

**THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 16<sup>th</sup> DAY OF NOVEMBER, 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 (arrived at 6:22 p.m.)
Jean Levenick	Mayor Pro Tem
Al Filidoro	Councilmember Place 2
Mike Wallace	Councilmember Place 3
Tom Hayden	Councilmember Place 5

with the following members absent:

Steve Dixon	Deputy Mayor Pro Tem
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constituting a quorum with the following members of the Town Staff participating:

Harlan Jefferson	Town Manager
Tammy Follett	Deputy Town Secretary
Alan Lathrem	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**

Deputy Mayor Pro Tem Levenick called the briefing session to order at 6:06 p.m.

**B. BRIEFING SESSION**

1. Town Council Boards and Commissions Liaison Reports.

Councilmember Wallace stated he attended the Environmental Conservation Commission (ECC) meeting on November 3, 2009. Staff gave a presentation on their tour with the City of Austin pertaining to environmental sustainability topics. They also received an update on the Connemara conservancy with the potential opportunity of environmental conservation as part of the development located west of Tour 18. The ECC also received presentations on Green Building programs.

Councilmember Hayden stated the Planning and Zoning Commission discussed, during a work session, how zoning would be required to be changed for the gas issues currently being considered by the Town Council. They voted on the Continuum Rehabilitation Hospital and Mixed Use Analysis.

Councilmember Filidoro stated the Board of Adjustment/Oil and Gas Board completed Ethics and Open Meetings Act training provided by Town Attorney Alan Lathrom.

2. Discuss Consent and Regular Items - **no discussion.**

3. Discuss Future Agenda Items

Mayor Pro Tem Levenick requested the Code of Conduct be placed on a future

agenda prior to the Town Council retreat in January.

4. **Discuss Council Communications - no discussion.**
5. Presentation of the Gerault/Morriss 60% Completion Construction Plans.

Assistant Town Manager Kent Collins gave the following power point presentation:







Councilmember Filidoro stated during the public hearings many residents had a preference for eight foot fences and it was suggested to look at increasing the height of the six foot columns to accommodate this request.

Mr. Collins stated the height of the fence will be based on the column height. If a neighborhood heightened columns prior to the Town coming in, fences will comply with that height. The columns would have to be replaced and the neighborhood would have to provide a letter from a structural engineer.

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

Mayor Smith adjourned the briefing session and called the regular meeting to order at 6:31 p.m.

**E. INVOCATION**

Chaplain Don Cone gave the Invocation.

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

Boy Scout Troop 451 conducted the flag ceremony and led the pledges.

**G. PRESENTATIONS**

- Town of Flower Mound Recognized as Most Technologically Advanced City

Mayor Smith stated the Town received an award as the Most Technologically Advanced City for its population range in America. She read a letter from Congressman Burgess congratulating the Town for receiving this prestigious award. Mayor Smith recognized the staff members involved for receiving this astounding achievement - Dustin Malcom, Michael Ryan, Gary Bertagnolli, Kevin Ewin, Dan Allinger, Augustine Sanaseros, Sabrina Zadow, Cyrus Haskell, and Clark McDaniel.

Mayor Smith then presented the award to Dustin Malcom, Director of Information Technology; Michael Ryan, Director of Community Affairs, and Augustine, Network Technician.

Mr. Malcom stated this was a result of team effort from many different staff members and he stated how much staff appreciates the support of the Town Council by approving the tools and resources to implement the technology for our employees and citizens.

**H. PUBLIC PARTICIPATION**

Darrell Fell, 3513 Arbor Creek Lane, Flower Mound

Mr. Fell stated he has a Bachelors Science in Solid Earth Geophysics from McGill University which includes the study of seismology. He has had experience in the exploration industry and has provided services to gas pipeline companies in past work history. He stated he understood the Town Council was considering a modification of an ordinance to allow additional capabilities to gas development in the Town. He stated he believed the processes used to develop these resources were not closed systems and would interact with the environment. He stated, in his opinion, to allow additional

capability would significantly increase the risk of pollution in the environment and he urged the Town Council on behalf of his family and friends to not allow the ordinance to be modified.

