

THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 19TH DAY OF OCTOBER, 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
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 6:05 p.m.

B. BRIEFING SESSION

1. Town Council Boards and Commissions Liaison Reports.

Councilmember Filidoro stated the Parks, Arts, and Library Services Board members elected Norma Krueger as Chair and Jim Emerich as Vice Chair. The Board held the first review with the consultants about the Parks Master Plan. The members of the Board of Adjustment elected Tina Murphy as Chair and Carlos Cabre as Vice Chair. The Board held a Closed Session regarding litigation and then a work session on ethics and the Open Meetings Act.

Mayor Pro Tem Levenick reported that the Transportation Commission members elected Steve Lyda as Chair and Jim Robertson as Vice Chair. The Commission reviewed the list of current transportation projects.

Councilmember Wallace stated the next Environmental Conservation Commission meeting was scheduled for November 3.

Councilmember Hayden stated the members of the Planning & Zoning Commission elected Nick Hollingshad as Chair and Tom Goss as Vice Chair. The Commission discussed the request by Sonic for amended signage, and the proposed operation and maintenance facility that would be located next to the new Fleet Services facility. The Commission also discussed fencing around schools.

2. Discuss Consent and Regular Items - no discussion

3. Discuss Future Agenda Items - no discussion

4. Discuss Council Communications.

Town Manager Harlan Jefferson stated the Council was in receipt of a Council Communication regarding a citizen survey to be conducted by the National Research Center. The Council had been provided with a copy of the draft of the survey. He stated the Center was the premier research firm for municipal government, and the survey would help prepare for the Council's January retreat.

Deputy Mayor Pro Tem Dixon stated he would like more detailed questions for the citizens to respond to. Additionally, he was in favor of getting feedback on the drilling ordinance, late hours for the sale of alcohol, speed limits in neighborhoods, overhead utility lines, a senior center, one-acre residential lots, code enforcement in non-homeowners' association neighborhoods, and sewer on the west side of Flower Mound.

Councilmember Wallace asked if the Council could discuss the additional topics at a work session.

Mayor Smith asked if the Council wanted to hold a work session prior to a regular meeting.

Mr. Jefferson stated scheduling a work session would delay having the responses back before the retreat.

Mayor Smith asked the Council to forward ideas to staff and then staff could send out an updated Council Communication.

Mr. Jefferson stated the survey could be delayed until spring but the results would not be back in time for the retreat.

Mayor Smith stated she wanted the information for the retreat, and that staff should move forward with the original schedule.

Mayor Pro Tem Levenick commented that several of the items mentioned by Deputy Mayor Pro Tem Dixon had already been dealt with.

Mr. Jefferson stated the National Research Center would benchmark Flower Mound against other similar cities.

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 6:18 p.m.

E. INVOCATION

Chaplain Mike Liles gave the Invocation.

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

Mayor Smith led the pledges.

G. PUBLIC PARTICIPATION

Kris Pourroy, 5309 Meadow Chase, Flower Mound

Ms. Pourroy stated she moved to Flower Mound in July 2007. She stated through her research she had only found negatives regarding gas drilling. She asked the Council to either uphold the drilling ordinance, or strengthen it. She gave an article on seismic testing to Mayor Smith.

Paul Stone, 709 Lake Bluff Drive, Flower Mound

Mr. Stone expressed appreciation for the ceremony for the 20 year anniversary of the Town's trail system. Mr. Stone stated he was concerned about any hasty moves on any action by the Council. He encouraged them to be deliberate, listen, and not cater to special interest groups.

Marilyn Rhodes, 1 Williams Center, Tulsa OK, Williams Company

Ms. Rhodes referred to a section of the drilling ordinance regarding centralized facilities and felt it was considered when the ordinance was written. She referred to a professor who had been working on drilling research for 38 years. She referred to an article regarding gas drilling/testing and the comments made by Councilmember Hayden at the October 15 work session. She left copies of her research.

H. PRESENTATIONS

- **National Night Out Winner - Wellington Estates**

Lt. Clay Pierce presented the National Night Out sign to Wellington Estates (Courtney Drive).

- **Proclamation - Chamber of Commerce Week**

Mayor Smith and Deputy Mayor Pro Tem Dixon presented the proclamation to members of the Chamber of Commerce Board of Directors (Kathy Taggart, Bill Collins, Chuck Elsey, Lori Salisbury, and Paula Paschal).

