

THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 15TH DAY OF FEBRUARY, 2010 IN THE FLOWER MOUND TOWN HALL, LOCATED AT 2121 CROSS TIMBERS ROAD IN THE TOWN OF FLOWER MOUND, COUNTY OF DENTON, TEXAS AT 5:30 P.M.

The Town Council met in a regular meeting with the following members present:

Jody Smith	Mayor (arrived 5:38 pm)
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 (arrived 5:40 pm)

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
Gary Sims	Executive Director of Community Services
Doug Powell	Executive Director of Development Services

A. CALL REGULAR MEETING TO ORDER

Mayor Pro Tem Jean Levenick called the meeting to order at 5:34 p.m.

B./C. CLOSED/OPEN MEETING

The Town Council convened into a closed meeting at 5:35 p.m. on February 15, 2010 pursuant to Texas Government Code Section 551.074 to discuss personnel, and reconvened into an open meeting at 6:14 p.m. on February 15, 2010 to take action on the items as follows:

1. Conduct interviews, discuss and consider appointments to Animal Services Board, Board of Adjustment, Community Development Corporation, Environmental Conservation Commission, Parks, Arts and Library Services Board, Planning and Zoning Commission, Tax Increment Reinvestment Zone Board and Transportation Commission.

No action taken.

D. RECESS REGULAR MEETING AND CALL BRIEFING SESSION TO ORDER

Mayor Smith recessed the regular meeting and called the briefing session to order at 6:14 p.m.

E. BRIEFING SESSION

1. Town Council Boards and Commissions Liaison Reports.

Mayor Pro Tem Levenick stated the Planning & Zoning Commission had reviewed plans for Montecello Estates.

Mayor Smith stated the PALS Board reviewed the Parks Master Plan.

2. Discuss Consent and Regular Items.

Town Manager Harlan Jefferson asked the Council if they wanted to consider letting the Transportation Commission make a recommendation on the 25 mph speed limit item that was on the **Council's** February 18, 2010 work session agenda. The consensus was to send it to the Transportation Commission for review.

Councilmember Wallace asked how long it would take for this item to come back to the Town Council. He noted that one neighborhood in particular was interested in the outcome.

Mayor Smith stated the item would be discussed by the Council on February 18.

3. Discuss Future Agenda Items. - No discussion

4. Discuss Council Communications. - No discussion

F. ADJOURN BRIEFING SESSION AND RECONVENE REGULAR MEETING

Mayor Smith adjourned the briefing session and reconvened the regular meeting at 6:18 p.m.

G. INVOCATION

Chaplain Mike Liles gave the invocation.

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

Mayor Smith led the pledges.

I. PRESENTATIONS

- **Proclamation - Constable John Hatzenbuhler**

Mayor Smith presented a proclamation (John Hatzenbuhler Day) to Constable John Hatzenbuhler for his contributions to the Town over the last 21 years.

- **Achievement of Excellence in Libraries Award**

Mayor Smith presented the 2009 Achievement in Excellence in Libraries Award from the Texas Municipal Library Directors Association to Sue Compton, Director of Library Services.

J. PUBLIC PARTICIPATION

Alfredo Sanchez, 4805 Dominion Court, Flower Mound

Mr. Sanchez stated that Post Oak Park continued to become a shadow of its former self and needed some attention. He referred to gas drilling and stated when 600 people showed up at a meeting, it meant the people were concerned. He wanted the Town Council to vote on the

side of the people.

Darlene Casey, 3712 Falcon Drive, Flower Mound

Ms. Casey stated she was one of the founding members of the Flower Mound Cares petition drive to recall the drilling ordinance. The petitions would call for a moratorium on gas drilling operations and the signers would be asking the Council to approve the moratorium or force a special election. The petition signing events would be held at local elementary schools on February 20 and 21 from 10 am to 6 pm.

Eddie White, 3104 Beaver Creek, Flower Mound

Mr. White congratulated the Town Council for getting people involved because of the drilling issues. He stated that he thought the **Council's** job was to adhere to the local people. He stated the Council should open their eyes and talk to the citizens in the Town.

The consensus of the Council was to end the applause and personal attacks during the Council meetings.

Pam York, 5504 Lake Geneva Court, Flower Mound

Ms. York stated she was a member of the Flower Mound Cares petition committee. She asked the Council to reconsider a moratorium on oil and gas activities in the Town. She suggested that they create a committee to look at the ordinances and make them stronger.

