

THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 21st 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:

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| Melissa Northern | Mayor |
| Al Filidoro | Mayor Pro Tem |
| Tom Hayden | Deputy Mayor Pro Tem |
| Steve Dixon | Councilmember Place 1 |
| Mike Wallace | Councilmember Place 3 |
| Steve Lyda | Councilmember Place 4 |

constituting a quorum with the following members of the Town Staff participating:

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| 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 |
| Eric Metzger | Fire Chief |
| Gary Sims | Executive Director of Community Services |

A. CALL BRIEFING SESSION TO ORDER

Mayor Northern called the briefing session to order at 6:08 p.m.

B. BRIEFING SESSION

1. Town Council Boards and Commissions Liaison Reports

Councilmember Wallace attended the Planning & Zoning Commission meeting on June 14. The Commission recommended approval of the repeal of the centralized collection facility ordinance.

2. Discuss Consent and Regular Items

Deputy Mayor Pro Tem Hayden suggested moving Items 14 and 16 to the beginning of Regular Items. He also asked to remove Item 3 from the Consent Agenda and place it on the Regular Agenda.

3. Discuss Future Agenda Items

Deputy Mayor Pro Tem Hayden suggested that the Council have discussions about allowing types of windmills in Flower Mound on a future agenda.

4. Discuss Council Communications

No discussion.

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 6:11 p.m.

E. INVOCATION

Chaplain Mike Liles gave the invocation.

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

Mayor Northern led the pledges.

G. PRESENTATIONS

No presentations.

H. PUBLIC PARTICIPATION

Tammy Vajda, 2828 Lake Ville Lane, Flower Mound

Ms. Vajda asked the Town Council to table any decisions on oil and gas drilling issues until the Oil and Gas Advisory Board was in place.

Virginia Simonson, 3405 Native Oak, Flower Mound

Ms. Simonson applauded the Council's decision to enact a moratorium on oil and gas processes and appoint the advisory board. She asked the Council to table Items 14 and 16. She noted that a number of citizens testified at the recent Oil and Gas Board of Appeals meeting. She stated the testimony helped the Board to decide to deny the variances. She was troubled that the Town might grant administrative approval of Mr. Hilliard's requests. She asked that there be no administrative approval on the Hilliard property until all concerns had been addressed.

Paul Stone, 709 Lake Bluff Drive, Flower Mound

Mr. Stone stated the Wild About Flower Mound Festival was very good. He noted that the new language under Council Comments would allow them to address citizen comments. He stated he was disappointed with the recent decision to remove two Planning & Zoning Commissioners prior to the end of their term. Mr. Stone expressed confusion about a recent news item announcing Council subcommittees. He noted that the Charter provided the power to establish boards and commissions. He asked for the purpose of the subcommittees and why the item had not been discussed in public. Mr. Stone supported Items 17 and 18 (Orchard Flower).

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.**

Deputy Mayor Pro Tem Hayden thanked Kent Collins and Ken Parr for helping a merchant with a problem regarding doing some work on a sewer during business hours. He stated the Council had discussed the Senior Center at the June retreat, and talked about putting a proposition on the November ballot. He stated that it did not seem like the appropriate time to

ask voters for a tax increase. He noted that the LISD was asking for a 13 cent increase on the tax rate. He added that a November election could cost up to \$30,000. Deputy Mayor Pro Tem Hayden stated the next ballot initiative would be a dedicated sales tax, and the Town needed a successful renewal of that item. He stated that that Council was aware that a permanent senior center at the CAC was an important project. He hoped the Town and the seniors would look at the positive aspects of putting in an interim solution at Building C, 2121 Cross Timbers Road.

Mayor Pro Tem Filidoro agreed. He stated the Town had been lucky to be able to escape from economic hardships, but was not seeing an upturn in the economy as expected. He stated that an interim center should be fine for the seniors.

Councilmember Lyda attended the Court of Honor for Eagle Scout Cameron Wright last week. He noted that Cameron helped build a storage cabinet for the Seniors In Motion. The Scout Master had indicated that Flower Mound did not have many opportunities for service projects, so many were done in Lewisville.

