

Questions from the Governing Body and Answers

Councilmember Hayden commented that nearby residents were concerned about parking on the north side of Gerault Park. He asked what barrier would be between the neighborhood and the park.

Mr. Hudson responded there was a 100-foot buffer. He added that the parking area between the Community Activity Center (CAC) and the proposed Seniors In Motion facility had been shifted about 100 feet further south.

Mr. O'Flynn commented that the plan called for additional evergreen plantings on the north side of the park.

Mayor Smith asked for an overview of the tennis center.

Mr. O'Flynn stated they looked at public property sites around town and none were ideal for a tennis center. He recommended that the Town look for a 10-acre tract somewhere centrally located in the town.

Mr. Sims stated staff would keep an eye out for tracts that were large enough for a tennis center, as development occurs.

Mayor Smith stated Roanoke Hills was the last subdivision west that touched the lake. She asked how a neighborhood park could be established there.

Mr. O'Flynn stated staff would always be on the lookout for land for neighborhood parks and community parks.

Mayor Smith stated she was glad to see the off-leash area in the Master Plan. She suggested having a blue ribbon committee to become a 501(c)3 group to raise money.

Councilmember Hayden stated it would take a philanthropic effort to acquire land on the west side of the Town. He asked how other towns worked to get land donated by developers.

Mr. O'Flynn suggested that staff and the Council start talking to people now. Many people would donate park land in order to give back to the community.

Public Comments

Steve Lyda, 3128 Sheryl Drive, Flower Mound

Mr. Lyda spoke in favor of the plan.

Stuart Chance, 740 Teakwood Drive, Flower Mound

Mr. Stuart asked if the Council would consider an all-access type of park.

Mayor Smith responded that there would be such a park that would be close to the CAC.
Sherillyn Flick, 3220 Miracle Lane, Flower Mound

Ms. Flick asked if the proposed trail head on the Dunham Road site was part of the plan.

Alfredo Sanchez, 4805 Dominion Court, Flower Mound

Mr. Sanchez spoke in favor of the plan. He supported pushing the development of Post Oak Park, Green Acres Park, and Twin Coves Park. He stated the off-leash park should not be

a priority, and he suggested putting it near the Animal Adoption Center. Mr. Sanchez stated that the seniors could use computers at the Library rather than having a computer room in the senior center.

Fay Jarrett, 6947 Red Bud Drive, Flower Mound

Ms. Jarrett supported the plan and keeping the dog park at Gerault Park.

Elizabeth Covington, 2845 London Lane, Flower Mound

Ms. Covington supported the plan and the off-leash area. She stated Flower Mound's Parks Department was second to none, and the Town had a great trail system.

Bruce Jarrett, 6947 Red Bud Drive, Flower Mound

Ms. Jarrett supported the Master Plan and the priorities that were set.

Diania Hanson, 4048 Pepperwood Drive, Flower Mound

Ms. Hanson supported the Master Plan, and she stated Roanoke Hills did need a park.

Close Public Hearing

Council Deliberation

Tony Neilson, Senior Project Administrator, stated the plan did call for the trail head at Dunham Road. Parking would be on the Corps property. Staff had sent a letter to the Corps regarding Twin Coves and was waiting to see if the Corps would lease the property to the Town.

Mayor Smith re-opened the public hearing.

Sherillyn Flick, 3220 Miracle Lane, Flower Mound

Ms. Flick asked that the trail head be included on the map.

Mayor Smith verified that it was on the trails map.

Close Public Hearing

Mayor Pro Tem Levenick moved to adopt Ordinance No. 29-10 to amend the Master Plan 2001 (MPA 01-10 - Parks and Trails Master Plan) by deleting existing Section 5.0 Parks and Trails Master Plan and replacing said section with a new Section 5.0 Parks and Trails Master Plan and further adopting the 2010 Parks and Trails Master Plan Update as a component of Master Plan 2001. The motion was seconded by Councilmember Filidoro. The caption of the ordinance reads as follows:

