

THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 17th DAY OF MAY, 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 regular meeting with the following members present:

Jody Smith	Mayor
Jean Levenick	Mayor Pro Tem
Steve Dixon	Deputy Mayor Pro Tem
Al Filidoro	Councilmember Place 2
Mike Wallace	Councilmember Place 3
Tom Hayden	Councilmember Place 5

and with the newly elected members present (after canvassing):

Melissa Northern	Mayor
Steve Lyda	Councilmember Place 4

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 BRIEFING SESSION TO ORDER

Mayor Jody Smith called the briefing session to order at 6:01 p.m.

B. BRIEFING SESSION

1. **Town Council Boards and Commissions Liaison Reports - no discussion**
2. **Discuss Consent and Regular Items - no discussion**
3. **Discuss Future Agenda Items - no discussion**
4. **Discuss Council Communications - no discussion**

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

Mayor Smith adjourned the briefing session and called the regular meeting to order at 6:03 p.m.

E. INVOCATION

Chaplain Janet Dority gave the invocation.

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

Chaplain Dority led the pledges.

G. APPROVAL OF MEETING MINUTES

1. Consider approval of minutes from a quorum of the Town Council that met at the Flower Mound Town Hall, 2121 Cross Timbers Rd., Building C on April 14, 2010, to tour the facility with the Seniors In Motion board members.
2. Consider approval of minutes from a regular meeting the Town Council held on April 19, 2010.
3. Consider approval of minutes from a regular meeting the Town Council held on May 3, 2010.

Councilmember Filidoro moved to approve the minutes from a quorum of the Town Council that met at the Flower Mound Town Hall, 2121 Cross Timbers Rd., Building C, on April 14, 2010, to tour the facility with the Seniors In Motion board members, the minutes from a regular meeting the Town Council held on April 19, 2010, and minutes from a regular meeting the Town Council held on May 3, 2010. Deputy Mayor Pro Tem Dixon seconded the motion.

VOTE ON THE MOTION

AYES: Wallace, Levenick, Dixon, Filidoro, Hayden

NAYS: None

O. PUBLIC PARTICIPATION

Virginia Simonson, 3104 Native Oak, Flower Mound

Ms. Simonson thanked Mayor Smith and Mayor Pro Tem Levenick for serving on the Town Council.

Jeff Tasker, 3709 Sandhurst, Flower Mound

Mr. Tasker recalled the Council meeting where Mayor Pro Tem Levenick appeared before the Council for the first time, leading an organized opposition to an application that had caused great concern for many residents. She later was appointed to the Planning & Zoning Commission and then was elected to Council. He stated she served the Town Council with dignity. He stated that Mayor Smith knew so many people and always knew them by name. He stated Mayor Smith cared, and she always had. He stated she was one of the most generous people he had known. He congratulated Mayor Smith for exemplary leadership. He congratulated incoming Mayor Melissa Northern, Councilmember Filidoro, and Councilmember Lyda. He asked them to begin the process of reuniting neighbors and friends.

Angie Cox, 7616 Emerson Lane, Flower Mound

Ms. Cox congratulated the new Mayor and members of the Council. She thanked Mayor Smith and Mayor Pro Tem Levenick for serving the community. Ms. Cox stated this had been the worst election she had ever seen, and she implored the members of the Council to be leaders and bring the Town back together.

Paul Stone, 709 Lake Bluff Drive, Flower Mound

Mr. Stone congratulated the new members of the Council. He thanked Mayor Smith and Mayor Pro Tem Levenick for their service.

Carol Kohankie, 4312 Lauren Way, Flower Mound

Ms. Kohankie stated it was delightful to see the great attendance at Council meetings. She congratulated the winners of the election. She stated that Mayor Pro Tem Levenick had wonderful thought processes, and Mayor Smith had been an incredible ambassador for the Town.

Melvin Gross, 4111 Mustang Trail, Flower Mound

Mr. Gross appreciated Mayor Smith and Mayor Pro Tem Levenick's service to the Town. He congratulated the new Council. He asked the Council to put a permanent ban on gas drilling until the Town could study the effects of benzene. He asked if the streets would be damaged if pipes were run alongside them.

Laurie Long, 2708 Lake Flower Drive, Flower Mound

Ms. Long stated there were many voters and every vote mattered. She stated the community should get informed and hold the Council accountable. She asked them to remove the politics and truly listen. She hoped that residents will continue to stay involved.

Joel Lindsey, 4201 Huntwick, Flower Mound

Mr. Lindsey extended congratulations to the new Council. He thanked Mayor Pro Tem Levenick for her incredible service, and noted that she entered the government workplace by being an advocate for her neighbors. He stated that during his five years on Council he never saw anyone work so hard for the Town as did Mayor Smith. He stated that her efforts would not be forgotten.

Gerald Robinson, 6920 Hidden Valley, Flower Mound

Mr. Robinson congratulated the winners of the election. He applauded the organization of their campaign. He noted that he had a conversation with Councilmember Hayden on election day and they agreed that next year there would be no long lines. He applauded Mayor Pro Tem Levenick for her service. He recalled that in 1993, he was a district manager for the Kroger Company and that he opened the first superstore in Flower Mound. He met Mayor Smith at the ground breaking. He stated he valued friendships and friends more than votes.

Bryan Webb, 4112 High Road, Flower Mound

Mr. Webb congratulated the winners of the election. He stated he felt he was out-organized, however he accepted the will of the voters. He stated it was a pleasure to know Mayor Pro Tem Levenick, and that Mayor Smith was awesome. He stated she set the bar very high and he thanked her for doing that.

