

**THE FLOWER MOUND TOWN COUNCIL SPECIAL MEETING AND WORK SESSION HELD ON THE 17<sup>th</sup> DAY OF DECEMBER, 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                                     |
| 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 6:17 p.m.

**B. BRIEFING SESSION**

**1. Town Council Boards and Commissions Liaison Reports.**

Councilmember Hayden attended the Planning & Zoning Commission meeting and approved a residence in Bridlewood Stables. The Commission also discussed centralized collection facilities related to gas drilling.

Mayor Pro Tem Levenick attended the Transportation Commission. She reviewed the update on road projects: intersection of FM 2499/FM 407 should be open soon; Phase 1 of FM 1171 is scheduled for completion in July 2010; FM 407 from Briarhill to Chinn Chapel - process begins January 2010; Spinks Phase 4 is under construction; Morriss/Gerault project starts March 2010; Flower Mound Road from FM 2499 to Old Settlers to begin February 2010 (funded through ¼ cent sales tax); Fuqua - concerns about being closed to outbound traffic. The Commission also discussed the DCTA status report; the proposed draft of Medians and ROW Master Plan; 90% completion of design status report on Morriss/Gerault improvement project; and management policy on neighborhood traffic.

Mayor Smith stated the Community Development Corporation was responsible for monitoring the spending of the ¼ cent sales tax (4B). The Corporation approved the budget which would provide for a horse trail extension.

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

**3. Discuss Future Agenda Items - no discussion**

**4. Discuss Council Communications.**

Town Manager Harlan Jefferson stated there were options regarding the leasing of Corps of Engineers property. The first option would have the Town move forward with Twin Coves, making minimal changes in order to open the park. Substantial infrastructure improvements would have to be made, and the Town would have to spend about \$500,000. The second option would be to master plan the facility. The third option would be to sub-lease it to another party.

Mayor Smith advised that the Council could discuss this during the retreat as part of the Parks Master Plan.

**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 6:23 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. PRESENTATIONS - none**

**H. PUBLIC PARTICIPATION**

Paul Stone, 709 Lake Bluff Drive, Flower Mound

Mr. Stone appreciated the time that members of the Council and the Town Manager took in talking with him regarding an incident at the end of the Christmas Parade. He suggested that the Council talk about the creation of a citizen police review board at the retreat in January. He stated he was bothered by the bad press about the heavy handedness of a few public safety officers. He stated the Police Department should be oriented to the community and they should get a better understanding of what a Christmas parade really is. He added he was upset about how he was treated in trying to gather canned goods.

Jeff Tasker, 3709 Sand Hurst, Flower Mound

Mr. Tasker stated he recently spoke to 3<sup>rd</sup> grade students at Old Settlers Elementary, as he had done during the years he was on Town Council. Three of the students asked him to show letters to the Mayor, and he delivered a packet of letters to Mayor Smith.

Steve Vogl, ROW Supervisor for Williams, 122 Futurity Lane, Brock, TX

Mr. Vogl stated that on May 11, 2009 he submitted a pipeline application with the Town for the Cummings Pipeline. He gave a draft easement and plat to the Town so the pipeline could go across the Fire Station #2 property. The pipeline would be paralleling an existing Atmos easement. He stated he received a response from the Town Attorney on October 16, 2009 and the easement had been re-written. Mr. Vogl stated he had done everything the Town had asked and he requested that the Council grant the easement.

Ryan Watts, Vice President of Cherokee Horn, 1011 Surrey Lane, Flower Mound

Mr. Watts stated his primary focus was on leasing out 6,500 acres in Flower Mound and Lewisville. Cherokee had 2,080 tracts in Flower Mound and was about 74% leased. Mr. Watts stated he was troubled with the actions being taken by the Town, and there seemed to be much misinformation in the public. Mr. Watts stated benzene was really only found where near oil production, not gas production, adding there was almost zero oils or liquids with natural gas. He read information from a study done in Fort Worth, and added that a moratorium was not a good idea.

Ron Hilliard, 2461 Sherri Lane, Flower Mound

Mr. Hilliard stated every time he had an issue with the Town, the answer would be no and someone tried to figure out why later. He stated he recently found out he had to have a permit to demolish two structures on his property. Mr. Hilliard stated the moratorium on gas drilling was coming at an inopportune time. He asked the Council to be reasonable and not pass the ordinance.

Roger Beecham, Attorney, 500 N. Akard, Dallas

Mr. Beecham stated he represented Hilliard Minerals LLC, and the property in question was leased to Cherokee in 2008. He stated if the moratorium was passed, the lease may not be drilled and this would cause serious damages to the Hilliard Family. He stated cities had the right to regulate activities, however if they over-regulated, it could create a regulatory taking. If the moratorium was put into place and permits could not be approved, property owners may take redress. He stated he wanted to see the Town prosper and wells drilled. He stated the property owners should be able to develop their properties as they wished. He hoped to see good and positive results.

Chris Tomlinson, 3907 Raintree, Flower Mound

Mr. Tomlinson opposed a moratorium on drilling. He stated it would be a detriment to the community and property owners. Mr. Tomlinson stated people had the right to their property and were counting on the money. He stated benzene was a problem with wet wells, not dry wells. He stated TCEQ did not recommend a moratorium until their study was complete.

Kelly McDonald, 4119 Mustang Trail, Flower Mound

Ms. McDonald, president of the Bridlewood Homeowners' Association Board, stated the Board supported a moratorium. She noted there were unanswered questions with air quality, and requested that staff commission Flower Mound's own air quality study. She hoped to see a baseline for Flower Mound.

Gerald Robinson, 6920 Hidden Valley Road, Flower Mound

Mr. Robinson stated the Town went through the process regarding seismic testing, and now a moratorium was being discussed right before the holidays. He stated he was not a member of any interest group, and he asked the Council to make their decisions based on facts, not on fear. He did not want to see specific groups driving the policies of the Town.

Phil Del Vecchio, 7003 Woodridge, Flower Mound

Mr. Del Vecchio stated he was an engineer in the oil industry, and he had submitted a great deal of information to the Council. He had not received any responses from the Council. He encouraged the Council to not pass the moratorium.

