

THE FLOWER MOUND TOWN COUNCIL SPECIAL MEETING AND WORK SESSION HELD ON THE 21ST DAY OF JANUARY, 2010 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 and work session 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
Gary Sims	Executive Director of Community Services

A. CALL BRIEFING SESSION TO ORDER

Mayor Smith called the briefing session to order at 6:12 p.m.

Work session items will be postponed to another meeting.

B. BRIEFING SESSION

1. Town Council Boards and Commissions Liaison Reports.

Mayor Smith stated the PALS Board reviewed the CIP for parks and trails. She welcomed the new Executive Director of Community Services, Gary Sims.

Mayor Pro Tem Levenick stated the Planning and Zoning Commission held a public hearing for the Medians and Rights-of-Way Master Plan.

2. Discuss Consent and Regular Items.

Mayor Smith stated she would be opening items 17 and 18 together and they would be heard prior to Items 15 and 16.

3. Discuss Future Agenda Items.

Mayor Smith stated she would like a future work session to discuss handbills on residential doors.

4. Discuss Council Communications.

Town Manager Harlan Jefferson stated a proposed SMARTGrowth text amendment would be considered by the Planning & Zoning Commission on January 25.

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 6:28 p.m.

E. INVOCATION

Chaplain Mike Liles gave the invocation.

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

Eagle Scouts Ameya Bhat and Sam Bubeck led the pledges.

G. PRESENTATIONS

Certificates of Achievement - Eagle Scouts Ameya Bhat and Sam Bubeck

Mayor Smith presented Certificates of Achievement to Ameya Bhat and Sam Bubeck for receiving the Eagle Scout Award.

H. PUBLIC PARTICIPATION

County Commissioner Andy Eads, Precinct 4

Commissioner Eads stated that as the Barnett Shale developed, residents were demanding answers about the impacts of air and water quality. He and State Representative Tan Parker planned to host an open house and town hall meeting at the middle school in Lantana on January 28, 2010. Representatives from some of the regulatory agencies would also be present.

Mayor Smith stated she and Mayor Pro Tem Levenick had been conversing with officials from the Department of Human Services in Austin. They strongly encouraged clear and quick testing on the issues. She noted that Congressman Michael Burgess had guaranteed to work expeditiously on soil and water issues.

Mayor Smith stated she had served willingly and graciously as Mayor for almost six years. She was a 26-year resident of Flower Mound, a Christian, and faithful woman. On November 2, 2009, an incident occurred at Town Hall. On November 17, 2009 an email from the Town's Human Resources Division acknowledged that a written complaint was made by a Town employee. She and Mayor Pro Tem Levenick met with their attorney, the Town Manager, and the Town Attorney. The matter was referred to Fred Waite, an outside attorney. On December 3, 2009, the Town Attorney sent an email to herself and Mayor Pro Tem Levenick that the investigation had been concluded. Consequently, the matter was closed and the report was placed in confidential investigative files. After reviewing blog spots and email, she stated it did not remain confidential. She felt someone was attempting blackmail, political doings, and a smear campaign. She apologized for the incident.

Dennis McKaige, 3400 North Drive, Flower Mound

Mr. McKaige stated the character of Flower Mound was changing. He stated the Town used to be a desirable place to live, with natural beauty and a rural environment. He stated it was the Town Council's role to adopt legislative policies. He stated the Town had been deluged with news about derricks and hazardous issues related to drilling. He stated the Council had damaged the image of the Town by passing changes to zoning regulations and development rules. Major and expensive harm had been done to the marketability of Flower Mound. He stated the community did not appreciate self-interest promotion that negatively impacted home values. He asked the Council to respond to what the majority of the citizens wanted.

Jim Holmes, 6400 Hillcrest, Flower Mound

Mr. Holmes spoke in favor of the centralized collection facility. He stated the pipes would not leak, and there would be more pollution with more trucks. Additionally, the roads would be damaged with many trucks.

Stan Martin, 6505 Frontier, Flower Mound

Mr. Martin asked about the status of the pipeline easement across the Fire Station #2 property. He thanked Deputy Mayor Pro Tem Dixon, Mayor Pro Tem Levenick, and Councilmember Wallace for voting against the moratorium.

Mark Stewart, 3932 Ridgecrest, Flower Mound

Mr. Stewart stated the gas line was already installed and needed to connect across the Fire Station #2. He stated this had been in the works for over seven months. He did not want to see the Town involved in a lawsuit.

Carol Kohankie, 4312 Lauren Way, Flower Mound

Ms. Kohankie reminded the Council that the Town's 50th Anniversary would be in February 2011. She volunteered to chair a committee that would work on an event.

Vicki Baker, 4974 Wolf Creek Trail, Flower Mound

Ms. Baker stated she had leukemia and lived in the 75028 zip code. Ms. Baker stated benzene was classified as a human carcinogen according to US Department of Health Services. She stated the Town needed to make sure it remained contained. She asked the Council to err on the side of caution and to have a moratorium on gas drilling permits.

Tony Geraci, 2704 Lake Flower, Flower Mound

Mr. Geraci stated he formerly lived in Port Arthur, and that it had the highest rate of cancer in the US. The oil and gas business was thriving in that area. When he moved to Tulsa, Oklahoma, he fought to keep drilling out of residential areas. He asked if the Council was prepared to make a decision without full knowledge of the facts.

I. ANNOUNCEMENTS

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

Mayor Smith reminded everyone of the annual MLK event on January 17 at Trietsch Memorial United Methodist Church.

Councilmember Wallace stated that on February 28, the Friends of the Flower Mound Library would be celebrating the 10th anniversary of the library from 1 pm-3 pm.

Deputy Mayor Pro Tem Dixon reminded citizens to sign up for e-bulletins from the Town

to stay informed.

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 reported that the crime rate was reduced 5% from last year. Total accidents decreased 2%. Citations were up 32%. Warnings were up 81%. He thanked the volunteers who helped the Police Department. Recently, the Office of Governor awarded the Town a \$93,000 grant to implement in-car reporting. The ribbon cutting for FM 2499, Section 3 was scheduled for February 8 at 2 pm. Bids were opened earlier in the day for the Morriss/Gerault construction project. The Town had 120 days to award the bid.

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, 11, 12, 13, and 14. Councilmember Wallace seconded the motion. Each item, as approved by consent, is restated below along with the approved recommendation for each, for the record.

1. **Consider approval of minutes from a notice of possible quorum on December 9, 2009.**

RECOMMENDATION: Approve minutes from a notice of possible quorum on December 9, 2009.

2. **Consider approval of minutes from a special meeting and work session of the Town Council held on December 17, 2009.**

RECOMMENDATION: Approve minutes from a special meeting and work session of the Town Council held on December 17, 2009.

3. **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 and amended by Ordinance No. 46-09 for adjustments to the IRS Equitable Sharing Fund and the General Fund.**

RECOMMENDATION: Approve Ordinance No. 01-10 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 and amended by Ordinance No. 46-09 for adjustments to the IRS Equitable Sharing Fund and the General Fund. The caption of the ordinance reads as follows:

ORDINANCE NO. 01-10

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 AND AMENDED BY ORDINANCE NO. 46-09; FOR ADJUSTMENTS TO THE IRS EQUITABLE SHARING FUND AND GENERAL 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 the approval of purchase of annual maintenance for the Police Department's software support for CAD, MDC's, Records System, and equipment from Integrated Computer Systems, Inc., a sole source provider, in the estimated annual amount of \$74,102.79.

RECOMMENDATION: Approve the purchase of annual maintenance for the Police Department's software support for CAD, MDC's, Records System, and equipment from Integrated Computer Systems, Inc., a sole source provider, in the estimated annual amount of \$74,102.79.

5. Consider approval of Amendment No. 2 to the Fiscal Year 2009-2010 Capital Improvement Program.

RECOMMENDATION: Approve Amendment No. 2 to the Fiscal Year 2009-2010 Capital Improvement Program.