## I. ANNOUNCEMENTS

- Announce recent and upcoming civic and social events

Mayor Smith announced the Holiday Stroll and Christmas Parade will be held on December 12, 2009. She was very pleased that the Stroll would continue at Parker Square. She stated recent events were the Youth and Family Counseling Services Annual Wreath Auction, Touched by Suicide Walk, the Seniors in Motion Craft Fair, the Dorothy Dash 5K, which she understood had its largest turnout, and the Cloud 9 Fashion Show which all councilmembers modeled in to raise funds for three local non-profit organizations.

Mayor Smith asked the citizens to keep an eye open for census takers, and expressed the importance that everyone be counted. She stated that the information obtained during the census would be kept confidential and the records would be sealed for 72 years.

Mayor Smith stated she attended the meeting for Super Bowl XLV which will be hosted at the Cowboys Stadium Arlington in February 2011. She stated she was very proud to represent the Town of Flower Mound in regularly held meetings. It would be a year featuring North Texas with many cultural, civic, and social events to be held. The Town was very proud that a function was recently at Circle R Ranch, which included executives from Super Bowl XLV, and executives from all of the NFL franchises.

Councilmember Filidoro stated he attended the Lewisville Lake Symphony concert on Friday which included signage thanking the Town for its support. On Saturday, the Flower Mound Symphony held a concert at Trietsch Memorial United Methodist Church which the Council could not attend due to attending the Cloud 9 Fashion Show. On Sunday most of the Council attended the Spring Lake Park Beautification Project in honor of the life of Marianne Kilpatrick.

Mayor Smith recognized Kelly McDonald and the Keep Flower Mound Beautiful Board for the dedication and commitment to this project.

Mayor Pro Tem Levenick stated on Sunday, November 8<sup>th</sup> the Town held the 11<sup>th</sup> Annual Veterans Day ceremony at Flower Mound High School with the most attendance to date. Several local scout troops and R.O.T.C. groups participated in a parade honoring the veterans. It was a beautiful day and a great time to remember all of the veterans. Mayor Pro Tem Levenick announced that the Town went a long period of time not having an agreement with SPAN and it was good to see the SPAN Van back in action in Flower Mound providing service to our residents.

Councilmember Wallace announced the Town has open positions for firefighters and police officers, more positions are posted on the **Town's** Website and on the wall located next to the Human Resources Department.

## 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 Police Beat 8 was officially operational, six months ahead of schedule. The beat will reduce the size of the other seven beats and will translate into a response time reduction town-wide.

Mr. Jefferson provided an update on the recovery of the June 10, 2009 storm. The portable building located next to Town Hall was removed today and the existing building will be remodeled for a storage facility, a studio, a facility for meter services, and the facilities maintenance department.

Mr. Jefferson stated the Flower Mound Rotary donated 25 trees to the Town to help restore the canopy lost from the storm. Ten trees were planted last Saturday at Westchester Park, ten trees at Stone Creek, and five trees at Shadow Ridge. He expressed the Town's appreciation to the Rotary Club.

Councilmember Hayden stated at a previous Town Council meeting Council discussed the possibility of collecting a sample of the fracing water from the various EMP companies and asked Mr. Jefferson if he had an opportunity to investigate this as well as the response.

Mr. Jefferson stated at a previous meeting, Williams committed to providing the Town with the results of their tests which were received today. A firm will assist the Town in the review and a report will be provided at a later date. He further stated staff contacted all of the oil and gas companies operating in Flower Mound and received three positive responses, one does not have a well optional. Another offered to have the water tested but stated the results could not be made public, therefore staff would not pursue. A third company committed and staff will try to have the results prior to the next Town Council meeting.