Ray Oujesky, attorney with Chesapeake Energy, 100 Energy Way, Fort Worth

Mr. Oujesky objected to a moratorium of permit applications. He referred to Local Government Code Section 212.134, regarding notice provisions for a moratorium on property development.

Jim Holmes, 6408 Hillcrest, Flower Mound

Mr. Holmes urged the Town Council to not vote for the moratorium. He stated a central collection system would have triple wall pipe, be pressurized, and monitored. If the centralized system was not used, the truckers would be going to unmanned sites. If there was a spill, it may not be cleaned up.

Susan Trentham, 4408 Biscayne, Flower Mound

Ms. Trentham stated she moved to Flower Mound for the quality of life and she never imagined gas well drilling would be so close to her home. She supported a moratorium until the TCEQ study was completed.

Kris Wise, 4409 Biscayne, Flower Mound

Ms. Wise was in favor of the moratorium. She expressed concern with having benzene in the air. She stated home values might decline and sales might fall. She stated it was prudent to wait until the TCEQ study is completed.

Tammi Vajda, 2828 Lake Ville Lane, Flower Mound

Ms. Vajda supported the moratorium and added that the gas will still be there when the study is completed.

Frank Gavitt, 6501 Meadowcrest Lane, Flower Mound

Mr. Gavitt was opposed to the moratorium on gas drilling permits. He noted that a compression facility was inspected by TCEQ earlier this year and it was in compliance. He stated if any emissions problem was identified, Williams would take care of it immediately. He supported the centralized collection facility. Mr. Gavitt stated pipelines would not go under any homes and would be at least a mile away from Bridlewood.

Marcia Gavitt, 6501 Meadowcrest Lane, Flower Mound

Ms. Gavitt stated there had been many emotions and rumors and bad information - intentional and unintentional. She stated people should get the facts. Anti-drilling groups had done a disservice to the residents of Flower Mound. She opposed the moratorium and approved of the central collection facility.

Jeff Stovall, Williams, 6776 Corporation Pkwy, Fort Worth

Mr. Stovall stated he had operated in the Barnett Shale since 2005 and never received notices from TCEQ. Emissions were measured at least quarterly. Williams had never tested out of compliance at the compression station. He encouraged the Council to vote against a moratorium.

Lucas Smith, Environmental Health and Safety Specialist, Williams

Mr. Smith stated Williams had a fugitive gas and emissions program. They made sure the sites were safe for neighborhoods and for the employees. Personnel go on sites every day checking for leaks. He stated Williams had two studies at a compression site in Flower Mound. They did find a minor leak and was taken care of immediately.

Todd Thompson, Environmental Team Leader, Williams

Mr. Thompson was in opposition to the moratorium. He stated for over 30 years he had worked with businesses to protect human health and the environment. He made sure that

Williams' operations were in full compliance with all local, state, and federal regulations.

Rob Young, Drilling Manager, Williams

Mr. Young stated he was a registered professional geologist, and he went to great lengths to educate the public and the Council about the core aspects of Williams' operations. Williams was concerned about emissions, noise, and the environment. They believed in ethical and moral codes, and encouraged the Council to deny a moratorium.

Barry Hulseley, Facilities Manager, Williams

Mr. Hulseley stated he had worked in Flower Mound for five years, and he was opposed to a moratorium. He stated Williams operated 13 wells producing natural gas, and seven more were ready to drill. He referred to the site (48 acres on Scenic), and stated the facility was on 10 acres with a 38 acre buffer. Williams had been proactive by building a structure around the operation that looked like a barn. He stated a water gathering system would reduce the number of trucks on the roadways and minimize the number of compressors in Flower Mound.

J. Ben Sparks, Williams

Mr. Sparks stated he had worked in the gas industry for 30 years and Williams had built a state-of-the-art facility in Flower Mound. He stated the proposed central water gathering facilities in Flower Mound were the right thing to do, and he opposed the moratorium.

Tony Silvestri, Regional Vice President of Williams.

Mr. Silvestri stated he had been with Williams for 19 years. He referred to a recent letter sent to the Council, staff and attorney. He hoped that the central facility and gas lift on the Wilson property could be permitted timely. Williams believed that the current ordinances could permit the facilities. Williams respected the environment and quality of life in Flower Mound.

Ed Ireland, Executive Director of the Barnett Shale

Mr. Ireland stated no data existed that shows that any residents in the Barnett Shale area had been exposed to benzene that came from natural gas wells. He stated the Wolf Eagle study was reviewed by an engineering company commissioned by the City of Fort Worth. The study showed no connection with benzene and natural gas wells. He added that TCEQ said their information could not be used to support a moratorium on drilling.

Sue Ann Lorig, 4613 Foxglove Court, Flower Mound

Ms. Lorig stated Flower Mound had the opportunity to be a leader in North Texas by being the first municipality to ban drilling permits until the TCEQ report was completed. She stated toxins other than benzene had been found in the air.

Robin Farrell, 4105 Appleton Lane, Flower Mound

Ms. Farrell stated Flower Mound was turning into an industrial community to benefit others. She asked what was the rush to have drilling in the Town.

Richard Naslund, 3101 Autumn Sage Trail, Flower Mound

Mr. Naslund requested that the Council pass the ordinance on the moratorium.

Greg Rumsay, 2708 Blue Wood Trail, Flower Mound

Mr. Rumsay stated somehow it had reached a point where drilling was not good. High-end homes were being foreclosed on. He stated the oil and gas industry was highly regulated and many people had signed leases. He added that many towns would love to have a Barnett Shale to sit on top of. He felt that the gas drilling would pump millions of dollars through Flower Mound. He asked the Council to vote against a moratorium.

Marilyn Lawson, 4808 Schooner Court, Flower Mound

Ms. Lawson asked the Council to enact a moratorium until the study by TCEQ was released. She asked for an air quality baseline for Flower Mound. She was in favor of a tank farm. She asked the Council to protect the citizens from hazards.