6. Consider approval of the award of Bid #119-09-B Hilltop Walkways and Wilkerson Park Parking Lot to Jay Davis Co., Inc., dba JDC Construction Co., in the amount of \$292,430.00, and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve the award of Bid #119-09-B Hilltop Walkways and Wilkerson Park Parking Lot to Jay Davis Co., Inc., dba JDC Construction Co., in the amount of \$292,430.00, and authorize the Mayor to execute same on behalf of the Town.

7. Consider approval of Change Order No. 1 for construction of the Hilltop Walkways and Wilkerson Park Parking Lot projects, amending the contract with Jay Davis Co., Inc., dba JDC Construction Co., for a decrease in the amount of \$96,355.65, and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve Change Order No. 1 for construction of the Hilltop Walkways and Wilkerson Park Parking Lot projects, amending the contract with Jay Davis Co., Inc., dba JDC Construction Co., for a decrease in the amount of \$96,355.65, and authorize the Mayor to execute same on behalf of the Town.

8. Consider approval of Change Order No. 1 for the construction of Fire Station No. 5 Wastewater Extension, for an increase in the amount of \$5,000.00; acceptance of the project; authorization for final payment to Wilson Contractor Services, LLC., in the amount of \$14,567.00; and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve Change Order No. 1 for the construction of Fire Station No. 5 Wastewater Extension, for an increase in the amount of \$5,000.00; acceptance of the project; authorization for final payment to Wilson Contractor Services, LLC., in the amount of \$14,567.00; and authorize the Mayor to execute same on behalf of the Town.

9. Consider approval of a Professional Services Agreement with Half Associates, Inc., to provide engineering services for the Lake Forest Trail Extension, Thrush Park Playground, and Westchester Park Playground projects, in the amount of

\$25,174.00, and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve a Professional Services Agreement with Halff Associates, Inc., to provide engineering services for the Lake Forest Trail Extension, Thrush Park Playground, and Westchester Park Playground projects, in the amount of \$25,174.00, and authorize the Mayor to execute same on behalf of the Town.

- 10. Consider approval of a Professional Services Agreement with Kimley-Horn and Associates, Inc., to provide professional engineering services for the Upper Timber Interceptor Phase I project, in the amount of \$174,700.00, 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 Upper Timber Interceptor Phase I project, in the amount of \$174,700.00, and authorize the Mayor to execute same on behalf of the Town.

- 11. Consider approval of Change Order No. 2 and final acceptance of the 2009 Trail Connectors and Extensions construction project; authorization for final payment to Ratliff Hardscape, Ltd., in the amount of \$18,018.19, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve Change Order No. 2 and final acceptance of the 2009 Trail Connectors and Extensions construction project; authorization for final payment to Ratliff Hardscape, Ltd., in the amount of \$18,018.19, and authorize the Mayor to execute same on behalf of the Town.

- 12. Consider approval of Change Order No. 4 and final acceptance for the construction of Dixon Lane from the end of the existing 4-lane cross-section located west of FM 2499 to Chinn Chapel; amending the contract with Weir Brothers, Inc., for a decrease in the amount of \$4,612.10; acceptance of the Dixon Lane project, west of FM 2499; authorization for final payment to the contractor, Weir Brothers, Inc., in the amount of \$49,527.64; and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve Change Order No. 4 and final acceptance for the construction of Dixon Lane from the end of the existing 4-lane cross-section located west of FM 2499 to Chinn Chapel; amending the contract with Weir Brothers, Inc., for a decrease in the amount of \$4,612.10; acceptance of the Dixon Lane project, west of FM 2499; authorization for final payment to the contractor, Weir Brothers, Inc., in the amount of \$49,527.64; and authorize the Mayor to execute same on behalf of the Town.

- 13. Consider approval of an ordinance amending Chapter 66, Article V, Section 66-214 of the Code of Ordinances of the Town of Flower Mound relating to prima facie speed limits for specific streets by lowering the prima facie speed limits for Ponderosa Pine Drive, Bur Oak Drive, Princewood Drive, Stone Creek Drive, Halsey Drive, Durango Place, Baldcypress Lane, Britt Drive, and Chinaberry Drive to 25 mph.**

RECOMMENDATION: Approve Ordinance No. 02-10 amending Chapter 66, Article V, Section 66-214 of the Code of Ordinances of the Town of Flower Mound relating to prima facie speed limits for specific streets by lowering the prima facie speed limits for Ponderosa Pine Drive, Bur Oak Drive, Princewood Drive, Stone Creek Drive, Halsey Drive, Durango Place, Baldcypress Lane, Britt Drive, and Chinaberry Drive to 25 mph. The caption of the ordinance reads as

follows:

ORDINANCE NO. 02-10

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING CHAPTER 66, ARTICLE V, SECTION 66-214 OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS BY REVISING THE LIST OF ENUMERATION OF PRIMA FACIE SPEED LIMITS FOR SPECIFIC STREETS; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

14. Consider approval of an ordinance amending the Code of Ordinances of the Town of Flower Mound, Texas, by amending Chapter 14, "Buildings And Building Regulations," through the amendment of Article V, entitled "Electrical Code," by adopting the 2008 Edition of the National Electrical Code through the amendment of Section 14-131, entitled "National Electrical Code Adopted," by amending Section 14-132, entitled "Amendments to the National Electrical Code," and by amending Section 14-138, entitled "Board of Appeals."

RECOMMENDATION: Approve Ordinance No. 03-10 amending the Code of Ordinances of the Town of Flower Mound, Texas, by amending Chapter 14, "Buildings And Building Regulations," through the amendment of Article V, entitled "Electrical Code," by adopting the 2008 Edition of the National Electrical Code through the amendment of Section 14-131, entitled "National Electrical Code Adopted," by amending Section 14-132, entitled "Amendments to the National Electrical Code," and by amending Section 14-138, entitled "Board of Appeals." The caption of the ordinance reads as follows:

ORDINANCE NO. 03-10

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY AMENDING CHAPTER 14, "BUILDINGS AND BUILDING REGULATIONS," THROUGH THE AMENDMENT OF ARTICLE V, ENTITLED "ELECTRICAL CODE," BY ADOPTING THE 2008 EDITION OF THE NATIONAL ELECTRICAL CODE THROUGH THE AMENDMENT OF SECTION 14-131, ENTITLED "NATIONAL ELECTRICAL CODE ADOPTED," BY AMENDING SECTION 14-132, ENTITLED "AMENDMENTS TO THE NATIONAL ELECTRICAL CODE," AND BY AMENDING SECTION 14-138, ENTITLED "BOARD OF APPEALS;" REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY; AND PROVIDING AN EFFECTIVE DATE

VOTE ON THE MOTION

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

L. REGULAR ITEMS

Mayor Smith opened Items 17 and 18 at this time.

17. **Public Hearing** to consider approval of an ordinance amending Article VIII, "Oil and Gas Pipeline Standards," of Chapter 34, "Environment," of the Town's Code of

Ordinances.

- LDR 04-09** **Public Hearing**
18. **Public Hearing to consider an amendment to the Land Development Regulations (LDR 04-09), by amending Section 98-2 (Definitions), Sections 98-952 (Use Classifications), and 98-273 (Agricultural District Specific Uses), to provide for a Centralized Natural Gas Production Facility definition, use regulations, and special use conditions. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its December 14, 2009, meeting.)**

Staff Presentation

Matt Woods, Director of Environmental Services, gave the presentation for Item 17 and Doug Powell, Executive Director of Development Services gave the presentation for Item 18.

Questions from the Governing Body and Answers

Mr. Powell commented that a public hearing would be required for a Specific Use Permit (SUP) and those within 200' would receive a notice of the public hearing.

Councilmember Filidoro asked for an explanation of the SUP process. He asked for the standard for approving or not approving the SUP. He asked if staff had a checklist. He understood that the Council did not have much choice but to approve SUPs.

Mr. Powell explained that in the Zoning Code, the table showed where uses were permitted by right or whether the SUP was required. The Council had to decide what use fit on a particular piece of property. An example was a day care. Day cares were allowed in several districts with the SUP as there could be issues of traffic, access, and locational criteria.

