal year beginning October 1, 2009, and ending September 30, 2010.

RECOMMENDATION: Approve to accept the submission of the certified collection rate of 100 percent for the fiscal year beginning October 1, 2009, and ending September 30, 2010.

8. Consider accepting the submission of the notice of an effective tax rate of \$0.449927 per \$100 assessed valuation and a rollback tax rate of \$0.470851 per \$100 assessed valuation for the fiscal year beginning October 1, 2009, and ending September 30, 2010.

RECOMMENDATION: Approve to accept the submission of the notice of an effective tax rate of \$0.449927 per \$100 assessed valuation and a rollback tax rate of \$0.470851 per \$100 assessed valuation for the fiscal year beginning October 1, 2009, and ending September 30, 2010.

9. Consider proposing a maximum tax rate of \$0.4497 per \$100 valuation for the fiscal year beginning October 1, 2009, and ending September 30, 2010; scheduling the August 27, 2009, public hearing on the budget; and scheduling the September 21, 2009, adoption of said budget and tax rate, with each meeting to be held at 6:00 PM, at Town Hall, located at 2121 Cross Timbers Road.

RECOMMENDATION: Approve to propose a maximum tax rate of \$0.4497 per \$100 valuation for the fiscal year beginning October 1, 2009, and ending September 30, 2010; schedule the August 27, 2009, public hearing on the budget; and schedule the September 21, 2009, adoption of said budget and tax rate, with each meeting to be held at 6:00 PM, at Town Hall, located at 2121 Cross Timbers Road.

10. Town Council acting as the Board of Directors for the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District to schedule a public hearing for August 27, 2009, on the Flower Mound Fire Control, Prevention, and Emergency Medical Services District budget; and to schedule a meeting for September 21, 2009, to take action on the proposed budget, with each meeting to be held at 6:00 PM, at Town Hall, located at 2121 Cross Timbers Road.

RECOMMENDATION: Town Council acting as the Board of Directors for the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District moved to schedule a public hearing for August 27, 2009, on the Flower Mound Fire Control, Prevention, and Emergency Medical Services District budget; and to schedule a meeting for September 21, 2009, to take action on the proposed budget, with each meeting to be held at 6:00 PM, at Town Hall, located at 2121 Cross Timbers Road.

11. Town Council acting as the Board of Directors for the Town of Flower Mound Crime Control and Prevention District to schedule a public hearing for August 27, 2009, on the Flower Mound Crime Control and Prevention District budget; and to schedule a meeting for September 21, 2009, to take action on the proposed budget, with each meeting to be held at 6:00 PM, at Town Hall, located at 2121 Cross Timbers Road.

RECOMMENDATION: Town Council acting as the Board of Directors for the Town of Flower Mound Crime Control and Prevention District moved to schedule a public hearing for August 27, 2009, on the Flower Mound Crime Control and Prevention District budget; and to schedule a meeting for September 21, 2009, to take action on the proposed budget, with each meeting to be held at 6:00 PM, at Town Hall, located at 2121 Cross Timbers Road.

12. Consider approval of a Professional Services Agreement with Fugro Consultants, Inc., to provide geotechnical and material testing services associated with the construction of Fire Station No. 5, in the amount of \$26,860.00, and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve a Professional Services Agreement with Fugro Consultants, Inc., to provide geotechnical and material testing services associated with the construction of Fire Station No. 5, in the amount of \$26,860.00, and authorize the Mayor to execute same on

behalf of the Town.

13. **Consider approval of the award of Competitive Sealed Bid No. 114-09-B for the construction of Fire Station No. 5 Wastewater Extension to Wilson Contractor Services, LLC, in the amount of \$58,899.96, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve the award of Competitive Sealed Bid No. 114-09-B for the construction of Fire Station No. 5 Wastewater Extension to Wilson Contractor Services, LLC, in the amount of \$58,899.96, and authorize the Mayor to execute same on behalf of the Town.