Mayor Northern stated that the Wild About Flower Mound Festival was amazing, and everyone did a great job. She stated that tomorrow evening, at the Police and Courts Building, the Flower Mound HOA Coalition would hear a presentation by Matt Woods and Danny Hartz regarding the new perimeter fence program. She noted that on Friday, the Concert InThe Park series would be held at Parker Square. On June 26, there would be a Fun Skate Teen Night at the CAC. The Children's Parade at Timbercreek Elementary would be held on July 3. On July 4, the Splashtacular would take place at the CAC and the fireworks show would be held at Bakersfield Park.

- **Mayor to review Council subcommittees**

Mayor Northern stated that in the past, Council Liaisons to boards and commissions were not governed by an ordinance or the Charter. The Council would be able to keep up with what was going on at the meetings. The Council was now looking to be more effective by having the members of the Council look at specific areas versus one board or commission. She stated that the Council subcommittees had been discussed at the Council retreat.

Councilmember Dixon stated he had to leave the Council retreat early and did not participate in the discussion. Several years ago, the Council Liaisons were set up on a rotation basis for the Mayor and Council to attend boards and commissions meetings. Each member of the Council had an opportunity to attend meetings on a quarterly basis. Now there would be no rotation. Certain Councilmembers were now assigned to go to a specific board or commission. He preferred the rotational basis.

Mayor Pro Tem Filidoro stated that in many forms of government there were many subcommittees—more than one person that would be involved in each area. The Councilmember could still switch off if they wanted to. He stated that the Council would call the Town Secretary for assignments for particular meetings to make sure that a quorum would not be present. He stated that many boards might have a project that lasted more than three months. The Council subcommittees would try something new. He noted that the Council wanted to be more informed with what happens at the board and commission meetings.

Deputy Mayor Pro Tem Hayden stated the Councilmembers could alternate among themselves for the boards they were assigned to. He hoped this would improve the efficiency of the Councilmembers.

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 construction project for the fence along Morriss Road was well underway. He noted that the contractor painted a panel of the sound wall north of FM 1171 and FM 2499. The first painting had a graffiti resistant material on it, and the Town was now looking at another painting scheme. He stated the Town received a silver award for its Scenic City Program. The Town was only seven points below the gold standard, and staff planned to appeal the ruling. Awards will be presented at a luncheon on September 16 in Austin. Mr. Jefferson stated that Flower Mound had attempted to escape the impact of theeconomy, and staff forecasted a year ago that it would hit Flower Mound now. The Town was \$1.9 million below revenue projections, so staff was making suggestions about strategies. Mr. Jefferson stated he developed a reorganization and a staff reduction program to address next year’s budget that eliminated 14 positions. The Town should save over \$700,000. A staff Efficiency Committee was making recommendations about the budget.

Deputy Mayor Pro Tem Hayden asked for staff to follow up with the questions Ms. Simonson had asked, particularly the removal of trees from the Hilliard property and administrative approval for permits.

Mr. Jefferson stated that in the tree ordinance, there was a section that allowed a property owner to remove up to 19 trees with administrative approval on land that was zoned Agricultural. Mr. Hilliard did submit an application to remove 19 trees to separate his well site from the upland habitat area. The oil and gas ordinance allowed for administrative approval if all criteria were met. Mr. Hilliard requested four variances that were denied by the Oil and Gas Board of Appeals. Additionally, he had removed his storage facility and moved his well away from waters of the state.

Deputy Mayor Pro Tem Hayden clarified that if the application met all the criteria, then the Town could grant a permit.

Mr. Jefferson responded yes.

Councilmember Wallace stated he had attended the Texas Municipal League Conference last year and brought back the Scenic City Award application. Councilmember Wallace addressed the reorganization and acknowledged Tammy Follett and Mike Smith for the fantastic job they had done for the Town.

K. CONSENT ITEMS

Mayor Pro Tem Filidoro made a motion to approve by consent Items 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, and 12. Deputy Mayor Pro Tem Hayden 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 strategic planning retreat the Town Council held on June 5, 2010.**

RECOMMENDATION: Approve minutes from a strategic planning retreat of the Town Council held on June 5, 2010.

2. Consider approval of minutes from a regular meeting the Town Council held on June 7, 2010.

RECOMMENDATION: Approve minutes from a regular meeting of the Town Council held on June 7, 2010.

3. Consider approval of cancelling the July 5, 2010, regular meeting of the Town Council.

This item was removed from the Consent Agenda.

