

THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 7th DAY OF JUNE, 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:

Melissa Northern	Mayor
Al Filidoro	Mayor Pro Tem
Tom Hayden	Deputy Mayor Pro Tem
Steve Dixon	Councilmember Place 1
Steve Lyda	Councilmember Place 4

with the following member of Council absent:

Mike Wallace	Councilmember Place 3
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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
Kent Collins	Assistant Town Manager
Kenny Brooker	Police Chief
Gary Sims	Executive Director of Community Services
Doug Powell	Executive Director of Development Services

A. CALL BRIEFING SESSION TO ORDER

Mayor Northern called the briefing session to order at 6:03 p.m.

B. BRIEFING SESSION

1. Town Council Boards and Commissions Liaison Reports

Councilmember Dixon attended the June 1, 2010 meeting of the Environmental Conservation Commission (ECC) where they toured the tree farm and the outdoor learning area. Additionally, they drove through Chimney Rock and toured the proposed Montalcino Estates. He requested that the Council appoint two ECC members to the new Sustainability Committee. At the recent Animal Services Board meeting, the Board received statistics on the Animal Adoption Center.

Councilmember Lyda stated the Transportation Commission toured the Fleet Facility and received information on the upgrades to the ATS System. He noted that the Community Development Corporation held public hearings on four items to address funding on the Wilson-Carmel Tract, and the development of Post Oak Park.

Mayor Northern attended the Oil and Gas Board of Appeals, and the four requested variances were denied.

2. Discuss Consent and Regular Items

Deputy Mayor Pro Tem Hayden asked to pull Items 13 and 15 from the Consent Agenda for discussion.

Councilmember Lyda asked to consider Item 25 following Item 22.

3. Discuss Future Agenda Items - no discussion

4. Discuss Council Communications

Town Manager Harlan Jefferson referred to the Council Communication regarding the western elevated storage tank. He had received comments from the majority of the members of Council and the consensus was to build the tank with a concrete base and a painted bowl with the Town logo. Mr. Jefferson thanked the members of Council who had submitted their comments on the budget priority questionnaire.

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

Mayor Northern adjourned the briefing session and called the regular meeting to order at 6:09 p.m.

E. INVOCATION

Councilmember Dixon gave the invocation.

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

Councilmember Dixon led the pledges.

G. PRESENTATIONS

- **Briefing Update - Texas Health Resources Presbyterian Hospital Flower Mound**

Cindy Slaydon, Senior Vice President, Texas Health Resources

Ms. Slaydon stated that three years ago a group of physicians had a dream of owning a hospital. In 2007 they formed a partnership. The hospital received final approval on the plans in September 2008, and they had 319 days to build a hospital. There were over 90 missed days due to weather, etc. The hospital had to "touch" its first patient by April 30, 2010, due to some covenants with the bank loans. She stated staff went far and above to make the hospital a reality.

Chuck Elsey, Chairman of the Board, Texas Health Resources

Mr. Elsey stated that the Town was very developer-friendly during the construction process for the hospital. He was extremely pleased with the dedication of staff and the Council.

Ms. Slaydon and Mr. Elsey recognized various members of the staff and the Town Council. Staff and Council all received a crystal memento of the grand opening of the hospital.

Rick Carter, President of the hospital

Mr. Carter stated there was a great level of support from the community and the Town. He wanted this hospital to be the facility of choice for the area, and he assured everyone that they would provide the highest quality care.

Mayor Northern presented proclamations to the hospital and to Town employee Joy

Franklin, who gave birth to the first baby at the new hospital.

- **Certificate of Achievement - Connor Adams, Texas UIL Track and Field Championships**

Mayor Northern presented a Certificate of Achievement to Connor Adams, who won the first First Place medal for Flower Mound High School in the 1600 meter run.

- Life Saving Award - Officer Douglas Kriese

Mayor Northern presented a Life Saving Award plaque to Officer Douglas Kriese.

- **CoServ Presentation to Seniors In Motion Auxiliary (SIMA)**

Mayor Northern announced that SIMA would be receiving a CoServ Charitable Foundation grant in the amount of \$5,250. The grant would help begin the planning for a stand-alone senior center.

Mary Kay Walker, SIMA President

Ms. Walker thanked Deputy Mayor Pro Tem Hayden for helping to start SIMA.

Dennis Engelke, Executive Director, CoServ

Mr. Engelke stated the Charitable Foundation was established in November 2004. It was funded through employee contributions, a fundraiser (golf tournament), and CoServ members (Operation Roundup). He noted that the contributions generated almost \$54,000 a month.

Deputy Mayor Pro Tem Hayden recognized Mary Kay Walker for creating the idea of SIMA.

H. PUBLIC PARTICIPATION

Kurt Buehler, 2950 Scenic Drive, Flower Mound

Mr. Buehler stated he had a renewable energy windmill in his garage for the last three years. He lived on eight acres in Flower Mound and requested that the Council consider allowing the windmills in the Town. He presented the Council with a sample ordinance from Waxahachie.