Steve Lyda, 3128 Sheryl Drive, Flower Mound

Mr. Lyda announced his intention to run for Place 4 on Town Council. He gave his reasons for running for Town Council.

Sue Ann Lorig, 4613 Foxglove Court, Flower Mound

Ms. Lorig stated that on August 19, 2009, Williams went before the Oil and Gas Board, and certain variances were granted. She noted that on February 17, 2010, Williams would be asking for more variances. She noted that Oil and Gas Board member, Carlos Cabre, had signed a lease with Williams in January 2009. She questioned if he should have signed a conflict of interest affidavit.

Jodie Boutilier, 2201 Jester Lane, Flower Mound

Ms. Boutilier stated there was grandstanding at the last meeting by the Mayor regarding her concerns about what was in the liquid. She was concerned that a centralized collection facility would provide for the liquid traveling all over the Town. She felt that **Pandora's** box had been opened.

Tom Hayden, 4213 Huntwick Lane, Flower Mound

Mr. Hayden stated he wanted to publicly respond to the **Mayor's** questions about the fluid. He stated he had held numerous conversations with experts in the field of gas drilling. He gave various statistics and stated the jar contained flowback water. He stated the Town should ask the drilling companies to disclose the ingredients in the water.

Lynn Sanchez, 4805 Dominion Court, Flower Mound

Ms. Sanchez stated there was a strong sense of family in Flower Mound, which was scarce in other parts of the country. She stated many people were generally concerned about the safety of gas drilling.

Josh Morrissey, 3324 Darcy Court, Flower Mound

Mr. Morrissey stated that at the meeting regarding the centralized collection facility,

someone asked if the Town could have stronger ordinances. He called the Texas Railroad Commission general counsel, who said there were no laws that said they could compel a company to use particular procedures nor could they prohibit the Town from passing such laws. He asked why Flower Mound did not have these things in place already.

Stan Martin, 6505 Frontier, Flower Mound

Mr. Martin stated he lived close to the Williams drilling site. He challenged the Town to ask the police department to ticket trucks hauling hazardous or toxic materials if they did not have the proper warning placards. He stated the main source of benzene was gasoline. He stated he was a property/mineral rights holder, and he did not know of anything that would restrict a gas producer from delivering his minerals to market.

K. ANNOUNCEMENTS

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

Councilmember Hayden recognized members of the Seniors In Motion Auxiliary (SIMA) Board. He congratulated Mary Kay Walker for getting a grant for \$5,250 from CoServ.

Mayor Smith stated that SIMA was created in order to raise funds for the Seniors In Motion program.

L. TOWN MANAGER'S REPORT

- **Update and status report related to operational issues, capital improvement projects, budget projections, grants, legislation and regulatory activities.**

Town Manager Harlan Jefferson stated the Town was providing leniency with Code Enforcement regarding tree and brush removal due to the storm. He noted that through February 25, the Town was hosting a Help for Haiti medical supply drive in conjunction with Northwest ISD. Mr. Jefferson stated the Friends of Flower Mound Library were hosting a reception acknowledging the 10th anniversary of the opening of the Library building from 1-3 p. m. on Sunday, February 27. The ribbon cutting for Fire Station #4 was scheduled for March 1 at 4:30 p.m. prior to the Council meeting. Mr. Jefferson addressed some of the health-related issues regarding oil and gas drilling.

Councilmember Hayden asked if staff would push for continuous or repetitive soil, air, and water testing.

Mr. Jefferson commented that the state continued to do testing, but would not do it as frequently as staff would do. Staff would perform tests more than once a year.

M. CONSENT ITEMS

Deputy Mayor Pro Tem Dixon made a motion to approve by consent. Items 1, 2, 3, 4, 5, 6, 7, and 8. Councilmember Wallace seconded the motion. Each item, as approved by consent, is restated below along with the approved recommendation for each, for the record.

1. **Consider approval of minutes from a special meeting and work session of the Town Council held on January 21, 2010.**

RECOMMENDATION: Approve minutes from a special meeting and work session of the Town

Council held on January 21, 2010.

2. **Consider approval of minutes from a retreat of the Town Council held on January 22 and 23, 2010.**

RECOMMENDATION: Approve minutes from a retreat of the Town Council held on January 22 and 23, 2010.

