

THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING, TOWN OF FLOWER MOUND FIRE CONTROL, PREVENTION, AND EMERGENCY MEDICAL SERVICES DISTRICT SPECIAL MEETING, AND THE TOWN OF FLOWER MOUND CRIME CONTROL AND PREVENTION DISTRICT SPECIAL MEETING HELD ON THE 21ST DAY OF SEPTEMBER 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 special 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 (arrived 11:15 pm)
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
Kent Collins	Assistant Town Manager
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.

Councilmember Wallace reported on the actions taken by the Board of Adjustment at their last meeting.

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 SPECIAL MEETING TO ORDER

Mayor Smith adjourned the briefing session and called the special meeting to order at 6:05 p.m.

E. INVOCATION

Mayor Smith gave the Invocation.

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

Mayor Smith led the Pledges.

G. PUBLIC PARTICIPTION

Dave Henderson, 4504 Village Crest Drive, Flower Mound

Mr. Henderson spoke on behalf of the Lewisville Lake Symphony, stating that he was trying to raise awareness of the symphony. He thanked the Council for the Community Support funding. He gave an overview of the benefits of attending the performances.

Susan Hayes, 3715 Valley View Lane, Flower Mound

Ms. Hayes expressed concerns about mosquito spraying. She stated there were many documented cases of negative health affects. She felt the Town needed to be more progressive and find alternatives to spraying.

Mark Stewart, 3932 Ridgecrest, Flower Mound

Mr. Stewart stated he had spoken with Mark McDaniel, seismic expert, with TxDOT. Mr. McDaniel informed him that the vibratory trucks had large, oversized tires with low inflation of 30 -40 PSI. He stated the governing issue was the weight of the truck when the vibratory test was being applied to the pavement. In the case of Williams, the truck would be 60,000 pounds distributed over a 4' x 7' plate, which equated to 15 PSI. Mr. Stewart stated the common method of pavement testing was using a 500 pound striking force on a two inch diameter rod which equated to 167 PSI. Mr. Stewart continued that Mr. McDaniel stated there would be no latent affect regarding damage to pavement or infrastructure. If there was damage, it would be known immediately. Vibrating trucks have been used for over 25 years with great success. The reason there was no white paper from the engineering community was that the number of incidences related to vibratory testing causing infrastructure damage was very low to non-existent. Mr. Stewart stated if there was a concern, the Town could require the gas company to put up a bond to pay for any damages. Mr. Stewart referred to a newspaper article stating that Councilmembers Hayden and Filidoro had a political agenda. Mr. Stewart stated 46,000 trucks would be added to the roads if the two **councilmembers'** got their way. He stated it was time for leadership from the entire Town of Flower Mound, and he encouraged the Council to approve **Williams' requests**.

Jodi Stewart, 3932 Ridgecrest Drive, Flower Mound

Ms. Stewart referred to the article in the newspaper by Councilmembers Filidoro and Hayden. She stated the Town was not proceeding quickly and that Williams submitted their application 14 months ago. She stated the article indicated that the current ordinance did not address the seismic testing and the wastewater system. She cited sections of the ordinance, and felt that it did address the two issues. She stated she did not want all the extra trucks on the streets. She asked the Council to approve **Williams' requests**.

Carl Thunem, 4016 Raintree, Flower Mound

Mr. Thunem stated he worked in the area of environmental health and safety. He urged the Town staff and Council to approve the requests by Williams. He stated the aesthetics of the Town would be improved with the underground wastewater pipeline system as opposed to having so many tanks on the ground. With many trucks on the road there was a possibility of damage and spills.

Mary Kay Walker, 3229 Oak Meadow Drive, Flower Mound

Ms. Walker stated the seniors in Flower Mound needed a stand-alone facility. They needed room to offer diverse activities. She stated there had been scheduling issues at the

Community Activity Center, and the seniors had to limit reservations for activities because of the lack of room. She stated there would be a positive change in Flower Mound with the opening of the hospital.

Carol Kohankie, 4312 Lauren Way, Flower Mound

Ms. Kohankie stated she read an article in a local paper where two councilmembers expressed opinions about an issue that had not even come before the Town Council. She stated Williams had been trying to move forward with new and innovative procedures which would reduce the impact of drilling for many years to come. She stated the current ordinance allowed for the things Williams was requesting.

Real Musgrave, 3726 Valley View Lane, Flower Mound

Mr. Musgrave stated he knew the difference between the types of seismic recordings. He felt there would be better results with the proposed technology. He stated Williams was willing to spend extra money for the different types of testing.