Renee Doyle, 1920 Widgon Way, Flower Mound

Ms. Doyle stated she had spoken before the Council on March 25, 2010 and April 5, 2010, asking the Council to look at the Morriss/Gerault project. She requested they remove Item 24 from the agenda and not approve the CIP budget until she had written information on the budget for the Morriss/Gerault project. She had many comments and questions on the budgeting process for the project.

Virginia Simonson, 3104 Native Oak Drive, Flower Mound

Ms. Simonson thanked the Town Council for reconsidering the moratorium ordinance from the petition and an additional moratorium on new permits. She stated it was clear that accidents could happen at any time. She stated it was prudent to review the oil and gas ordinances.

Dave Rettig, Sr., 1254 Bridle Bit, Flower Mound

Mr. Rettig stated he had spoken to the previous Council about his opinion on gas drilling. He referred to the signatures on the petition that had been submitted to the Town, and noted that some people who signed the petition were told different things. He asked the Council to have objectivity and to let the companies have an opportunity to drill and create revenue.

James Wallace, 3500 Haynes Road, Roanoke

Mr. Wallace stated he had owned 90 acres with a neighbor and there was Corp property on three sides of the acreage. He had two different lessors and both gave up on trying to get a permit to drill in Flower Mound. He stated they now had added a non-profit organization to the project. They had an opportunity to drill and now there would be a moratorium, if approved. He stated if they were in Roanoke or any other city in Texas, they would be able to drill.

Mary Rettig, 1254 Bridle Bit, Flower Mound

Ms. Rettig asked the Mayor and Town Council to be objective. Some people were willing to take risks and drill. She too wanted to protect people, pets, and wildlife. She stated Flower Mound would not continue to grow if the moratorium was approved.

Alok Bhaskar, 4517 Delaina Drive, Flower Mound

Mr. Bhaskar stated he had raised concerns at other meetings about blow outs and the blast radius related to gas drilling. He stated the Town needed increased setbacks.

I. MAYOR AND TOWN COUNCILMEMBER ANNOUNCEMENTS

- **Announcements and brief discussion regarding recent and upcoming civic and social events, traffic issues, informational updates on Town projects, capital improvement projects, reports about contacts with other groups and/or individuals about Town issues and projects, Town legislative and regulatory issues, informational responses to questions, and information sharing.**

Councilmember Dixon reported that the Chamber of Commerce had held seven ribbon cuttings on-site and 11 overall (in May). The Chamber had 20 new members and four new major investors. The recent golf tournament was well attended. He reminded everyone about the electronic waste recycling event on Saturday. He asked about the new language for Mayor and Town Councilmember Announcements.

Mayor Pro Tem Filidoro reminded everyone about the Wild About Flower Mound festival rescheduled for June 18 and 19 at Bakersfield Park. He noted that the major sponsor was Texas Health Presbyterian Hospital Flower Mound.

Councilmember Lyda stated he had participated in the Dunk Tank and the Seniors In Motion Memorial Day BBQ.

Mayor Northern noted that the next Concert in the Park at Parker Square was scheduled for June 11 and was a free event. She added that on June 10-13, FMPAT would be performing "A... My Name is Alice."

J. TOWN MANAGER'S REPORT

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

Town Manager Harlan Jefferson stated the Attorney General rendered an opinion in 2007 about Mayor and Town Councilmember Announcements, however the legislature changed the law and allowed for broad wording on the agenda. Mr. Jefferson stated the Flower Mound Road capacity improvement project had started, where the two-lane asphalt road would be improved to a four-lane divided concrete road. Additionally it would be re-aligned to take out two 90-degree turns. Quail Run from Jennifer to Flower Mound Road would also be reconstructed to include sidewalks, curbs, and gutters. The southern end of Flower Mound Road should be completed by early 2011. Garden Ridge, the final segment of four segments, would have two bridges. Dixon, east of FM 2499, would have bid openings in mid-July. Regarding Windsor Drive, the Regional Transportation Commission had awarded funding. The roadway area would include hike and bike trails and a signal at FM 2499. He added that TxDOT had awarded landscape improvements for FM 2499, and a preconstruction meeting was planned for mid-August.

Deputy Mayor Pro Tem Hayden asked about the Windsor extension.

Mr. Jefferson stated the design would probably take a year or so.

Deputy Mayor Pro Tem Hayden asked for a copy of the traffic study that was done for the extension of West Windsor.

K. CONSENT ITEMS

Mayor Pro Tem Filidoro made a motion to approve by consent Items 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 16, 17, 18, 19, and 20. Councilmember Dixon seconded the motion. Each item, as approved by consent, is restated below along with the approved recommendation for each, for the record.

- 1. Consider approval of minutes from a regular meeting of the Town Council held on May 17, 2010.**

RECOMMENDATION: Approve of minutes from a regular meeting of the Town Council held on May 17, 2010.