3. **Consider approval of minutes from a regular meeting of the Town Council held on February 1, 2010.**

RECOMMENDATION: Approve minutes from a regular meeting of the Town Council held on February 1, 2010.

4. **Consider approval of canceling the March 15, 2010, regular meeting of the Town Council and calling a special meeting on March 25, 2010.**

RECOMMENDATION: Approve canceling the March 15, 2010, regular meeting of the Town Council and calling a special meeting on March 25, 2010.

5. **Consider approval of a resolution authorizing the execution of a Local Project Advance Funding Agreement with the Texas Department of Transportation, for the installation of a permanent traffic signal at FM 2499 and Windsor Drive, at a cost of \$28,813.35, as part of the FM 2499 Section 3 construction project, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve Resolution No. 04-10 authorizing the execution of a Local Project Advance Funding Agreement with the Texas Department of Transportation, for the installation of a permanent traffic signal at FM 2499 and Windsor Drive, at a cost of \$28,813.35, as part of the FM 2499 Section 3 construction project, and authorize the Mayor to execute same on behalf of the Town. The caption of the resolution reads as follows:

RESOLUTION NO. 04-10

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, APPROVING A LOCAL PROJECT ADVANCE FUNDING AGREEMENT WITH THE TEXAS DEPARTMENT OF TRANSPORTATION FOR THE INSTALLATION OF A PERMANENT TRAFFIC SIGNAL AT THE INTERSECTION OF FM 2499 AND WINDSOR DRIVE AS PART OF THE FM 2499 ROADWAY RECONSTRUCTION PROJECT; AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

6. **Consider approval of the award of Proposal No. 21-10-A RFP for Annual Fireworks Display to Western Enterprises, Inc., in the annual amount of \$23,000, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve the award of Proposal No. 21-10-A RFP for Annual Fireworks Display to Western Enterprises, Inc., in the annual amount of \$23,000, and authorize the Mayor to execute same on behalf of the Town.

7. **Consider approval of the purchase of eight police sedans for the Police Services Department from Dallas Dodge, in the amount of \$188,960, through the Houston-Galveston Area Council of Governments (HGAC) cooperative.**

RECOMMENDATION: Approve the purchase of eight police sedans for the Police Services Department from Dallas Dodge, in the amount of \$188,960, through the Houston-Galveston Area Council of Governments (HGAC) cooperative.

8. **Consider approval of the purchase of Incident-Based Reporting System Software, Support, and Client Access Licenses from Integrated Computer Systems, Inc., a sole source provider, in the amount of \$89,100.**

RECOMMENDATION: Approve the purchase of Incident-Based Reporting System Software, Support, and Client Access Licenses from Integrated Computer Systems, Inc., a sole source provider, in the amount of \$89,100.

VOTE ON THE MOTION

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

N. REGULAR ITEMS

The Town Council considered Item 10 at this time.

10. **Public Hearing**
Public Hearing to consider an ordinance amending Chapter 18, "Businesses," of the Code of Ordinances by creating a new Article IX, "Sale of Alcoholic Beverages" and establishing business hours for alcohol sales.

Staff Presentation

Town Secretary Paula Paschal stated the proposed ordinance had two portions. In May 2007, the voters approved two propositions on the ballot: (1) to permit the legal sale of beer and wine for off-premise consumption, and (2) to permit the legal sale of mixed beverages in restaurants by food and beverage certificate holders. Although the results of the election were canvassed by ordinance, the information was not codified into the Code of Ordinances. Additionally, the Town had received a request for the approval of extended hours for the on-premise sale of alcoholic beverages.

Questions from the Governing Body and Answers None

Public Comments

Todd Birdsong, 110 Cherokee Path, Flower Mound

Mr. Birdsong asked the Council to keep tax dollars in Flower Mound.

Sean Reagan, 3817 Hackberry, Bedford

Mr. Reagan stated the extended hours would allow Little **Pete's** to create additional revenue. The kitchen would remain open, as well. He stated this would help them to remain competitive in the market. He believed people were going to Grapevine and Southlake after midnight. He was in favor of the ordinance.

Jason Loudon, 7804 Settlement Drive, Denton

Mr. Loudon stated he was one of the owners of Point After North, and he supported the late night hours. His business had been in Flower Mound for over 25 years. He stated this

approval could entice potential businesses to come into the River Walk at Central Park.