David Smith, 3705 Sarah Springs Trail, Flower Mound

Mr. Smith stated the election was very enthusiastic. He thanked Mayor Pro Tem Levenick for her service. Mr. Smith stated it had been a hard six years but he had seen his mother be very happy as Mayor. He hoped no other kids would get drawn into future elections.

H. CANVASS OF MAY 08, 2010 GENERAL ELECTION AND OATHS OF OFFICE

Mayor Smith opened Items 4 and 5 together.

- 4. Consider approval of an ordinance canvassing and declaring the results of a general election held May 8, 2010, for the purpose of electing a Mayor, Councilmember Place 2, and Councilmember Place 4 for two-year terms each.**

5. Consider approval of an ordinance canvassing and declaring the results of a special election held May 8, 2010, for the purpose of authorizing the sale and conveyance for fair market value of an approximate 15.815-acre tract of land located on the northwest corner of FM 407 and Chinn Chapel Road (known as Chinn Chapel Soccer Complex), and purchase of an approximate 23.374-acre property located on the east side of Chinn Chapel Road between Dixon Lane and Waketon Road.

Town Secretary Paula Paschal stated the election was held on May 8, 2010, with 8,401 ballots cast in the election. 5,969 were cast early and 2,432 were cast on election day. These numbers included the provisional ballots that were eligible to be counted. Ms. Paschal stated Mayor Smith, as the presiding officer of the canvassing authority, was in receipt of the unofficial returns from Denton County and the tapes from the electronic counting machines. Ms. Paschal read the results of the May 8, 2010 general election as follows:

MAYOR

Candidate	Early Voting	Election Day	Total Percentage
Melissa Northern	3,724	1,204	59.29%
Jody A. Smith	2,182	1,202	40.71%

COUNCILMEMBER, PLACE 2

Candidate	Early Voting	Election Day	Total Percentage
Gerald Robinson	2,157	1,172	40.63%
Al Filidoro	3,654	1,210	59.37%

COUNCILMEMBER, PLACE 4

Candidate	Early Voting	Election Day	Total Percentage
Steve Lyda	3,779	1,237	61.30%
Bryan Webb	2,022	1,145	38.70%

PROPOSITION NO. 1

“Shall the Town of Flower Mound, Texas, consider the sale and conveyance for fair market value an approximate 15.815-acre tract of land located on the northwest corner of FM 407 and Chinn Chapel Road (known as Chinn Chapel Soccer Complex) and purchase an approximate 23.374-acre property located on the east side of Chinn Chapel Road between Dixon Lane and Waketon Road?”

	Early Voting	Election Day	Total Percentage
YES	2,659	1,172	49.62%
NO	2,838	1,051	50.38%

Councilmember Filidoro made a motion to approve Ordinance No. 32-10 canvassing and declaring the results of a general election held May 8, 2010 for the purpose of electing a Mayor, Councilmember Place 2, and Councilmember Place 4, and Deputy Mayor Pro Tem Dixon seconded the motion. The ordinance caption reads as follows:

ORDINANCE NO. 32-10

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, CANVASSING RETURNS AND DECLARING RESULTS OF A GENERAL ELECTION HELD MAY 8, 2010, FOR THE PURPOSE OF ELECTING A MAYOR AND TWO COUNCILMEMBERS, PLACES 2 AND 4, OF THE TOWN OF FLOWER MOUND, TEXAS; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON THE MOTION

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

Deputy Mayor Pro Tem Dixon made a motion to approve Ordinance No. 33-10 canvassing and declaring the results of a special election held May 8, 2010, for the purpose of authorizing the sale and conveyance for fair market value of an approximate 15.815-acre tract of land located on the northwest corner of FM 407 and Chinn Chapel Road (known as Chinn Chapel Soccer Complex), and purchase of an approximate 23.374-acre property located on the east side of Chinn Chapel Road between Dixon Lane and Waketon Road. Councilmember Hayden seconded the motion. The ordinance caption reads as follows:

ORDINANCE NO. 33-10

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, CANVASSING RETURNS AND DECLARING RESULTS OF A SPECIAL ELECTION HELD ON MAY 8, 2010, FOR THE PURPOSE OF AUTHORIZING THE SALE AND CONVEYANCE FOR FAIR MARKET VALUE OF AN APPROXIMATE 15.815-ACRE TRACT OF LAND LOCATED ON THE NORTHWEST CORNER OF FM 407 AND CHINN CHAPEL ROAD (KNOWN AS CHINN CHAPEL SOCCER COMPLEX), AND PURCHASE OF AN APPROXIMATE 23.374-ACRE PROPERTY LOCATED ON THE EAST SIDE OF CHINN CHAPEL ROAD BETWEEN DIXON LANE AND WAKETON ROAD; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

DISCUSSION

Councilmember Filidoro asked Ms. Paschal to comment on the long lines on election day. He pledged to work with Ms. Paschal to provide for ample space at the polling place.

Ms. Paschal stated that because of the large number of people who vote in Flower Mound, she recommended that the Town have more polling places on election day. She stated she had spoken with the Denton County Elections Administrator about multiple polling places for the November election. She added that Flower Mound had historically only had one polling place because the candidates wanted to campaign at only one location.