- 2. Consider approval of minutes from a work session of the Town Council held on May 20, 2010.**

RECOMMENDATION: Approve of minutes from a work session of the Town Council held on May 20, 2010

- 3. Consider supporting the appointment of Lewisville Councilmember Rudy Durham as the region's primary member and Flower Mound Councilmember Steve Lyda as the region's alternate member to the North Central Texas Council of Governments Regional Transportation Council, and approval of a Memorandum of Understanding (MOU) between the City of Lewisville, Town of Flower Mound, City of The Colony, Town of Trophy Club, and City of Roanoke to establish a regular rotation of the shared representation on the Regional Transportation Council (RTC); and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve supporting the appointment of Lewisville Councilmember Rudy Durham as the region's primary member and Flower Mound Councilmember Steve Lyda as the region's alternate member to the North Central Texas Council of Governments Regional

Transportation Council, and approve a Memorandum of Understanding (MOU) between the City of Lewisville, Town of Flower Mound, City of The Colony, Town of Trophy Club, and City of Roanoke to establish a regular rotation of the shared representation on the Regional Transportation Council (RTC); and authorize the Mayor to execute same on behalf of the Town.

4. **Consider approval of a resolution nominating Harlan Jefferson as a member of the Board of Managers of the Denco Area 9-1-1 Emergency Communications District.**

RECOMMENDATION: Approve Resolution No. 10-10 nominating Harlan Jefferson as a member of the Board of Managers of the Denco Area 9-1-1 Emergency Communications District. The caption of the resolution reads as follows:

RESOLUTION NO. 10-10

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, NOMINATING HARLAN JEFFERSON TO THE BOARD OF MANAGERS OF THE DENCO AREA 9-1-1 DISTRICT.

5. **Consider approval of a Cooperative Agreement with the U.S. Army Corps of Engineers (CORPS) for off-duty Flower Mound Police Officers to provide services for several parks at Lake Grapevine on weekends and holidays, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve a Cooperative Agreement with the U.S. Army Corps of Engineers (CORPS) for off-duty Flower Mound Police Officers to provide services for several parks at Lake Grapevine on weekends and holidays, and authorize the Mayor to execute same on behalf of the Town.

6. **Consider approval of the purchase of unleaded and diesel fuels from Martin Eagle Oil Company, through an existing interlocal agreement with Tarrant County, in the estimated annual amount of \$486,814.**

RECOMMENDATION: Approve the purchase of unleaded and diesel fuels from Martin Eagle Oil Company, through an existing interlocal agreement with Tarrant County, in the estimated annual amount of \$486,814.

7. **Consider approval of an interlocal agreement between the Town of Flower Mound and the City of Beaumont, for the purchase of various goods and services, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve of an interlocal agreement between the Town of Flower Mound and the City of Beaumont, for the purchase of various goods and services, and authorize the Mayor to execute same on behalf of the Town.

8. **Consider approval of a Professional Services Agreement with Fugro Consultants, Inc., to provide geotechnical and material testing services associated with the Flower Mound Road Reconstruction Phase 1 project, in the amount of \$31,245.00, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve a Professional Services Agreement with Fugro Consultants, Inc., to provide geotechnical and material testing services associated with the Flower Mound Road Reconstruction Phase 1 project, in the amount of \$31,245.00, and authorize the Mayor to

execute same on behalf of the Town.

9. **Consider approval of Change Order No. 2 to Bid No. 5209-B for the construction of the Fleet Maintenance Facility Gas Utility Installation, reducing the overall contract amount by \$2,000.00; acceptance of the project; authorization for final payment to Developers Construction, Inc., in the amount of \$3,797.50 (to be held in escrow), and authorization for the Mayor to sign the necessary documentation on behalf of the Town.**

RECOMMENDATION: Approve Change Order No. 2 to Bid No. 5209-B for the construction of the Fleet Maintenance Facility Gas Utility Installation, reducing the overall contract amount by \$2,000.00; acceptance of the project; authorization for final payment to Developers Construction, Inc., in the amount of \$3,797.50 (to be held in escrow), and authorize the Mayor to sign the necessary documentation on behalf of the Town.

10. **Consider approval of Change Order No. 3 for the construction of the Fleet Maintenance Facility, for an increase in the amount of \$7,286.00; acceptance of the project; authorization for final payment to Piazza Construction, Ltd., in the amount of \$208,697.66; and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve Change Order No. 3 for the construction of the Fleet Maintenance Facility, for an increase in the amount of \$7,286.00; acceptance of the project; authorization for final payment to Piazza Construction, Ltd., in the amount of \$208,697.66; and authorize the Mayor to execute same on behalf of the Town.

11. **Consider approval of Change Order No. 2 for construction of Wastewater Treatment Plant Rehabilitation - Phase I, amending the contract with Gracon Construction, Inc., for an increase in the amount of \$17,287.60, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve Change Order No. 2 for construction of Wastewater Treatment Plant Rehabilitation - Phase I, amending the contract with Gracon Construction, Inc., for an increase in the amount of \$17,287.60, and authorize the Mayor to execute same on behalf of the Town.