4. Consider approval of a resolution approving and authorizing publication of notice of intention to issue Certificates of Obligation, Series 2010, in the principal amount not to exceed \$6,045,000.

RECOMMENDATION: Approve Resolution No. 13-10 approving and authorizing publication of notice of intention to issue Certificates of Obligation, Series 2010, in the principal amount not to exceed \$6,045,000. The caption of the resolution reads as follows:

RESOLUTION NO. 13-10

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, APPROVING AND AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION.

5. Consider approval of a Memorandum of Agreement for Wholesale Treated Water between the City of Dallas and Wholesale Treated Water Customers and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve a Memorandum of Agreement for Wholesale Treated Water between the City of Dallas and Wholesale Treated Water Customers and authorize the Mayor to execute same on behalf of the Town.

6. Consider approval of the award of Bid No. 58-10-B Traffic Signal Installation at FM 2499 at Sagebrush, to Roadway Solutions Inc., in the amount of \$71,542.50, and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve the award of Bid No. 58-10-B Traffic Signal Installation at FM 2499 at Sagebrush, to Roadway Solutions Inc., in the amount of \$71,542.50, and authorize the Mayor to execute same on behalf of the Town.

7. Consider approval of Change Order No. 1 for construction of the Kirkpatrick Force Main with TNT's Pipeline Corporation, for an increase in the amount of \$27,350.00, and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve Change Order No. 1 for construction of the Kirkpatrick Force Main with TNT's Pipeline Corporation, for an increase in the amount of \$27,350.00, and authorize the Mayor to execute same on behalf of the Town.

8. Consider approval of Addendum No. 1 with Kellogg, Brown & Root Services, Inc., to provide professional engineering design services for the Oak Street Phase II Lift

Station and Force Main project, in the amount of \$15,900.00, and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve Addendum No. 1 with Kellogg, Brown & Root Services, Inc., to provide professional engineering design services for the Oak Street Phase II Lift Station and Force Main project, in the amount of \$15,900.00, and authorize the Mayor to execute same on behalf of the Town.

- 9. Consider approval of a Professional Services Agreement with Alan Plummer Associates, Inc., to provide professional engineering services for the Wastewater Treatment Plant Rehabilitation Phase II project, in the amount of \$129,800.00, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve a Professional Services Agreement with Alan Plummer Associates, Inc., to provide professional engineering services for the Wastewater Treatment Plant Rehabilitation Phase II project, in the amount of \$129,800.00, and authorize the Mayor to execute same on behalf of the Town.

- 10. Consider approval of Change Order No. 6 for the construction of the Spinks Road Phase IV project, amending the contract with Ed Bell Construction Company, for an increase in the amount of \$47,400.68, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve Change Order No. 6 for the construction of the Spinks Road Phase IV project, amending the contract with Ed Bell Construction Company, for an increase in the amount of \$47,400.68, and authorize the Mayor to execute same on behalf of the Town.

- 11. Consider approval of an ordinance vacating and abandoning an existing 15-foot wide drainage and utility easement located in the backyard of Lot 22, Block A, Flower Mound Farms Addition. The Flower Mound Farms Addition is generally located south of FM 3040 and east of Lake Forest Blvd.**

RECOMMENDATION: Approve Ordinance No. 40-10 vacating and abandoning an existing 15-foot wide drainage and utility easement located in the backyard of Lot 22, Block A, Flower Mound Farms Addition. The caption of the ordinances reads as follows:

ORDINANCE NO. 40-10

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, VACATING AND ABANDONING THE EXISTING 15-FOOT WIDE DRAINAGE AND UTILITY EASEMENT LOCATED WITHIN THE BACK PORTION OF LOT 22, BLOCK A, FLOWER MOUND FARMS ADDITION, AN ADDITION TO THE TOWN OF FLOWER MOUND, DENTON COUNTY, TEXAS; DETERMINING THAT THERE IS NO CURRENT NOR PROJECTED FUTURE NEED FOR THE SAID EASEMENT DEPICTED IN EXHIBIT "A"; REQUIRING A HOLD HARMLESS AGREEMENT; PROVIDING A SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE DATE.