14. **Consider approval of the award of Competitive Sealed Bid No. 104-09-B with Red River Construction Company, for the construction of the Interim Expansion of the Oak Street Lift Station and Force Main project, in the amount of \$679,400.00, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve the award of Competitive Sealed Bid No. 104-09-B with Red River Construction Company, for the construction of the Interim Expansion of the Oak Street Lift Station and Force Main project, in the amount of \$679,400.00, and authorize the Mayor to execute same on behalf of the Town.

15. **Consider approval of Change Order No. 1 for the Wilson-Carmel Tract Clean-up project to The Marcon Group, Inc., dba Marcon Construction, in the amount of \$22,893.00, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve Change Order No. 1 for the Wilson-Carmel Tract Clean-up project to The Marcon Group, Inc., dba Marcon Construction, in the amount of \$22,893.00, and authorize the Mayor to execute same on behalf of the Town.

16. **Consider approval of a Special Warranty Deed for the Town to convey 2.0994 acres of property on Cowboy Lane which is generally located, west of US HWY 377 and south of FM 1171, to the Trinity River Authority, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve a Special Warranty Deed for the Town to convey 2.0994 acres of property on Cowboy Lane which is generally located, west of US HWY 377 and south of FM 1171, to the Trinity River Authority, and authorize the Mayor to execute same on behalf of the Town.

17. **Consider approval of Change Order No. 3 and final acceptance of the Rustic Timbers Park Bridge and Parker Square Connection / FM 1171 Below Grade Crossing construction project; authorization for final payment to Jim Bowman Construction Co., L.P., in the amount of \$41,526.60, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve Change Order No. 3 and final acceptance of the Rustic Timbers Park Bridge and Parker Square Connection / FM 1171 Below Grade Crossing construction project; authorization for final payment to Jim Bowman Construction Co., L.P., in the amount of \$41,526.60, and authorize the Mayor to execute same on behalf of the Town.

18. **Consider approval of the First Amendment to Interlocal Cooperation Agreement between Denton County, Texas, and the Town of Flower Mound, Texas, for the**

construction of Spinks Road; and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve the First Amendment to Interlocal Cooperation Agreement between Denton County, Texas, and the Town of Flower Mound, Texas, for the construction of Spinks Road; and authorize the Mayor to execute same on behalf of the Town.

- 19. Consider approval of Commercial Lease Agreements for Suites 1030 and 2274 at The Atrium, 1001 Cross Timbers Road, Flower Mound, Texas, between The Atrium at F.M., and the Town of Flower Mound, for office space for official Town records, Facilities Management, Meter Services, and the Town Attorney; and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve Commercial Lease Agreements for Suites 1030 and 2274 at The Atrium, 1001 Cross Timbers Road, Flower Mound, Texas, between The Atrium at F.M., and the Town of Flower Mound, for office space for official Town records, Facilities Management, Meter Services, and the Town Attorney; and authorize the Mayor to execute same on behalf of the Town.

- 20. Consider approval of a Local Agreement with the Denton 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 Denton 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.

- 21. Consider approval of an ordinance amending Chapter 66, "Traffic and Vehicles," of the Code of Ordinances by repealing Article VIII, "Use of Hand-Held Mobile Telephones Prohibited in Certain Locations" and repealing Section 66-301, "Use of Hand-Held Mobile Telephones Prohibited in School Zones."**

RECOMMENDATION: Approve Ordinance No. 29-09 amending Chapter 66, "Traffic and Vehicles," of the Code of Ordinances by repealing Article VIII, "Use of Hand-Held Mobile Telephones Prohibited in Certain Locations" and repealing Section 66-301, "Use of Hand-Held Mobile Telephones Prohibited in School Zones." The caption of the ordinance reads as follows:

ORDINANCE NO. 29-09

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, REPEALING SECTION 66-301, "USE OF HAND-HELD MOBILE TELEPHONES PROHIBITED IN SCHOOL ZONES," OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

- 22. Consider approval of an ordinance amending the Town of Flower Mound's Annual Budget for the fiscal year beginning on October 1, 2008, and ending on September 30, 2009, as adopted by Ordinance No. 58-08 and amended by Ordinance No. 74-08 for adjustments to the General Fund and the IRS Equitable Sharing Fund.**