Councilmember Filidoro stated he had heard in the past that if the Council voted against something, the Town could be exposed to a lawsuit.

Town Attorney Terry Welch stated the Council had to look at the situational suitability for a use at a specific location. Additionally, the Council looked at specific criteria. In this situation there were other issues that had been discussed. In the day care example, if there was a busy intersection nearby, the Town might require screening and access standards. If the Council went beyond the scope of that, a court could determine if the standards were appropriate or suitable and who should bare the costs.

Councilmember Hayden referred to the centralized collection facility and asked where the pipelines would go.

Mr. Welch responded there was no zoning for pipelines.

Public Comments

Zina Boltan, 1508 Candlelight Court, Flower Mound

Ms. Boltan spoke against a centralized wastewater collection system.

Calvin Tillman, Mayor, Town of DISH, Texas

Mayor Tillman spoke against a central wastewater collection system, unless the vapor recovery system was mandatory. He stated random testing should be implemented by the Town.

Harold Callahan, 4424 Sandra Lynn, Flower Mound

Mr. Callahan asked the Council to vote no on Items 17 and 18.

Stan Martin, 6505 Frontier Drive, Flower Mound

Mr. Martin asked the Council to seek the truth before they decided on Items 17 and 18.

Phyllis Sturms, 4428 Sandra Lynn, Flower Mound

Ms. Sturms spoke against a centralized wastewater collection system.

John Graham, 2920 Dumas Court, Flower Mound

Mr. Graham spoke in favor of the centralized wastewater collection system.

Pam York, 5504 Lake Geneva Court, Flower Mound

Ms. York spoke against a central wastewater collection system.

Ed Johnson, Flower Mound

Mr. Johnson spoke in favor of a centralized wastewater collection system.

Mark Davis, 4141 High Road, Flower Mound

Mr. Davis spoke against a centralized wastewater collection system.

Rebecca Belcher, 2900 Aberdeen, Flower Mound

Ms. Belcher asked Mayor Smith and Mayor Pro Tem Levenick to recuse themselves from any further discussion due to conflicts of interest.

Mayor Smith stated she served the community first. No mineral rights would ever sway her decision.

Town Attorney Terry Welch stated the Code of Ethics provided that if there was an application that came forth from Williams, there would be a conflict. In Items 17 and 18, the applicant was the Town. On those issues there would be no conflict.

Rick Swanson, 3200 Cottrell Drive, Flower Mound

Mr. Swanson spoke against Items 17 and 18.

Amy Yeager, 3701 Kentmere Court, Flower Mound

Ms. Yeager spoke against a centralized wastewater collection system.

Velu Palaniswamy, 5412 Lake Victoria Court, Flower Mound

Mr. Palaniswamy spoke against a centralized wastewater collection system.

Carol Kohankie, 4312 Lauren Way, Flower Mound

Ms. Kohankie clarified that the Town would still have a gas drilling ordinance even if the proposed ordinances were not passed. She asked if the centralized facility would be temporary or permanent.

Mayor Smith understood that the facilities would be with the wells.

Sharantha Kularatua, 2208 Heather Ridge Drive, Flower Mound

Mr. Kularatua spoke against a centralized wastewater collection system.

Mayor Smith stated the Town contracted to do testing on air quality. The Town planned to continue doing this. She asked Mr. Welch if the Town could permanently deny gas drilling in Flower Mound

Mr. Welch stated no. To completely deny it would be an unconstitutional taking of mineral rights.

Sheldon Ellis, 5412 Remington Park Drive, Flower Mound

Mr. Ellis asked to do no harm to property, kids, or groundwater.

Paul Rogers, 2608 Carterton Way, Flower Mound

Mr. Rogers asked the Town to slow down with development.

Kristi Hassett, 3500 Beringer Court, Flower Mound

Ms. Hassett spoke against a centralized wastewater collection system in residential areas.

Susan Trentham, 4408 Biscayne Drive, Flower Mound

Ms. Trentham asked the Council to protect her health, quality of life, and her home.

Josh Morrissey, 3324 Darcey Court, Flower Mound

Mr. Morrissey spoke against Items 17 and 18. He asked if the Town had done a study outlining the potential impacts of property values with a centralized collection system. He asked where the water would come from that would be used and how the risks would be mitigated. He asked the Town to ask Williams to tell them what was in the water.

Debi Friedlander, 2700 Rocky Point, Flower Mound

Ms. Freedlander spoke in favor of a centralized wastewater collection system.

Kris Wise, 4409 Biscayne Drive, Flower Mound

Ms. Wise spoke against a centralized wastewater collection system.

Melissa Northern, 4601 Portsmouth, Flower Mound

Ms. Northern stated she did not have anything against people exercising their mineral rights, however she was concerned with the health and welfare of the residents.

Tamara Kubala, 3316 Darcy Court, Flower Mound

Ms. Kubala spoke against a central wastewater collection system.

Steve Lyda, 3128 Sheryl Drive, Flower Mound

Mr. Lyda spoke against a central wastewater collection system. He stated that ethically Mayor Smith and Mayor Pro Tem Levenick should not be a part of the discussion.

Mayor Smith stated the Town was not dealing with only one gas drilling company. She stated the Town was not rushing to do anything. She stated the Town did have a specific disaster preparedness plan to handle emergencies.

The Town Council took a break at 8:53 p.m. until 9:09 p.m.

Mr. Jefferson responded to questions that were asked during the public hearing.

- Q. Are setbacks based on the size of the centralized collection facility (CCF) or based on the amount of tanks?
A. Setback is triggered from the outer limit of tanks. It will not be adjusted based on the size of the facility.
- Q. Are there long-term plans to remove tanks, batteries, and equipment?
A. The ordinance requires a site to be returned to its original state or as close as possible.
- Q. Are there any comparable studies related to the impact of a CCF near homes?
A. The Town has not conducted such a study.
- Q. What is the source of the water used for gas drilling?
A. There are two sources - originally water wells were drilled or ponds were dug. More recently companies have purchased water from the Town through fire hydrant meters.

Q. How would the Town restrict produced water from coming in from outside of Flower Mound?

A. The Town has no ability to restrict the water to only come from Flower Mound. The Town has had an emergency management plan for many years, that is administered by the Fire Department. The component plans are updated regularly. The Town has a CodeRed system to notify residents of dangerous situations.

Q. What do gas drillers not have to disclose under federal law?

A. They do not have to disclose additives for fracking. Federal law does not identify the byproducts of produced water. The drilling industry receives some exemptions.

Mr. Woods stated there were regulations for the proper disposal of the water and EPA and TCEQ regulations had to be followed. They do not fall under the term "hazardous." A vapor recovery system is utilized in other areas/states. It is effective in reducing emissions.

Mr. Jefferson stated that on December 18 staff met with regional TCEQ members and requested testing in Flower Mound. If a citizen contacted them with a complaint, they indicated that they would respond within 12 hours. Testing was conducted on January 13 at two sites - odor surveys, and a toxic vapor analyzer test. They did not detect odors, and there were no detectable levels of VOC. The systems were normal. The Town requested that they capture air in canisters. The TCEQ results should be out in February. The Town executed an agreement with Kline Central to review the sites and create a benchmark for ambient air in Flower Mound. The Town expected the state to report on the Barnett Shale air quality. Information from the Health Department on cancer clusters should be out in March.

Mayor Smith stated she also wanted tests done when the air temperature is higher.

Mr. Jefferson stated TCEQ was pursuing permanent air quality monitors in Flower Mound.

Mayor Smith commented that maybe a citizen could get a quicker response than the Town.

Councilmember Wallace asked if there was a communication plan about the information just described regarding the testing in Flower Mound.

Mr. Jefferson responded that the Town would use Twitter, the webpage, tip sheets to the media, e-bulletins, and the **homeowners'** association distribution list. The Town would also follow up with a final report.