Al Abboud, 1507 New Castle, Southlake

Mr. Abboud supported the ordinance, stating it would allow restaurants to create additional revenue. This would put Flower Mound on a level playing field with other cities and inject an element of nightlife that does not exist.

Al Sanchez, 4805 Dominion Court, Flower Mound

Mr. Sanchez stated he disliked the nanny state of all levels of government. He felt this ordinance might help the establishments if they had the extended hours. He was in favor of letting the businesses have the competitive neutrality.

Staff Comments

Close Public Hearing

Council Deliberation

Councilmember Hayden stated he had visited with local business owners. Texas Roadhouse was indifferent to the idea because the corporate offices mandated them to close at 11 pm. Agave was in favor. Fish City was indifferent. **Christina's** was required to close at 11 pm. Bridlewood was a private club. **Salerno's** thought it was a great idea. Yellow Rose told him it would be helpful and they would like to have the option. Point After told him they needed the ordinance. Rouge liked having the option. **Chili's** stated they generally closed at 11 pm. Little **Pete's** and Z Grill were in favor. Councilmember Hayden stated that of the 16 survey cities, 13 had the ability to stay open until 2 pm, **and these were Flower Mound's competitive** cities.

Councilmember Filidoro stated Legacy Park had a nightlife and a vibrant street like Flower Mound envisioned in the River Walk. Southlake was the same way. He stated businesses would not come to Flower Mound if there were no places open. He commented that he knew someone wanted to locate a sports bar near FM 2499 and FM 407, but they would not build it unless they could have late hours. He stated he supported this in past and still support ed it.

Deputy Mayor Pro Tem Dixon believed Flower Mound had a competitive disadvantage now. He noted that as the River Walk develops, people will live, work and play there. Hopefully there would be bistros (indoor and outdoor restaurants). He suggested having a semiannual review of any related activity that might be noticed by the police department. He stated the Town needed to make sure everyone was safe.

Councilmember Hayden supported having a review of the DUIs and alcohol-related accidents.

There was no direction from the Town Council to move forward with the reviews.

Councilmember Wallace moved to approve Ordinance No. 10-10 amending Chapter 18, "Businesses," of the Code of Ordinances by creating a new Article IX, "Sale of Alcoholic Beverages," and establishing business hours for alcohol sales. The motion was seconded by Deputy Mayor Pro Tem Dixon. The caption of the ordinance reads as follows:

ORDINANCE NO. 10-10

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING CHAPTER 18, "BUSINESSES," OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY CREATING A NEW ARTICLE IX, "SALE OF ALCOHOLIC BEVERAGES;" ESTABLISHING BUSINESS HOURS FOR ALCOHOL SALES; PROVIDING A PENALTY NOT TO EXCEED \$500.00; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON THE MOTION

AYES: Hayden, Wallace, Levenick, Dixon, Filidoro

NAYS: None

9. **LDR 01-09 SMARTGrowth** **Public Hearing**
Public Hearing to consider approval of an ordinance amending the Code of Ordinances of the Town of Flower Mound, Texas, by amending Subpart B of the Code of Ordinances through the amendment of Chapter 82, "Development Standards," by the addition of a new Article VI, entitled "Water and Wastewater," together with the addition of a new Section 82-371, "Water and/or Wastewater Capacity Analysis Required," new Section 82-372, "Purpose" and new Section 82-373, "Payment of Cost;" through the amendment of Chapter 98, "Zoning," Article II, "SMARTGrowth Program," by amending Section 98-32, "Definitions and Methodologies," Section 98-33, "SMARTGrowth Implementation Manual-Amendments," Section 98-72, "General Exceptions," Section 98-74, "Evaluation," Section 98-100, "Supply," Section 98-101, "Pumping Capacity," Section 98-102, "Wastewater Treatment Capacity," Section 98-147, "Topographical Slope Protection;" and by amending Appendix A "Fee Schedule" of the Code of Ordinances of the Town of Flower Mound relative to Chapter 98 SMARTGrowth Analysis Fees; making findings; providing for the repeal of conflicting ordinances; providing a severability clause; providing for a penalty; providing for publication; and providing an effective date. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 and 5 to 1 at its January 25, 2010, meeting.)

Staff Presentation

Executive Director of Development Services Doug Powell introduced the item and gave the following presentation.