Laurie Long, 2708 Lakeflower, Flower Mound

Ms. Long stated she was not opposed to oil and gas drilling, and she was in support of making decisions to protect the health, safety and welfare of the citizens at large. She stated the Town did not have all the facts, and the Council should get all the information before making decisions. She stated there were other options than a centralized collection facility. She asked the Council to investigate recycling to keep the truck traffic down.

Melissa Northern, 4601 Portsmouth Court, Flower Mound

Ms. Northern stated she had seen many trucks on FM 1171. She asked the Council to look at instituting new hours for the truck traffic so it was not during school bus hours.

Connie Pompei, 3720 Haven Lake, Flower Mound

Ms. Pompei stated she had signed a lease for gas drilling. She had not seen any problems or accidents with gas drilling and was not in favor of a moratorium.

Jeffrey Whittaker, 4305 Auburn, Flower Mound

Mr. Whittaker asked the Council to pass the moratorium ordinance. Any discussion of benzene and causes should be weighed considerably. He stated cancer was not curable and the Town should protect the children of the community. He felt the wastewater treatment could be done at the location of the facility. He stated the **Town's** regulations made requirements of the industry, not one company. As a business owner, he had a vested interest in the success of the Town and the businesses.

Debi Friedlander, 2700 Rocky Point Road, Flower Mound

Ms. Friedlander stated she had seen much truck traffic, and as drilling expanded there will be additional truck traffic. This would increase the potential for accidents. She was in favor of a centralized wastewater collection facility.

Beverley Fell, 3513 Arbor Creek, Flower Mound

Ms. Fell stated the Council had to protect the citizens and the environment. The public needed to be sure that this industry was safe, and she asked for the moratorium.

Daniel Carizales, 3113 Plum Tree, Flower Mound

Mr. Carizales was in favor of a moratorium, and expressed concerns about the environment and health issues.

Stan Martin, 6505 Frontier, Flower Mound

Mr. Martin stated he lived five houses away from a drilling site. He asked the Council to vote against a moratorium ordinance and let Williams move on with their activities. He stated the Council should listen to the experts, and a central collection point made sense. Mr. Martin stated all the issues were political and he did not like it.

Cathy Pendola, 5309 Balmoral Lane, Flower Mound

Ms. Pendola referred to a study by a SMU professor, and she stated gas drilling was the

main polluter of air. She supported the moratorium until there was more information about air quality.

Larry Belcher, 2900 Aberdeen, Flower Mound

Mr. Belcher asked the Council to vote for the moratorium.

Kate Johnson, 6508 Meadowcrest Lane, Flower Mound, left speaker form

Ms. Johnson was against gas drilling.

Darrell Fell, 3513 Arbor Creek, Flower Mound

Mr. Fell stated he was a geophysicist, and the information provided to the Council was inconclusive. He asked the Council to stop the drilling.

Gary Daniels, 6407 Meadowcrest Lane, Flower Mound

Mr. Daniels opposed the moratorium ordinance. He stated there was too much truck traffic on Shiloh Road now. He was in favor of a central collection facility.

Robert Wanzer, 2925 Hugo Court, Flower Mound

Mr. Wanzer wanted the Council to vote against a moratorium and continue with drilling. He asked the Council to show true leadership, and move forward with drilling smartly and responsibly.

Karen Wanzer, 2925 Hugo Court, Flower Mound

Ms. Wanzer was against the moratorium. She was concerned with the increase in truck traffic and she was in favor of the central collection facility.

Joe Northern, 4601 Portsmouth Court, Flower Mound

Mr. Northern stated the wastewater contained benzene and salt water. He stated he had talked to the city manager of Cleburne. He stated the Town ordinance was the only thing keeping drillers at bay. Williams should work with the Town to come up with the best solution. He supported the moratorium.

Don Cox, 5200 Park Ridge, Flower Mound

Mr. Cox was opposed to the moratorium. He added that his neighbor was counting on the money to save his home.

Lisa Petro, 4725 Hampshire, Flower Mound

Ms. Petro was in favor of the moratorium and for drilling. She was concerned about the children, and stated there was no reason not to wait until the studies were completed.

Richard Scott, 2805 Lakemont, Flower Mound

Mr. Scott stated he was not opposed to drilling. He stated the Town of Dish **didn't** get all the facts before allowing all the drilling. He was in favor of the moratorium and to get all the facts from the studies.

Craig Santchi, 6504 Meadowcrest Lane, Flower Mound

Mr. Santchi stated the point was to get truck traffic off the feeder roads and get the trucks out of the Town. He was concerned about the safety for children. By stopping the permits, the Town would endanger his family and neighbors. He was in favor of the centralized wastewater site. Mr. Santchi stated leadership in the wrong direction was still wrong, and the

Council needed to think about the whole Town (east and west).

David Flory, 3920 Raintree, Flower Mound, left speaker form  
Mr. Flory was against the suspension of drilling activities.

Joella Flory, 3920 Raintree, Flower Mound, left speaker form  
Ms. Flory was against the suspension of drilling activities.

Suzanne Dillin, 6405 Burning Tree, Flower Mound  
Ms. Dillin was against the suspension of drilling activities.

George Dillin, 6405 Burning Tree, Flower Mound  
Mr. Dillin was against the suspension of drilling activities.

Lauri Boudreaux, 6409 Meadowcrest, Flower Mound  
Ms. Boudreaux was against the suspension of drilling activities.

Carl Thunem, 4016 Raintree Drive, Flower Mound  
Mr. Thunem asked how the Town got to a point of wanting to halt drilling after so many work sessions, etc. He stated panic and misinformation was driving the moratorium. He stated that the oil and gas drilling industries met many regulations (TCEQ and EPA), although there were exemptions for the industries.

Dale Johnson, 6508 Meadowcrest, Flower Mound, left speaker form  
Mr. Johnson was against the moratorium.

Susan and Stephen Hayes, 3715 Valley View, Flower Mound, left speaker forms  
Mr. and Mrs. Hayes wanted fewer trucks on the roads, and were against the moratorium. They were in favor of the centralized storage facility.