Councilmember Hayden stated in the past the Council has discussed seismic testing, how it could impact the roadways and the expense to the Town. He asked if the Town has ever done a direct economic benefit of what oil and gas exploration would do positively for the Town and would there be any projections for the next three years and asked if the laws have changed in the last couple of years from a taxing perspective and how it would impact the Town.

Mr. Jefferson stated staff would research the change in the statutes and how they could impact the appraised value of mineral interests in the Town. He stated with respect to long range forecast, staff has only completed the analysis of what property tax revenue was collected at the present time. Any projections would require assumptions to be made, but it would be possible to do.

Councilmember Hayden stated he thought it would be beneficial to see what the expense would be to the Town and what the direct benefit might be to the Town.

## **K. CONSENT ITEMS**

Councilmember Wallace made a motion to approve by consent, Items 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11. 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 work session of the Town Council held on October 15, 2009.**



**RECOMMENDATION:** Approve minutes from a work session of the Town Council held on October 15, 2009.

2. **Consider approval of minutes from a tour of senior facilities taken by the Town Council on October 27, 2009.**

**RECOMMENDATION:** Approve minutes from a tour of senior facilities taken by the Town Council on October 27, 2009.

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

**RECOMMENDATION:** Approve minutes from a regular meeting of the Town Council held on November 2, 2009.

4. **Consider approval of canceling the January 4, 2010, and January 18, 2010, regular meetings of the Town Council and calling a special meeting on January 21, 2010.**

**RECOMMENDATION:** Approve canceling the January 4, 2010, and January 18, 2010, regular meetings of the Town Council and calling a special meeting on January 21, 2010.

5. **Consider approval of the purchase of one ambulance for Fire and Emergency Services from Professional Ambulance, through the Texas Local Government Purchasing Cooperative, in the total amount of \$172,737.50.**

**RECOMMENDATION:** Approve the purchase of one ambulance for Fire and Emergency Services from Professional Ambulance, through the Texas Local Government Purchasing Cooperative, in the total amount of \$172,737.50.

6. **Consider approval of an agreement with DataProse, a CSG Company, for utility bill printing and mailing services, in the estimated annual amount of \$130,106.00, and authorization for the Mayor to execute same on behalf of the Town.**

**RECOMMENDATION:** Approve an agreement with DataProse, a CSG Company, for utility bill printing and mailing services, in the estimated annual amount of \$130,106.00, and authorize the Mayor to execute same on behalf of the Town.

7. **Consider approval of an ordinance amending the Town of Flower Mound's Annual Budget for the fiscal year beginning on October 1, 2009, and ending on September 30, 2010, as adopted by Ordinance No. 36-09 for adjustments to the IRS Equitable Sharing Fund, the Municipal Court Technology Fund, and the Vehicle, Equipment, and Technology Replacement Fund.**

**RECOMMENDATION:** Approve Ordinance No. 47-09 amending the Town of Flower Mound's Annual Budget for the fiscal year beginning on October 1, 2009, and ending on September 30, 2010, as adopted by Ordinance No. 36-09 for adjustments to the IRS Equitable Sharing Fund, the Municipal Court Technology Fund, and the Vehicle, Equipment, and Technology Replacement Fund. The caption of the ordinance reads as follows:

**ORDINANCE NO. 47-09**  
**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, 2009, AND ENDING ON SEPTEMBER 30, 2010, AS ADOPTED BY ORDINANCE NO. 36-09; FOR ADJUSTMENTS TO THE IRS EQUITABLE SHARING FUND, MUNICIPAL COURT TECHNOLOGY FUND, AND THE VEHICLE, EQUIPMENT, AND TECHNOLOGY REPLACEMENT 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.

8. Consider approval of a Professional Services Agreement with Teague Nall and Perkins to provide professional engineering design services associated with the Hamlett Lane Paving Reconstruction project, in the amount of \$51,800.00, 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 associated with the Hamlett Lane Paving Reconstruction project, in the amount of \$51,800.00, and authorize the Mayor to execute same on behalf of the Town.