ORDINANCE NO. 29-10

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING MASTER PLAN 2001, BY AMENDING ORDINANCE NO. 24-01 IN PART, WHICH ADOPTED MASTER PLAN 2001, THROUGH THE AMENDMENT OF SECTION 5.0 PARKS AND TRAILS PLAN THROUGH THE DELETION AND REPLACEMENT OF EXISTING SECTION 5.0 PARKS AND TRAILS PLAN WITH A NEW SECTION 5.0 PARKS AND TRAILS PLAN; DECLARING AND MAKING FINDINGS REGARDING THE ADOPTION OF, AND ADOPTING THE 2010 PARKS AND TRAILS MASTER PLAN UPDATE AS A COMPONENT OF MASTER PLAN 2001; REPEALING ALL CONFLICTING ORDINANCES, ORDERS, OR RESOLUTIONS; PROVIDING A

SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**Council Deliberation**

Mayor Pro Tem Levenick stated the Plan was a great vision for the Town. She thanked everyone who worked on the Plan and the process.

Councilmember Filidoro thanked staff and Dunaway and Associates.

VOTE ON THE MOTION

AYES: Dixon, Filidoro, Hayden, Wallace, Levenick

NAYS: None

- 1. Consider approval of either (1) an ordinance adopting an ordinance, submitted to the Town on or about March 31, 2010, declaring a moratorium on the issuance of permits for certain oil and gas pipelines and natural gas centralized facilities, and related matters; or (2) an ordinance calling a special election for November 2, 2010, relative to voter approval of said ordinance.**

Staff Presentation

Town Secretary Paula Paschal stated on March 31, 2010, a petition was submitted to the Town **Secretary's** Office regarding a moratorium on the issuance of permits for certain oil and gas pipelines and natural gas centralized facilities. A total of 5,480 valid signatures were required and staff verified 5,642 signatures. On April 9, 2010, she certified the petition, and on April 19, 2010, the Town Council voted to receive the certification. Ms. Paschal stated the Council had 45 days from April 9 to take action, and the deadline date was May 24, 2010 to either adopt the proposed ordinance attached to the petition, or call a special election for November 2, 2010.

Matt Woods, Director of Environmental Services, gave a presentation. It is on file in the **Town Secretary's Office**.

Town Attorney Terry Welch gave an overview of the sections of the ordinance, as per his April 1, 2010 memo to the Town Council.

Questions from the Governing Body and Answers

Councilmember Hayden stated he had received many emails encouraging the Council to not support stopping all natural gas production in Flower Mound.

Mr. Welch stated the proposed ordinance would not stop applications for gas well permits. He stated there were three ways to look at permits that the Town issues. For those gas well facilities where there are existing permits to drill (and the wells and pipelines are operating) nothing happens to them at all. Applications where a permit has been filed and has not been acted on or is going through the process, under the Town ordinances and state law, when the permit is filed with the Town, a snapshot of the rules and regulations at that time is taken. Those rules and regulations lock in, for the most part, and they guide that project. The proposed ordinance would not affect those permits. Thirdly, if the proposed ordinance was adopted tonight, it would stop a pipeline permit from going forward during the temporary

suspension. The proposed ordinance would also stop applications for Specific Use Permits (SUPs) for centralized collection facilities (CCFs). Mr. Welch noted that a zoning ordinance could not be amended on an initiative.

Councilmember Hayden asked if the ordinance was adopted tonight and an application came in tomorrow, if the well was drilled would the company not be able to establish pipelines and take the product to market.

Mr. Welch stated, for example, if someone had six wells at a pad site, they usually only requested permits for two wells at a time. When that comes forward to the Town, the rules and regulations that would be followed would be triggered by the first permit. If they needed a pipeline permit, they would be locked in to the rules that were in place when the first permit was issued. He noted that the key component on a CCF was that they needed a zoning amendment. If the ordinance was adopted tonight or in November, no applications for CCFs would be accepted by the Town.

The Council took a break at 11:35 p.m. until 11:49 pm.

Deputy Mayor Pro Tem Dixon asked Mr. Welch for clarification on the pipeline ordinance, as it was a little broader.

Mr. Welch stated Section 2 of the ordinance referred to oil and gas pipeline permits, and produced water permits. For those pad sites that were previously permitted, those well permits can be approved by the Town and can move forward through the Oil and Gas Board of Appeals to get variances, if needed. Pipeline permits would be allowed because there would be a series of permits that were approved by the Town, prior to the moratorium. If the moratorium was adopted, for the new pad sites or well sites, the Town could do the well permit, but could not get a pipeline permit during the moratorium timeline.