VOTE ON THE MOTION

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

I. RECOGNITION OF AND ANNOUNCEMENTS FROM OUTGOING MAYOR JODY SMITH AND MAYOR PRO TEM JEAN LEVENICK

Mayor Pro Tem Levenick was proud that her efforts on the Town Council included a new hospital, new roads, new shopping areas, new fire stations, and better working relationships with the surrounding communities. She stated she had learned the value of tolerance and celebrated diversity. She stated there had been many challenges while on the Council. She thanked her friends and family for their support during her tenure on the Council.

Mayor Smith stated it had been an honor to serve as Mayor of Flower Mound for the past six years. She enjoyed serving with everyone, and she thanked the rest of the Council for their support. She stated she appreciated the staff and she thanked everyone for allowing her to serve.

Councilmember Hayden thanked Mayor Smith and Mayor Pro Tem Levenick for their service to Flower Mound. He stated Mayor Smith was a hard-working mayor, and he appreciated Mayor Pro Tem Levenick's help with the Seniors In Motion program.

J. ADMINISTER OATHS OF OFFICE AND ISSUE CERTIFICATES OF ELECTION

Town Secretary Paula Paschal informed the Council that the newly elected Mayor and Councilmembers had taken the Statement of Elected Officer, as required by state law.

Ms. Paschal administered the official Oath of Office to Mayor Melissa Northern,

Councilmember Place 2 Al Filidoro, and Councilmember Place 4 Steve Lyda.

Mayor Smith distributed the Certificates of Election.

I. RECOGNITION OF AND ANNOUNCEMENTS FROM OUTGOING MAYOR JODY SMITH AND MAYOR PRO TEM JEAN LEVENICK

Mayor Northern presented tokens of the Town's appreciation to Mayor Smith (a plaque with her gavel, an engraved clock, and flowers) and to Mayor Pro Tem Levenick (an engraved clock, a street sign with Levenick Lane, and flowers). She commended them both for their service to Flower Mound

The Council took a break between 6:50 p.m. and 6:59 p.m.

K. ANNOUNCEMENTS FROM NEWLY ELECTED MAYOR MELISSA NORTHERN AND COUNCILMEMBERS AL FILIDORO AND STEVE LYDA

Councilmember Lyda thanked everyone who worked on his campaign, including his wife and children. He stated it was a great honor to be a Councilmember. He noted that the Council had been given a clear mandate from the citizens. He stated former Mayor Pro Tem Levenick had given great efforts during her tenure.

Councilmember Filidoro thanked the residents of Flower Mound and his campaign managers. He looked forward to serving another term. He stated he would work to resolve the issues brought out during the campaign.

Mayor Northern thanked her supporters and her family. She encouraged everyone to stay involved, apply for boards and commissions, volunteer for non-profit organizations, and participate during public hearings. She looked forward to the healthy future of Flower Mound.

L./M. CLOSED/OPEN MEETING

The Town Council convened into a closed meeting at 7:13 p.m. on May 17, 2010 pursuant to Texas Government Code Section 551.074 to discuss matters relating to personnel and reconvened into an open meeting at 7:20 p.m. on May 17, 2010 to take action on the items as follows:

a. Discuss and consider election of Mayor Pro Tem.

Councilmember Lyda made a motion to select Councilmember Al Filidoro as Mayor Pro Tem. Councilmember Hayden seconded the motion.

VOTE ON THE MOTION

AYES: Wallace, Lyda, Dixon, Filidoro, Hayden

NAYS: None

b. Discuss and consider election of Deputy Mayor Pro Tem.

Councilmember Lyda made a motion to select Councilmember Tom Hayden as Deputy Mayor Pro Tem. Mayor Pro Tem Filidoro seconded the motion.

VOTE ON THE MOTION

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

N. PRESENTATIONS

There were no presentations.

O. PUBLIC PARTICIPATIONJim White, 1616 Lopo Road, Flower Mound

Mr. White congratulated the members of the Council. He stated there was an effort by OnCor to purchase Prince of Peace Lutheran Church, tear down the building, and build a power substation. Mr. White stated he shared a property line with the church. He had lived in his home for 22 years. If his property value was reduced because of the substation, he would not be able to sell and relocate.

Stuart Chance, 740 Teakwood Drive, Flower Mound

Mr. Chance congratulated the winners of the election. He stated he was glad to hear them refer to a mandate from the people. He offered to work with the Council to heal the divide in the Town. He asked the Council to adhere to the values of why residents moved to Flower Mound, and to take care of the health and well-being of the residents.

Rebecca Belcher, 2900 Aberdeen, Flower Mound

Ms. Belcher stated she was not against all gas drilling. She referred to the SMARTGrowth Plan that was adopted ten years ago, and noted that in 2002, the Council adopted the SMARTGrowth Program. She read several of the 17 points in the Program. Ms. Belcher stated that Titan was asking for four variances regarding the proposed gas well to be located on the Hilliard Property. She encouraged the Council to make the oil and gas ordinance stronger.

Tony Robson, 3421 Courtney Drive, Flower Mound

Mr. Robson welcomed the Council. He stated that on January 21, 2010, Flower Mound received a huge wake up call. Many people were worried about the future of the Town, and now many people were coming out to make a difference. He asked the Council to get the Town back on course with SMARTGrowth, adding that people were concerned about quality of life in Flower Mound. He encouraged residents to stay involved.

P. ANNOUNCEMENTS

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

Mayor Pro Tem Filidoro commended staff for rescheduling the Wild About Flower Mound festival because of impending rain. The new dates would be June 18 and 19.

Councilmember Wallace stated he attended the police graduation ceremony last week. He noted there were two positions open in the Police Department.