Gerald Robinson, 6920 Hidden Valley, Flower Mound

Mr. Robinson stated pocketbooks would be impacted by the decisions that had to be made. Regarding the environment, he stated he moved to the west side of Flower Mound for the beauty, and with the wastewater piping system, there would be a significant reduction in the number of tanks. He spoke about safety and stated if the piping system was not allowed, tens of thousands of trucks would be on the roads in the future to take away the wastewater. He referred to the recent article in the newspaper and politics. He noted that it took two years to get a new tree ordinance in the Town, and if the Council opened up the drilling ordinance, it would take a long time to make decisions.

Frank Gavitt, 6501 Meadowcrest Lane, Flower Mound

Mr. Gavitt stated the gas pipeline ordinance was clear in referring to what products could be moved to and from the wells. He noted that the ordinance was planned to be discussed at the October work session. He recommended that the Town get with a professional engineer about the truck data and seismic vibration. He urged the Town Council to give leadership direction to staff to let Williams proceed.

Tony Silvestri, Williams Production, Regional Vice President

Mr. Silvestri stated Williams planned to drill 100 wells on 4,500 acres in Flower Mound, noting they had already started three wells. He stated Williams wanted to keep its relationship productive with Flower Mound. Mr. Silvestri stated the lease terms were limited and would expire unless they conducted the seismic testing. He stated Williams wanted to install a water gathering system and a gas lift pipeline to transport back to a central facility. He stated there would be less truck traffic, less road wear, and less water tanks on the pads. He stated from the central facility, they were looking at having trucks come off of FM 1171, down Scenic, to the water gathering facility and haul the water off from that central point. Mr. Silvestri stated a benefit of the gas lift pipeline was when the wells lost reservoir energy, they can inject gas down the well bore to help the gas lift the water out. No gas lift compressors would have to be on the pads. He stated Williams wanted to conduct their operations consistent with best practices. Mr. Silvestri stated Williams wanted to drill the most productive wells possible, and to do this they needed to conduct seismic testing on specific streets. He stated he was working with staff to initiate the seismic operations, and they needed to start in October. He asked the Town Council to authorize staff to approve the requests.

Marilyn Rhodes, Williams Production, Tulsa, Oklahoma

Ms. Rhodes stated she hoped to meet with staff next week about the seismic testing.

She had already met with the residents of the Shiloh Road area, and many were lease holders. She added that Williams had experienced a good relationship with staff and the Council over time.

Deputy Mayor Pro Tem Dixon asked if water would be going through the proposed pipeline during the fracing process.

Ms. Rhodes responded yes.

Councilmember Wallace asked that Mr. Stewart provide the five points that he made to town staff.

Councilmember Hayden asked Mr. Stewart to provide the contact information for the person he spoke with at TxDOT.

Joe Northern, 4601 Portsmouth, Flower Mound

Mr. Northern asked if benzene was included in the wastewater. He understood it was extremely dangerous and cancerous.

Warren Campbell, 6000 Wichita Trail, Flower Mound

Mr. Campbell stated the Town Council was overlooking an opportunity for the Town by not approving the requests by Williams. He encouraged them to approve moving the water and gas underground, and keeping the scenic beauty of the Town. Mr. Campbell stated many people were concerned about the seismic testing (thumping), and he could not imagine that damage would be done to the roads. He asked the Council to give consideration to **Williams'** requests.

H. PRESENTATIONS

I. ANNOUNCEMENTS

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

Mayor Pro Tem Levenick stated she and Mayor Smith went to Austin last week to acknowledge **Officer Kevin Schmidt's receipt of a Texas Star Award** from Governor Perry.

Mayor Smith thanked Chief Brooker, his wife, and fellow officers for attending the award ceremony.

Councilmember Wallace reminded everyone about the Chamber of **Commerce's Fiesta Flower Mound** on October 3 at Texas Motor Speedway.

Councilmember Hayden stated the Flower Mound Community Orchestra was holding a reception at The Grotto on October 11.

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 a public meeting would be held on September 29 at Town Hall to discuss the Right-of-Way Master Plan and Median Plan. Various funding

sources would also be discussed. The item was scheduled for a Planning & Zoning Commission work session on October 12, and a Town Council work session on November 19. It was anticipated that it would be brought to Council for approval in January 2010.

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, and 14. Councilmember Wallace 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 of the Town Council held on August 27, 2009.**

RECOMMENDATION: Approve minutes from a special meeting of the Town Council held on August 27, 2009.

- 2. Consider approval of minutes from a tour of the Town Council held on August 28, 2009.**

RECOMMENDATION: Approve minutes from a tour of the Town Council held on August 28, 2009.

- 3. Consider approval of minutes from a special meeting of the Town Council held on August 31, 2009.**

RECOMMENDATION: Approve minutes from a special meeting of the Town Council held on August 31, 2009.

- 4. Consider approval of minutes from a special meeting of the Town Council held on September 8, 2009.**

RECOMMENDATION: Approve minutes from a special meeting of the Town Council held on September 8, 2009.