Deputy Mayor Pro Tem Dixon asked if that was related to a CCF or not.

Mr. Welch stated the proposed ordinance would not allow a zoning change (SUP).

Councilmember Hayden asked for the average time from when an application is made and a well can be drilled.

Mr. Woods stated it depended on several variables. Staff had 45 days to review the application. Staff provided comments back to the applicant. Sometimes it could take three months for comments back and forth. If a variance was needed, the timeframe could take longer.

Councilmember Filidoro commented that on December 17, 2009, the Town Council tried to pass a moratorium and it failed. On January 21, 2010 the CCF discussion was held. He stated the Town had spent so much time on this and there was much strife in the community. He stated he supported a moratorium on December 17, and he supported the proposed ordinance.

Deputy Mayor Pro Tem Dixon believed that all the councilmembers listened to the people. He understood that the reports came back "good" about cancer clusters. The logical conclusion to the origination of a moratorium was the petition - legislation by the people. He stated the Council needed to provide all citizens of Flower Mound the opportunity to express their opinion. He believed that it was reasonable to have staff bring forth an agenda item to place a moratorium on a SUP request for a CCF and associated pipelines while the Town

conducts a comprehensive review of the oil and gas ordinance. He stated biosides were discussed at the Library meeting, and were classified as the dangerous additive used in the fracking process. The speaker noted that biosides would not have to be used or would be used in a lesser quantity if the companies used municipal water. He stated that between December 17, 2009 and today, the Town had not moved off center on getting this in front of the Council.

Councilmember Filidoro stated the Council had an opportunity to put this on a ballot. He noted the November election would not have a heavy turnout.

Councilmember Hayden noted this was a moratorium on applications for SUPs for CCFs. He stated he needed more facts, and the industry should be more transparent.

Councilmember Wallace clarified that this was a moratorium on CCFs, SUPs, and any new gas well pipelines that were not associated with a CCF.

Mr. Welch stated it was related to produced water pipelines. The draft ordinance provided for the acceptance and processing of applications for oil and gas and/or produced water pipeline permits pursuant to the Town's Code.

Councilmember Wallace asked if the moratorium was not approved and someone submitted an application for a CCF, would they have to go through the Planning & Zoning Commission and have a public hearing. If denied by the Commission, he asked if the Council would have to approve it with a supermajority.

Mr. Welch responded yes.

Councilmember Wallace stated that on January 21, 2010 the Council approved an ordinance that identified the process for someone to make a request for a SUP for a CCF. He stated there were only two good reasons for a moratorium. One was if the Town did not have an ordinance in place. The second was if there were clear and present health risks. He stated five air quality tests had already been done in Flower Mound. All of the tests said benzene was below the short- and long-term ESLs. The State Health Department did a test on cancer clusters over ten years. He disagreed with approving the ordinance, and was in favor of sending it to the voters in November.

Councilmember Filidoro stated he had not changed his position.

Councilmember Hayden believed that Williams had already identified their pad sites. He had not changed his position.

Councilmember Wallace supported protecting neighborhoods and protecting the property rights of mineral owners, and he had stated that a year ago.

Council Deliberation

Councilmember Filidoro moved to approve an ordinance adopting a ordinance, submitted to the Town on or about March 31, 2010, declaring a moratorium on the issuance of permits for certain oil and gas pipelines and natural gas centralized facilities, and related matters. The motion was seconded by Councilmember Hayden.