Q. 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 spring phase of the ambient air testing would begin this week. Staff was planning to move forward with YMCA to have the contract for youth basketball and youth volleyball programs.

R. CONSENT ITEMS

Mayor Pro Tem Filidoro made a motion to approve by consent Items 6, 7, 8, 9, 10, and 11. Councilmember Dixon seconded the motion. Each item, as approved by consent, is restated below along with the approved recommendation for each, for the record.

- 6. Consider approval of Bid No. 40-10-B, for the construction of the Flower Mound Road Reconstruction Phase I project, to TISEO Paving Company, in the amount of \$1,844,658.50, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve Bid No. 40-10-B, for the construction of the Flower Mound Road Reconstruction Phase I project, to TISEO Paving Company, in the amount of \$1,844,658.50, and authorize the Mayor to execute same on behalf of the Town.

- 7. Consider approval of the purchase of traffic signal equipment from various vendors for phase one of the Morriss/Gerault Improvement project in the amount of \$373,470.00.**

RECOMMENDATION: Approve the purchase of traffic signal equipment from various vendors for phase one of the Morriss/Gerault Improvement project in the amount of \$373,470.00.

- 8. Consider approval of a Professional Services Agreement with JRobs Performance Training to host personal and performance training at the Community Activity Center; and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve a Professional Services Agreement with JRobs Performance Training to host personal and performance training at the Community Activity Center; and authorize the Mayor to execute same on behalf of the Town.

- 9. Consider approval of the award of Bid No. 43-10-B, Traffic Signal Poles with Mast Arms and Base Cover Plates, for phase one of the Morriss/Gerault Improvement project, to Power-Lite Industries Inc., in the amount of \$86,290.00.**

RECOMMENDATION: Approve the award of Bid No. 43-10-B, Traffic Signal Poles with Mast Arms and Base Cover Plates, for phase one of the Morriss/Gerault Improvement project, to Power-Lite Industries Inc., in the amount of \$86,290.00.

- 10. Consider approval of a development agreement for the McGee Farms residential development (DP 04-07) with Toll Brothers, Inc., and authorization for the Mayor to execute same on behalf of the Town. The property is located at 900 Garden Ridge Boulevard.**

RECOMMENDATION: Approve a development agreement for the McGee Farms residential development (DP 04-07) with Toll Brothers, Inc., and authorize the Mayor to execute same on behalf of the Town.

11. Consider approval of an Interlocal Cooperation Agreement with Denton County for improvements to Garden Ridge Boulevard Phase III, and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve an Interlocal Cooperation Agreement with Denton County for improvements to Garden Ridge Boulevard Phase III, and authorize the Mayor to execute same on behalf of the Town.

VOTE ON THE MOTION

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

S. REGULAR ITEMS

12. Consider approval of Change Order No. 1 for the construction of phase one of the Morriss/Gerault Improvement project, amending the contract with TISEO Paving Company, for a decrease in the amount of \$278,304.60, and authorization for the Mayor to execute same on behalf of the Town (This item was tabled at the May 3, 2010, regular meeting).

Assistant Town Manager Kent Collins stated there had been modifications to the design of the project to allow for a merge condition for the flyover. Additionally, there were some drainage modifications on Gerault Road near FM 2499. Mr. Collins noted that at the last Council meeting there was mention of funding for the next phase. Staff removed that from the fiscal impact section, and the Capital Improvement Plan would be amended at the next meeting. The Morriss/Gerault project would be split into two separate items.

Councilmember Lyda moved to approve Change Order No. 1 for the construction of phase one of the Morriss/Gerault Improvement project, amending the contract with TISEO Paving Company, for a decrease in the amount of \$278,304.60, and authorize the Mayor to execute same on behalf of the Town. Mayor Pro Tem Filidoro seconded the motion.

VOTE ON THE MOTION

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

13. Consider approval of a Road Maintenance Agreement for gas well permits GO-09-4815 and GO-09-4817 in the amount of \$29,541.00 for the Bob Smith B and C gas well pad sites, generally located west of Scenic Rd., south of Cross Timbers Rd. (FM 1171), east of Shiloh Rd., and north of Cardinal Dr., for Williams Production-Gulf Coast Company, L.P., to provide funds in advance should gas well operations on the property create a need for road repair on the travel route of Shiloh Road; and authorization for the Mayor to execute same on behalf of the Town.

Matt Woods, Director of Environmental Services, gave the following presentation.

Councilmember Lyda asked if the escrow amount was based on certain criteria.

Mr. Woods stated it was based on a pavement coefficient index routed through the Public Works Division.

Mayor Pro Tem Filidoro asked if, historically, funds had always been adequate.

Mr. Woods stated the Town had not had to repair a road because of damage caused by a drilling company.

Mayor Pro Tem Filidoro asked if it was like an escrow account.

Mr. Woods responded yes.

Mayor Pro Tem Filidoro asked if the funds would be refunded to the drilling company.

Mr. Woods stated the Town would keep the funds as long as the well is in production.

Councilmember Wallace moved to approve a Road Maintenance Agreement for gas well permits GO-09-4815 and GO-09-4817 in the amount of \$29,541.00 for the Bob Smith B and C gas well pad sites, generally located west of Scenic Rd., south of Cross Timbers Rd. (FM 1171), east of Shiloh Rd., and north of Cardinal Dr., for Williams Production-Gulf Coast Company, L.P., to provide funds in advance should gas well operations on the property create a need for road repair on the travel route of Shiloh Road; and authorize the Mayor to execute same on behalf of the Town. Deputy Mayor Pro Tem Hayden seconded the motion.