Peter and Claudia Hollatz, 3712 Raintree, Flower Mound, left speaker form  
Mr. and Mrs. Hollatz supported the centralized storage facility.

Gabrielle Schweikart, 3915 Raintree, Flower Mound, left speaker form  
Ms. Schweikart supported the centralized storage facility.

Faye Gartman, 3607 Raintree, Flower Mound, left speaker form  
Ms. Gartman was against the moratorium and in support of the centralized collection facility.

#### **I. ANNOUNCEMENTS**

- Announce recent and upcoming civic and social events - **no announcements**

#### **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 announced that the Santa Cop Program helped 43 families (over 100 children). He noted that the Police Department received a \$162,000 seizure

award. The funds will be used to benefit the department in the form of personal audio and video equipment and GPS technology for police vehicles. He added the technology would help to reduce response times.

**K. CONSENT ITEMS**

Deputy Mayor Pro Tem Dixon made a motion to approve by consent, Items 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11. Mayor Pro Tem Levenick 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 December 7, 2009.**

**RECOMMENDATION:** Approve minutes from a regular meeting of the Town Council held on December 7, 2009.

2. **Consider approval of canceling the December 21, 2009, regular meeting of the Town Council.**

**RECOMMENDATION:** Approve canceling the December 21, 2009, regular meeting of the Town Council.

3. **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 Nos. 74-08 and 30-09 for year-end adjustments to the General Fund, General Debt Service Fund, and the Keep Flower Mound Beautiful Fund.**

**RECOMMENDATION:** Approve Ordinance No. 52-09 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 Nos. 74-08 and 30-09 for year-end adjustments to the General Fund, General Debt Service Fund, and the Keep Flower Mound Beautiful Fund. The caption of the ordinance reads as follows:

**ORDINANCE NO. 52-09**

**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 NOS. 74-08 AND 30-09; FOR YEAR-END ADJUSTMENTS TO THE GENERAL FUND, GENERAL DEBT SERVICE FUND, AND THE KEEP FLOWER MOUND BEAUTIFUL 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.**

4. **Consider approval of Change Order No. 6 and final acceptance for the construction of Kirkpatrick Lane Phase I, from Morriss Road to north-south Kirkpatrick Lane, amending the contract with LH Lacy Company, Ltd., for a decrease in the amount of \$3,434.00; acceptance of the project; authorization for final payment to the contractor, LH Lacy Company, Ltd., in the amount of \$258,701.64; and authorization for the Mayor to execute same on behalf of the Town.**

**RECOMMENDATION:** Approve Change Order No. 6 and final acceptance for the construction of Kirkpatrick Lane Phase I, from Morriss Road to north-south Kirkpatrick Lane, amending the contract with LH Lacy Company, Ltd., for a decrease in the amount of \$3,434.00; acceptance of the project; authorize final payment to the contractor, LH Lacy Company, Ltd., in the amount of \$258,701.64; and authorize the Mayor to execute same on behalf of the Town.

5. **Consider approval of a Professional Services Contract with Teague Nall and Perkins to provide landscape architecture and design services for the Green Ribbon project, for medians on FM 1171 west of FM 2499 to Shiloh Road and FM 2499 north of FM 1171 to FM 407 in the amount of \$52,112.00, and authorization for the Mayor to execute same on behalf of the Town.**

**RECOMMENDATION:** Approve a Professional Services Contract with Teague Nall and Perkins to provide landscape architecture and design services for the Green Ribbon project, for medians on FM 1171 west of FM 2499 to Shiloh Road and FM 2499 north of FM 1171 to FM 407 in the amount of \$52,112.00, and authorize the Mayor to execute same on behalf of the Town.

6. **Consider approval of a Professional Services Agreement with Kimley-Horn and Associates, Inc., to provide professional engineering services for the Windsor Drive 12-Inch Water Line (Windsor to West Windsor) project, in the amount of \$17,300.00, and authorization for the Mayor to execute same on behalf of the Town.**

**RECOMMENDATION:** Approve a Professional Services Agreement with Kimley-Horn and Associates, Inc., to provide professional engineering services for the Windsor Drive 12-Inch Water Line (Windsor to West Windsor) project, in the amount of \$17,300.00, and authorize the Mayor to execute same on behalf of the Town.

7. **Consider approval of Addendum No. 1 to the Professional Services Agreement with Halff Associates, Inc., to provide professional engineering design services and professional real property negotiation and appraisal services for the Morriss/Gerault Improvement project, from FM 2499 to FM 407, in the amount of \$187,500.00, and authorization for the Mayor to execute same on behalf of the Town.**

**RECOMMENDATION:** Approve Addendum No. 1 to the Professional Services Agreement with Halff Associates, Inc., to provide professional engineering design services and professional real property negotiation and appraisal services for the Morriss/Gerault Improvement project, from FM 2499 to FM 407, in the amount of \$187,500.00, and authorize the Mayor to execute same on behalf of the Town.

8. **Consider approval of a Professional Service Agreement with Alan Plummer Associates, Inc. to provide engineering services associated with the preparation of an updated Operation and Maintenance Manual for the Wastewater Treatment Plant, in the amount of \$52,240.00 and authorization for the Mayor to execute same on behalf of the Town.**

**RECOMMENDATION:** Approve a Professional Service Agreement with Alan Plummer Associates, Inc. to provide engineering services associated with the preparation of an updated Operation and Maintenance Manual for the Wastewater Treatment Plant, in the amount of \$52,240.00 and authorize the Mayor to execute same on behalf of the Town.

9. **Consider approval of a Professional Service Agreement with Alan Plummer Associates, Inc. to provide engineering services associated with the performance of**

**a Capacity Rerating Study/Report of the Town's Wastewater Treatment Plant, in the amount of \$57,645.00, and authorization for the Mayor to execute same on behalf of the Town.**

**RECOMMENDATION:** Approve a Professional Service Agreement with Alan Plummer Associates, Inc. to provide engineering services associated with the performance of a Capacity Rerating Study/Report of the Town's Wastewater Treatment Plant, in the amount of \$57,645.00, and authorize the Mayor to execute same on behalf of the Town.