VOTE ON THE MOTION

AYES: Filidoro, Hayden

NAYS: Wallace, Levenick, Dixon

Councilmember Wallace moved to approve Ordinance No. 30-10 calling a special election for November 2, 2010, relative to voter approval of an ordinance declaring a moratorium on the issuance of permits for certain oil and gas pipelines and natural gas centralized facilities, and related matters. The motion was seconded by Levenick. The caption of the ordinance reads as follows:

ORDINANCE NO. 30-10

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, ORDERING A SPECIAL TOWN ELECTION TO BE HELD ON THE 2nd DAY OF NOVEMBER 2010, FOR THE PURPOSE OF SUBMITTING ONE PROPOSITION TO THE ELIGIBLE VOTERS OF THE TOWN OF FLOWER MOUND ON WHETHER AN ORDINANCE SHALL BE APPROVED WHICH WOULD PLACE A MORATORIUM ON THE ISSUANCE OF PERMITS FOR CERTAIN OIL AND GAS PIPELINES AND NATURAL GAS CENTRALIZED FACILITIES; PROVIDING FOR ELECTION OFFICERS; DESIGNATING THE PLACES AND MANNER OF HOLDING SAID ELECTION; AND PROVIDING FOR THE POSTING AND PUBLICATION OF NOTICE.

VOTE ON THE MOTION

AYES: Wallace, Levenick, Dixon

NAYS: Hayden, Filidoro

2. **ZPD 01-10 - The Pines at Flower Mound** **Public Hearing**
Public Hearing to consider a request for rezoning (ZPD 01-10 - The Pines at Flower Mound) to amend Planned Development District-82 (PD-82) by amending the Comprehensive Sign Package standards contained within Exhibit I of Ordinance 89-04 and to correct the identification of the exhibits listed in Section 2(A) thereof to correspond to the identification of such exhibits as expressed in Sections 2(B) and 3, and to consider adopting an ordinance providing for said amendment. The property is located at the southwest corner of Flower Mound Road and Gerault Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its April 12, 2010, meeting.)

Staff Presentation

Doug Powell, Executive Director of Development Services, stated the owner of The Pines at Flower Mound requested a comprehensive sign package for the development. Additionally, approval of the proposed ordinance would correct the identification of the exhibits listed in Section 2(A) to correspond to the identification of said exhibits as expressed in Sections 2(B) and 3.

Bill Hanks, Rosebriar, CEO

Mr. Hanks stated The Pines was owned and maintained by Rosebriar. He stated the tenants needed identification signs. He requested approval of the comprehensive sign package.

Questions from the Governing Body and Answers None

Public Comments

Manager of Agave Azul

The manager of Agave Azul stated he would like signage on the back side of the building where his restaurant was located.

Jay Young, Owner of City Vet

Mr. Young spoke in support of the sign package.

Jason Gerome, Highland Village

Mr. Gerome stated he needed more signage so people would know where his business was located.

Billy Bunch, 4425 Lance Drive, Flower Mound

Mr. Bunch owned Salt Water Willy's and stated he needed good food, a good location, and good signage.

Carol Kohankie, 4312 Lauren Way, Flower Mound

Ms. Kohankie recommended that the Town take care of this type of signage for all buildings and amend the sign ordinance.

Close Public Hearing

Council Deliberation

Councilmember Wallace asked that the new special committee for sign regulations look at these types of signs along with realtor signs.

Councilmember Filidoro moved to approve a request for rezoning (ZPD 01-10 - The Pines at Flower Mound) to amend Planned Development District-82 (PD-82) by amending the Comprehensive Sign Package standards contained within Exhibit I of Ordinance 89-04 and to correct the identification of the exhibits listed in Section 2(A) thereof to correspond to the identification of such exhibits as expressed in Sections 2(B) and 3, and adopt Ordinance No. 31-10 providing for said amendment. The motion was seconded by Mayor Pro Tem Levenick. The caption of the ordinance reads as follows:

ORDINANCE NO. 31-10

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 AMENDING ORDINANCE NO. 89-04 ON APPROXIMATELY 18.79 ACRES OF LAND IN THE W.H. GIBSON SURVEY, ABSTRACT NO. 464 AND THE M.L. COWAN SURVEY, ABSTRACT NO. 1637, AND BEING ALL OF THE PINES OF FLOWER MOUND ADDITION ZONED PLANNED DEVELOPMENT DISTRICT NO. 82 (PD-82) WITH RETAIL DISTRICT-2 (R-2) USES, THROUGH THE AMENDMENT OF SECTION 2(A) TO CORRECT THE LETTERING OF THE EXHIBITS IDENTIFIED THEREIN TO CORRESPOND TO THE ACTUAL LETTERING OF SAID EXHIBITS AND BY AMENDING EXHIBIT "I", ENTITLED "COMPREHENSIVE SIGN PACKAGE," TO ALLOW TENANT FACIA SIGNAGE TO BE PLACED ON THE REAR FACADES OF BUILDINGS 5B, 6, AND 7 AS IDENTIFIED IN THE