12. **Consider approval of an ordinance amending Chapter 66, Article V, Section 66-214 of the Code of Ordinances of the Town of Flower Mound, Texas, relating to prima facie speed limits for specific streets by lowering the prima facie speed limit for Gentle Drive, Oak Meadow Drive, Primrose Drive, Dove Meadow Drive, Forest Meadow Drive, and Timber Meadow Drive to 25 mph.**

RECOMMENDATION: Approve Ordinance No. 37-10 amending Chapter 66, Article V, Section 66-214 of the Code of Ordinances of the Town of Flower Mound, Texas, relating to prima facie speed limits for specific streets by lowering the prima facie speed limit for Gentle Drive, Oak Meadow Drive, Primrose Drive, Dove Meadow Drive, Forest Meadow Drive, and Timber Meadow Drive to 25 mph. The caption of the ordinance reads as follows:

ORDINANCE NO. 37-10

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 A, CHAPTER 66 OF THE CODE OF ORDINANCES, ENTITLED

“TRAFFIC AND VEHICLES,” THROUGH THE AMENDMENT OF ARTICLE V, “SPEED LIMITS,” BY AMENDING SECTION 66-214, “ENUMERATION FOR SPECIFIC STREETS,” BY THE ADDITION OF SIX MORE STREETS TO THE LIST OF STREETS ENUMERATED THEREIN AND IDENTIFYING THE MAXIMUM PRIMA FACIE SPEED LIMITS FOR SAID SIX STREETS; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

13. **Consider approval of a resolution supporting the passage of the Fracturing Responsibility and Awareness of Chemicals (FRAC) Act, pending in the Congress of the United States of America.**

This item was removed from the Consent Agenda and moved to Regular Items.

14. **Consider approval of the sale and consumption of alcoholic beverages (beer and wine) at Bakersfield Park on June 18 and 19, 2010, during the Wild About Flower Mound Festival.**

RECOMMENDATION: Approve the sale and consumption of alcoholic beverages (beer and wine) at Bakersfield Park on June 18 and 19, 2010, during the Wild About Flower Mound Festival.

15. **Consider approval of Pro-Rata Agreements with Reginald Rembert for the construction of sanitary sewer lines, water lines, variable sizes of storm sewer lines, and associated appurtenances on Cross Timbers Road and Auburn Road for the Casa de Rembert Addition, and authorization for the Mayor to execute same on behalf of the Town.**

This item was removed from the Consent Agenda and moved to Regular Items.

16. **Consider approval of First Amendment to Concession Contract with the Flower Mound Youth Sports Association to provide services of concessionaire at the Gerault Park permanent concession building, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve the First Amendment to Concession Contract with the Flower Mound Youth Sports Association to provide services of concessionaire at the Gerault Park permanent concession building, and authorize the Mayor to execute same on behalf of the Town.

17. **Consider approval of First Amendment to Concession Contract with the Greater Lewisville Area Soccer Association to remove the Gerault Park permanent concession building from the current contract, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve First Amendment to Concession Contract with the Greater Lewisville Area Soccer Association to remove the Gerault Park permanent concession building from the current contract, and authorize the Mayor to execute same on behalf of the Town.

18. **Consider approval of a Professional Services Agreement with TXP, to provide consultant services regarding mixed use developments in the amount of \$24,500, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve a Professional Services Agreement with TXP, to provide consultant services regarding mixed use developments in the amount of \$24,500, and authorize the Mayor to execute same on behalf of the Town.

- 19. Consider approval of a Development Agreement with Flower Mound Associates, Ltd., (“FMA”) regarding the dedication of the necessary right-of-way and construction of a right-turn lane from northbound Long Prairie Road (FM 2499) onto eastbound College Parkway adjacent to FMA’s property, and a left-turn lane from westbound College Parkway into FMA’s property, and authorization for the Mayor to execute said agreement on behalf of the Town.**

RECOMMENDATION: Approve a Development Agreement with Flower Mound Associates, Ltd., (“FMA”) regarding the dedication of the necessary right-of-way and construction of a right-turn lane from northbound Long Prairie Road (FM 2499) onto eastbound College Parkway adjacent to FMA’s property, and a left-turn lane from westbound College Parkway into FMA’s property, and authorize the Mayor to execute said agreement on behalf of the Town.

- 20. Consider authorizing Town staff to begin the process necessary to annex tracts of land in the Town’s extraterritorial jurisdiction (ETJ), generally located west of Tour 18, Phase 3, and south of Bartonville and Bartonville’s ETJ.**

RECOMMENDATION: Authorized Town staff to begin the process necessary to annex tracts of land in the Town’s extraterritorial jurisdiction (ETJ), generally located west of Tour 18, Phase 3, and south of Bartonville and Bartonville’s ETJ.

VOTE ON THE MOTION

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

L. REGULAR ITEMS

- 13. Consider approval of a resolution supporting the passage of the Fracturing Responsibility and Awareness of Chemicals (FRAC) Act, pending in the Congress of the United States of America. (*This item was removed from the Consent Agenda.*)**

Matt Woods, Director of Environmental Services, stated the resolution to consider was to support a bill before the Senate and House in the US Congress that was submitted in June 2009. He noted that it would repeal an exemption in the Safe Drinking Water Act regarding hydraulic fracturing. Additionally it would require the oil and gas industry to disclose the chemical constituents in the fracturing fluids.