Jodie Boltillier, 2201 Jester, Flower Mound

Ms. Boltillier stated her daughter had leukemia. She spoke against a centralized wastewater collection system and asked the Council to at least table the vote until the Council had all the data about health hazards.

Gary Daniels, 6407 Meadowcrest Lane, Flower Mound

Mr. Daniels spoke in favor of a centralized wastewater collection system and Items 17 and 18.

Gary Santschi, 6405 Meadowcrest Lane, Flower Mound

Mr. Santschi spoke in favor of a centralized wastewater collection system.

Steve Boudreaux, 4001 Shiloh Road, Flower Mound

Mr. Boudreaux spoke in favor of a centralized wastewater collection system.

Dana Smith, 5428 Lake Victoria Court, Flower Mound

Ms. Smith spoke against a centralized wastewater collection system.

Virginia Simonson, 3104 Native Oak, Flower Mound

Ms. Simonson spoke against a centralized wastewater collection system. She asked about the number of trucks that would be needed to take the water to the injection well. She asked where the water would go if there was no place to take it to. She asked about pipelines going across properties.

Jeffrey Whittaker, 4305 Auburn Drive, Flower Mound

Mr. Whittaker spoke against a centralized wastewater collection system.

Greg Rumsey, 2708 Blue Wood Trail, Flower Mound

Mr. Rumsey thanked the Council for their service. He spoke in favor of a centralized wastewater collection system.

Larry Tullos, 6504 Hillcrest, Flower Mound

Mr. Tullos stated there were many unknowns. He spoke in favor of a centralized wastewater collection system.

Chris Tomlinson, 3907 Raintree, Flower Mound

Mr. Tomlinson spoke in favor of a centralized wastewater collection system.

Cricket Wright, 4000 Fairfax Court, Flower Mound

Ms. Wright spoke against a centralized wastewater collection system and Items 17 and 18.

Bill Norris, 3223 Raintree, Flower Mound

Mr. Norris spoke in favor of a centralized wastewater collection system.

Tony Robson, 3421 Courtney Drive, Flower Mound

Mr. Robson spoke against a centralized wastewater collection system.

Phil Del Vecchio, 7003 Woodridge Drive, Flower Mound

Mr. Del Vecchio spoke in favor of a centralized wastewater collection system.

Doug Pauley, 4509 St. Clair Court, Flower Mound

Mr. Pauley spoke against a centralized wastewater collection system.

Jaymee Sizelove, 622 Frenchtown Road, Argyle

Ms. Sizelove stated she lived across from the proposed injection well site. She stated she lived in the ETJ of Argyle and four compressors would be located within 150 feet of her home.

Nancy Johann, 3709 Old Mill Drive, Flower Mound

Ms. Johann spoke against a centralized wastewater collection system and drilling.

Kia Mastey, 3608 Polo Run Drive, Flower Mound

Ms. Mastey spoke against a centralized wastewater collection system.

Wendy McKisic, 4212 Gallant Court, Flower Mound

Ms. McKisic spoke against a centralized wastewater collection system.

Darren Pickett, 4801 Pack Saddle Way, Flower Mound

Mr. Pickett spoke against a centralized wastewater collection system.

Kelly McDonald, representing Bridlewood Homeowners' Association (HOA), Mustang Trail, Flower Mound

Ms. McDonald spoke against a centralized wastewater collection system. Ms. McDonald presented results of her HOA survey.

Odette Beasley, 4601 Morningstar Drive, Flower Mound

Ms. Beasley spoke against a centralized wastewater collection system and Items 17 and 18.

Nina Arnett, 4516 Cassandra Road, Flower Mound

Ms. Arnett spoke against a centralized wastewater collection system and Items 17 and 18. She asked the Council to make the process for getting permits more difficult.

Tammi Vajda, 2828 Lakeville Lane, Flower Mound

Ms. Vajda spoke against a centralized wastewater collection system and Items 17 and 18. She was in favor of recycling the water on-site.

Dulci Arredondo, 4005 Carruth Court, Flower Mound

Ms. Arredondo spoke against Items 17 and 18. She asked the Council to make it difficult to get permits.

Mayor Smith stated the Town had not weakened the gas ordinance (safety issues, setbacks, etc.). The Town had used its own lobbyist in Austin to fight legislation to lessen the restrictions on gas drilling.

Dr. Melvin Gross, 4111 Mustang Trail, Flower Mound

Dr. Gross was not against the centralized wastewater collection system, however he stated it should be on Williams' property.

Mayor Smith stated the Town would not allow a centralized collection system on Town property.

John Mrozek, 2925 Woodway Drive, Flower Mound

Mr. Mrozek spoke against Items 17 and 18. He asked if the Town had a disaster recovery plan if the water was contaminated.

Sue Ann Lorig, 4613 Foxborough Court, Flower Mound

Ms. Lorig spoke against Items 17 and 18. She asked how many applications the Town had received for a centralized collection system.

Mayor Smith stated no applications had been made, only a request.

Mr. Welch stated there were no pending applications. The applicant tonight was the Town. If Williams was the applicant, there would be a conflict of interest for Mayor Smith and Mayor Pro Tem Levenick.

Ms. Lorig presented a petition signed by residents in opposition to the agenda items.

Kurt Van Winkle, 3501 Burlington Drive, Flower Mound

Mr. Van Winkle spoke against Items 17 and 18.

Daryl Fell, 3513 Arbor Creek Lane, Flower Mound

Mr. Fell spoke against Items 17 and 18 and asked the council to get more facts before making decisions. He was in favor of recycling on-site.

Ladd Biro, 3405 Veronica Drive, Flower Mound

Mr. Biro spoke against a centralized wastewater collection system and Items 17 and 18.

Bev Fell, 3513 Arbor Creek Lane, Flower Mound

Ms. Fell spoke against a centralized wastewater collection system and Items 17 and 18.

Eranga Kaneira, 4704 Mariner Court, Flower Mound

Mr. Kaneira spoke against a centralized wastewater collection system and Items 17 and 18. He asked if there were any stricter guidelines for around schools.

Marilyn Rhodes, Williams, Tulsa, OK

Ms. Rhodes stated the current ordinance would allow the centralized wastewater collection system. She stated Williams did not have an application on file with the Town. She stated the SUP process would be needed.

Jeff Stovall, Environmental Specialist, Williams, Fort Worth

Mr. Stovall stated Williams had never tested out of compliance in Flower Mound. He added that the gas in ground in Flower Mound was very dry.

The Council took a break from 11:12 p.m. until 11:29 p.m.

Sandra Marshall, 3200 Heatfield, Flower Mound

Ms. Marshall spoke against Items 17 and 18. She asked the Town to not issue any more drilling permits.

Donald Berry, 4017 Appleton Lane, Flower Mound

Mr. Berry referred to a copy of an EPA report from New York.

Laurie Long, 2708 Lake Flower Drive, Flower Mound

Ms. Long encouraged the Council to require a recycling system at the wellheads instead of a centralized system. She asked the Town to work with the state and federal legislatures to eliminate exemptions for oil and gas.

Betty Danhalls, 3504 Tanyard Court, Flower Mound

Ms. Danhalls spoke against a centralized wastewater collection system and Items 17 and 18.

Mike Steskel, 3112 Cottrell Drive, Flower Mound

Mr. Steskel spoke against Items 17 and 18.

Andrea Milton, Flower Mound

Ms. Milton spoke against a centralized wastewater collection system and Items 17 and 18. She asked if the water was so clean, why did it have to go to an injection well in Argyle, or be put back into the ground.

Kendra Stephenson, 2321 Roadrunner, Flower Mound, president of The Sanctuary HOA

Ms. Stephenson asked if the SUP process was something that Flower Mound needed to do. She asked to see a map of where in Flower Mound land would be impacted. She asked to limit the size of the collection facility. She asked if an expert was used for the testing. She asked about the eminent domain authority of gas companies. Ms. Stephenson stated the HOA Board was against a centralized wastewater collection system and Items 17 and 18.

David Quinn, 3817 Burlington Drive, Flower Mound

Mr. Quinn asked the Town Council to take the time to get all the information from the studies.