Mr. Powell discussed the issue of topographical slope protection, stating the residential subdivisions could not be built on a 12% slope and there were no exceptions. He noted that River Oaks, Point Noble, and Lake Hills Estates were developed prior to SMARTGrowth. This came about by a local landowner asking for exceptions for the 12% slope. If someone had 12% slope, they would have to show that the impact of the slope was not very much. Staff felt they should use Best Management Practices to design the impacts of the 12% slope. The use of large retaining walls would not be permitted. Also, there would be a provision that gives guidance for some of the criteria. This would give a developer the ability to ask for an exception, if it was warranted.

Questions from the Governing Body and Answers

Deputy Mayor Pro Tem Dixon asked if the worksheets and modeling would be done at the same time.

Mr. Powell responded that they would be done at the same time, and that was why it was being referred to as a hybrid methodology.

Councilmember Filidoro asked about the exception process on the 12% slope.

Mr. Powell stated the Town had geographic maps that showed the topography on areas that have not been developed. By those maps, staff could see the slope on any given project. If a slope in excess of 12% was found, staff would show the applicant, and they would have to verify that the slopes were indeed in excess of 12%. The applicant would have to come back with a plan to show how they would design around them.

Councilmember Filidoro asked if this came about when Wellington was built.

Mr. Powell responded yes.

Councilmember Filidoro asked what a developer would do if there were 12% slope issues.

Mr. Powell stated the case would be heard by the Planning & Zoning Commission, and they would make a recommendation to the Town Council. He noted that River Oaks and Point Noble were built with more than 12% slopes. They were nice subdivisions, but they would not be able to be built under the new provisions. He noted that there had not been much residential development on the west side of the Town. Mr. Powell stated many steep slopes were in the floodplain. He noted that economic development projects could receive an exemption, adding that Canyon Falls had two areas with slope issues. Large scale lots would most likely be developed in the Cross Timbers in the future. Mr. Powell stated that most slopes would be in conservation easements in Montecino.

Deputy Mayor Pro Tem Dixon supported the ordinance, as developers would have an avenue to enhance a high-quality product.

Councilmember Wallace liked having the exception process. He asked if a supermajority vote of the Council would be required if the Planning & Zoning Commission recommended denial.

Town Attorney Terry Welch stated that because by definition it was a variance, the Council could choose to require a super majority vote. In essence, it would be like granting an

exception to SMARTGrowth.

Public Comments

Melissa Northern, 4601 Portsmouth Court, Flower Mound

Regarding the 12% slope, Ms. Northern wanted to make sure the Town would not be sidestepping a supermajority vote. She appreciated the good fiscal responsibility on the capacity issue. She stated the Town needed to be consistent with wording in the ordinance about whether staff was given the ability to determine whether an analysis was needed and then require a payment. **She felt the wording should be “shall” on both.**

Close Public Hearing

Council Deliberation

Kent Collins, Assistant Town Manager, addressed Ms. Northern's comments. He stated Section 371 talked about the larger projects that had an impact on the system. He stated it would be an engineering call as to whether or not the model would need to be run on that project. He stated staff would run the model on a twice-a-year basis, just to make sure it was caught up with all the projects. That was why the word “**may**” was used. If the model was required, then the developer “shall” pay for the cost. The plan was that all applicants shall pay the SMARTGrowth fee for water and wastewater modeling.

Councilmember Hayden asked why the slope percentage was where it was initially.

Mr. Powell stated staff surveyed cities, and no other city in the metroplex had a provision for slope protection. Slope protection was usually found in coastal areas. He stated there were some standards for slope and roadway design, however he recalled that the slope discussions were a reaction to some developments in the past.

Mr. Welch stated if the Council wanted to add in a clause about the supermajority vote for an exception, it would be placed in Section 98.147(b).