- 10. Consider scheduling a public hearing to be held on February 1, 2010, to consider the amendment of land use assumptions and a capital improvements plan, the imposition of an impact fee, and approval of the 2009 Impact Fee Update.**

**RECOMMENDATION:** Approve a public hearing to be held on February 1, 2010, to consider the amendment of land use assumptions and a capital improvements plan, the imposition of an impact fee, and approval of the 2009 Impact Fee Update.

- 11. Consider approval of an Interlocal Cooperative Agreement with Denton County for the construction of Dixon Lane, and authorization for the Mayor to execute same on behalf of the Town.**

**RECOMMENDATION:** Approve an Interlocal Cooperative Agreement with Denton County for the construction of Dixon Lane, and authorize the Mayor to execute same on behalf of the Town.

#### **VOTE ON THE MOTION**

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

**NAYS:** None

#### **L. REGULAR ITEMS**

- 12. Public Hearing to consider approval of an ordinance amending Chapter 14 "Buildings and Building Regulations," Article XIII, Divisions 1 and 2, of the Town's Code of Ordinances, by amending Section 14-513, entitled "Definitions," and Section 14-542, entitled "Perimeter Fence Standards."**

#### **Staff Presentation**

Executive Director of Development Services Doug Powell stated the perimeter fencing issues had been discussed in previous work sessions. In 2007, the Town adopted perimeter fence standards. The proposed standards would give an overall new look over time, however the fences may not look exactly the same at one time. He did note that the rural areas could still keep the rural-type fences. Mr. Powell gave the following presentation.



### Questions from the Governing Body and Answers

Councilmember Filidoro noted that the homes in the Lake Forest area were supposed to have green fences in the neighborhood.

Mr. Powell stated that adoption of these standards would require them to not have green fences if they needed a new one.

Mayor Pro Tem Levenick commented that some wood fences had masonry columns that were eight feet tall and she was concerned about the slope of the fences.

Mr. Powell stated Item 1 of the definition would take care of that.

Councilmember Hayden asked if there was something the Town could do to keep from getting a patchwork effect between green and brown fences. He asked if the green fences could be stained.

Mr. Powell responded that the issue had not really been addressed.

Town Manager Harlan Jefferson stated staff had been talking about the next round of the fence replacement program, and perhaps a preference of composite or wood could be created. He stated staff could look at ways of expediting replacement. The long term goal was to eliminate patchwork colors.

Deputy Mayor Pro Tem Dixon asked if there was an option in the standards that if an entire neighborhood wanted a different color, permission could be granted by letting the neighborhoods choose their own color within an appropriate palette.

Mr. Powell stated the way the ordinance was written there was a color for red cedar and for the composite, for consistency and uniformity. He noted that these standards only applied to perimeter fences along thoroughfares - **not interior fences**.

Councilmember Filidoro asked if Lake Forest and Forest Vista were affected.

Mr. Powell responded yes.

Councilmember Hayden stated he was not opposed to uniformity throughout the Town and asked how this could be achieved without having patchwork.

Councilmember Filidoro asked if staff had talked to the subdivisions that would be affected.

Mr. Powell stated he did not talk to any **homeowners'** associations (HOAs). Staff did talk to the owners on Morriss about how the standards would apply to that project.

Councilmember Filidoro stated he would like to have had discussions with neighborhoods like Lake Forest.

Deputy Mayor Pro Tem Dixon asked when the part about tubular steel in front yards was added to the draft standards.

Mr. Powell stated it was added when drafting the ordinance. Now only tubular

steel would be allowed in front yards.

Councilmember Hayden stated he was in favor of the proposal, but still had concerns about the patchwork. He asked if it was appropriate to postpone this item until staff visited with the HOAs about avoiding the patchwork.

### **Public Comments**

#### Ron Hilliard, Sherri Lane, Flower Mound

Mr. Hilliard stated he had been in the lumber business for 39 years. He did not understand some of the changes in the ordinance. He stated many woods looked like western red cedar, and asked why treated products were removed as an option.

Mr. Powell responded that in talking to experts, they said the top material for longevity was western red cedar. He noted that it will be difficult to make sure people use it, but staff will enforce it to the best of their ability. He stated that hopefully property owners will specify to the contractors that they have to use western red cedar. He noted that there was a pre-stained material that provided a uniform look and was a quality product, and added that the fences will be inspected by the Town.

#### Melissa Northern, 4601 Portsmouth, Flower Mound

Ms. Northern asked if staff had worked with local vendors to have the products available for the residents to purchase. She encouraged the Town to speak with the HOAs and neighborhoods, as they would have to plan ahead for replacing fences.

Mayor Smith commented that there were probably only one or two neighborhoods that had wooden fences on thoroughfares.

Mr. Powell commented that staff had worked with local vendors on a discount for Flower Mound fence standards. The Town would ask for bids from local fence contractors and put prices on the website and their contact information. He noted staff would send a letter to the property owners who will be affected (probably less than 200).

### **Close Public Hearing**

### **Council Deliberation**

Mayor Pro Tem Levenick moved to approve Ordinance No. 53-09 amending Chapter 14 "Buildings and Building Regulations," Article XIII, Divisions 1 and 2, of the Town's Code of Ordinances, by amending Section 14-513, entitled "Definitions" and Section 14-542, entitled "Perimeter Fence Standards." The motion was seconded by Councilmember Wallace. The caption of the ordinance reads as follows:

### **ORDINANCE NO. 53-09**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY AMENDING SUBPART A, CHAPTER 14 OF THE CODE OF ORDINANCES, ENTITLED "BUILDINGS AND BUILDING REGULATIONS" THROUGH THE AMENDMENT OF ARTICLE XIII, ENTITLED "PROPERTY MAINTENANCE STANDARDS" THROUGH THE AMENDMENT OF DIVISION 1, ENTITLED "GENERALLY" BY THE AMENDMENT OF**