Ullas Chadaga, 3609 Leanne Drive, Flower Mound

Mr. Chadaga spoke against a centralized wastewater collection system and Items 17 and 18. He asked questions about testing around the well sites/facilities.

Esther McElfish, President, North Central Texas Communities Alliance, Fort Worth

Ms. McElfish urged the Council to learn from Fort Worth's mistakes. She urged them to err on the side of caution and not to rush into a decision. She felt the study was deeply flawed and urged them to not take the report as a final statement. She stated there were some very serious health concerns.

Doug Oppenheimer, 3325 Darcey Court, Flower Mound

Mr. Oppenheimer spoke against Items 17 and 18 and did not see the benefits of the wells.

LEFT SPEAKER FORMS OPPOSING ITEMS 17 AND 18 (DID NOT SPEAK)

Srinivas Potlapalli, 3325 Leanne Drive, Flower Mound

Rita Watson, 2729 Princeton Drive, Flower Mound

Marilyn Lawson, 4808 Schooner Court, Flower Mound

Sandy Beach Lin, 5515 Lake Geneva Court, Flower Mound

Liz Harms, 3008 Autumn Sage, Flower Mound

John Locke, 2729 Princeton Drive, Flower Mound

Joe Northern, 4601 Portsmouth Court, Flower Mound

Roderick Malapitan, 2704 Crepe Myrtle, Flower Mound

Mary & Mike Schaetzel, 4020 Caruth Court, Flower Mound

Lee Sneller, 4712 Skyline Drive, Flower Mound

Pat Sneller, 4712 Skyline Drive, Flower Mound

Susan Naslund, 3101 Autumn Sage Trail, Flower Mound

Charles Cole, 5105 Knights Court, Flower Mound

Sunil Malla, 4008 Kenwood Drive, Flower Mound

Adriaan Jooste, 4320 Fairway Drive, Flower Mound

Tamara Kubala, 3316 Darcey Court, Flower Mound

Dawn Clark, 4520 Brenda Drive, Flower Mound

Elaine Takacs, 3305 Parkwood Drive, Flower Mound

Jim Jenkins, 2725 Lakehollow Lane, Flower Mound

Neubaur, 3417 Veronica Drive, Flower Mound (no first name given)

Chandra Reddy, 1404 San Jacinto Drive, Flower Mound

Seralaathan Hariharesan, 1405 San Jacinto Drive, Flower Mound

Kerstin Boodee, 5316 Singing Brook Road, Flower Mound

Jayaram Subbian, 3300 Darcey Court, Flower Mound

Maylo Beemon, 3609 Old Mill Drive, Flower Mound
Kristy Carlile, 3228 Marquette Drive, Flower Mound
Elizabeth Perkosky, 3449 Courtney Drive, Flower Mound
Citizen, 3505 Sandhurst Drive, Flower Mound
Cesar Martinez, 3604 Westminster Trail, Flower Mound
Tracy Kniffen, 1310 Noble Way, Flower Mound
Firoz Vohra, 3005 Native Oak Drive, Flower Mound
Darlene Casey, 3712 Falcon Drive, Flower Mound
Brian Casey, 3712 Flacon Drive, Flower Mound
Anita Deschner, 3832 Birchmont Drive, Flower Mound
Keith Duty, 2601 Northview Court, Flower Mound
Christine Duty, 2601 Northview Court, Flower Mound
Susan & Sean Johnson, 5300 Singing Brook Road, Flower Mound
Wade Hunt, 5512 Remington Park Drive, Flower Mound
Brenda Morris, 2604 Cherry Sage Drive, Flower Mound
John Castans, 5500 Frost Lane, Flower Mound
Melinda Carter, 1608 Noble Way, Flower Mound
Tabitha Myers, 2702 Carterton Way, Flower Mound
Bentley Ford, 3406 Sutters Way, Flower Mound
Jena Holbert, 3410 Sutters Way, Flower Mound
Robert Pearson, 2409 Roadrunner Drive, Flower Mound
Ruvan Nanayakkara, 4100 Teaberry Court, Flower Mound
Chris Whitlock, 3408 Pheasant Court, Flower Mound (speaking for Sanctuary HOA)
Joquel E. Greene, 5109 Lippizaner Drive, Flower Mound
Saghar Behroozi, 4709 Seafarer Court, Flower Mound
Laurie & Peter Kash, 3701 Sonoma Bend, Flower Mound
Jerome Paclibare, 2616 Belmont Court, Flower Mound
Michelle Benoist, 4200 Remington Park Court, Flower Mound
Shelly Biro, 3405 Veronica Drive, Flower Mound
Colleen Nunn, 4909 Kingswood Drive, Flower Mound
Tracey & Chance Davis, 4626 Hackberry Street, Flower Mound
Laura Hoffman, 5205 Bayberry Street, Flower Mound
Holly Berg, 2012 Barton Creek Lane, Flower Mound
Brain Donovan, 4312 Auburn Drive, Flower Mound
D. Graceffa, 3408 Courtney Drive, Flower Mound
Melissa Rodriguez, 4121 Marbella Drive, Flower Mound
Barbara Smith, 4601 Remington Park Drive, Flower Mound
David Pryde, 2316 Roadrunner Drive, Flower Mound
Christi Beca, 3517 Derbyshire Court, Flower Mound
Linda Geraci, 2704 Lake Flower Drive, Flower Mound
Mark Yates, 3705 Sidney Lane, Flower Mound
Janice Eason, 4312 Cassandra Drive, Flower Mound
Laura Le, 3404 Pheasant Court, Flower Mound
Mary Lou Jaimes, 3401 Druid Way, Flower Mound
Lisa & Mark Malone, 5025 Bayberry Street, Flower Mound
Sandhya Shekar, 3224 Kiley Lane, Flower Mound
Citizen, 3601 Sandhurst Drive, Flower Mound
Janet Flores, 3113 Plum Tree Lane, Flower Mound
Andrea Dickson, 3812 Imperial Drive, Flower Mound
Tracy Price, 3712 Kinross Court, Flower Mound
Kerri Hunt, 5512 Remington Park, Flower Mound
Jennifer Rogers, 2608 Carterton Way, Flower Mound

Wade Hunt, 5512 Remington Park, Flower Mound
Mark & Michelle Leih, 4508 Prestwick Lane, Flower Mound
Scott Price, 3712 Kinross Court, Flower Mound
Karen McCracken, 3701 Samuel Court, Flower Mound
Kent Dickson, 3812 Imperial Drive, Flower Mound
Jill Goen, 4420 Auburn Drive, Flower Mound
Manit Karu, 3404 Mandalay Drive, Flower Mound
Dale Crosier, 5525 Lake Geneva Court, Flower Mound
David Peahl, 3724 Sidney Lane, Flower Mound
Andrea & David Parrott, 2804 McPherson Lane, Flower Mound
Elizabeth Donovan, 4312 Auburn Drive, Flower Mound
Kim Zwerver, 5100 Balmoral Lane, Flower Mound
Meaghan Evanich, 2101 Bayshore Drive, Flower Mound
Laurie Schmidt, 3705 Lippizaner Court, Flower Mound
Lori Zwilling, 4404 Biscayne Drive, Flower Mound
Kim Berg, 2012 Barton Creek Lane, Flower Mound
(one form submitted with no name, address, or phone)

NO VOTE CHECKED, BUT APPEAR TO BE AGAINST (DID NOT SPEAK)

Citizen, 2612 Woodstone Court, Flower Mound
Kathy Baron, 3409 Courtney Drive, Flower Mound
Sherri Peahl, 3724 Sidney Lane, Flower Mound
Shannon Norris, 3400 Darcey Court, Flower Mound
Theresa Shutls, 3404 Courtney Drive, Flower Mound
Lori Ford, 3406 Sutters Way, Flower Mound
Katelyn Harris, 1204 Oak Drive, Flower Mound
Leslie Harris, 1204 Oak Drive, Flower Mound
(one form submitted with phone # only: 214-914-0813)
(one form submitted with no name, address, or phone)

NO VOTE CHECKED, NO PREFERENCE INDICATED (DID NOT SPEAK)

Jesse Davila, 2220 Morriss Court, Flower Mound
Anne Boroff, 3940 Bordeaux Circle, Flower Mound
Randy Rorick, 2621 Napier Lane, Flower Mound
Kristie Seibert, 5512 Belstrum Court, Flower Mound
Douglas Carignan, 5205 Connors Drive, Flower Mound
Wendy Kleinsorge, 3805 Country Club Drive, Flower Mound

Close Public Hearing (12 a.m.)