Councilmember Wallace moved to approve Ordinance No. 11-10 amending the Code of Ordinances of the Town of Flower Mound, Texas, by amending Subpart B of the Code of Ordinances through the amendment of Chapter 82, “Development Standards,” by the addition of a new Article VI, entitled “Water and Wastewater,” together with the addition of a new Section 82-371, “Water and/or Wastewater Capacity Analysis Required,” new Section 82-372, “Purpose” and new Section 82-373, “Payment of Cost;” through the amendment of Chapter 98, “Zoning,” Article II, “SMARTGrowth Program,” by amending Section 98-32, “Definitions and Methodologies,” Section 98-33, “SMARTGrowth Implementation Manual—Amendments,” Section 98-72, “General Exceptions,” Section 98-74, “Evaluation,” Section 98-100, “Supply,” Section 98-101, “Pumping Capacity,” Section 98-102, “Wastewater Treatment Capacity,” Section 98-147, “Topographical Slope Protection,” and including a requirement of a three-fourths supermajority vote of the Town Council for an exception, and by amending Appendix A “Fee Schedule” of the Code of Ordinances of the Town of Flower Mound relative to Chapter 98 SMARTGrowth Analysis Fees; making findings; providing for the repeal of conflicting ordinances; providing a severability clause; providing for a penalty; providing for publication; and providing an effective date. The motion was seconded by Mayor Pro Tem Levenick. The caption of the ordinance reads as follows:

ORDINANCE NO. 11-10

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 SUBPART B OF THE CODE OF ORDINANCES THROUGH THE AMENDMENT OF CHAPTER 82, "DEVELOPMENT STANDARDS," BY THE ADDITION OF A NEW ARTICLE VI, ENTITLED "WATER AND WASTEWATER," TOGETHER WITH THE ADDITION OF A NEW SECTION 82-371. "WATER AND/OR WASTEWATER CAPACITY ANALYSIS REQUIRED," NEW SECTION 82-372. "PURPOSE" AND NEW SECTION 82-373. "PAYMENT OF COST;" THROUGH THE AMENDMENT OF CHAPTER 98, "ZONING," ARTICLE II, "SMARTGrowth PROGRAM," BY AMENDING SECTION 98-32, "DEFINITIONS AND METHODOLOGIES," SECTION 98-33, "SMARTGrowth IMPLEMENTATION MANUAL-AMENDMENTS," SECTION 98-72, "GENERAL EXCEPTIONS," SECTION 98-74, "EVALUATION," SECTION 98-100, "SUPPLY," SECTION 98-101, "PUMPING CAPACITY," SECTION 98-102, "WASTEWATER TREATMENT CAPACITY," SECTION 98-147, "TOPOGRAPHICAL SLOPE PROTECTION;" AND BY AMENDING APPENDIX A "FEE SCHEDULE" OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND RELATIVE TO CHAPTER 98 SMARTGrowth ANALYSIS FEES; MAKING FINDINGS; PROVIDING FOR THE REPEAL OF 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

O. COORDINATION OF CALENDARS AND FUTURE AGENDAS/MEETINGS

- Feb 18 work session
- March 1 meeting
- Cancel March 15 meeting
- March 25 special meeting

P./Q. CLOSED/OPEN MEETING

The Town Council convened into a closed meeting at 8:18 p.m. on February 15, 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 10:15 p.m. on February 15, 2010 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.**

Mayor Pro Tem Levenick moved to approve the authorization to seek bids for the sale of approximately 4.49 acres of property adjacent to the future West Windsor roadway extension and proposed park amenities. The motion was seconded by Deputy Mayor Pro Tem Dixon.

VOTE ON THE MOTION

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

Deputy Mayor Pro Tem Dixon moved to approve the purchase of drainage easements, in association with the Morriss-Gerault Improvement project, from Icarus Investments III, Ltd., Verde Riverwalk Apartments II LP, 709 Enterprise Dr., LLC, and Flozell J. Adams, not to exceed the settlement amounts, plus closing costs; 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 Wallace.

VOTE ON THE MOTION

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

- c. **Discuss and consider appointments to the Animal Services Board, Board of Adjustment, Community Development Corporation, Environmental Conservation Commission, Parks, Arts and Library Services Board, Planning and Zoning Commission, Tax Increment Reinvestment Zone Board and Transportation Commission.**

Deputy Mayor Pro Tem Dixon moved to move Laile Neal from Alternate Place 6 to Place 4 on the Board of Adjustment, effective February 15, 2010, term to expire September 30, 2010. Councilmember Filidoro seconded the motion.

VOTE ON THE MOTION

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

Councilmember Filidoro moved to appoint Ellen Stallcup to the Alternate Place 10 position on the Environmental Conservation Commission, term to expire September 30, 2010. Councilmember Wallace seconded the motion.

R. ADJOURN REGULAR MEETING

Mayor Smith adjourned the regular meeting at 10:18 p.m. and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

JODY A. SMITH, MAYOR

ATTEST:

PAULA J. PASCHAL, TOWN SECRETARY