I. ANNOUNCEMENTS

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

Deputy Mayor Pro Dixon stated he and Mayor Smith attended the grand opening of CTD I in the Lakeside Business District. He noted that their top management praised the Town of Flower Mound staff.

Mayor Smith encouraged everyone to email and vote for Flower Mound High School at a contest sponsored by Fox 4 (for showing the football game of the week). She stated that several members of staff, Councilmember Wallace and herself attended a meeting regarding environmental sustainability in Austin that was hosted by the City of Austin staff. Mayor Smith stated many helped to celebrate 20 years of the trail system in Flower Mound on Saturday where a time capsule was opened. John Thomas (former PALS BOARD member) was honored with a butterfly release. She also noted that the Flower Mound Presbyterian Church celebrated the rededication of their tabernacle.

Mayor Pro Tem Levenick reminded everyone about the Constitutional Amendment

Election on November 3. Early voting was taking place at the Police/Court Building.

Councilmember Wallace stated he, Mayor Smith and Councilmember Filidoro would be attending the Texas Municipal League (TML) conference in Fort Worth this week, along with several members of staff. He noted that the purpose of TML was to provide services to Texas cities.

Councilmember Filidoro stated he and Councilmember Hayden served as guest ushers at the Flower Mound Symphony over the weekend. The Town of Flower Mound was thanked for community support funding.

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 thanked all who attended the recent Police Department and Fire Department open houses.

K. CONSENT ITEMS

Deputy Mayor Pro Tem Dixon made a motion to approve by consent, Items 1, 2, 3, and 4. 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 regular meeting of the Town Council held on October 5, 2009.**

RECOMMENDATION: Approve of minutes from a regular meeting of the Town Council held on October 5, 2009.

2. **Consider approval of a Professional Services Agreement with Teague, Nall, and Perkins to provide professional engineering design services and plat preparation for the West Windsor Right-of-Way Alignment, in the amount of \$28,000.00, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve a Professional Services Agreement with Teague, Nall, and Perkins to provide professional engineering design services and plat preparation for the West Windsor Right-of-Way Alignment, in the amount of \$28,000.00, and authorize the Mayor to execute same on behalf of the Town.

3. **Consider approval of the purchase of 86 desktop computers, 44 laptop computers, 10 monitors, and a secure laptop storage cart from Dell Marketing, LP, through a Texas Department of Information Resources (DIR) contract, in the amount of \$115,056.99.**

RECOMMENDATION: Approve the purchase of 86 desktop computers, 44 laptop computers, 10 monitors, and a secure laptop storage cart from Dell Marketing, LP, through a Texas Department of Information Resources (DIR) contract, in the amount of \$115,056.99.

4. **Consider approval of a resolution declaring expectation to reimburse expenditures with proceeds of future certificates of obligation and authorizing the preparation of**

the documents associated with the issuance, sale and delivery of the debt obligations.

RECOMMENDATION: Approve Resolution No. 32-09 declaring expectation to reimburse expenditures with proceeds of future certificates of obligation and authorizing the preparation of the documents associated with the issuance, sale and delivery of the debt obligations. The caption of the resolution reads as follows:

RESOLUTION NO. 32-09

A RESOLUTION BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, DECLARING EXPECTATION TO REIMBURSE EXPENDITURES WITH PROCEEDS OF FUTURE CERTIFICATES OF OBLIGATION, AND AUTHORIZING THE PREPARATION OF THE DOCUMENTS ASSOCIATED WITH THE ISSUANCE, SALE AND DELIVERY OF THE DEBT OBLIGATIONS.

VOTE ON THE MOTION

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

L. REGULAR ITEMS

5. **Z 03-09 - Fireside Drive** **Public Hearing**
Public Hearing to consider a request for rezoning (Z 03-09 - Fireside Drive) from Single-Family District-10 (SF-10) to Single-Family Estate (SF-E) and to consider adopting an ordinance providing for said amendment. The property is located at 3451 Fireside Drive. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its September 28, 2009, meeting.)

Staff Presentation

Doug Powell, Executive Director of Development Services, stated the land use was medium density and the property was zoned SF-10. The applicant desired to have a larger lot size in order to have a barn on the property. Staff received one email and one phone call in support.