VOTE ON THE MOTION

AYES: Wallace, Lyda, Dixon, Filidoro, Hayden

NAYS: None

- 14. SUP/SP 384-09 - Clear Wireless** **Public Hearing**
Public Hearing to consider a request for a Specific Use Permit (SUP/SP 384-09 - Clear Wireless) to permit co-location of telecommunication antennas on an existing monopole tower, and installation of related cables and cabinets. The property is located at 2805 Justin Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its April 26, 2010, meeting.)

Staff Presentation

Doug Powell, Executive Director of Development Services, stated the land use was within Specific Plan Area 6 and the zoning was Industrial-1. He stated the applicant would plant shrubs in accordance with the Town's regulations. He presented the before and after propagation maps. Staff had received one letter of support in the packet.

Questions from the Governing Body and Answers

Councilmember Lyda asked if this was the second cabinet at the site.

Mr. Powell responded that it was actually the third cabinet, and it would be contained inside the enclosure.

Public Comments None

Close Public Hearing

Council Deliberation

Mayor Pro Tem Filidoro moved to approve a request for a Specific Use Permit SUP/SP 384-09 - Clear Wireless Justin Road- to permit co-location of telecommunication antennas on an existing monopole tower, and installation of related cables and cabinets, and adopt Ordinance No. 34-10, subject to the following conditions:

a. The proposed use shall be developed as approved in accordance with the attached site plan, labeled Attachment "B(1)" an attachment to the Specific Use Permit, except that minor changes outlined in Section 82-37 of the Land Development Regulations may be approved as set forth in that section.

b. If a building permit application for the additional antennas and equipment has not been submitted to the Town's Building Inspections Division for consideration of a building permit within six months of approval of the ordinance, the zoning for this property, including 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.

Councilmember Lyda seconded the motion. The caption of the ordinance reads as follows:

ORDINANCE NO. 34-10

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 APPROXIMATELY 0.47 ACRES OF LAND ON LOT 4, BLOCK A OF THE AA BATTERY ADDITION FROM INDUSTRIAL-1 (I-1) DISTRICT USES SUBJECT TO SPECIFIC USE PERMIT NO. 131 (SUP-131) TO INDUSTRIAL-1 (I-1) DISTRICT USES SUBJECT TO SPECIFIC USE PERMIT NO. 131 (SUP-131) AND SPECIFIC USE PERMIT NO. 384 (SUP-384) TO PERMIT CO-LOCATION OF TELECOMMUNICATION ANTENNAS ON AN EXISTING TELECOMMUNICATION TOWER AND INSTALLATION OF RELATED CABLES AND CABINETS 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: Dixon, Filidoro, Hayden, Wallace, Lyda

NAYS: None

Mayor Northern opened Items 15 and 16 together.

15. Consider a request for a Record Plat (RC 05-09 - Orthopedic Associates of Flower Mound Addition) to create a non-residential subdivision. The property is located on the southeast corner of Long Prairie Road and College Parkway. (The Planning and

Zoning Commission recommended approval by a vote of 6 to 0 at its April 26, 2010, meeting.)

16. Consider a request for a Site Plan (SP 18-09 - Orthopedic Associates) to develop a medical office building, with a dispute involving the access management policy and criteria regarding deceleration lanes, as set forth in the Town's Engineering Design Criteria and Construction Standards adopted through Chapter 32 of the Code of Ordinances. The property is located on the southeast corner of Long Prairie Road and College Parkway. (The Planning and Zoning Commission recommended approval by a vote of 5 to 1 at its April 26, 2010 meeting.)

Staff Presentation

Doug Powell, Executive Director of Development Services, showed the location of the subject property, noting that there was access onto Corporate Drive, FM 2499, and College Parkway. He stated the Land Use Plan designated the area as Specific Plan Area 5 with Office uses. The property was zoned Planned Development 49 with Retail District-2_uses. The record plat and site plan were both tied to an issue with deceleration lanes. A retention pond was planned at the southern entrance. The plat and site plan were being heard by the Council because of the dispute regarding deceleration lanes. There was a left turn lane off of College Parkway into the driveway. Originally, the applicant disputed that lane, but then agreed to it at the Planning & Zoning Commission hearing. Mr. Powell stated that earlier in the day, the applicant agreed they would partially pay for the one on FM 2499 and the Town agreed to use impact fees for the **Town's** portion. Mr. Powell stated the most important deceleration lane was the one on FM 2499. The one into the site off of College Parkway was not shown on the Traffic Impact Analysis to be a safety concern. Mr. Powell stated one option was to approve the site plan subject to a development agreement that would be placed on the June 7 meeting agenda.

Applicant's Presentation

Matthew Cragun, O'Donald Engineering

Mr. Cragun stated he was prepared to answer questions from the Council.

Mr. Powell explained that for the plat, the first draft motion would be for the applicant to dedicate right-of-way for the lanes on FM 2499 and on College. The second draft motion would only dedicate the FM 2499 property, and the land would not be dedicated for the College Parkway lane.

Town Attorney Terry Welch stated both motions would be subject to a development agreement. The development agreement would provide that the right turn lane off FM 2499 onto College Parkway, eastbound, property would be dedicated by the applicant. The developer would construct the right turn lane. Fifty percent of the costs would be the **developer's** cost. The other 50% would be paid with credits in impact fees. The right turn lane off College Parkway, eastbound, would be eliminated. There would be a turn-in, but no deceleration lane. The left turn lane westbound off College Parkway, into the site, would be constructed at the **applicant's** sole cost because it was solely attributable to the project.