- 12. Consider approval of Change Order No. 2 for the Oak Street Phase II Lift Station and Force Main project, amending the contract with Red River Construction Co. L.P., for an increase in the contract amount of \$23,476.90, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve Change Order No. 2 for the Oak Street Phase II Lift Station and Force Main project, amending the contract with Red River Construction Co. L.P., for an increase in the contract amount of \$23,476.90, and authorize the Mayor to execute same on behalf of the Town.

VOTE ON THE MOTION

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

L. REGULAR ITEMS

- 3. Consider approval of cancelling the July 5, 2010, regular meeting of the Town Council. (This item was removed from the Consent Agenda.)

Mayor Pro Tem Filidoro stated the Council had received many applications for the Oil and Gas Advisory Board, and the Board had to be in place by July 6.

Councilmember Dixon stated he might be out of town on July 6, but desired to put together the best board possible.

Councilmember Wallace stated he would be unavailable between June 28, 2010 and July 9, 2010.

Mayor Northern asked Councilmember Wallace to send his recommendations to her.

Mayor Pro Tem Filidoro moved to approve the cancellation of the July 5, 2010 regular meeting of the Town Council. Deputy Mayor Pro Tem Hayden seconded the motion.

VOTE ON THE MOTION

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

- 15. Discuss and consider appointments to the Oil and Gas Advisory Board.

Mayor Pro Tem Filidoro moved to table Item 15 to a special meeting on July 6. Councilmember Dixon seconded the motion.

VOTE ON THE MOTION

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

Mayor Northern opened Items 14 and 16 together.

- 14. **LDR 02-10 - Repeal of Centralized Natural Gas Production Facility Public Hearing Public Hearing to consider an amendment to the Land Development Regulations (LDR 02-10) by amending Section 98-2 (Definitions), Section 98-273 (Agricultural District Specific Uses), and Section 98-952 (Use Classifications) to repeal the provisions contained in said sections related to Centralized Natural Gas Compression Facilities, Centralized Natural Gas Lift Facilities and Centralized Natural Gas Produced Water Storage Facilities, and to consider adopting an**

ordinance providing for said amendment. (Planning and Zoning Commission recommended approval by a vote of 3 to 2 at its June 14, 2010 meeting.)

16. Consider approval of an ordinance amending Chapter 34 of the Code of Ordinances by repealing existing Article VIII, "Oil and gas pipeline standards," and adopting a new Article VIII, "Oil and gas pipeline standards," and adopting a new Article IX, "Vested rights/preemption determination."

Staff presentation

Tommy Dalton, Planning Services Manager, stated that approval of Item 14 would repeal the ordinance that was approved on January 21, 2010 regarding centralized facilities.

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

Questions and Answers From the Governing Body

Deputy Mayor Pro Tem Hayden asked if there was a way to verify that having larger compressors would improve air quality.

Mr. Woods stated it was easier to monitor with a permanent station. A centralized facility would not require multiple air monitoring stations.

Town Manager Harlan Jefferson stated that the Texas Commission on Environmental Quality (TCEQ) had indicated they were willing to put a permanent air monitoring station in Flower Mound. The facility would need electricity, and it could be located at Fire Station #2.

Mr. Woods noted that canister sampling was a continuing monitoring station. The public could go online and look at air quality measurements.

Mayor Northern thanked State Representative Tan Parker for petitioning to get this in the legislature.

Mr. Woods commented that the posting of the air quality test data might take a week or two. The Town hoped to have a local site operational by TCEQ soon.

Councilmember Lyda noted that the TCEQ site would be in addition to the Kleinfelder sites.

Councilmember Dixon noted that the compression facilities would be on pad sites.

Mr. Woods stated that it would be best to have few connection points.

Mayor Northern commented that if the Council made a decision on this tonight, the Oil and Gas Advisory Board could still come back with additional recommendations to the Council.

Deputy Mayor Pro Tem Hayden asked for a history of the settlement agreement with Mockingbird Pipeline.

Town Attorney Terry Welch stated the Town was in litigation with Mockingbird Pipeline, and the case was in the court of appeals. He had conversations with the attorneys for Mockingbird, and as a consequence, there was a desire on Williams' part for a settlement. Mr. Welch stated there were some concerns that the Town had if new regulations were adopted for wells and pipelines. The people that already had permits would be exempt from the new standards.