Questions from the Governing Body and Answers None

Public Comments **None**

Close Public Hearing

Council Deliberation

Councilmember Wallace moved to approve a request for rezoning (Z 03-09 - Fireside Drive) from Single-Family District-10 (SF-10) to Single-Family Estate (SF-E), and adopted Ordinance No. 44-09 providing for said amendment. The motion was seconded by Deputy Mayor Pro Tem Dixon. The caption of the ordinance reads as follows:

ORDINANCE NO. 44-09

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 2.56 ACRES OF LAND PLATTED AS LOT 12 OF THE ALLISON 1 ADDITION, FROM SINGLE-FAMILY DISTRICT-10 (SF-10) USES TO SINGLEFAMILY ESTATE (SF-E) 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: Wallace, Levenick, Dixon, Filidoro, Hayden
NAYS: None

6. **SUP/SP 383-09 - Jernigan Heights Learning Center** **Public Hearing**
Public Hearing to consider a request for a Specific Use Permit (SUP/SP 383-09 - Jernigan Heights Learning Center) to permit a daycare center, and to consider adopting an ordinance providing for said amendment. The property is located at 4020 Justin Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its September 28, 2009, meeting.)

Staff Presentation

Doug Powell, Executive Director of Development Services, stated the zoning and land use were appropriate for the request. At the Planning & Zoning Commission meeting there was discussion about parking. He noted that the site plan presented tonight was different than what was presented to the Commission. He stated the lot to the west would have an extended common access drive and would provide for nine extra parking spaces. Staff received one correspondence in support of the request.

Questions from the Governing Body and Answers **None**

Applicant's Presentation

Jay Reissig, G&A Consultants

Mr. Reissig stated the project was for a child care and learning center. They were able to gain more parking with the property to the west. He stated the elevations for the building were very similar to the existing nearby buildings.

Mayor Smith thanked the applicant for working with staff.

Public Comments **None**

Close Public Hearing

Council Deliberation

Mayor Pro Tem Levenick moved to approve Specific Use Permit SUP/SP 383-09 - Jernigan Heights Learning Center - to permit a daycare center, and adopted Ordinance No. 45-09 providing for said amendment subject to the following conditions:

- a. The attached site plan and elevations, labeled Exhibit A, an exhibit to the Specific Use Permit, shall be developed as approved, except that certain minor changes outlined in Section 82-37 of the Town's Land Development Regulations may be approved as set forth in that section.
- b. If a building permit application has not been submitted to the Town's Building Inspections Division for consideration within one year of approval of the ordinance, the Specific Use Permit described herein will be a matter that will be automatically placed upon a subsequent Planning and Zoning Commission agenda for consideration as a Town-initiated zoning change under normal zoning amendment procedures.

The motion was seconded by Councilmember Filidoro. The caption of the ordinance reads as follows:

ORDINANCE NO. 45-09

AN ORDINANCE 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 LOT 5, BLOCK A OF THE JERNIGAN HEIGHTS ADDITION FROM RETAIL DISTRICT-2 (R-2) USES, TO RETAIL DISTRICT-2 (R-2) USES SUBJECT TO SPECIFIC USE PERMIT NO. 383 (SUP-383) FOR A DAY CARE CENTER, IN ACCORDANCE WITH THE TOWN'S MASTER PLAN 2001 AND SPECIFIC REQUIREMENTS STATED HEREIN AND EXHIBITS ATTACHED HERETO; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON THE MOTION

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

M. COORDINATION OF CALENDARS AND FUTURE AGENDAS/MEETINGS

- November 2 - Legislative Update Presentation by Fred Hill
- November 16 regular meeting
- November 19 work session - Councilmember Wallace reminded the Council of the proposed joint work session with the Oil and Gas Board. Mr. Jefferson stated staff would probably have to move the environmental strategies item to another work session, and staff would have a better idea after the November 2 public hearing on gas drilling.

N./O. CLOSED/OPEN MEETING

The Town Council convened into a closed meeting at 7:04 p.m. on October 19, 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 11:58 p.m. on October 19, 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 and the Board of Adjustment .**

No action taken.

- d. **Discuss and consider annual review of Town Manager.**

Mayor Pro Tem Levenick moved to take action on the review of the Town Manager as discussed in Closed Session. Deputy Mayor Pro Tem Dixon seconded the motion.

VOTE ON THE MOTION

AYES: Dixon, Filidoro, Hayden, Wallace, Levenick

NAYS: None

- e. **Discuss and consider annual review of Town Secretary.**

No action taken.

P. ADJOURN REGULAR AND SPECIAL MEETINGS

Mayor Smith adjourned the regular meeting at 11:59 p.m. on Monday, October 19, 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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