Mr. Welch stated the eminent domain authority was the authority to take property without consent. The pipeline companies have that authority under state law. They would have to follow the legal process to be able to do it, including hearings and establishing the value of the property. Mr. Welch stated municipalities could not change that.

Mr. Jefferson addressed the answers to the following questions that were asked by the public.

Q. Can pipelines go anywhere?

A. The Town has no control over the routes, and the gas drilling companies could determine the routes of the pipelines.

- Q. What is the proposed location of the injection well?
A. The proposed location is in the Argyle ETJ - Argyle had no direct control of the matter.
- Q. Will the amount of truck traffic be reduced?
A. There is no data to make sure it would be reduced. There may be fewer partial loads with the centralized collection facility and it could possibly reduce truck traffic. However, wells outside Flower Mound could bring more trucks.
- Q. Can there be a restriction of the sale of water to gas companies during drought situations?
A. The Town has the ability to restrict the sale of water when rationing restrictions are in place.
- Q. Can there be stricter regulations for gas drilling operations around schools?
A. There is a 1000 foot setback for schools. The Bunn well site did not have compressor facilities.
- Q. Where would produced water go if not to the Argyle ETJ?
A. The water would be carried to a site in the Fort Worth ETJ (injection well).
- Q. Is there a map to show all the possible facilities in Flower Mound?
A. The proposed map was shown.
- Q. Did the Town pursue the use of an industry expert to write the ordinance?
A. No, staff did not receive that direction from the Town Council.
- Q. Have there been recent tests around a centralized collection facility as opposed to compression facilities?
A. Staff was not aware of any. Most tests were recently conducted in Fort Worth.

Mayor Pro Tem Levenick asked if the Town had more control over any regulations than the EPA or federal government. She also asked if the Town could limit the number of wells with a centralized collection facility. She asked if the Town could require recycling of the water with a SUP.

Mr. Jefferson answered no to these questions.

Mayor Pro Tem Levenick asked how many wells a centralized collection facility would handle.

Mr. Jefferson stated he could not answer that without having a direct application.

Mayor Pro Tem Levenick asked if the Town could increase setbacks associated with a SUP greater than the current ones.

Mr. Welch commented there would have to be uniform setbacks.

Mayor Pro Tem Levenick asked if the wastewater was radioactive.

Mr. Woods responded that the produced water was not radioactive to his knowledge.

Mayor Smith asked if a land use designation could be adapted so that the only allowable

use would be a recycled water system.

Mr. Welch stated there could be serious issues with that.

Deputy Mayor Pro Tem Dixon stated he had talked with Mr. Jefferson and Mr. Welch about the **Town's** ability to prohibit wastewater coming from outside Flower Mound. He understood that the Town might have the opportunity to enter into an agreement with the proposed owner of a centralized collection facility to hold them accountable for not bringing in water from outside Flower Mound.

Mr. Welch stated the Town could enter into an agreement for a limitation on the amount of water, or where it comes from. If there is a violation of that agreement, there could be lawsuit with someone who had violated the agreement.

Deputy Mayor Pro Tem Dixon asked if that could be added to the standards.

Mr. Welch responded he had serious questions about that. There might be some public utilities aspects that might prohibit that. There would have to be a valid reason on arriving at that number. He noted that public utilities had certain rights, and the Town could not impose limitations that were not in state law.

Mayor Smith asked if a pipeline that moved wastewater was considered a public utility.

Mr. Welch responded yes.

Mayor Smith asked if cities had interlocal agreements for sewer systems.

Mr. Welch stated the federal government trumped the state government. A city could enter into interlocal agreements for certain services, however Flower Mound could not decide to start selling water in Denton. There would be issues with Certificates of Convenience and Necessity (CCNs), protests, hearings, and other utilities might have to get involved. There would be many regulations to follow before it could happen. He stated there was a state regulatory process to follow.

Mayor Smith hoped that the gas companies would work with residents and towns about where pipelines would go (carrying wastewater).

Mr. Welch stated there was a process going on in the state between gas companies and cities. Best management practices would be to stay in rights-of-way or along property line edges rather than crossing properties, however the Town did not have the ability to mandate that.

Councilmember Wallace stated currently there was no zoning in place to make a request for centralized collection facility. If the proposed ordinance was not approved, the Town would block the ability for a drilling company to make a request and could sue the Town. He asked if a judge or court could force Flower Mound to allow a centralized collection facility and would that enforcement come from the state level. He noted there had been proposed legislation in the last session that if passed, would have thrown the **Town's** oil and gas and perhaps pipeline ordinances out the window (including the **Town's** Master Plan). He asked if they passed in the next session, would Flower Mound be without any protection at all.

Mr. Welch stated pre-filing of bills would start after the November 2010 election. He did

not know what any bills would do to Flower Mound's authority. There also was the possibility of legislation that could further define cities' relationship with public utilities. Based on what has occurred in other cities, there was one unreported opinion from a federal court in North Texas that addressed some of the issues mentioned above. The issue between a municipality's regulatory authority and where it butts with a public utility's powers of eminent domain is not defined in Texas.

Deputy Mayor Pro Tem Dixon clarified that under the current ordinance, a gas company could build a water pipeline and pipe produced water out of Flower Mound.

Mr. Welch responded yes.

Mayor Smith asked for any historical data on environmental instances (leaky pipes or water).

Mr. Woods stated he was not aware of produced water pipelines that had caused environmental hazards. Most spills stayed on the pad sites.

Mayor Smith asked how similar Flower Mound's pipes were to what the ordinance proposed.

Mr. Woods stated the proposed line was different from PVC pipe.

Mayor Smith asked how the Town monitored sewer lines.

Assistant Town Manager Kent Collins explained the Inflow and Infiltration Program, which was ongoing. The crews can run cameras through lines, and there were flow monitors around Town to monitor rainfall. They could also run smoke tests to see if there were any breaks in the system.

Council Deliberation

Deputy Mayor Pro Tem Dixon referred to Item 17, and stated that based on the fact that gas companies could build a water pipeline and pipe produced water out of Flower Mound, the additional safeguards in the proposed ordinance made it more expensive to the company and safer for the Town. He stated if the Town was increasing the quality and expense of the water pipeline, that might be a good thing for Flower Mound.

Councilmember Filidoro referred to the pipeline issue stating he was concerned that they would increase risks by having the produced water under the ground.

Councilmember Hayden commented on Marilyn Rhodes' comments regarding Williams not having an application submitted at this time. He stated that for many months Williams had aggressively worked on this with the Town. No one knew how many pad sites there would be. He felt the pipeline companies would use eminent domain. Councilmember Hayden stated the Town Council had a choice and should not be in fear of what a judge would decide. This topic had been dominating the Town for some time. He stated Flower Mound's image and reputation was "family." He stated that he was witnessing a transformation from a family town to an industrialized town. The Council needed to find a balance between those with mineral rights and the other residents, as the decision affected everyone in Flower Mound. He was concerned about future property values. Councilmember Hayden worried how Canyon Falls will develop with a spider web of pipelines. Williams had said they would have 100-150 wells in Flower

Mound. He understood that to frac a well in the Barnett Shale, it would take between 3 and 8 million gallons of water. Assuming Williams drilled 125 wells in Flower Mound, and the amount of water that was polluted was 5 million gallons per well, that was 625 million gallons of water. That would be the same amount of water that the Town uses in 37 days. He stated the Town needed to know what was in the water before allowing it to be moved below the surface of Flower Mound. He stated he went out on his own to obtain fracking water. He stated the Town did not have permission to test the water to see what was inside. If Williams had nothing to hide, he asked why they would not let the citizens know the contents of the water. Councilmember Hayden stated that Williams requested an injection well in Argyle near Flower Mound. He stated that Williams said it was a best practices company. Councilmember Hayden was in favor of recycling flow back water in the Barnett Shale. The way to eliminate trucks was to recycle 75% of the fracking water. He stated recycling the water was expensive, however the companies could not continue polluting Texas. He urged the Council to reject the zoning request and require recycling.