RECOMMENDATION: Approve Ordinance No. 30-09 amending the Town of Flower Mound's Annual Budget for the fiscal year beginning on October 1, 2008, and ending on September 30, 2009, as adopted by Ordinance No. 58-08 and amended by Ordinance No. 74-08 for adjustments to the General Fund and the IRS Equitable Sharing Fund. The caption of the ordinance reads as follows:

ORDINANCE NO. 30-09

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE TOWN'S BUDGET FOR THE FISCAL YEAR BEGINNING ON OCTOBER 1, 2008, AND ENDING ON SEPTEMBER 30, 2009, AS ADOPTED BY ORDINANCE NO. 58-08 AND AMENDED BY ORDINANCE NO. 74-08; FOR ADJUSTMENTS TO THE GENERAL FUND AND THE IRS EQUITABLE SHARING FUND; PROVIDING THAT EXPENDITURES FOR SAID FISCAL YEAR SHALL BE MADE IN ACCORDANCE WITH SAID BUDGET, AS AMENDED; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON THE MOTION

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

L. REGULAR ITEMS

- Water System Master Plan** **Public Hearing**
23. **Public Hearing to consider approval of an ordinance amending the Water System Master Plan component of the Town of Flower Mound Master Plan 2001, through the adoption of the 2009 Water System Master Plan and certain amendments to Section 8.0, Water Plan, of the Master Plan 2001. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its July 27, 2009, meeting).**

Staff Presentation

Town Engineer Edith Marvin stated several work sessions had been held on the Water System Master Plan, along with a public hearing at the Planning & Zoning Commission.

James Wright, Troy Hotchkiss, KBR

Mr. Wright and Mr. Hotchkiss gave the following presentation, noting that the planning system matched the needs of the Town.

Ms. Marvin followed with the presentation about the proposed water tower.

Ms. Marvin stated the 2001 Master Plan called for a 3 million gallon (MG) tank and it was now reduced to 2.5 MG. The Town wanted to pump at a steady rate and pump at peak times. The Town had to choose from three sites, and the Planning & Zoning Commission recommended the Freeman site.

Questions from the Governing Body and Answers

Mayor Pro Tem Levenick asked about the size of the tank.

Ms. Marvin stated the bowl was 180 feet in diameter and 185 feet tall.

Councilmember Hayden asked about the cost differential between the Pierre site and the Freeman site.

Ms. Marvin stated that regarding the purchase of the property, staff could not get into negotiations until the site was determined.

Deputy Mayor Pro Tem Dixon asked how close the tank could be to the transmission line in FM 1171.

Mr. Hotchkiss stated they would need to stay within about a quarter of a mile.

Councilmember Wallace asked if there was an opportunity for co-location of cellular antennas.

Ms. Marvin stated yes, the tower would be designed that way.

Deputy Mayor Pro Tem Dixon asked why a 2.5 MG tank was better than a 3 MG tank. He did not want it to be too small.

Mr. Hotchkiss stated a 3 MG tank would provide a tremendous amount of flexibility, however the standards could be backed down. He stated with a well-trained staff, the Town could use a less sophisticated system.

Public Comments

Jim Downey, 8800 Baltusrol, Flower Mound

Mr. Downey opposed the Pierre site and was in favor of the Freeman site.

Tom Kindred, 7970 Cross Timbers Road, Flower Mound

Mr. Kindred stated he came to Flower Mound in 1984 and bought property off of FM 1171, wanting to leave something for his grandkids. He believed he could have a prettier subdivision by having less homes on his property. He stated it might be questionable for someone to do a subdivision with a water tower on it. He asked the Council to consider more than just the two sites.

Paul Stone, 709 Lake Bluff Drive, Flower Mound

Mr. Stone stated the Pintail Pump Station was located behind his home. The Town was very proactive and talked to the neighbors before the pump station expansion, and they made the area look very nice.

Tom Goad, 4089 Bordeaux Circle, Flower Mound

Mr. Goad was concerned with what the residents in the area would actually see.