Deputy Mayor Pro Tem Hayden commented that he knew one of the drilling companies had not been transparent about the contents of the fluids. He stated the bill had been supported by several other cities across the United States. He stated the Council was asking for transparency of the produced water. He was very concerned about the environment and protecting it, and he added that cities had a right to know what was in the water. He encouraged the state legislature to take this up in 2011, and he encouraged the Council to support the FRAC Act.

Mayor Pro Tem Filidoro commented that the drilling companies had said the produced water was just salt water. He noted that the companies would not let the Town take water to a lab for testing.

Councilmember Dixon stated the public needed to know what was being pumped into the earth, and he was in support of this item.

Mayor Pro Tem Filidoro moved to approve Resolution No. 11-10 supporting the passage of the Fracturing Responsibility and Awareness of Chemicals (FRAC) Act, pending in the Congress of the United States of America. Deputy Mayor Pro Tem Hayden seconded the motion. The caption of the resolution reads as follows:

RESOLUTION NO. 11-10

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, SUPPORTING THE PASSAGE OF THE FRACTURING RESPONSIBILITY AND AWARENESS OF CHEMICALS (FRAC) ACT, PENDING IN THE CONGRESS OF THE UNITED STATES OF AMERICA; MAKING FINDINGS RELATIVE THERETO; DIRECTING THE TOWN SECRETARY TO TRANSMIT THIS RESOLUTION TO APPROPRIATE FEDERAL OFFICIALS; AND PROVIDING FOR AN EFFECTIVE DATE.

VOTE ON THE MOTION

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

- 15. Consider approval of Pro-Rata Agreements with Reginald Rembert for the construction of sanitary sewer lines, water lines, variable sizes of storm sewer lines, and associated appurtenances on Cross Timbers Road and Auburn Road for the Casa de Rembert Addition, and authorization for the Mayor to execute same on behalf of the Town.**

Assistant Town Manager Kent Collins explained that the number for the pro-rata agreements had been revised since the packet was prepared. In the water pro-rata agreement on page 1, section III, the per-front-foot amount was changed from \$27.52 to \$28.20 and the total amount the developer could collect was changed from \$73,942.68 to \$66,383.63. In attachment 2, exhibit A, Water, page 1, the total lineal feet of 8" water line was changed from 1908.50 feet to 2084.5 feet. Updated exhibits would be provided to the Town Secretary's Office.

Mayor Pro Tem Filidoro moved to approve Pro-Rata Agreements with Reginald Rembert for the construction of sanitary sewer lines, water lines, variable sizes of storm sewer lines, and associated appurtenances on Cross Timbers Road and Auburn Road for the Casa de Rembert Addition, and authorize the Mayor to execute same on behalf of the Town with the following changes - change the per front foot amount from \$27.52 to \$28.20, and the total amount the develop could collect was changed from \$73,942.68 to \$66,383.63, and on Attachment 2, Exhibit A, Water, Page 1, change the total lineal feet of 8" water line from 1908.50 feet to 2084.5 feet. Councilmember Lyda seconded the motion.

VOTE ON THE MOTION

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

Mayor Northern opened Items 21 and 22 together.

21. **Consider approval of 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.**
22. **Consider approval of an ordinance providing for the temporary suspension of the acceptance, filing and processing of any new permits associated with natural gas drilling and production, pursuant to Article VII of Chapter 34 of the Town's Code of Ordinances.**

Staff Presentation

Town Manager Harlan Jefferson stated that during May, he implemented an administrative moratorium that included centralized collection facilities (CCFs), and the three components were produced water, gas lifts, and compression stations. Additionally, he implemented an administrative moratorium on new gas well applications. The moratorium was implemented as a result of public opinion as it related to gas drilling. Once put in place, the Town received one application for a compressor station. The application was returned.

Town Attorney Terry Welch stated the ordinance for Item 21 had been addressed in detail in the past. The petition with attached ordinance had been submitted on March 31, 2010 with approximately 6,000 signatures that addressed issues related to declaring a moratorium. Mr. Welch stated the ordinance that was submitted by petition called for a 180 day moratorium on applications for certain pipeline permits and applications for any specific use permits associated with CCFs. Also, pursuant to the petition ordinance, there was the creation of an Oil and Gas Advisory Board. The Board would consist of 12 members. The purpose of the Board was to review the Town's oil and gas ordinances, specifically looking at centralized facilities, and to bring those back to the Council for consideration. The ordinance also contained a waiver or variance provision. The second ordinance for consideration was a moratorium on the acceptance of applications for new well permits. It was an extension of the administrative moratorium implemented by the Town Manager on May 28, 2010, and provided for a 90-day moratorium. During that time, no applications for new gas well permits would be accepted by the Town. There was also an extension for 45 days, if necessary. Mr. Welch stated the 90-day period would expire shortly after Labor Day. September 13 would be the actual deadline.