- 5. Consider approval of the purchase of one loader/backhoe for Utility Services from Kirby-Smith Machinery, through the Houston-Galveston Area Council of Governments (HGAC) cooperative purchasing program, in the total amount of \$72,550.**

RECOMMENDATION: Approve the purchase of one loader/backhoe for Utility Services from Kirby-Smith Machinery, through the Houston-Galveston Area Council of Governments (HGAC) cooperative purchasing program, in the total amount of \$72,550.

- 6. Consider approval of the amended Interlocal Agreement between the City of Lewisville and the Town of Flower Mound that established the combined teen court program in Municipal Court, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve the amended Interlocal Agreement between the City of Lewisville and the Town of Flower Mound that established the combined teen court program in Municipal Court, and authorize the Mayor to execute same on behalf of the Town.

7. **Consider approval of proposed changes to the Town's Personnel and Administrative Regulations Manual (PARM), Title I, Personnel Regulations, Chapter 4 Tuition Reimbursement; Chapter 5 Holiday Leave and Family Medical Leave; and Chapter 8 Grievance and Appeal Procedures, effective immediately.**

RECOMMENDATION: Approve proposed changes to the Town's Personnel and Administrative Regulations Manual (PARM), Title I, Personnel Regulations, Chapter 4 Tuition Reimbursement; Chapter 5 Holiday Leave and Family Medical Leave; and Chapter 8 Grievance and Appeal Procedures, effective immediately

8. **Consider approval of a resolution adopting an Investment Policy for funds for the Town of Flower Mound as required annually by the Public Funds Investment Act.**

RECOMMENDATION: Approve Resolution No. 28-09 adopting an Investment Policy for funds for the Town of Flower Mound as required annually by the Public Funds Investment Act. The caption of the resolution reads as follows:

RESOLUTION NO. 28-09

A RESOLUTION BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS ("TOWN"), ADOPTING AN INVESTMENT POLICY FOR FUNDS FOR THE TOWN AS REQUIRED ANNUALLY BY THE PUBLIC FUNDS INVESTMENT ACT; AND PROVIDING AN EFFECTIVE DATE

9. **Consider the award of Bid No. 7409-B, for the ATMS Grant - Provide and Install Video Image Vehicle Detection Ethernet Radio Systems, to the lowest responsible bidder, Durable Specialties, Inc., in the amount of \$74,000.00, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve the award of Bid No. 7409-B, for the ATMS Grant - Provide and Install Video Image Vehicle Detection Ethernet Radio Systems, to the lowest responsible bidder, Durable Specialties, Inc., in the amount of \$74,000.00, and authorize the Mayor to execute same on behalf of the Town.

10. **Consider final acceptance of the FM 2499 Section 2 Sound Wall project, for Phase I, Estates at Creekwood and Surrey Woods, and authorization for final payment to the contractor, PremierCrete Products, LLC, in the amount of \$5,920.85.**

RECOMMENDATION: Approve final acceptance of the FM 2499 Section 2 Sound Wall project, for Phase I, Estates at Creekwood and Surrey Woods, and authorization for final payment to the contractor, PremierCrete Products, LLC, in the amount of \$5,920.85.

11. **Consider approval of an ordinance vacating and abandoning the eastern five feet of the existing 15-foot wide utility easement located in the backyard of Lot 55, Block 1, Remington Park at Bridlewood. The Remington Park at Bridlewood Addition is generally located west of Bridlewood Blvd., north of Cross Timbers.**

RECOMMENDATION: Approve Ordinance No. 35-09 vacating and abandoning the eastern five feet of the existing 15-foot wide utility easement located in the backyard of Lot 55, Block 1, Remington Park at Bridlewood. The Remington Park at Bridlewood Addition is generally located west of Bridlewood Blvd., north of Cross Timbers. The caption of the ordinance reads as follows:

ORDINANCE NO. 35-09

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, VACATING AND ABANDONING THE EASTERN 5 FEET OF THE EXISTING 15-FOOT WIDE UTILITY EASEMENT LOCATED WITHIN THE BACKYARD OF LOT 55, BLOCK 1, REMINGTON PARK AT BRIDLEWOOD, AN ADDITION TO THE TOWN OF FLOWER MOUND, DENTON COUNTY, TEXAS; DETERMINING THAT THERE IS NO CURRENT NOR PROJECTED FUTURE NEED FOR THAT PORTION OF SAID EASEMENT AS DEPICTED IN EXHIBIT "A"; REQUIRING A HOLD HARMLESS AGREEMENT; PROVIDING A SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE DATE.

12. Consider a 12-month extension to the Development Plan (DP 03-07) for Bella Strada, pursuant to Section 90-57(b) of the Town's Code of Ordinances, to develop a residential subdivision. The property is located at 1300 Spinks Road.