Deputy Mayor Pro Tem Hayden asked for the amount for the **Town's** portion.

Assistant Town Manager Kent Collins stated that the lane off FM 2499 and onto College was estimated to be in the range of \$80,000 to \$100,000.

Council Deliberation None

Motion on Item 15

Deputy Mayor Pro Tem Hayden moved to approve a request for a Record Plat RC 05-09 - Orthopedic Associates of Flower Mound Addition to create a non-residential subdivision, subject to a development agreement to be executed between the Town of Flower Mound and Flower Mound Associates, Management, LLC. Councilmember Lyda seconded the motion.

VOTE ON THE MOTION

AYES: Dixon, Filidoro, Hayden, Wallace, Lyda

NAYS: None

Motion on Item 16

Deputy Mayor Pro Tem Hayden moved to approve a request for a Site Plan SP 18-09 - Orthopedic Associates - to develop a medical office building, subject to a development agreement to be executed between the Town of Flower Mound and Flower Mound Associates, Management, LLC. Councilmember Dixon seconded the motion.

VOTE ON THE MOTION

AYES: Dixon, Filidoro, Hayden, Wallace, Lyda

NAYS: None

17. **MPA 04-09 - Orchard Flower Village** **Public Hearing**
 Public Hearing to consider a request to amend Section 1.0, Land Use Plan (MPA 04-09 - Orchard Flower Village), of Master Plan 2001 from Retail and Medium Density Residential to Commercial/Industrial and High Density Residential, and to consider adopting an ordinance providing for said amendment. The property is located at the northwest corner of Flower Mound Road and Old Orchard Lane. (The Planning and Zoning Commission recommended approval by a vote of 5 to 1 at its April 26, 2010, meeting. The applicant has requested this item be postponed to the June 21, 2010 regular Town Council meeting.)
18. **ZPD 02-09 - Orchard Flower Village** **Public Hearing**
 Public Hearing to consider a request for rezoning (ZPD 02-09 - Orchard Flower Village) from Retail District-1 (R-1) uses, Retail District-2 (R-2) uses with SUP 139, and Industrial District-1 (I-1) uses to Planned Development District-110 (PD-110) for Commercial District-2 (C-2) and Multi-Family (MF) uses and a Specific Use Permit (SUP 380-09) for mini-warehouses with an exception to the access management policy and criteria regarding driveway spacing contained in the Town's Engineering Design Criteria and Construction Standards adopted through Chapter 32 of the Code of Ordinances, and to consider adopting an ordinance providing for said amendment, subject to the terms and conditions in the attached Development Agreement and authorization for Mayor to execute same on behalf of the Town. The property is located at the northwest corner of Flower Mound Road and Old Orchard Lane. (The Planning and Zoning Commission recommended approval by a vote of 5 to 1 at its April 26, 2010, meeting. The applicant has requested this item be postponed to the June 21, 2010 regular Town Council meeting.)

Mayor Pro Tem Filidoro moved to postpone Items 17 and 18 to the June 21, 2010 regular Town Council meeting. Councilmember Wallace seconded the motion.

VOTE ON THE MOTION

AYES: Dixon, Filidoro, Hayden, Wallace, Lyda

NAYS: None

Mayor Northern opened Items 19 and 20 together.

19. 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.) (This item was postponed at the May 3, 2010, Town Council Meeting.)
20. 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.) (This item was postponed at the May 3, 2010, Town Council Meeting.)

Staff Presentation

Doug Powell, Executive Director of Development Services, stated the subject property was bounded by Copper Canyon and Highland Village to the north and east. The Land Use was Estate Residential and the zoning was Single Family Estates. He referred to the Jernigan Heights Subdivision to the west. He referred to the un-named road that was put in to serve Jernigan Heights and the Animal Adoption Center. He stated it stubbed out into the Terracina site and would be a point of entrance to the subdivision, along with the Chinn Chapel entrance. He stated that the road would receive a name at a later date. He noted that the concept plan highlighted an open space area.

Applicant's Presentation

Merdad Moayedi, owner of the subject property

Mr. Moayedi stated he had studied the property quite a bit and this request was for its best use. Custom builders were already interested.

Bobby Dollack, G&A Consultants, 111 Hillside Drive, Lewisville

Mr. Dollack stated the subject property was annexed into Flower Mound in 1994. During 1994-1995 the area was still considered to be in the country. In 2001, the Town adopted the Master Plan. Then The Highlands (Target area) developed, and the Animal Adoption Center was built in 2003. That was when sewer was brought in to the area. Then Highlands Ranch (2004) developed along with the Shops of Highland Village in 2006. Robinson's Creek was also

developed in 2006, and now the Presbyterian Hospital had opened this year. Mr. Dollack stated he had worked with Residential Strategies when studying the property. He stated the optimum lot dimensions for the subdivision were 100' x 150' providing for 15,000-square-foot lots, which was the size lot that custom homebuilders were looking for. However, for the fourth quarter of 2009, there were 125 one-acre or larger lots available in Flower Mound. The current zoning on the property was one-acre lots. He noted the property would be serviced by Bartonville Water Supply. Mr. Dollack stated the concept plan went through all the SMARTGrowth steps, and there were 138 lots on the plan. Single Family 15 zoning would allow for more lots. A sewer analysis was run, and the results were that sewer could handle 154 lots. The traffic analysis stated that the existing Chinn Chapel Road would only handle 138 new residents on this piece of property. Mr. Dollack stated there were 5 X-lots, 26 acres of open space/buffers, and a 6' trail segment. They planned for an enhanced entry feature on Chinn Chapel. He noted that the development plan had already been approved for Plaza of the Oaks on the southeast corner of the intersection. He added that there was an active case for an independent living center on Chinn Chapel. The Traffic Impact Analysis showed that all streets met adequate standards at a maximum of 138 lots. The SMARTGrowth Analysis determined there would be sufficient capacity at build out. Landscaping would be required along Chinn Chapel and along Jernigan. Jernigan would remain a rural road in Copper Canyon with no connection to the subdivision. A Town-required ornamental fence would back up to the open space along the back of those particular lots. Backing up to the soccer complex, they planned for an 8-foot wrought iron fence.