ATTACHED CONCEPT PLAN CONTAINED WITHIN EXHIBIT "1" IN ADDITION TO SUCH OTHER SIGNAGE AS MAY BE ALLOWED BY THE CODE OF ORDINANCES, IN ACCORDANCE WITH 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: Wallace, Levenick, Dixon, Filidoro, Hayden,
NAYS: None

3. Consider approval of a resolution adopting an amended policy for establishing 25 mph speed limits on residential streets.

Staff Presentation

Assistant Town Manager Kent Collins, stated the Council had discussed this item at a previous work session. It was remanded back to the Transportation Commission for a recommendation.

Questions from the Governing Body and Answers

Mayor Smith asked if the speed limit on Glenwick could possibly be lowered.

Mr. Collins stated staff did not survey the neighborhoods looking for streets that might need to be 25 mph.

Councilmember Filidoro preferred to look at requests on a neighborhood basis.

Council Deliberation

Councilmember Filidoro moved to table this item to June 7, 2010. The motion was seconded by Councilmember Wallace.

VOTE ON THE MOTION

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

4. **MPA 06-09 - Terracina** **Public Hearing**
 Public Hearing to consider a request to amend Section 1.0, Land Use Plan (MPA 06-09 - Terracina), of Master Plan 2001 from Estate Residential to Low Density Residential, and to consider adopting an ordinance providing for said amendment. The properties are located at 6701 Chinn Chapel Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its April 12, 2010, meeting. The applicant has requested this item be postponed to the May 17, 2010 regular Town Council meeting.)

Councilmember Filidoro moved to postpone this item to the May 17, 2010 regular Town Council meeting. The motion was seconded by Mayor Pro Tem Levenick.

VOTE ON THE MOTION

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

5. **ZPD 03-09 - Terracina** **Public Hearing**
Public Hearing to consider a request for rezoning (ZPD 03-09 - Terracina) from Single-Family Estate (SF-E) uses to Planned Development District-111 (PD-111) with Single-Family District-15 (SF-15) uses, and to consider adopting an ordinance providing for said amendment subject to the terms and conditions in the attached Development Agreement and authorization for the Mayor to execute same on behalf of the Town. The properties are located at 6701 Chinn Chapel Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its April 12, 2010, meeting. The applicant has requested this item be postponed to the May 17, 2010 regular Town Council meeting.)

Councilmember Filidoro moved to postpone this item to the May 17, 2010 regular Town Council meeting. The motion was seconded by Mayor Pro Tem Levenick.

VOTE ON THE MOTION

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

M. COORDINATION OF CALENDARS AND FUTURE AGENDAS/MEETINGS

- May 17 regular meeting
- May 20 work session

N./O. CLOSED/OPEN MEETING

The Town Council convened into a closed meeting at 12:48 a.m. on May 4, 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 12:56 a.m. on May 4, 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 purchase of right-of-way, in association with phase one of the Morriss-Gerault Improvement project, from FLCT, LTD., FLSC, LTD., and FLST, LTD., not to exceed the new settlement amount, plus acquisition expenses, and authorize the Assistant Town Manager, or his designee, to execute all documents related to acquisition of the property on behalf of the Town and the elimination of acquisition of easements from Verde Riverwalk Apartments II LP, 709 Enterprise Dr., LLC and Flozell J. Adams. Councilmember Wallace seconded the motion.

VOTE ON THE MOTION

AYES: Levenick, Dixon, Filidoro, Hayden, Wallace

NAYS: None

- c. **Consultation with the Town Attorney regarding legal issues associated with the interpretation of the provisions of Article 7 of the Town Charter and the initiative petition submitted to the Town on or about March 31, 2010.**

No action taken.

P. ADJOURN REGULAR MEETING

Mayor Smith adjourned the regular meeting at 12:58 a.m. on Tuesday, May 4, 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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