RECOMMENDATION: Approve a 12-month extension to the Development Plan (DP 03-07) for Bella Strada, pursuant to Section 90-57(b) of the Town's Code of Ordinances, to develop a residential subdivision.

13. Consider a nine-month extension to the Development Plan (DP 04-07) for McGee Farms, pursuant to Section 90-57(b) of the Town's Code of Ordinances, to develop a residential subdivision. The property is located at 900 Garden Ridge Boulevard.

RECOMMENDATION: Approve a nine-month extension to the Development Plan (DP 04-07) for McGee Farms, pursuant to Section 90-57(b) of the Town's Code of Ordinances, to develop a residential subdivision.

14. Consider approval of a Local Project Advance Funding Agreement with the Texas Department of Transportation for voluntary local government contributions associated with the FM 1171 Section 1 project for improvements to the FM 1171/Auburn Drive intersection, in the amount of \$43,484.11, and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve a Local Project Advance Funding Agreement with the Texas Department of Transportation for voluntary local government contributions associated with the FM 1171 Section 1 project for improvements to the FM 1171/Auburn Drive intersection, in the amount of \$43,484.11, and authorize the Mayor to execute same on behalf of the Town.

VOTE ON THE MOTION

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

L. REGULAR ITEMS

15. Consider approval of an ordinance adopting the budget for the fiscal year beginning on October 1, 2009, and ending on September 30, 2010, and making appropriations for each fund and department; and consider ratifying the property tax revenue increase reflected in the FY 2009-2010 budget.

Staff Presentation

Chuck Springer, Assistant Town Manager/Chief Financial Officer, gave the following presentation that covered Items 15, 16, 17 and 18.

Questions from the Governing Body and Answers None

Council Deliberation

Deputy Mayor Pro Tem Dixon moved to approve Ordinance No. 36-09 adopting the budget for the fiscal year beginning on October 1, 2009, and ending on September 30, 2010, and making appropriations for each fund and department. The motion was seconded by Mayor Pro Tem Levenick. The caption of the ordinance reads as follows:

ORDINANCE NO. 36-09

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, ADOPTING AND APPROVING THE BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2009, AND ENDING SEPTEMBER 30, 2010, AND MAKING APPROPRIATIONS FOR EACH FUND AND DEPARTMENT; ESTABLISHING A SINKING FUND FOR EXISTING TOWN FINANCIAL OBLIGATIONS; PROVIDING FOR THE LEVYING AND COLLECTION OF A SUFFICIENT TAX TO PAY THE INTEREST ON SUCH SINKING FUND OBLIGATIONS; REPEALING CONFLICTING ORDINANCES; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

Councilmember Wallace stated he recently reviewed a survey of over 400 cities. Out of 10 cities, 8-9 were not able to reach fiscal responsibilities; however that was not true about Flower Mound. The Town was not delaying infrastructure projects and not laying off employees. Councilmember Wallace stated the Town had fiscally sound and conservative financial policies.

VOTE ON THE MOTION

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

Deputy Mayor Pro Tem Dixon moved to ratify the property tax revenue increase reflected in the FY 2009-2010 budget. The motion was seconded by Councilmember Wallace.

VOTE ON THE MOTION

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

16. Consider approval of an ordinance fixing and levying municipal ad valorem taxes for the fiscal year beginning on October 1, 2009, and ending on September 30, 2010, and for each fiscal year thereafter until otherwise provided, at the rate of \$0.4497 per \$100 assessed valuation on all taxable property within the corporate limits of the Town of Flower Mound as of January 1, 2009.

Council Deliberation

Mayor Pro Tem Levenick moved to approve Ordinance No. 37-09 adopting the tax rate of \$.4497 per \$100, which is effectively a .02 percent decrease in the tax rate. The motion was seconded by Councilmember Wallace. The caption of the ordinances reads as follows:

ORDINANCE NO. 37-09

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, FIXING AND LEVYING MUNICIPAL AD VALOREM TAXES FOR THE FISCAL YEAR BEGINNING ON OCTOBER 1, 2009, AND ENDING ON SEPTEMBER 30, 2010, AND FOR EACH FISCAL YEAR THEREAFTER UNTIL OTHERWISE PROVIDED, AT A RATE OF \$0.4497 PER ONE HUNDRED DOLLARS (\$100) ASSESSED VALUATION ON ALL TAXABLE PROPERTY WITHIN THE CORPORATE LIMITS OF THE TOWN AS OF JANUARY 1, 2009; DIRECTING THE ASSESSMENT THEREOF TO PROVIDE REVENUES FOR THE PAYMENT OF CURRENT EXPENSES AND TO PROVIDE AN INTEREST AND SINKING FUND ON ALL OUTSTANDING DEBTS OF THE TOWN; PROVIDING FOR DUE AND DELINQUENT DATES TOGETHER WITH PENALTIES AND INTEREST; REPEALING CONFLICTING ORDINANCES; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

VOTE ON THE MOTION

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

17. Town Council acting as the Board of Directors for the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District to consider approval of a resolution adopting the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District budget for the fiscal year beginning on October 1, 2009, and ending on September 30, 2010.