Mayor Pro Tem Filidoro asked if an 8-foot fence was adequate.

Town Manager Harlan Jefferson stated an 8-foot fence was better than a 4-foot fence. Because of the age group playing on the fields, even a ten-foot fence may not be tall enough. He stated that staff may look at temporary measures for something behind the goals, however staff was comfortable with the 8-foot fence.

Mr. Dollack commented that the Environmental Conservation Commission had denied removing some of the specimen trees, so the plan was amended, and now they could save all the specimen trees on the site (18 trees). He stated they would have to go through the process of getting a 404 permit. He stated that the stream on the property was not FEMA or the Town's floodplain, however it was considered waters of the state.

Questions from the Governing Body and Answers

Deputy Mayor Pro Tem Hayden asked about phasing and the timeframe for development

Mr. Dollack stated that ideally, the development would be in two phases. First, the unnamed road needed to be named. Next they would build the street over to the entrance. The first phase would contain about 50 lots, and they planned to start construction as soon as the Final Plat is approved.

Mr. Moayedhi stated he hoped to deliver by October 2011. The lots would probably be between \$130,000 - \$140,000, so the homes would be between \$500,000 and \$700,000. He had been talking to Bud Bartley Homes and Crescent Builders as possible builders.

Deputy Mayor Pro Tem Hayden commented that the soccer swap did not pass and he asked how that affected his development.

Mr. Moayedí stated the only downside was that he could not get right-of-way from the soccer complex, therefore he could have no more than 138 lots.

Deputy Mayor Pro Tem Hayden asked what was planned for the open space.

Mr. Dollack stated Mr. Moayedí acquired the property in the summer of 2009. Red Oak had a gas lease on the property that would expire March 2011. There were no current applications for a gas well pad site at this location. Red Oak withdrew their application in August 2008.

Deputy Mayor Pro Tem Hayden asked how far the well would be from the soccer complex if it was put in.

Mr. Dollack responded it would be 700-800 feet from the soccer complex.

Deputy Mayor Pro Tem Hayden stated that was contrary to the ordinance. If a variance was not granted, he asked how that would impact the development.

Mr. Moayedí stated he would like to get more right-of-way to build another lane on Chinn Chapel. A gas well was secondary to the development. He stated he did have the mineral rights.

Councilmember Lyda asked if he could improve Chinn Chapel would he build more lots.

Mr. Dollack responded yes.

Mr. Moayedí stated he was willing to pay for the price of the road, but it was parkland.

Public Comments

Diania Hanson, 4048 Pepperwood Drive, Flower Mound

Ms. Hanson stated this looked like an excellent development.

Close Public Hearing

Council Deliberation

Councilmember Lyda asked if the improvements on FM 407 were going to cover the entrance to the subdivision.

Mr. Jefferson stated that the improvements that had been awarded by TxDOT went from Briarhill to 600 feet west of the intersection of FM 407 and Chinn Chapel. It would cover the soccer field driveway entrance, but not the un-named road entrance. He noted that the other portions of FM 407 had been funded, and improvements should come forward in the next couple of years.

Deputy Mayor Pro Tem Hayden asked if staff had received any resident comments.

Mr. Jefferson stated he contacted the cities of Highland Village and Copper Canyon, however he had not received any feedback.

Deputy Mayor Pro Tem Hayden asked if any park fees would be generated from the

development.

Mr. Jefferson responded that when the Town acquired the soccer complex property, it agreed that all park fees would be covered.

Deputy Mayor Pro Tem Hayden stated this area was like a peninsula, and it looked like it would be an asset to the Town.

Mayor Pro Tem Filidoro stated he contacted the president of the homeowners' association of the development to the west in Copper Canyon. The resident never responded to the phone calls, so it appeared that the Copper Canyon residents did not have any issues with the development.

Motion on Item 19

Councilmember Wallace moved to approve 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 adopt Ordinance No. 35-10 providing for said amendment. Deputy Mayor Pro Tem Hayden seconded the motion. The caption of the ordinance reads as follows:

ORDINANCE NO. 35-10

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING SECTION 1.0 LAND USE PLAN OF MASTER PLAN 2001, BY AMENDING ORDINANCE NO. 24-01 IN PART, WHICH ADOPTED MASTER PLAN 2001, SPECIFICALLY TO CHANGE THE CURRENT LAND USE REFLECTED ON THE LAND USE PLAN MAP FROM ESTATE DENSITY RESIDENTIAL USES TO LOW DENSITY RESIDENTIAL USES ON 95.738 ACRES OF LAND LOCATED IN THE J. HAWSE SURVEY, ABSTRACT 558, AND THE J. GIDDINGS SURVEY, ABSTRACT 471; REPEALING ALL CONFLICTING ORDINANCES, ORDERS, OR RESOLUTIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON THE MOTION