Questions from the Governing Body and Answers

Deputy Mayor Pro Tem Hayden asked if Item 21 was adopted, would there would be no need for a special election in November.

Mr. Welch stated that if the item was adopted tonight, and the Council would presumably make appointments to the advisory Board on June 21, 2010, the election would become moot and could be cancelled.

Mayor Pro Tem Filidoro asked if the Board could be increased to 13 members.

Mr. Welch stated that the Council could add another person to be the non-voting chair. That decision could be made when the members were appointed to the board.

Deputy Mayor Pro Tem Hayden stated the Council needed to put a moratorium in place because of an A-Z review of the Town's ordinances. He commented that while the ordinances are being reviewed, the Town needed to make sure the exploration companies did not come in and become grandfathered under the preexisting ordinances. He noted that this was a temporary suspension. He stated he was not an anti-drilling person, and many people in his family had been in the drilling industry. He was concerned with protecting Flower Mound and all the residents.

Councilmember Dixon asked if staff and legal were able to determine an enforceable alternative to the CCF Specific Use Permit process, definitions, and uses in the land development regulations (January 21, 2010 meeting—Item 18) that effectively kept the site-specific standards for a CCF use in the unlikely event a gas producer was able to force a CCF to be built in Flower Mound. How would this alternative, if approved and enacted through the public hearing process affect item number 21?

Mr. Jefferson stated that if Item 21 was approved, it would adopt the ordinance that was submitted on March 31, 2010. It would put a 180-day moratorium on CCFs. If the Council, as directed at the May work session, proceeds to eliminate the zoning component (SUPs) then, as the ordinance applied to SUPs and CCFs, all that would go away. The component that would continue would be the Oil and Gas Advisory Board. On June 21, 2010, the Town Council will consider taking all the standards associated with CCFs and putting them in the gas ordinances.

Councilmember Dixon stated the important piece to him was making sure there was an enforceable way to protect the citizens. He stated there was a legitimate reason for a moratorium if the Town was looking at the entire ordinance. He wanted to appoint the board quickly, task them quickly, and give them the resources they needed.

Mayor Pro Tem Filidoro stated his position had been clear for the past year and he was pleased to support the items.

Council Deliberation None

Motion on Item 21

Councilmember Lyda moved to approve Ordinance No. 38-10 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. The motion was seconded by Deputy Mayor Pro Tem Hayden. The caption of the ordinance reads as follows:

ORDINANCE NO. 38-10

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, ADOPTING AN ORDINANCE, SUBMITTED TO THE TOWN OF FLOWER MOUND, TEXAS, 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; MAKING CERTAIN FINDINGS; PROVIDING AN INTERPRETATION OF SAID SUBMITTED ORDINANCE; REPEALING ALL CONFLICTING

ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON THE MOTION

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

Council Deliberation

Councilmember Dixon read his statement from the May 3, 2010 meeting and stated he felt this was still appropriate. His statement was as follows:

"I believe it is reasonable to have staff bring forth an agenda item to place a moratorium on SUP requests for a CCF and associated pipelines while the Town conducts a comprehensive review of the oil and gas ordinance."

Motion on Item 22

Deputy Mayor Pro Tem Hayden moved to approve Ordinance No. 39-10 providing for the temporary suspension of the acceptance, filing and processing of any new permits associated with natural gas drilling and production, pursuant to Article VII of Chapter 34 of the Town's Code of Ordinances. The motion was seconded by Lyda. The caption of the ordinance reads as follows:

ORDINANCE NO. 39-10

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, RECOGNIZING THE POTENTIAL THREAT TO THE PUBLIC HEALTH, SAFETY AND WELFARE OF THE TOWN'S RESIDENTS AND THE TOWN'S ENVIRONMENT AS A RESULT OF THE POSSIBLE RELEASE OF HAZARDOUS MATERIALS, INCLUDING CARCINOGENS, INTO THE AIR AROUND NATURAL GAS WELLS AND RELATED NATURAL GAS FACILITIES; PROVIDING FOR THE TEMPORARY SUSPENSION OF THE ACCEPTANCE, FILING AND PROCESSING OF ANY NEW PERMITS ASSOCIATED WITH NATURAL GAS DRILLING AND PRODUCTION, PURSUANT TO ARTICLE VII OF CHAPTER 34 OF THE TOWN'S CODE OF ORDINANCES; REPEALING ALL CONFLICTING ORDINANCES AND RESOLUTIONS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON THE MOTION

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

The Council moved to Item 25.

- 25. Public Hearing to consider approval of a resolution adopting an amended policy for establishing 25 mph speed limits on residential streets. (This item was tabled at the May 3, 2010 Town Council Meeting.)**

Staff Presentation

Assistant Town Manager Kent Collins gave the following presentation.

Questions from the Governing Body and Answers

Deputy Mayor Pro Tem Hayden stated that one resident was very involved with the speed limit issue in the Town. He asked if all residential streets were changed to 25 mph what state law would require the Town to do regarding signage.

Mr. Collins stated that state law provided that a municipality must provide adequate notice to the motorists that the speed limit was something other than the prima facie (30 mph). Staff believed that signing every entrance into a neighborhood would be sufficient notice for enforcement.