Council Deliberation

Councilmember Wallace moved that the Town Council, acting as the Board of Directors for the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District approve Resolution No. 29-09 adopting the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District budget for the fiscal year beginning on October 1, 2009, and ending on September 30, 2010. The motion was seconded by Mayor Pro Tem Levenick. The caption of the resolution reads as follows:

RESOLUTION NO. 29-09

A RESOLUTION OF THE TOWN OF FLOWER MOUND COUNCIL ACTING AS THE BOARD OF DIRECTORS OF THE TOWN OF FLOWER MOUND FIRE CONTROL, PREVENTION, AND EMERGENCY MEDICAL SERVICES DISTRICT, ADOPTING AND APPROVING THE BUDGET FOR THE TOWN OF FLOWER MOUND FIRE CONTROL, PREVENTION, AND EMERGENCY MEDICAL SERVICES DISTRICT FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2009, AND ENDING SEPTEMBER 30, 2010; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

VOTE ON THE MOTION

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

18. Town Council acting as the Board of Directors for the Town of Flower Mound Crime Control and Prevention District to consider approval of a resolution adopting the Town of Flower Mound Crime Control and Prevention District budget for the fiscal year beginning on October 1, 2009, and ending on September 30, 2010.

Council Deliberation

Councilmember Wallace moved that the Town Council acting as the Board of Directors for the Town of Flower Mound Crime Control and Prevention District approve Resolution No. 30-09 adopting the Town of Flower Mound Crime Control and Prevention District budget for the fiscal year beginning on October 1, 2009, and ending on September 30, 2010. The motion was seconded by Deputy Mayor Pro Tem Dixon. The caption of the resolution reads as follows:

RESOLUTION NO. 30-09

RESOLUTION OF THE TOWN OF FLOWER MOUND COUNCIL ACTING AS THE BOARD OF DIRECTORS OF THE TOWN OF FLOWER MOUND CRIME CONTROL AND PREVENTION DISTRICT, ADOPTING AND APPROVING THE BUDGET FOR THE TOWN OF FLOWER MOUND CRIME CONTROL AND PREVENTION DISTRICT FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2009, AND ENDING SEPTEMBER 30, 2010; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

VOTE ON THE MOTION

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

19. Consider approval of a Service Agreement for Demand Response Transit Service with Special Programs for Aging Needs, Inc. in the not-to-exceed amount of \$25,000 to provide transportation service for Town citizens who are age 65 or older and/or Town citizens with verifiable disabilities that prevent them from driving, and authorization of the Mayor to execute same on behalf of the Town.

Staff Presentation

Chuck Springer, Assistant Town Manager/Chief Financial Officer, gave the following presentation.

Questions from the Governing Body and Answers

Mayor Pro Tem Levenick asked if the senior citizens could use SPAN to go to the Lewisville Senior Center.

Mr. Springer stated it was limited to Flower Mound right now; however that could be changed by the Town Council.

Mayor Pro Tem Levenick asked if the agreement could be amended at a date in the future and Town Attorney Terry Welch answered yes.

Deputy Mayor Pro Tem Dixon asked to have monthly reports for at least the first three months.

Mr. Springer stated the reports would be sent with the The Weekly Briefing.

Mayor Smith thanked members of Seniors In Motion for driving others that needed rides.

Council Deliberation

Mayor Pro Tem Levenick moved to approve a Service Agreement for Demand Response Transit Service with Special Programs for Aging Needs, Inc. in the not-to-exceed amount of \$25,000 to provide transportation service for Town citizens who are age 65 or older and/or Town citizens with verifiable disabilities that prevent them from driving, and authorize the Mayor to execute same on behalf of the Town. The motion was seconded by Councilmember Wallace.

VOTE ON THE MOTION

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

- SP 06-09 - Masjid Al-Noor **Public Hearing**
20. **Public Hearing to consider a request for a Site Plan (SP 06-09 - Masjid Al-Noor) to develop an addition to an existing Mosque with an exception to Section 82-302, Compatibility buffer, of the Code of Ordinances, and with an exception to Section 90-423, Underground utilities, of the Code of Ordinances, subject to the terms and conditions in the attached Development Agreement and authorization for the Mayor to execute same on behalf of the Town. The property is located at 3430 Peters Colony Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its August 24, 2009 meeting.)**

Staff Presentation

Doug Powell, Executive Director of Development Services, stated a detention pond was constructed with the first phase of the mosque located at 3430 Peters Colony Road. He noted there was a need for a turn-around on the back of the property for fire fighting apparatus. Mr. Powell stated the Planning & Zoning (P&Z) Commission recommended that the exception to bury the overhead utility line (Verizon) not be granted. The applicant requested that the recommendation be changed by the Town Council, therefore they were appealing the P&Z recommendation.