9. Consider approval of Change Order No. 3 for construction of the Spinks Road Phase IV project, amending the contract with Ed Bell Construction Company, for an increase in the amount of \$17,492.00, and authorization for the Mayor to execute same on behalf of the Town.

**RECOMMENDATION:** Approve Change Order No. 3 for construction of the Spinks Road Phase IV project, amending the contract with Ed Bell Construction Company, for an increase in the amount of \$17,492.00, and authorize the Mayor to execute same on behalf of the Town.

10. Consider approval of a Professional Services Agreement with Teague Nall and Perkins to provide professional engineering design services associated with Phase IV of the CDBG - Sunrise Circle Paving Improvements project, under the provisions of the Community Development Block Grant (CDBG) in the amount of \$22,000.00, 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 associated with Phase IV of the CDBG - Sunrise Circle Paving Improvements project, under the provisions of the Community Development Block Grant (CDBG) in the amount of \$22,000.00, and authorize the Mayor to execute same on behalf of the Town.

11. Consider approval of Amendment No. 1 to the Fiscal Year 2009-2010 Capital Improvement Program.

**RECOMMENDATION:** Approve Amendment No. 1 to the Fiscal Year 2009-2010 Capital Improvement Program.

#### VOTE ON THE MOTION

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

**L. REGULAR ITEMS**

- 12. Consider approval of a resolution casting the vote of the Town of Flower Mound, Texas, for the election of the Board of Directors of the Tarrant Appraisal District.**

**Council Deliberation**

Mayor Smith stated the Town has one single vote for the Tarrant Appraisal District. There are two representatives that are at-large members that reside in Tarrant County, one representative from the City of Colleyville, one from the Town of Lakeside and the other three representatives have substantial independent school districts and city backgrounds. She stated if there was not enough information to make a decision, the Council may want to consider the representative from the City of Colleyville, only because it might be considered a sister city and have similar demographics as Flower Mound.

Councilmember Filidoro moved to postpone this item to December 7, 2009 regular meeting. The motion was seconded by Councilmember Wallace.

**VOTE ON THE MOTION**

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

- 13. Receive presentations by candidates for the Board of Directors of the Denton Central Appraisal District, and consider approval of a resolution casting the votes of the Town of Flower Mound, Texas, for the election of the Board of Directors of the Denton Central Appraisal District.**

Mayor Smith stated a brief description was provided in the agenda packet for each nominee and several were in attendance to give a brief presentation.

**Presentation**

Lee Baker, 616 Paisley Drive, Flower Mound

Mr. Baker stated he has been a resident of Flower Mound for nine and a half years and prior lived in Lewisville for 43 years. He stated twelve years ago the Lewisville City Council asked him to serve on the DCAD Board and with the support of Flower Mound, LISD, City of Lewisville, Town of Coppell, and City of The Colony he was elected and has been for every two years since then. He would continue as long as he was asked to and would do his best.

Al Picardi, 1525 Lindby Drive, Flower Mound

Mr. Picardi stated he has been a citizen in Flower Mound for over 16 years with extensive involvement in the community. He was past member of the Library Board, served as Chair of the Library Board, involved in the Summit Club and served as President, involved in LISD as PTA member, Board member of PTAs, TAKS tutoring middle schools, and now asked by LISD to help represent the district on the DCAD Board and would appreciate the **Town's** support.

Charles Stafford, Denton, Texas

Mr. Stafford stated he was a resident of Denton, Texas. He has served on the Denton

School Board, and was the immediate past President. He has served on numerous charitable boards and was the founding board President of the **Children's** Advocacy Center. He has served on the DCAD Board for four years and was willing to continue. He stated he greatly appreciated Town Secretary Paula Paschal informing the candidates of this meeting and stated it was more consideration given to them than by any other entity.