Hugh McElroy, 8200 Firestone, Flower Mound

Mr. McElroy commended staff for trying to fulfill the planning needs of the Town. He stated the elevation and size of the structure was a concern to many in the community. He stated both the Pierre and Freeman locations would have an adverse affect on those who lived near the storage facility. He encouraged the Town to find a more secluded site off of FM 1171.

Jane Thacker, 2533 Natchez Trace, Denton, on behalf of Alan Powdermaker, Pierre Lane Property

Ms. Thacker spoke on behalf of Alan Powdermaker and stated the Pierre property was very heavily treed. She stated the Pierre property (100 acres) had a large amount of value, and if the site was chosen, the tower would be placed almost in the middle of the site. She stated Mr. Powdermaker suggested a 10 acre site to the east of these properties and near FM 1171. She encouraged the Council to not consider the Pierre property.

Cindy Clark, 8405 Baltusrol, Flower Mound

Ms. Clark stated she had submitted a petition in favor of the Freeman location. She asked the Town to make the logo on the water tower very pleasing.

Charles Valles, 5705 Southern Hills, Flower Mound

Mr. Valles stated had he known that a water tower was going to be built near Tour 18, he would not have bought property there. He asked that all efforts be undertaken to minimize the future financial impact on the properties in west Flower Mound. He asked what other locations had been considered.

Jean McElroy, 8200 Firestone, Flower Mound

Ms. McElroy stated FM 1171 was a dangerous road, and the tower would be in the line of drivers' vision.

Close Public Hearing

Council Deliberation

Deputy Mayor Pro Tem Dixon asked what other locations were considered.

Mr. Hotchkiss stated they looked at a range of sites, noting that western Flower Mound had some pressure issues. He stated the elevated storage was needed in order to meet TCEQ requirements. If they had chosen a location farther west, there would be a hydrolic dead end in the system that could create poor water quality. If they had to move the tower back to the east, the tank would have to be higher and it would not fit within the hydrolic grade line in the Town. Site #3 (High Road area) would technically be the best site, however it was removed from consideration by the Planning & Zoning Commission.

Mayor Pro Tem Levenick asked how long it was before the Town would be out of compliance with TCEQ.

Mr. Hotchkiss stated the number of connections was the metric TCEQ used, and he believed the number of connections was already in excess of what was required by TCEQ. He noted that they did like to see cities being proactive, such as Flower Mound.

Mayor Pro Tem Levenick asked if the Town could delay putting the tank up.

Mr. Hotchkiss stated effectively the Town was at risk, but was shown to be moving forward.

Councilmember Wallace asked if the western tower would improve the Waketon situation and Mr. Hotchkiss responded yes. Councilmember Wallace asked about a comparison between the schedule for the tank and the schedule for FM 1171.

Ms. Marvin stated it would take about 18 months for the design and construction of the tank. That area of FM 1171 was being delayed by TxDOT right now, and TxDOT probably would not start working on that portion until 2010. She did note that having six lanes would improve the driving conditions on FM 1171.

Deputy Mayor Pro Tem Dixon stated the Town needed to put the tank somewhere, and the Freeman location had the least amount of impact to the neighbors. He understood it would impact Mr. Kindred's property. He was in support of the Freeman location and he encouraged staff to make it as pleasing as possible.

Councilmember Wallace stated the Freeman location seemed to be the "least impacting" location that was within the range provided by the consultants. He added the Town had to comply with TCEQ.