Mr. Jefferson noted that Williams had found a successful route along TxDOT right-of-way as opposed to the Fire Station No. 2 property. Williams would be able to make the air connection and no longer had to go across Town property. No produced water would be allowed. There would be quite a bit of air monitoring. Mr. Jefferson stated Williams would not have any pipelines that would originate east of the Bunn site, and that should alleviate concerns about pipelines going from east of FM 2499 to the west.

Mayor Northern stated many people were concerned about pipelines and if they could have the produced water piped to Jeter Road and on to Lewisville. She asked if the Town had the right to eliminate that process.

Mr. Welch stated the pipeline companies had the power of eminent domain. Federal law stated that legally the water in the pipeline was not hazardous, and the Town did not have the ability to change that.

Deputy Mayor Pro Tem Hayden asked if it was Williams' intention to pipe water to Jeter Road.

Mr. Welch stated that was in discussion.

Mr. Jefferson stated he did not specifically ask if they wanted to move produced water from Flower Mound to other communities, and he would make that inquiry.

Deputy Mayor Pro Tem Hayden asked if Williams already had the permissions needed to place their line along FM 1171.

Mr. Jefferson responded yes and that it was already bored. He noted that TxDOT had changed its philosophy about the pipelines in TxDOT right-of-way.

Deputy Mayor Pro Tem Hayden noted that Williams had offered to provide \$125,000 for emissions and air quality to the Town. He asked what the Town would do with the money.

Mr. Jefferson stated it would be determined over time. It could be spent for monitoring equipment, checking for VOCs, paying for quarterly inspections, and testing ambient air.

Councilmember Dixon noted that at one point Williams did say their first attempt to get the TxDOT right-of-way was denied, however now they had the access.

Mr. Welch stated there were several provisions of state law that talked about home rule cities having exclusive control of their streets and the area under their streets. He stated these provisions of state law were untested. If there was a future pipeline, the Town could attempt to contest the ability for a pipeline to go under a street. He stated the Town did not have enough right-of-way to have someone put a gas pipeline in an easement. In the agreement with Williams, the Town would waive filing claims. As a practical matter, regardless of the outcome of the litigation regarding the Fire Station No. 2 property, if the court of appeals rules in the Town's favor, he anticipated an effort being made in the legislature to add the words "public property." He stated Flower Mound could be the first city in Texas to assert that in court.

Councilmember Dixon commented that if the agreement was executed, the Town would not assert any claims if Williams wanted to cross under a public street (perpendicular, not along the street).

Mayor Northern stated if the Town allowed Williams to do this it would decrease their presence on private property.

Mayor Pro Tem Filidoro asked for comments on the legal fee status.

Mr. Welch stated the Town's legal fees, through the argument at the court of appeals, was about \$70,000. If the agreement was reached and signed, the Town would recover all the legal fees.

Mayor Pro Tem Filidoro stated that citizens had questioned him as to whether Williams had dictated the terms.

Mr. Jefferson stated staff had a list of issues from residents and the Council. Williams had a list but it was not very specific. By the time of the third meeting, the main issue was the produced water centralized facility. Mr. Jefferson stated staff worked to get the most comprehensive agreement possible. One assurance was to minimize gas pipelines running through the Town.

Mr. Welch stated the Town had heard **residents'** comments for a long time. In one sense, the **Town's** hands were tied because once someone got a permit, they locked in their rights. The Town struggled about how to get additional controls (health, safety, welfare) when someone had existing pad sites. When someone vested, they got the rules and rights on the day when they got their permit. He added that a new process was located in Article IX.

Mayor Northern stated this would give the Town the right to make a company retrofit some of the facilities.

Mr. Welch stated if the company did compression at the wellhead, the Town did not have the ability to require certain safety issues. Even if that was added to the ordinance, the companies would be vested under the old standards.

Councilmember Lyda asked if the water in the produced water lines was ever deemed toxic.

Mr. Welch stated he would have to see what comes out of Congress, as cities would have to wait for the EPA to come up with regulations. He stated if Congress passed the FRAC Act today, it could take quite a long time to implement.

Councilmember Dixon stated all of his concerns had been addressed. One item that was not on the list was to route trucks off of Shiloh onto Scenic and find a single access point on the Smith property where the trucks would go in at one location, as opposed to driving down Scenic and annoying neighbors.