Councilmember Lyda asked if the Town went to 25 mph Town-wide, how that would be rolled out to the motorists.

Mr. Collins stated staff would have to bring back another ordinance that would establish 25 mph on every residential street. As posted, it would become effective, neighborhood by neighborhood.

Public Comments

Randal Wilson, 3005 Oak Meadow Drive, Flower Mound

Mr. Wilson stated that state law was precise on signage. He had spoken with a TxDOT representative for North Texas named Mr. Burgess. He read a portion from the state law. Mr. Wilson stated that the Lewisville ordinance was very simple and had been in place since 1998. Regarding cost estimates for signs, he calculated that changing out the signs Town-wide and only doing the entrances to subdivisions would cost \$23,000. If it was contracted out, the total would be \$93,000. He asked why there were such large variances in the numbers that staff had provided.

Mayor Northern stated the Council had received emails from the following five residents:

Nathan Whaley - in favor of a Town-wide 25 mph speed limit in residential areas
Tracy and Kelli Black - in favor of a Town-wide 25 mph speed limit in residential areas
Al and Mary Kay Walker - in favor of a Town-wide 25 mph speed limit in residential areas
Joe and Judy Ryba - in favor of a Town-wide 25 mph speed limit in residential areas
Randal Wilson - in favor of a Town-wide 25 mph speed limit in residential areas

Randal Wilson, 3005 Oak Meadow Drive, Flower Mound

Mr. Wilson commented that 33 states either had or encouraged 25 mph speed limits on residential streets.

Dennis McKaige, 3400 North Drive, Flower Mound

Mr. McKaige stated there were two or three neighborhoods in Flower Mound that had a serious problem. He felt staff was somewhat in opposition to the overall 25 mph speed limit. He was in favor of giving the neighborhoods that do need help the flexibility to reduce the speed limit.

Steve Strickland, Springwood Road, Flower Mound

Mr. Strickland was in favor of a Town-wide 25 mph speed limit in residential neighborhoods.

Close Public Hearing

Council Deliberation

Deputy Mayor Pro Tem Hayden asked Mr. Collins to elaborate on Mr. Wilson's comments and state law on posting signs.

Mr. Collins stated the Manual for Uniform Traffic Control Devices applied across the state. He referred to the Manual and noted that the prima facie speed limits were not required to be posted. He stated most residential speed limits were 30 mph. He stated the Town posted signage when a driver was heading into a residential area off of an arterial or collector. He noted that the Town had the posts in place, so the signage would just have to be changed.

Deputy Mayor Pro Tem Hayden asked where the Town would have to post signs in Mr. Wilson's neighborhood.

Mr. Collins responded that the Town would post at the entrances into his neighborhood. Mr. Collins commented that there were many speed limit changes all along FM 1171 and those changes were all posted. Mr. Collins addressed the estimates regarding changing the signs. He noted that the numbers were calculated by the Town's Transportation Manager in Public Works. It would cost \$60,000 for signing every entrance into a neighborhood, assuming the pole was already there.

Deputy Mayor Pro Tem Hayden asked if the annual budget for signs could be increased.

Mr. Jefferson stated staff would have to identify funding resources.

Town Attorney Terry Welch stated that the state manual did not create mandatory legal duties to install devices. There was no mandatory obligation to post signs everywhere.

Councilmember Lyda asked if the Town had to post a 30 mph speed limit in a subdivision where a single street was 25 mph.

Mr. Welch stated it was presumed to be 30 mph.

Councilmember Lyda stated that the Transportation Commission consensus was to use an exception process for those who fell outside the zone. He was concerned with the costs for moving toward a 25 mph speed limit Town-wide. He stated that maybe the Transportation Commission could look at this again in six months.

Mayor Northern stated she had worked with homeowners' associations and knocked on many doors during the campaign. Several association board members had mentioned having too many speeders in their neighborhoods.

Deputy Mayor Pro Tem Hayden moved to approve Resolution No. 12-10 adopting an amended policy for establishing 25 mph speed limits on residential streets. The motion was seconded by Mayor Pro Tem Filidoro. The caption of the resolution reads as follows:

RESOLUTION NO. 12-10

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING RESOLUTION 35-06 BY REPEALING THE POLICY ON IMPLEMENTING REDUCED SPEED LIMITS ON CERTAIN RESIDENTIAL STREETS AND ADOPTING A NEW

**POLICY IMPLEMENTING REDUCED SPEED LIMITS ON CERTAIN RESIDENTIAL STREETS
IN CERTAIN NEIGHBORHOODS IN THE TOWN OF FLOWER MOUND.**

VOTE ON THE MOTION

AYES: Lyda, Hayden, Filidoro, Dixon

NAYS: None

ABSENT: Wallace

- 23. The first of two Public Hearings to review Chapter 50, Article III, "Offenses Regarding Minors," Division 2, "Curfew."**

Staff Presentation

Police Chief Kenneth Brooker gave the following presentation and recommended no changes to the ordinance that had been in effect since 2001.