Mayor Pro Tem Dixon moved to approve Ordinance No. 31-09 amending the Water System Master Plan component of the Town of Flower Mound Master Plan 2001, through the adoption of the 2009 Water System Master Plan and certain amendments to Section 8.0, Water Plan, of the Master Plan 2001. Further the western elevated storage tank site shall be located at Location #1, the north side of FM 1171, adjacent to Freeman Road. The motion was seconded by Councilmember Wallace. The caption of the ordinance reads as follows:

ORDINANCE NO. 31-09

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING MASTER PLAN 2001, BY AMENDING ORDINANCE NO. 24-01 IN PART, WHICH ADOPTED MASTER PLAN 2001, THROUGH THE AMENDMENT OF SECTION 8.0 WATER PLAN THROUGH THE DELETION AND REPLACEMENT OF EXISTING SECTION 8.0 WATER PLAN WITH A NEW SECTION 8.0 WATER PLAN; DECLARING AND MAKING FINDINGS REGARDING THE ADOPTION OF, AND ADOPTING THE 2009 WATER MASTER PLAN UPDATE AS A COMPONENT OF MASTER PLAN 2001; REPEALING ALL CONFLICTING ORDINANCES, ORDERS, OR RESOLUTIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON THE MOTION

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

Mayor Smith opened Items 24 and 25.

24. Consider approval of a Concession Contract with the Flower Mound Youth Sports

Association to provide the services of Concessionaire at the Bakersfield Park and Jake's Hilltop Park permanent concession buildings from August 17, 2009, through August 16, 2010, with a written renewal for up to two additional one-year terms, and authorization for the Mayor to execute same on behalf of the Town. (The Parks, Arts & Library Services Board recommended approval of the Agreement by a vote of 8 to 0 at its July 30, 2009, meeting).

25. Consider approval of a Concession Contract with the Greater Lewisville Area Soccer Association to provide the services of Concessionaire at the Chinn Chapel and Gerault Park permanent concession buildings from August 17, 2009, through August 16, 2010, with a written renewal for up to two additional one-year terms, and authorization for the Mayor to execute same on behalf of the Town. (The Parks, Arts & Library Services Board recommended approval of the Agreement by a vote of 5 to 3 at its July 30, 2009, meeting.)

Staff Presentation

Jack Jones, Director of Parks and Recreation, gave the following presentation.

Questions from the Governing Body and Answers

Mayor Pro Tem Levenick asked why GLASA asked for the fees to be waived.

Mr. Jones stated FMYSA was not opposed to the fees and GLASA was. The FMYSA item was approved first at the Parks, Arts, and Library Services (PALS) Board meeting. He noted that GLASA does not pay fees to use concession stands in Lewisville and Highland Village.

Councilmember Wallace asked if GLASA made improvements to the soccer fields like FMYSA did to the baseballs fields.

Mr. Jones stated in the past, GLASA bought goals and bleachers for Bakersfield soccer fields, and replaced all goals and nets at the Chinn Chapel Soccer Complex.

Councilmember Filidoro asked if there had been a discussion of GLASA losing money. Their prices were really low.

Mr. Jones stated GLASA looked at it as a service to the community, and they also used concession money to offer scholarships. GLASA was operating at a loss at this point.

Brad Kerley, President, GLASA

Mr. Kerley stated GLASA would not say they used concession money for profit. He stated GLASA had six facilities and ran five concessions in Highland Village, Flower Mound and Lewisville. GLASA paid people to run the stands at a per hour fee. He noted that GLASA had given over \$46,000 to the Town of Flower Mound. The concession stands were open if a game was going on. He stated their stands had the cheapest products, and GLASA considered itself to be a partner with the Town.

Councilmember Filidoro asked why the Town charged a fee.

Mr. Jones stated the fee was used to help recoup the cost of electricity and water at the stands.

Councilmember Filidoro asked who paid for the equipment in the concession stands.

Mr. Jones responded that the sports associations paid for the equipment, noting that three ice machines cost \$40,000. He added that the Town only made about \$10,000 when a private vendor was used.

Charlie Carr, President, FMYSA

Mr. Carr stated FMYSA poured all the money they made, back into the programs. He did not have a problem with the fees, noting FMYSA would also be paying an hourly wage for workers.

Mayor Pro Tem Levenick noted that booster clubs and volunteers ran concessions at high school football games. She asked why the Town should waive the fee when other organizations were paying it.

Mr. Kerley stated the \$2,880 was not fair when the contract said the Town would take care of all utilities, etc. He stated the parents just did not want to volunteer, and GLASA ran the concessions as a service to the community. He stated GLASA officers were becoming better

managers of the equipment and facilities. He stated if GLASA had to pay the Town fee, they might have to go up on the fees to the players.