**SECTION 14-513, ENTITLED "DEFINITIONS" BY ADDING A DEFINITION FOR THE PHRASE "PERIMETER FENCE" AND THROUGH THE AMENDMENT OF DIVISION 2 ENTITLED "MINIMUM STANDARDS" BY THE AMENDMENT OF SECTION 14-542, ENTITLED "PERIMETER FENCE STANDARDS" BY REPLACING SAID SECTION IN ITS ENTIRETY; REPEALING ALL CONFLICTING ORDINANCES, ORDERS, AND RESOLUTIONS; providing a severability clause; PROVIDING FOR A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

**VOTE ON THE MOTION**

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

**NAYS:** None

13. **Consider adoption of an ordinance providing for the temporary suspension of the acceptance, filing and processing of any new or amended permits associated with natural gas drilling and production, including any permit associated with any centralized natural gas production facility, and further providing for the temporary suspension of the acceptance, filing and processing of any new or amended or revised zoning and land use-related applications and permits associated with natural gas drilling and production and any centralized natural gas production facility.**

**Staff Presentation**

Town Manager Harlan Jefferson stated that on December 8, 2009, he approved the administrative suspension of the acceptance of gas well applications/permits, citing health and safety issues (air quality and levels of benzene). He stated the suspension would expire on February 28, 2010. He noted this would not affect Mr. Hilliard's permit. Mr. Jefferson stated that TCEQ had been doing testing since the summer. Phase 1 was conducted between August 24, 2009 and August 28, 2009. Phase 2 occurred between October 9 and 16. Phase 3 occurred in November. Phase 4 is planned for spring 2010. Mr. Jefferson reviewed several quotes by TCEQ regarding the tests. Mr. Jefferson stated that as of October the Town had permitted 41 gas wells. 32 wells on 13 pad sites had been completed. 9 wells on 5 pad sites were still to be completed. In September, the Town was notified to expect more than 100 additional gas wells would be requested. The administrative suspension would give the Town the opportunity to make sure the new gas wells met any new air standards by TCEQ or the EPA.

Mayor Smith understood that two sites had been determined to have high benzene levels. She asked where they were located.

Mr. Jefferson responded one was in Wise County and he was not sure about the other location.

Mayor Smith asked if staff contacted TCEQ to back up the quotes from the newspapers.

Mr. Jefferson stated staff looked on the website to confirm them.

Town Attorney Terry Welch stated since Mr. Hilliard's application was made prior to the suspension, he would not be affected. He addressed the comment from the man from Chesapeake, and stated the Town was very familiar with the section of the Local Government Code relating to the notification requirements for moratoriums. He stated it actually referred to property development. It was clear that the chapter did not apply to gas drilling, as the section referred to construction or reconstruction. He noted that more studies had been reviewed other

than the one for the Town of Dish by Wolf Eagle. The purpose of the moratorium was not to say there were indeed health affects, only the possibility of health affects. He noted that once permits were granted by the Town, people had to adhere to regulations at that time. The current regulations would guide the process for any applications submitted prior to December 8. The Town could not add new requirements to existing permits. Mr. Welch stated that TCEQ had some different authority than the Town, however the Town did know that it did not have the ability for permitted wells to add a new layer of regulation. He stated that new wells would not be grandfathered, and the Town would wait for the new regulations that the state may impose.

Mayor Smith stated that some residents wanted the truck traffic eliminated or reduced in the Town. She asked if the Council approved a centralized collection facility, would the wells that were already permitted be able to have that type of facility.

Mr. Welch stated he would anticipate that if the zoning was adopted, the specific standards for the central facilities would be in the pipeline regulations (not affected by the moratorium) and TCEQ standards. Part of the reason for a moratorium was there were additional standards for facilities, and the Town would be on hold for adopting regulations based on what the state might adopt. He did not have an idea of what the timeframe might be for any TCEQ regulations.

Mayor Smith stated she understood the arguments on both sides. She asked if the Town was a wet or dry shale.

Mr. Jefferson stated he did not know.

Councilmember Wallace asked how long the August 2002 moratorium remained in affect.

Mr. Welch stated it was supposed to last through January 23, 2003. There were two 60 -day extensions and another 60 day extension, so it lasted about 10 months. He stated the purpose of the proposed moratorium was to wait to see what TCEQ will do, and the results should be in January from the media accounts.

Councilmember Hayden stated the residents had been given quite a bit of information. He asked if the Town had received a sample of wastewater from Williams.

Mr. Jefferson stated staff confirmed that the Town had not received a sample, and also the Town had asked to do its own sample.

Councilmember Hayden wanted to know the contents of the wastewater and to see an analysis. Regarding the centralized collection facility, 95% of the correspondence from the Shiloh area residents showed that they wanted reduced truck traffic on Shiloh Road. He stated it appeared there were two alternatives - support the centralized collection facility or have additional truck traffic. He asked staff to look into alternatives to minimize truck traffic. He asked if the Town could encourage recycling (almost 70% of water), or maybe reroute trucks around Shiloh Road. Councilmember Hayden stated he had traveled to Burleson and Cleburne to see the operations in those cities. He asked if there could be a private gravel road that runs parallel to Shiloh.

Mayor Pro Tem Levenick asked if there was any evidence that any drillers were not complying with state guidelines.

Mr. Jefferson responded no.

Mayor Pro Tem Levenick referred to the quotes from TCEQ and asked if staff had any details on what they were reviewing and studying.

Mr. Jefferson stated staff only knew what was on their website.

Councilmember Filidoro asked about the status of where the Town was on the air quality study.

Mr. Jefferson stated three or four companies were contacted, and they were very busy right now. Staff did locate one that will start in January.

Councilmember Filidoro asked if staff was comfortable with the credentials of the company. If the TCEQ study showed no problems, then the Town could lift the moratorium.

Mr. Jefferson stated the selected company was the Texas Association of School Boards. Staff was still checking their references.

Councilmember Hayden stated he had talked with spokespersons at TCEQ and the EPA. He hoped that the TCEQ study would be completed in January. He stated he wanted to deal in facts. He did not foresee that the moratorium would go on for a year unless it was necessitated.