Mr. Jefferson felt Scenic Drive did not look like it could handle all the truck traffic as there were several sharp turns in the road.

Councilmember Dixon asked for an explanation of BTEX condensers.

Mr. Woods stated that with the emissions there were aromatic hydrocarbons that have been linked to diseases and carcinogens. The condensers would process the gas, collect it, and would not allow it to control odors.

Councilmember Hayden stated that residents had asked him why the Town was looking at a centralized collection facility and mentioned letting the Oil and Gas Advisory Board look at it.

Mr. Welch stated that no matter what the Council did from this point forward, any regulations would be new regulations, and people vested when they filed their applications.

Deputy Mayor Pro Tem Hayden asked if the Town would recover legal fees if it won the lawsuit.

Mr. Welch responded no as this was not one of the exceptions under state law.

Additionally, if the company got a permit in 2007, the moratorium was not in place at that time, and they could do the compression according to the standards.

Mr. Welch referred to the Grand Prairie case and the appeal to the 5th circuit court of appeals. It was initially an unreported case, and now it was a reported case. He stated it talked about the right of cities to regulate land use controls and the right of eminent domain. The Town could regulate zoning, but it was the right of the utility to determine where they wanted to go and what they could do. He stated it could be a groundbreaking case in Texas if the Town won the Fire Station No. 2 case.

Mayor Northern commented that out of the lawsuit, the Town would have the opportunity to eliminate nine compressors and have only one compressor. Any future compressors would be under the new standards.

Mr. Woods stated that two pad sites were currently inactive.

Councilmember Wallace asked if the Council repealed the SUP items, was the governing body saying no.

Mr. Welch stated that in Item 16, the Council was addressing compressor stations and gas lift facilities. The only centralized produced water facility the Town had ever had was with Williams and they were withdrawing that from the ordinance. The centralized produced water standards that were in the January 10th ordinance still remained in the amended ordinance. The amended ordinance provided that if a company wanted a centralized produced water facility, the company would have to go through the zoning process.

Councilmember Wallace asked if administrative approval required a public hearing.

Mr. Welch stated that in all likelihood most of the requests for centralized facilities would not be administratively approved because of other issues in the oil and gas ordinance (setbacks, etc.). Mr. Welch commented there was only one other centralized wastewater facility in the metroplex to his knowledge.

Councilmember Wallace asked how the rules were different for federal regulations. He noted that the Atmos line was located under Town roads.

Mr. Welch responded that the Atmos line was under federal regulations, and they trumped local regulations.

Councilmember Dixon read from the conditions in the proposed agreement. He asked if the pipeline ordinance that was being considered would affect three additional compression facilities on the Sam Wilson tract and asked if they would be administratively approved.

Mr. Welch stated that if the pipeline ordinance was approved and the settlement agreement was approved, if they would only have to file an amended site plan.

Public Comments

Kelly McDonald, 4119 Mustang Trail, Flower Mound

Ms. McDonald suggested that the Oil and Gas Advisory Board be appointed before considering the ordinances tonight. She stated she was struggling with how quickly Council was moving forward with changes to the ordinances. She stated Williams should have the

patience for due diligence.

Jeff Whittaker, 4305 Auburn, Flower Mound

Mr. Whittaker stated he was going to encourage the Council to approve Item 14. There was a point in time when citizens were concerned about truck traffic, however at the Planning & Zoning Commission meeting there was no mention of truck traffic. He noted that he made the motion at the Commission meeting to repeal the SUP process.

Sue Ann Lorig, 4613 Foxglove Court, Flower Mound

Ms. Lorig stated she was astounded that the Town was negotiating with Williams and added that the residents should have more input. She stated Williams should have to pay for the entire amount of the monitoring system, and that they should hold off for a while.

Jennifer Rogers, 2608 Carterton Way, Flower Mound

Ms. Rogers stated that the residents did not know about the settlement negotiations, and public input was needed. She asked why it was so important to do this right now, and asked the Council to table these items.