Mayor Pro Tem Levenick asked about the contract wording.

Town Attorney Terry Welch stated the wording was clear. The Town provided basic services and the groups had to pay for anything else above that.

Councilmember Hayden stated the Town could not have a double standard, and the Council should grant the same consideration for both groups. Councilmember Wallace agreed.

Council Deliberation

Councilmember Wallace moved to approve a Concession Contract with the Flower Mound Youth Sports Association to provide the services of Concessionaire at the Bakersfield Park and Jake's Hilltop Park permanent concession buildings from August 17, 2009, through August 16, 2010, with a written renewal for up to two additional one-year terms, and authorized the Mayor to execute same on behalf of the Town. Further, Councilmember Wallace moved that all payments referenced in Section I (C) of the proposed Concession Contract be removed and all fees referenced therein be removed and that the subsections be re-numbered accordingly. Councilmember Hayden seconded the motion.

VOTE ON THE MOTION

AYES: Hayden, Wallace, Levenick, Dixon, Filidoro

NAYS: None

Deputy Mayor Pro Tem Dixon moved to approve a Concession Contract with the Greater Lewisville Area Soccer Association to provide the services of Concessionaire at the Chinn Chapel and Gerault Park permanent concession buildings from August 17, 2009, through August 16, 2010, with a written renewal for up to two additional one-year terms, and authorized the Mayor to execute same on behalf of the Town. Further, Deputy Mayor Pro Tem Dixon moved that all payments referenced in Section I (C) of the proposed Concession Contract be removed and all fees referenced therein be removed and that the subsections be re-numbered accordingly. Councilmember Wallace seconded the motion.

VOTE ON THE MOTION

AYES: Filidoro, Dixon, Levenick, Wallace, Hayden

NAYS: None

- 26. Consider approval of a resolution adopting an Economic Development Incentive Policy for the Town of Flower Mound, and providing for an effective date.**

Staff Presentation

Assistant Town Manager Chuck Springer gave the following presentation.

Questions from the Governing Body and Answers

Councilmember Filidoro stated that many things were beyond the Town's control.

Mr. Springer responded that some things were under state control. Additionally, Flower Mound was not near a major highway. He stated companies still evaluated state and local incentives. Mr. Springer stated as the economy gets tighter, it will be harder to bring projects forward anywhere.

Councilmember Wallace clarified that the TIRZ District was exempt from tax abatements.

Mr. Springer responded that the Town made an exception for the hospital.

Council Deliberation

Councilmember Wallace moved to approve Resolution No. 25-09 adopting an Economic Development Incentive Policy for the Town of Flower Mound, and providing for an effective date. Councilmember Filidoro seconded the motion. The caption of the resolution reads as follows:

RESOLUTION NO. 25-09

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, ADOPTING AN ECONOMIC DEVELOPMENT INCENTIVE POLICY FOR THE TOWN OF FLOWER MOUND; MAKING FINDINGS RELATIVE THERETO; AND PROVIDING FOR AN EFFECTIVE DATE.

VOTE ON THE MOTION

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

M. COORDINATION OF CALENDARS AND FUTURE AGENDAS/MEETINGS

- Meetings were scheduled for August 20, 27, 28, and September 8

N./O. CLOSED/OPEN MEETING

The Town Council convened into a closed meeting at 8:23 pm on August 17, 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 9:29 p.m. on August 17, 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.

No action taken.

- c. Discuss and consider appointments to the Animal Services Board, Board of Adjustment, Environmental Conservation Commission, LISD Liaison, Parks, Arts and Library Services Board, Planning and Zoning Commission and Transportation Commission.

No action taken.

P. ADJOURN REGULAR MEETING

Mayor Smith adjourned the regular and special meetings at 9:30 p.m. on Monday, August 17, 2009, and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

JODY A. SMITH, MAYOR

ATTEST:

PAULA J. PASCHAL, TOWN SECRETARY

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