Mayor Pro Tem Levenick referred to the proposed ordinance, and she agreed with Councilmember Filidoro that the information was not clear. She stated the ordinance references a report from the Town of Dish conducted by Wolf Eagle. She asked if staff had checked out the Wolf Eagle report.

Mr. Jefferson stated staff relied on the TCEQ issues.

Mr. Welch stated the Town was not saying Wolf Eagle had done the **world's** best or worst report - **it was just a** chronological list of events. TCEQ became aware of the issues in Dish.

Mr. Jefferson stated much of the reporting on air quality was self-reporting. TCEQ responded to requests or concerns.

Councilmember Filidoro stated the study triggered some issues. He asked what type of air quality monitoring was being done over the last couple of years.

Mr. Jefferson stated he was not aware of any monitoring by government agencies.

Councilmember Filidoro asked why they were looking into it now.

Mr. Jefferson stated he assumed gas companies did their own tests and reported if they exceeded limits.

Deputy Mayor Pro Tem Dixon asked if TCEQ had tested in Flower Mound.

Mr. Jefferson stated he was not sure and it had not been verified. He stated the Town could submit requests for testing.

Deputy Mayor Pro Tem Dixon asked if the Town had received any report from any

source that reported benzene levels higher or near TCEQ standards.

Mr. Jefferson was not aware of one.

Deputy Mayor Pro Tem Dixon stated at the last work session, Mr. Welch confirmed that the Town could not add more regulations over and above the TCEQ regulations. When someone submitted an application, they had to follow the regulations in place at that time. He asked if TCEQ made any changes that would affect federal or state government, would the gas companies have to be in compliance.

Mr. Welch stated the new requirements may mandate new equipment. If the state or federal government added new requirements for new facilities, any new facility in Flower Mound would have to have that new requirement.

Deputy Mayor Pro Tem Dixon asked if someone applied to drill a new well, how long from tomorrow would a new compressor be installed, if there was no moratorium.

Mr. Welch stated if the Town permitted a well today with no moratorium, under the current regulations, they would have to construct it according to the Town's regulations. He stated the state had authorities that the Town did not have. The Town could not force the wells to be retrofitted.

Mr. Jefferson commented if the state said all new gas wells had to have something new, they would have to comply.

Deputy Mayor Pro Tem Dixon commented that as a producer worked through the F lowerMound system, they apply, submit plans, staff asks questions, and sends them back to the company for a response. At some point after that process, there had been situations where they had to re-apply. He asked if that was true.

Mr. Jefferson stated after the application is submitted, staff had a certain number of days to review it. Adjustments could be made, if necessary.

Mr. Welch commented that the Vested Rights Statute said that regulations were locked in when the application was submitted.

Mr. Jefferson stated the applications that came in on December 7 were vested.

Mayor Smith asked Mr. Welch to comment on the Town's "strong ordinance."

Mr. Welch stated it was strong - yes and no. The only court case the Town has been involved in was Red Oak 1. That was a denial of the setback ordinances by the Oil and Gas Board of Appeals. In August, the Denton Court ruled that actions taken by the Oil and Gas Board were not illegal.

Mayor Smith believed Flower Mound had a strong ordinance.

Mr. Welch commented that it was not a weak ordinance.

Mayor Smith asked if the Town had received any environmental complaints or problems on the existing well sites.

Matt Woods, Director of Environmental Services, stated the majority of concerns had been about noise issues. No specific environmental concerns had been raised other than a few minor cleanups.

Mayor Pro Tem Levenick asked if any other cities near here where there was a concentration of gas wells had a moratorium.

Mr. Jefferson stated he was not aware of any that had been approved, however others may follow **Flower Mound's** lead.

Councilmember Filidoro asked if staff had looked at the sustainability of recycling water on-site and putting that into an ordinance. He asked how that would diminish truck traffic.

Mr. Jefferson stated that other than the work session with the Alan Plummer presentation, staff had not invested any more time in terms of meetings.

Councilmember Filidoro asked if that would be part of Councilmember **Wallace's** environmental review.

Mr. Jefferson responded that could be something that might come up. Staff would look at Town efforts first and then go to community-wide.

Councilmember Hayden commented that all members of the Council pledged to support quality of life for Flower Mound. He felt the members should show leadership to protect the health, safety and welfare of residents. If TCEQ finds air quality is negative, the Council could do away with a moratorium.

Deputy Mayor Pro Tem Dixon noted that the Wolf Eagle report mentioned that an engineering company hired by Fort Worth reviewed the report. He asked if staff had a copy of the analysis.

Mr. Jefferson responded no, and Deputy Mayor Pro Tem Dixon stated staff should have one.

Mayor Pro Tem Levenick stated she had reviewed the report on-line.

Deputy Mayor Pro Tem Dixon asked if the last time TCEQ changed their standards, was air quality for gas production involved.

Mr. Jefferson stated no, not related to air quality.

Deputy Mayor Pro Tem Dixon stated someone needed to find out for certain.

Councilmember Wallace stated gas drilling was a very big issue, and that it was polarizing. He supported a property **owner's** rights and fully appreciated the responsibility to protect residents. He did not think the decision tonight was choosing one or the other. He stated he was not convinced there was an emergency in Flower Mound that must be immediately addressed. The citizens' health and safety was a valid concern, but there was no proof yet that there was a problem.

Mayor Smith stated the biggest concern was that the Town had not done the correct amount of research on this item. She stated the results from TCEQ should be back soon. She

stated the Council should consider all that had been said. If a special meeting was necessary before January 21, it could be called. She added that people had been breathing the air from traffic and from aircraft for some time. She was not comfortable with the ordinance as written.

Councilmember Hayden stated he wanted to be certain if the standards were changed, that the equipment is the most up to date and efficient. He wanted to continue looking at this until such time as the TCEQ report was complete.

Mayor Pro Tem Levenick did not believe there was enough information to make a decision on a moratorium. She did not want to expose the Town to any lawsuits because it was very expensive. She needed information that could not be questioned. She stated the Town was protecting the **citizens'** safety, health and welfare. She felt the ordinance was written on speculation. She noted the Town had not tested its own air. Staff was relying on websites and reports. She stated she would not support the ordinance.