Mayor Pro Tem Levenick asked why no dumpster enclosures were shown on the site plan on property.

Mr. Powell stated many establishments did not use dumpsters these days.

Mayor Pro Tem Levenick stated there was a dumpster on the back parking lot and much trash was sitting out.

Applicant's Presentation

Mujtaba Syed, President, Islamic Association of Lewisville

Mr. Syed stated the Mosque currently had a 1,700 square foot structure on four acres of land. There were approximately 50 that attended. Currently the parking lot accommodated 30 cars. The retention pond on the property was suitable for future growth. He stated the Mosque would like to underground the utility line, however the cost was about \$15,000. The estimated expansion was going to cost \$155,000, and they had been raising funds for over three years. He stated the extra \$15,000 would add an undue burden on their small community and would delay the project. He noted that both neighboring properties had lines overhead.

Questions from the Governing Body and Answers

Mayor Smith asked if there were any projection for a next expansion.

Mr. Syed stated they would probably have the next expansion in 3-5 years.

Public Comments

Louay Alkhatib, Aamer Rehman, Razaq Khazi-Syed, Firoz Vohra, Kamran Ouddusi, Nurul Choudhury, and Mahnee Pater-Row spoke in favor of the request for approval of the site plan and in favor of the exception for putting the utility lines underground.

Close Public Hearing

Council Deliberation

Councilmember Wallace spoke in support of the site plan and exceptions.

Mayor Pro Tem Levenick stated she preferred that lines be buried, however she could support the exception knowing that the development agreement provided that the lines would be put underground at the next expansion phase.

Councilmember Hayden stated at some time the Council had to figure out where the line would be drawn about putting lines underground.

Deputy Mayor Pro Tem Dixon stated the Council discussed the utility lines at a work session last week. He noted that this type of exception was granted often. Knowing that the Mosque would have future development in a few years, that would be the trigger to put the lines underground based on the development agreement.

Councilmember Hayden stated he could not support the motion if it included the exception for the utility lines.

Deputy Mayor Pro Tem Dixon asked if it was a possibility that if either property on each side of the Mosque were required to put the lines underground that it would trigger the Mosque having to put them underground.

Town Attorney Terry Welch stated he would have to discuss possible legal issues with the Council in a Closed Session.

The Town Council convened into a closed meeting at 7:57 p.m. on September 21, 2009 pursuant to Texas Government Code Section 551.071 to discuss matters relating to consultation with Town Attorney, and reconvened into an open meeting at 8:08 p.m. on September 21, 2009. No action was taken in Closed Session.

Councilmember Wallace moved to approve Site Plan SP 06-09 - Masjid Al-Noor to develop an addition to an existing Mosque with an exception to Section 82-302, Compatibility buffer, of the Code of Ordinances, and with an exception to Section 90-423, Underground utilities, of the Code of Ordinances, subject to the terms and conditions in the attached Development Agreement and authorization for the Mayor to execute same on behalf of the Town . The motion was seconded by Mayor Pro Tem Levenick.

VOTE ON THE MOTION

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

Mayor Smith opened items 21 and 22, and the Council took action on Item 22 first.

Z 07-07 Vilamoura **Public Hearing**
22. **Public Hearing to consider a request for rezoning (Z 07-07 - Vilamoura) from Single-Family District-15 (SF-15) to Single-Family District-10 (SF-10), and to consider adopting an ordinance providing for said amendment. The property is located at 2500 Simmons Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its August 24, 2009, meeting.)**

DP 07-07 Vilamoura **Public Hearing**
21. **Public Hearing to consider a request for a Development Plan (DP 07-07 - Vilamoura) to develop a residential subdivision with an exception to Section 90-423, Underground utilities, of the Code of Ordinances, subject to the terms and conditions in the attached Development Agreement and authorization for the Mayor to execute same on behalf of the Town. The property is located at 2500 Simmons Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its August 24, 2009, meeting).**

Staff Presentation

Executive Director of Development Services Doug Powell stated the Land Use was Medium Density and the zoning was SF15 and SF-10. He noted that the zoning item was subject to a supermajority vote because 20% of the land represented by property owners were in opposition to the request for the SF-15 portion and had signed a petition. He stated the development plan was the first step before consideration of the final plat. Mr. Powell stated the developer agreed to limit the number of lots to 28 as per the development agreement. He stated the project would be a gated community with private streets. Regarding drainage, the applicant

worked with the adjacent neighbors to make sure of how the development will affect their property. An outfall structure will be going onto part of The Sanctuary (a conservation development district). Yearly inspections will be required. Additionally, the applicant had worked with Connemara. An easement on the south property lines would allow for the water to be directed toward Simmons Road. Mr. Powell noted that the applicant had added language to the development agreement regarding drainage. He stated that there was much discussion at the Planning & Zoning Commission meeting regarding the exception for overhead utilities across the front of the property. He stated the Commission did not recommend approval of the exception request. Mr. Powell stated staff had worked with the applicant and there was room to bury the lines within the easement on the front of the property. Mr. Powell acknowledged receipt of a letter from the developer.