Rick Woolfolk, Denton, Texas

Mr. Woolfolk stated he has lived in Denton for 30 years. He was a previous board member of the Denton Independent School District, and many state level boards with the school. He stated he has had the privilege of working with Harlan Jefferson while on the Denton Airport Board which he served on for 25 years. He has been on the DCAD Board for six years and one of the strengths he brings was his strong financial background. He stated he applauded the Town for having this type of forum tonight. He stated he takes his appointment **very seriously and would appreciate the Town's support.**

Pearl Ford, Trophy Club, Texas

Ms. Ford stated she has been a resident of Denton County for 29 years and was one of the first members that moved into Trophy Club. She stated she was currently a member of the DCAD Board and serves as its Secretary and has been on the Board for four years. Prior to DCAD Board she served on the Appraisal Review Board. During her term she has worked hard to emphasize the service to the public by changing procedures, updating facilities and expanding communication with the taxing entities. She stated her personal interest was updating the technology as she spent 30 years working on software development for IBM. In addition to updating the technology, they implemented a disaster recovery system which was now in place. **She stated she would appreciate the Town's support and vote.**

Councilmember Filidoro moved to postpone this item to December 7, 2009 regular meeting. The motion was seconded by Mayor Pro Tem Levenick.

**VOTE ON THE MOTION**

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

14. RP 07-09 - Roanoke Hills **Public Hearing**  
**Public Hearing to consider a request for a Replat (RP 07-09 - Roanoke Hills) to create a residential lot and an exception to Section 90-302, Concrete streets, as authorized by Section 90-301, Exception to street standards, of the Code of Ordinances. The property is located at 4209 Pocohontas Drive. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its October 26, 2009, meeting.)**

**Staff Presentation**

Doug Powell, Executive Director of Development Services, gave the following presentation:





### Questions from the Governing Body and Answers

Councilmember Wallace stated the Council has seen a lot of these types of requests and they have been approved most of the time. He asked what would be needed to change the ordinance so that these types of requests could be administratively approved.

Mr. Powell stated a provision would have to be added to the Code stating the types of circumstances that would delegate approval to the Planning and Zoning Commission.

Councilmember Wallace suggested that the Town Council should consider this to streamline the process.

Mayor Smith suggested that this be discussed at the Town Council retreat during the discussions of development.

### Questions and Answers from the Public OR Public Comments

There were none.

### Staff Comments

There were none.

### Close Public Hearing

### Council Deliberation

Councilmember Wallace moved to approve Replat 07-09 - Roanoke Hills to create a residential lot and an exception to Section 90-302, Concrete streets, as authorized by Section 90-301, Exception to street standards, of the Code of Ordinances. The motion was seconded by Councilmember Filidoro.

### VOTE ON THE MOTION

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

### M. COORDINATION OF CALENDARS AND FUTURE AGENDAS/MEETINGS

Mayor Smith stated there will be a Work Session this Thursday to discuss criteria and options for seismic analysis testing on Town roadways. The next regular meeting will be December 7, 2009, followed by a Work Session on December 17, and a regular meeting on December 21, 2009.

Councilmember Wallace stated the January 4, 2010 and January 18, 2010 regular meetings have been cancelled and there would be a Special Meeting and Work Session held on January 21, 2010.

Mr. Jefferson stated there was a request to move the Code of Conduct discussion from the retreat to another meeting and asked for direction as to a date. He stated he would have to

verify Randy Pennington's schedule.

Mayor Smith stated to find out Mr. Pennington's availability for December 21<sup>st</sup> as the first option and December 17<sup>th</sup> as a second option.

**N./O. CLOSED/OPEN MEETING**

The Town Council convened into a closed meeting at 7:19 pm on November 16, 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 9:05 p.m. on November 16, 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 and Environmental Conservation Commission.**  
No action taken.
- d. **Discuss personnel matters.**  
No action taken.

**P. ADJOURN REGULAR MEETING**

Mayor Smith adjourned the regular meeting at 9:05 p.m.

TOWN OF FLOWER MOUND, TEXAS

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JODY SMITH, MAYOR

ATTEST:

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TAMMY FOLLETT, DEPUTY TOWN SECRETARY



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