Councilmember Wallace stated he was not looking for 100% certainty, however there was not a single fact to base this on. He respected staff and the job that had been done, however he just wanted some facts.

Mayor Smith stated the Council was focusing on the need for more information. She asked if the Council was interested in postponing this item and scheduling a special meeting in early January.

Mayor Pro Tem Levenick believed the Council needed to give direction to lift the administrative moratorium.

Deputy Mayor Pro Tem Dixon believed in the premise of "innocent until proven guilty." He stated there were probably some sites that were heavy polluters, but he had not seen data that this was happening in Flower Mound. He stated there were not sufficient grounds to enact a moratorium at this time.

Councilmember Wallace asked what would happen to the administrative moratorium if the Council voted to deny the ordinance.

Mr. Welch stated the Council would have to give direction to staff. He suggested that they meet in closed session.

**The Town Council convened into a closed meeting at 10:04 pm on December 17, 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 10:34 p.m. on December 17, 2009.**

No action was taken.

### **Council Deliberation**

Councilmember Wallace moved to deny the proposed ordinance. The motion was seconded by Mayor Pro Tem Levenick.

### **VOTE ON THE MOTION**

**AYES:** Dixon, Levenick, Wallace

**NAYS:** Filidoro, Hayden

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

- January 21 - special meeting

**N. RECESS SPECIAL MEETING AND CALL WORK SESSION TO ORDER**

Mayor Smith recessed the special meeting and called the work session to order at 10:36 p.m.

**O. WORK SESSION ITEMS**

**14. Presentation and discussion regarding Draft 2009 Impact Fee Update.**

Edith Marvin, Town Engineer, gave a history of the meetings held on impact fees.

Glen Gary, Kimley Horn & Associates

Mr. Gary gave the presentation. Due to the size of the presentation, it is on file in the Town Secretary's Office.

Mayor Smith stated the consensus was to move forward with the item on the February 1 agenda.

**15. Presentation and discussion regarding proposed amendments to the Engineering Design Criteria and Construction Standards.**

This item was postponed to the January 21 special meeting.

**16. Discuss the proposed Medians and Rights-of-Way Master Plan.**

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





Tim May, Teague Nall and Perkins

Mr. May explained this was a master plan for streetscapes. He stated they photographed the entire Town and the existing conditions. Streetscapes were done well and some needed improvements. They used the Comprehensive Master Plan as a guide. They identified three environmental areas - forest, floodplain and prairies. Twelve areas were identified as entrances to the Town. Additionally, they designed a gateway monument. The design came from a precedent set at the Target (The Highlands) shopping center. They planned to tie the community together with curb appeal and aesthetics. They also planned to work on TxDOT roadways. He noted they would look at how intersections fell into primary and secondary intersections and how they were treated. They planned to propose cul-de-sac treatments and provide opportunities for residents to take ownership (adopt-a-spot).

Mayor Smith stated she would like to see volunteers and Keep Flower Mound Beautiful involved.

Mr. May stated they were preparing a plant palette for the forests, floodplains and prairies. They were looking for feedback from the Town Council. They planned to take this to the Planning & Zoning Commission in January and to the Council in February.

Mayor Smith asked Mr. May if he had worked with a board like the Environmental Conservation Commission in other cities.

Mr. May responded no.

Mayor Smith stated she would like to see the Commission involved in the process.

**17. Presentation and discussion regarding proposed SMARTGrowth Text Amendments.**

This item was postponed to the January 21 special meeting.

**P. ADJOURN WORK SESSION AND RECONVENE SPECIAL MEETING**

Mayor Smith adjourned the work session and reconvened the special meeting at 11:16 p.m.

**Q/R. CLOSED/OPEN MEETING**

The Town Council convened into a closed meeting at 11:17 pm on December 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 12:15 a.m. on December 18, 2009 to take action on the items as follows:

**a. Discuss and consider economic development incentives.**

No action taken.

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

Councilmember Wallace moved to approve the purchase of right-of-way, temporary construction easements and drainage easements, in association with the Garden Ridge III

project, from Eddie & Wynelle Parker Family LP, and Fallbrook Interests, Ltd., not to exceed the settlement amount, plus closing costs; authorize the Assistant Town Manager, or his designee, to execute all documents at closing on behalf of the Town; and authorization to initiate all actions incident and related thereto, including authorization for the Town Attorney or his designee to file condemnation proceedings against the property owner(s) to acquire the property in the event a settlement cannot be reached. The motion was seconded by Mayor Pro Tem Levenick.

**VOTE ON THE MOTION**

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

Mayor Pro Tem Levenick moved to approve the purchase of rights-of-way and easements, in association with the Morriss-Gerault Improvement project from The Flower Mound Market, Mialuca LTD, Gator Flower Mound, LLC, BLI Flower Mound, Ltd., Morriss Road Development Partnership, Empire Corporation, TADE Flower Mound, Ltd., and FLCT, LTD., FLSC, LTD., and FLST, LTD., not to exceed the settlement amounts, plus closing costs, and authorize the Assistant Town Manager, or his designee, to execute all documents at closing on behalf of the Town; and authorize the Town Attorney, or his designee, to file condemnation proceedings against the property owner(s) in the event a settlement cannot be reached. The motion was seconded by Councilmember Filidoro.

**VOTE ON THE MOTION**

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

- c. **Discuss and consider appointments to the Board of Adjustment and the Community Development Corporation.**

**Board of Adjustment - no action taken.**

**Community Development Corporation:**

Councilmember Hayden moved to reappoint Melissa Northern, John Parkinson, Claudio Forrest and Al Filidoro to the Community Development Corporation, terms to expire December 31, 2011. Councilmember Wallace seconded the motion.

**VOTE ON THE MOTION**

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

**S. ADJOURN REGULAR MEETING**

Mayor Smith adjourned the special meeting at 12:19 a.m. on December 18, 2009 and all were in favor.

**TOWN OF FLOWER MOUND, TEXAS**

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JODY A. SMITH, MAYOR

ATTEST:

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PAULA J. PASCHAL, TOWN SECRETARY

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