Mayor Smith thanked Ken Hodge for working with the **homeowners'** association of The Sanctuary.

Mayor Pro Tem Levenick asked since it had been determined that the lines could go underground, was the applicant still asking for an exception.

Mr. Powell responded yes.

Applicant's Presentation

Bobby Dollack, G&A Consultants, 111 Hillside Drive, Lewisville

Mr. Dollack stated he was representing Ken Hodge, the applicant. He stated this was another infill project, and it would contain beautiful homes that were downsized from homes such as those in Point Noble. He stated he was requesting a change in zoning from SF-15 to SF-10 on the portion of the property that was SF-15. He stated the utility plan connected a dead-end water line at Wise Lane to another line in Simmons Road, creating a loop system. Additionally they would be able to tie in to a sewer to stub in The Sanctuary. He stated that would eliminate the lift station at The Woods of Wellington. Mr. Dollack stated that one of the notes provided for the rear lot drainage swales and outfall on Lot 12 shall be annually inspected and maintained as necessary by the HOA. Deed restrictions would require lot owners to maintain their portion of the drainage easement. Note 10 provided that private agreements had been entered into by and between the developer of Vilamoura and Connemara to allow the outfall structure on Lot 12 of Vilamoura to drain directly onto and across the Sanctuary Conservation District. Mr. Dollack stated the existing trees at the front of the subdivision would be saved. They were still working with the Fire Marshal about the entry gate. He discussed the power lines across Simmons Road and stated that the easement was very crowded with the proposed sewer line, the storm sewer, and a 25' landscape buffer. He stated the development would greatly improve the drainage system of The Sanctuary. He noted if the utility lines had to be buried, they would have to go into the **Town's easement**.

Questions from the Governing Body and Answers

Councilmember Hayden commented that he had spoken with an adjacent resident who informed him that two to three times per year her yard was covered with water.

Mr. Dollack stated the water worked its way into a swale and drained down. He noted there was a great deal of debris where the two properties met, but as the debris was removed with the development, a grass swale would be created. He stated the hydrolics would be much better.

Councilmember Hayden stated he visited with 30 homeowners in the area. The three concerns that were expressed were (1) when the zoning changed, the number of houses might exceed what was proposed, (2) drainage, and privacy issues when trees were removed. He asked if the development agreement limiting the number of homes to 28 was a binding agreement.

Mr. Welch responded that was correct. Additionally, the Town had enforcement powers as well.

Ken Hodge, developer, stated he walked the property with Councilmember Hayden last week. There were no native trees in the project. He stated he would make a concerted effort to **save as many trees as possible. In the 15' easement**, he was going to provide a plant shelf.

Councilmember Hayden asked the price range for the homes.

Mr. Hodge stated the homes would be a minimum of 3,250 square feet (proposed), with a possibility of 3,000 square feet; however the average square footage would probably be about 4,000. The prices might be about about \$800,000.

Councilmember Hayden commended the nearby homeowners for taking an active interest in this project. He thanked Mr. Hodge for working on the development agreement and deed restrictions.

Mayor Pro Tem Levenick asked why there was no drainage easement on the east side of the property.

Mr. Dollack stated their intent was to bring the water down an emergency access and to an inlet in the cul-de-sac. There would be a **15' drainage easement on the back of two lots**.

Public Comments

Carol Kohankie, 4312 Lauren Way, Flower Mound

Ms. Kohankie stated Mr. Hodge did exquisite work, and she was in support of the project.

Louise Lackey, Plano

Ms. Lackey stated she lived in Point Noble previously, and years ago she would have welcomed a neighborhood like this. She was in support of Vilamoura and stated the project filled a niche that was needed in Flower Mound.

Mike Yarussi, 5301 Prince Lane, Flower Mound

Mr. Yarussi stated he lived in Point Noble, and he felt the gated concept gave a secure feeling. He asked the Council to look favorably on this development and others like it.

Bill Weir, Wichita Creek Estates, Flower Mound

Mr. Weir stated two of his three sons, and six grandchildren live in Flower Mound. He did not want to have to move out of Flower Mound to have a quality home on a smaller lot. He stated Vilamoura would be a quality project.