Questions from the Governing Body and Answers

Deputy Mayor Pro Tem Hayden asked if the Chief had received any feedback from parents.

Chief Brooker stated he had only received two emails from parents since 2001 to change the hours. The Police Department was mainly concerned with alcohol violations or criminal mischief.

Mayor Northern asked how people knew about the ordinance.

Chief Brooker responded that there were school resource officers in the schools. He noted that most cities in Texas have a curfew ordinance.

Public Comments

Randal Wilson, 3005 Oak Meadow, Flower Mound

Mr. Wilson asked if there were any statistics on how many of the offenses were repeat offenses or how many individuals were cited for multiple offenses at the same time. He asked if the ordinance contained an increased penalty for repeat offenders. He asked if there were any responsibilities for the parents.

Steve Strickland, Flower Mound

Mr. Strickland asked if the ordinance was on the Town's website.

Close Public Hearing

Chief Brooker did not have any statistics on repeat offenders, and there were no stronger penalties for repeat offenders. The maximum fine was \$500. He stated he would bring the statistics to the second public hearing.

No action required.

- 24. Consider approval of Amendment No. 4 to the Fiscal Year 2009-2010 Capital Improvement Program.**

Staff Presentation

Assistant Town Manager Kent Collins reviewed the amendment summary.

Mr. Collins stated that Phase 2 of the Morriss/Gerault project was only the two lanes on Morriss Road.

Questions from the Governing Body and Answers

Deputy Mayor Pro Tem Hayden asked about the source of funds for Phase 1.

Mr. Collins reviewed the slide previously shown.

Deputy Mayor Pro Tem Hayden noted that Phase 2 was shown at \$4.9 million.

Mr. Collins stated that was the current cost allocation (to be paid by the developer).

Deputy Mayor Pro Tem Hayden asked how the Town would get that money.

Mr. Collins stated it would be funded through impact fees, infrastructure payments, and a development agreement that was tied to specific phases of the project.

Town Manager Harlan Jefferson commented that Phase 2 would begin when the River Walk amenity went under construction or 2014, whichever came first. He stated that if the River Walk project did not move forward, the Town probably would not have the funding to cover the project (Phase 2).

Councilmember Lyda asked about the CAC improvement, asking how much was for the pool pump and how much for the tile improvement.

Assistant Town Manager/Chief Financial Officer Chuck Springer stated that the pool pump was about 1/3 of the \$75,000, and the shower repairs were about 2/3. There was an effort underway to recoup some of the costs from the architect for the shower repairs.

Council Deliberation

Mayor Pro Tem Filidoro moved to approve Amendment No. 4 to the Fiscal Year 2009-2010 Capital Improvement Program. The motion was seconded by Councilmember Dixon

VOTE ON THE MOTION

AYES: Lyda, Hayden, Filidoro, Dixon

NAYS: None

ABSENT: Wallace

M. COORDINATION OF CALENDARS AND FUTURE AGENDAS/MEETINGS

- July 14-24 - Deputy Mayor Pro Tem Hayden will be unavailable
- June 21 - next regular meeting

N./O. CLOSED/OPEN MEETING

The Town Council convened into a closed meeting at 9:03 p.m. on June 7, 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 10:10p .m. on June 7, 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 Lyda moved to approve the purchase of property, in association with the Western Elevated Storage Tank project from Tom W. Kindred, not to exceed the settlement amount, plus closing costs; authorize the Assistant Town Manager, or his designee, to execute all documents at closing on behalf of the Town; and authorize the Town Attorney, or his designee, to file condemnation proceedings against the property owner in the event a settlement cannot be reached. The motion was seconded by Mayor Pro Tem Filidoro.

VOTE ON THE MOTION

AYES: Lyda, Hayden, Filidoro, Dixon

NAYS: None

ABSENT: Wallace

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.

Mayor Pro Tem Filidoro moved to appoint Dennis McKaige to Place 5 on the Planning and Zoning Commission, term to expire September 30, 2011, and to move Jeff Whittaker from Alternate Place 9 to Place 7, term to expire September 30, 2011. Deputy Mayor Pro Tem Dixon seconded the motion.

Councilmember Dixon stated he was disappointed that the Mayor and other members of Council cited David Johnson's prayer at a Planning and Zoning Commission meeting and statements made during the election by Mr. Johnson and Bryan Webb as the reason for removing them from the Commission. He stated he had served many years with Mr. McKaige on the Commission and he believed he would do a fine job. He stated he would vote no on the motion.

VOTE ON THE MOTION

AYES: Lyda, Hayden, Filidoro

NAYS: Dixon

ABSENT: Wallace

Mayor Northern stated it was not her decision. She was asked to contact Mr. Johnson and have discussions about issues brought to her by Council and constituents.

P. ADJOURN REGULAR MEETING

Mayor Northern adjourned the regular meeting at 10:14 p.m. on Monday, June 7, 2010, and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

MELISSA D. NORTHERN, MAYOR

ATTEST:

PAULA J. PASCHAL, TOWN SECRETARY