AYES: Dixon, Filidoro, Hayden, Wallace, Lyda

NAYS: None

Motion on Item 20

Councilmember Dixon moved to approve 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 adopt Ordinance No. 36-10 providing for said amendment subject to the terms and conditions in the attached Development Agreement and authorize the Mayor to execute same on behalf of the Town. Deputy Mayor Pro Tem Hayden seconded the motion. The caption of the ordinance reads as follows:

ORDINANCE NO. 36-10

AN ORDINANCE OF THE TOWN COUNCIL 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 FROM SINGLE-FAMILY ESTATE DISTRICT (SF-E) USES TO PLANNED DEVELOPMENT DISTRICT NO. 111 (PD-111) FOR SINGLE-FAMILY DISTRICT-15 (SF-15) USES, ON APPROXIMATELY 95.738 ACRES IN THE J. HAWSE SURVEY, ABSTRACT NO. 558, AND THE J. GIDDINGS SURVEY, ABSTRACT NO. 471, 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 A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON THE MOTION

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

21. Consider approval of a resolution creating a Sign Regulation Stakeholders Committee, appointing committee members, and providing an effective date.

Staff Presentation

Doug Powell, Executive Director of Development Services stated staff provided a list of items that had come up in the past regarding signs. Additionally, a list of people who were involved in the Master Plan Update Committee and Mixed-Use Committee were in the packet.

Councilmember Dixon stated several residents had expressed interest in volunteering for the Sign Regulation Stakeholders Committee. He noted that the Committee needed to include representation from the real estate profession. Additionally, he wanted to see someone on the Committee who could represent the Chamber of Commerce—a business owner that had real life experiences dealing with the Town on signage.

Councilmember Lyda agreed with Councilmember Dixon about the real estate profession. He asked if the Council would table this item to a future agenda.

Mayor Pro Tem Filidoro stated he had contacted several people and they had declined. He agreed with tabling this item.

Mayor Pro Tem Filidoro moved to table Item 21 until the July 19, 2010 regular Town Council meeting. The motion was seconded by Councilmember Lyda.

VOTE ON THE MOTION

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

T. COORDINATION OF CALENDARS AND FUTURE AGENDAS/MEETINGS

- Mayor Pro Tem Filidoro and Councilmember Wallace will be absent from the May 20 work session. Mayor Pro Tem Filidoro stated he would not be opposed to a briefing session with himself and Councilmember Wallace early next week.
- Deputy Mayor Pro Tem Hayden referred to the item on the work session regarding the temporary building for **seniors'** activities. He also wanted to

discuss options for a permanent facility. Mr. Jefferson stated that since the agenda item addressed only the temporary senior center, the Council would not be able to have detailed discussion of a permanent center.

- Councilmember Wallace asked that the Council have a discussion at the retreat on June 5 on whether or not to televise work sessions.
- Mayor Pro Tem Filidoro was in support of televising all meetings of the Council and of boards and commissions, starting with the May 19, 2010 Oil and Gas Board. Mr. Jefferson stated staff would implement that accordingly.
- Councilmember Wallace stated there was a possibility of his absence from the June 7, 2010 regular meeting.
- Mayor Northern reviewed that a work session would be held on June 17, and regular meetings on June 21 and July 19. A budget work session would be held on August 12, 2010.

U./V. CLOSED/OPEN MEETING

The Town Council convened into a closed meeting at 9:09 p.m. on May 17, 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 9:58 p.m. on May 17, 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.**

Councilmember Dixon moved to approve the purchase of right-of-way, in association with phase one of the Morriss-Gerault Improvement project, from JPMorgan Chase Bank National Association, not to exceed the new settlement amount, plus closing costs; authorize the Assistant Town Manager, or his designee, to execute all documents at closing on behalf of the Town; and authorize the Town Attorney, or his designee, to file condemnation proceedings against the property owner in the event a settlement cannot be reached. Councilmember Lyda seconded the motion.

VOTE ON THE MOTION

AYES: Lyda, Dixon, Filidoro, Hayden, Wallace

NAYS: None

- c. **Discuss and consider appointments to the Animal Services Board, Board of Adjustment, Community Development Corporation, Environmental Conservation Commission, LISD Liaison, Parks, Arts and Library Services Board, Planning and Zoning Commission, TIRZ #1 Board, and Transportation Commission.**

Councilmember Lyda moved to appoint Councilmember Dixon to Place 5 on the Animal Services Board, term to expire September 30, 2011. Mayor Pro Tem Filidoro seconded the motion.

VOTE ON THE MOTION

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

Mayor Pro Tem Filidoro moved to appoint Councilmember Lyda to the Community Development Corporation, replacing Mayor Pro Tem Filidoro, with a term to expire December 31, 2011. Deputy Mayor Pro Tem Hayden seconded the motion.

VOTE ON THE MOTION

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

Councilmember Wallace moved to appoint Deputy Mayor Pro Tem Hayden to the Tax Increment Reinvestment Zone #1 Board, to replace Councilmember Wallace, with a term to expire December 31, 2011. Councilmember Dixon seconded the motion.

VOTE ON THE MOTION

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

W. ADJOURN REGULAR MEETING

Mayor Northern adjourned the regular meeting at 10:02 p.m. on Monday, May 17, 2010, and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

MELISSA D. NORTHERN, MAYOR

ATTEST:

PAULA J. PASCHAL, TOWN SECRETARY