Deputy Mayor Pro Tem Dixon stated he had friends on both sides of the issue, and no matter how the vote turned out they would still be friends. He encouraged the citizens to find common ground for the best interests of all of Flower Mound. He had heard many citizens say they did not want a centralized facility for produced water. He thanked staff for splitting up the definitions from the centralized collection facility (natural gas compression and natural gas lift facility). This provided for flexibility.

Mayor Pro Tem Levenick stated that the process tonight would lay the groundwork to process a future application. She stated there had been so many emails and so much information. She read a portion of an email about leukemia clusters, and asked people to stop sending out false information. She encouraged everyone to wait for the information from the state. She commented that she had talked to the state DSHS director. There were many concerns and misunderstandings. She stated that citizens had asked why the Texas Cancer Research did not include data from 2008 and 2009. She stated that she had been informed that for an investigation to be valid, whether it determined there was a cluster or not, it must use complete statewide data that had been subject to many rigorous quality assurance measures. She stated the Town wanted all the data that was available and to go through the exact instances that any other part of the state was going through.

Councilmember Wallace stated a year ago he was running for office, and he supported and would uphold the oil and gas ordinance. He wanted to protect the neighborhoods and herespected the rights of mineral owners. He stated he was not opposed to gas drilling, but also wanted to strike the right balance. Councilmember Wallace stated Item 17 was very specific and actually strengthened the current ordinance. Item 18, if approved, did not give any gas operator the right to put in a centralized collection facility. It added text to the ordinance to simply request the SUP. Public hearings would be held by the Planning & Zoning Commission and the Town Council. Decisions would be made on a case-by-case basis. The Council would determine if it was appropriate for the location and all other concerns. He supported both Items 17 and 18.

Mayor Smith stated there had been many concerns about health issues. She had been in contact with elected officials over the state. Others did not feeling threatened by a lawsuit. There was more than one gas company in the Town. No one had been able to prove that health issues could be tied into Items 17 and 18. She stated she would feel more comfortable with more data on testing issues. Mayor Smith looked at Items 17 and 18 as improvements to the current regulations. She added that gas drilling would occur without the adoption of Items 17 and 18. She was not sure the Town had all the data to make a decision. She supported looking

at a centralized collection facility and recycling. She asked if the Council should wait two weeks to take a vote.

Councilmember Filidoro stated everyone had the right to have their opinion, and he did not like being threatened. He stated there was a great deal of information that was not known. He stated gas had been in the ground for a long time and it was not going away in three months. He believed in the moratorium on December 17. He believed in debate. Councilmember Filidoro stated Williams had proven to be a Trojan Horse. The debate about drilling was going on around the country. He stated he would not be supporting Items 17 and 18. Councilmember Filidoro stated Williams told the Town Council they would never put an injection well in Flower Mound and that they would only put five pad sites on the Bunn Property. He stated Williams lied to him.

Mayor Smith stated she agreed with Councilmember Wallace about the use issue. She was more concerned about information gathering. She was looking for an opportunity to take an industry that was not going away and to use best management practices.

Mayor Pro Tem Levenick clarified that this was an avenue to create a process to accept an application. Both Mayor Smith and Councilmember Filidoro said there was not enough information. She asked them if they wanted to wait to take action until the health reports came back.

Mayor Smith stated the waters were muddied because people were not talking about what was on the agenda. She still questioned what was in the water of a centralized collection facility. She noted that companies could still drill and put trucks on the roads, and the contents of the water in the trucks was unknown.

Councilmember Hayden asked why the Council would proceed with a zoning change to allow the water to be transported when they did not know the contents of the water.

Mayor Smith stated the unknown liquid was already in trucks.

Councilmember Hayden stated recycling was the best way to go. He felt if the zoning ordinance was approved, it would industrialize Flower Mound. He asked if that was good for the Town. He asked if they were getting anywhere if water was pumped into the ground in Texas.

Councilmember Hayden asked if, without passing the zoning ordinance, the companies would be allowed to transport the water by pipe to an injection well.

Mr. Welch responded that the zoning was for the centralized collection facility. If the ordinance was not approved, there would be no permitted use for the facility. He stated there was a difference of opinion between the Town and Williams on the transporting of the water by pipeline under the current ordinance. That was one of the reasons the land use issue had arisen. He felt the state would probably not be involved.

Councilmember Hayden asked if the company could pipe the water without standards.

Mr. Welch stated any pipeline would have to go through the pipeline permitting process. Item 17 would change that to specifically produced water. The fiberglass requirement was not in the current pipeline ordinance.

Item 17 Motions

Councilmember Filidoro moved to deny an ordinance amending Article VIII, "Oil and Gas Pipeline Standards," of Chapter 34, "Environment," of the Town's Code of Ordinances. Councilmember Hayden seconded the motion.

VOTE ON THE MOTION

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

Councilmember Wallace moved to approve Ordinance No. 04-10 amending Article VIII, "Oil and Gas Pipeline Standards," of Chapter 34, "Environment," of the Town's Code of Ordinances. The motion was seconded by Mayor Pro Tem Levenick. The caption of the ordinance reads as follows:

ORDINANCE NO. 04-10

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 CHAPTER 34, "ENVIRONMENT," BY REPLACING ARTICLE VIII, ENTITLED "OIL AND GAS PIPELINE STANDARDS" IN ITS ENTIRETY AND ADOPTING A NEW ARTICLE VIII, "OIL AND GAS PIPELINE STANDARDS," AND ADDING CERTAIN DEFINITIONS AND PROVIDING NEW REQUIREMENTS AND MINIMUM DESIGN STANDARDS FOR CENTRALIZED NATURAL GAS PRODUCTION FACILITIES; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A PENALTY OR A FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

VOTE ON THE MOTION

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

Item 18 Motions

Councilmember Filidoro moved to deny LDR 04-09 - Centralized Gas Production Facilities by amending Section 98-2 (Definitions), Sections 98-952 (Use Classifications), and 98-273 (Agricultural District Specific Uses), to provide for a Centralized Natural Gas Production Facility definition, use regulations, and special use conditions, and consider adopting an ordinance providing for said amendment. The motion was seconded by Councilmember Hayden.

VOTE ON THE MOTION

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

Mayor Pro Tem Levenick moved to approve a request to amend the Land Development Regulations LDR 04-09 - Centralized Gas Production Facilities by amending Section 98-2 (Definitions), Sections 98-952 (Use Classifications), and 98-273 (Agricultural District Specific Uses), to provide for a Centralized Natural Gas Production Facility definition, use regulations, and special use conditions, and adopt Ordinance No. 05-10 providing for said amendment. The motion was seconded by Deputy Mayor Pro Tem Dixon. The caption of the ordinance reads as follows:

ORDINANCE NO. 05-10

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 SECTION 98-2, ENTITLED "DEFINITIONS," BY ADDING DEFINITIONS FOR THE PHRASES "CENTRALIZED NATURAL GAS COMPRESSION FACILITY," "CENTRALIZED NATURAL GAS LIFT FACILITY," AND CENTRALIZED NATURAL GAS PRODUCED WATER STORAGE FACILITY;" BY AMENDING SECTION 98-273, TO INCLUDE CENTRALIZED NATURAL GAS COMPRESSION FACILITY, CENTRALIZED NATURAL GAS LIFT FACILITY, AND CENTRALIZED NATURAL GAS PRODUCED WATER STORAGE FACILITY AS SPECIFIC USES; BY AMENDING SECTION 98-952, ENTITLED "USE CLASSIFICATION" ADDING CENTRALIZED NATURAL GAS COMPRESSION FACILITY, CENTRALIZED NATURAL GAS LIFT FACILITY, AND CENTRALIZED NATURAL GAS PRODUCED WATER STORAGE FACILITY TO THE SCHEDULE OF USE REGULATIONS; REPEALING ALL CONFLICTING ORDINANCES, ORDERS, AND RESOLUTIONS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON THE MOTION

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

- 15. Consider approval of a Road Maintenance Agreement in the amount of \$15,542.00 to provide funds in advance should gas well operations for Williams Production-Gulf Coast Company, L.P., create a need for road repair on the travel route of Red Rock Lane generally located north of FM 1171 and south of Hawk Road; and authorization for the Town Manager to execute same on behalf of the Town.**

Mayor Smith and Mayor Pro Tem Levenick recused themselves from this item. Deputy Mayor Pro Tem Dixon opened the item.