Roddy Oneal, 1605 Noble Way, Flower Mound

Mr. Oneal was in support of the project, noting he had desires to downsize but was waiting for a quality product like this.

Jim Streigel, Long Prairie Road, Flower Mound

Mr. Streigel stated some of his clients had left Flower Mound to go to other cities that had large homes on small lots. He was in support of the project.

Close Public Hearing

Council Deliberation

Councilmember Wallace moved to approve a request for rezoning Z 07-07 - Vilamoura - from Single-Family District-15 (SF-15) to Single-Family District-10 (SF-10), and adopt Ordinance 38-09 providing for said amendment. The motion was seconded by Dixon. The caption of the ordinance reads as follows:

ORDINANCE NO. 38-09

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE OFFICIAL ZONING MAP, EXHIBIT "A" OF SUBPART B, LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY CHANGING THE ZONING ON APPROXIMATELY 6.000 ACRES OF LAND IN THE H. MURPHY SURVEY, ABSTRACT NO. 822, FROM SINGLE-FAMILY DISTRICT-15 (SF-15) USES TO SINGLE-FAMILY DISTRICT-10 (SF-10) USES, IN ACCORDANCE WITH THE TOWN'S MASTER PLAN 2001 AND CHAPTER 98 OF THE TOWN'S CODE OF ORDINANCES, ENTITLED "ZONING"; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON THE MOTION

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

Council Deliberation

Deputy Mayor Pro Tem Dixon stated when he was on the Planning & Zoning Commission in 2004, he was asked what Flower Mound did for people in big houses that wanted smaller lots. He had to respond that he did not know. He stated Vilamoura would allow people the opportunity to stay in Flower Mound. He supported the project, although he would like to see the lines put underground. He stated the subdivision had a beautiful entry and overhead utilities would detract from it.

Mayor Pro Tem Levenick stated this was the perfect piece of property for this development. She did not support the exception for burying wires underground, noting that the lines were buried in front of The Woods of Wellington.

Councilmember Wallace moved to approve a request for a Development Plan DP 07-07 - Vilamoura - to develop a residential subdivision and acceptance of Park Development Fees in the amount of \$40,252.00, and cash in lieu of land in the amount of \$79,388.00 to satisfy the requirements of the Park Land Dedication Ordinance, subject to the terms and conditions in the attached Development Agreement, and authorize the Mayor to execute same on behalf of the Town. The motion was seconded by Deputy Mayor Pro Tem Dixon.

VOTE ON THE MOTION

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

M. COORDINATION OF CALENDARS AND FUTURE AGENDAS/MEETINGS

- October 5 and 19 - regular meetings
- October 15 work session

N./O. CLOSED/OPEN MEETING

The Town Council convened into a closed meeting at 9:12 pm on September 21, 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 12:06 a.m. on September 22, 2009 to take action on the items as follows:

Councilmember Filidoro arrived at 11:15 p.m.

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, Parks, Arts and Library Services Board, Planning and Zoning Commission and Transportation Commission.

Animal Services Board

Deputy Mayor Pro Tem Dixon moved to reappoint Dr. John Harvey to Place 3, effective 10/1/2009, term expires 9/30/2011 and appoint Jean Levenick to Place 5, effective 10/1/2009, term expires 9/30/2011. The motion was seconded by Councilmember Filidoro.

VOTE ON THE MOTION

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

Board of Adjustment

Mayor Pro Tem Levenick moved to move Kendra Stephenson from Alternate Place 7 to Place 1, effective 10/1/2009, term expires 9/30/2011, appoint Steve Harris to Place 3, effective 10/1/2009, term expires 9/30/2011, reappoint Scott Baker to Place 5, effective 10/1/2009, term expires 9/30/2011, and appointe Lowell McCracken to Alternate Place

7. effective 10/1/2009, term expires 9/30/2011. The motion was seconded by Councilmember Filidoro.

VOTE ON THE MOTION

AYES: Dixon, Levenick, Wallace, Hayden, Filidoro

NAYS: None

- d. **Consultation with Town Attorney to receive legal advice regarding land use issues, pursuant to Subpart B, Land Development Regulations, of the Town's Code of Ordinances and oil and gas drilling and pipeline issues, pursuant to Chapter 34 of the Town's Code of Ordinances, and all matters incident and related thereto.**

No action taken.

P. ADJOURN REGULAR AND SPECIAL MEETINGS

Mayor Smith adjourned the regular and special meetings of the Town Council, the Fire Control, Prevention, and Emergency Medical Services District and the Crime Control and Prevention District at 12:09 a.m. on September 22, 2009, and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

JODY A. SMITH, MAYOR

ATTEST:

PAULA J. PASCHAL, TOWN SECRETARY