Matt Woods, Director of Environmental Services, stated on Red Rock Lane there was a permitted gas well on the Cummings gas well pad site. A road maintenance agreement was approved in 2009 for approximately a .18 mile stretch of Red Rock Lane. The applicant, Williams, had come forward for a gas well pad site on the Rusty Rice Lease outside the Town limits. They requested to use another .31 miles on Red Rock that was inside the Town limits. The agreement would establish funding in case road repair was needed in the future.

Councilmember Filidoro asked how the cost was calculated.

Mr. Woods stated the Public Works Division utilized a payment coefficient index. They took a stretch of road and conditions of the road and a fee was assessed based on that

calculation.

Councilmember Filidoro asked if it could be more.

Mr. Woods felt the Public Works estimated calculation was sufficient.

Councilmember Hayden asked why the Town **wouldn't** just bill them if there were actual damages as opposed to making an assumption.

Town Manager Harlan Jefferson stated when the Town entered an agreement it would have the funds in an escrow. If there were any damages, the company would be required to pay the appropriate amount to fix them. If they **don't** make the improvements, the Town would use the escrow money to make the improvements. If there was an excess amount owed to the Town, staff could shut down the permits.

Councilmember Wallace asked what was the detriment to the Town if there was a tie vote.

Town Attorney Terry Welch stated the Town would not have funds for potential damage to the road.

Councilmember Wallace moved to approve a Road Maintenance Agreement in the amount of \$15,542.00 to provide funds in advance should gas well operations for Williams Production-Gulf Coast Company, L.P., create a need for road repair on the travel route of Red Rock Lane generally located north of FM 1171 and south of Hawk Road; and authorize the Town Manager to execute same on behalf of the Town. Deputy Mayor Pro Tem Dixon seconded the motion.

VOTE ON THE MOTION

AYES: Hayden, Wallace, Dixon, Filidoro

NAYS: None

RECUSAL: Levenick

SUP/SP 387-09 - Bridlewood Stables **Public**
Hearing 16. Public Hearing to consider a request for a Specific Use Permit (SUP/SP 387-09 - Bridlewood Stables) to permit a caretakers' residence within an existing structure, and to consider adopting an ordinance providing for said amendment. The property is located at 4400 Withers Avenue. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its December 14, 2009, meeting.)

Staff Presentation

Executive Director of Development Services Doug Powell stated the applicant wanted to add a caretakers' facility on the property. Staff had not received any letters of correspondence and the Planning & Zoning Commission recommended approval.

Questions from the Governing Body and Answers None

Public Comments **None**

Close Public Hearing

Council Deliberation

Councilmember Filidoro moved to approve Specific Use Permit SUP/SP 387-09 - Bridlewood Stables - to permit a caretakers' residence within an existing structure, and to adopt Ordinance No. 06-10 providing for said amendment subject to the following conditions:

1. The attached site plan and elevations, labeled Exhibit B, 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.
2. If a building permit application has not been submitted to the Town's Building Inspections Division for consideration within six months 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 Deputy Mayor Pro Tem Dixon. The caption of the ordinance reads as follows:

ORDINANCE NO. 06-10

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 17, BLOCK A OF THE BRIDLEWOOD FARMS ADDITION FROM AGRICULTURAL DISTRICT (A) USES SUBJECT TO SPECIFIC USE PERMIT NO. 39 (SUP-39) ALLOWING FOR A BOARDING STABLE TO AGRICULTURAL DISTRICT (A) USES SUBJECT TO SPECIFIC USE PERMIT NO. 39 (SUP-39) TO ALLOW FOR A BOARDING STABLE AND SPECIFIC USE PERMIT NO. 387 (SUP-387) TO ALLOW FOR A CARETAKER'S RESIDENCE 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: Filidoro, Dixon, Levenick, Wallace, Hayden
NAYS: None

M. COORDINATION OF CALENDARS AND FUTURE AGENDAS/MEETINGS

- Retreat starting at 2 pm on January 22
- Retreat starting at 8:30 am on January 23
- Residential neighborhood speed limits at February work session
- Solicitation permits and handbills at future work session
- Environmental sustainability at future work session

N. RECESS SPECIAL MEETING AND CALL WORK SESSION TO ORDER

Mayor Smith had announced at the beginning of the meeting that the work session items would be postponed to another meeting.

O. WORK SESSION ITEMS

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

Postponed to a future meeting.

20. Receive a presentation and hold a discussion regarding proposed development along Long Prairie Road south of Lakeside Parkway.

Postponed to a future meeting.

P. ADJOURN WORK SESSION AND RECONVENE SPECIAL MEETING

Q./R. CLOSED/OPEN MEETING

The Town Council convened into a closed meeting at 1:54 a.m. on January 22, 2010 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 2:55 a.m. on January 22, 2010 to take action on the items as follows:

Mayor Smith and Mayor Pro Tem Levenick did not participate in discussions in Closed Session or the vote in Open Session on the Williams Barnett Gathering System, L.P. item.

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 a pipeline easement to the Williams Barnett Gathering System, L.P. across the Fire Station No. 2 property and authorize the Town Manager, or his designee, to execute all documents at closing on behalf of the Town. Deputy Mayor Pro Tem Dixon seconded the motion.

Discussion on the Motion

Councilmember Hayden understood that this would grant access for a gas line and if a Specific Use Permit was granted, it would allow pipelines to go across Town and ultimately to an injection well.

Councilmember Wallace stated the Town would be wasting taxpayer dollars by having to go through the condemnation process, if not approved.

Councilmember Filidoro stated he would not be held hostage because someone was threatening to sue the Town.

Councilmember Hayden stated that upholding the values of the community was not wasting taxpayer dollars.

Councilmember Wallace stated the Council was addressing a request from an entity that had powers of eminent domain and had the ability to go through the condemnation process. He stated the Town was offered twice the market rate. By not accepting the production gas easement that would be right next to an Atmos gas easement would cause the Town to be sued and would ultimately end up having them getting what they want anyway most likely.

Councilmember Hayden stated the Town was not being offered the twice market rate, but was being offered twice the original offer. He believed the Town would prevail.

VOTE ON THE MOTION

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

Mayor Smith and Mayor Pro Tem Levenick returned to the Council Chambers.

Mayor Pro Tem Levenick moved to approve the purchase of water line easements, in association with the FM 407 12-inch Water Line project, from Rodney Leasure, Justin/Dixon Properties Ltd., New S & B Group Inc., J. Neuman Investments Ltd., M. P. Warren Family Partners Ltd., and Austin Wylie Realty 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. Deputy Mayor Pro Tem Dixon seconded the motion.

VOTE ON THE MOTION

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

c. Discuss and consider appointments to the Board of Adjustment.

No action taken.

S. ADJOURN SPECIAL MEETING

Mayor Smith adjourned the regular meeting at 3:02 a.m. on Friday, January 22, 2010 and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

JODY A. SMITH, MAYOR

ATTEST:

PAULA J. PASCHAL, TOWN SECRETARY

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