Virginia Simonson, 3104 Native Oak, Flower Mound

Ms. Simonson asked if a risk analysis had been done to determine if a larger footprint of compression facilities presented greater dangers in the case of explosions. She asked if the setbacks for larger compression facilities were the same as the setbacks for gas wells or for smaller facilities. If so, she asked if there was any scientific basis for determining the setbacks. She asked if Williams would be forever bound from laying gas compression lines from east Flower Mound to west Flower Mound. She asked what prevented other companies from tapping into the **Williams'** compression facilities on the west side of town. She asked how the agreement set precedent for other gas companies to set up larger compression facilities elsewhere in Flower Mound. She asked how the settlement impacted other land use issues related to the oil and gas regulations. She asked how it affected the Hilliard property. Ms. Simonson stated that citizens believed that the Town had the authority to regulate zoning.

Tony Robson, 3421 Courtney Drive, Flower Mound

Mr. Robson was surprised to hear about discussions regarding a settlement agreement. He felt the new Oil and Gas Advisory Board was well-fitted for these discussions. He was optimistic about Williams coming to the table to discuss issues.

Erin Bouck, 3429 Courtney Drive, Flower Mound

Mr. Bouck was concerned about the Hilliard property. He stated that Titan may have to have a 4,000-square-foot compressor site for the number of proposed wells on the site.

Steve Strickland, 3204 Springwood, Flower Mound

Mr. Strickland commented that since the Mockingbird Pipeline lawsuit should be over, a decision should be made. He stated it was nice to see Williams in discussions with the Town. He was in favor of postponing a decision on Items 14 and 16.

Eric Jellison, 2705 Lake Ville Lane, Flower Mound

Mr. Jellison commented on Item 16 and stated it was only in relation to vested rights, and he was in support. Regarding Item 14, the only thing that came out of the lawsuit was that the Town gained much leverage. He stated the Town could not fight this forever, and he supported both items.

Barbara Harris, 4205 Woodbine, Flower Mound

Ms. Harris commented that Denton County Commissioner Bobbie Mitchell had indicated that the City of Lewisville had received an application for a central water collection facility from Williams. She asked if the Council knew where the proposed facility would be located. She asked if Flower Mound could send water there.

Mark Breheny, 1413 Willowcross Way, Flower Mound

Mr. Breheny asked about Item 5 on the proposed settlement agreement. He asked if Williams established compression facilities on the pad sites, would that eliminate the need for air quality monitoring, and make Item 5 moot.

Close Public Hearing

Council Deliberation

Mr. Jefferson responded to questions, stating that the Lewisville proposed site for a produced water collection facility was near Flower Mound's wastewater treatment plant. He added if the Town did not have a compression facility, air monitoring would still need to be done.

Mr. Woods stated staff was currently researching recycled produced water. Staff visited a site in Wise County. He noted that some operators do that to create fracturing fluid. He stated electric compression was an option, however the company would have to have a large power source on the subject property. He noted that the power source would be quite noisy, however emissions would be reduced for electric compressors.

Mr. Jefferson commented that the electric compressors used natural gas, not diesel. He commented that Williams was willing to negotiate because the Town had permitted a number of pad sites, but the company did not have the means of getting the product to market. They had limits on their lease about delivering to market. It was more of a timing issue. Regarding a risk analysis, the Town had not conducted one on the size of the compressors. He noted that the more times a company connected to the Atmos line, the more times there might be problems. He noted that the Town did do an analysis of accidents when the 1,000-foot setback was established. He commented that Williams did not seem to have much of an interest in connecting to other gas drillers. He was not aware of any potential for that to happen. He addressed the question about how the ordinance would impact other facilities, particularly the Hilliard site. He noted that the Atmos line cut across the Hilliard site. If a pad site was approved, the driller could access the Atmos line and would most likely construct some type of compressor. With the proposed amendment, it was possible to have more than one compressor facility on the Hilliard site since Titan was drilling the Powell site, just south of the Hilliard tract. Another option was to go down Spinks to connect to the Atmos line.

Mayor Northern asked about the cost of air quality monitoring and if the applicant should pay the full cost.

Mr. Jefferson stated that \$250,000 was a true number for the monitoring. The goal was to pursue the avenue of the state working on establishing the facility. Staff had talked to Williams about air monitoring, and he noted that incidents occurred primarily through some default of equipment. He noted that Town staff monitored the facilities often. He stated that the draft report did not show any problems with VOCs or other emissions associated with gas drilling. Staff was in favor of putting the Town's money into prevention rather than just monitoring.

Mayor Northern asked about other compressors being administratively approved.

Mr. Jefferson stated staff would have the ability to administratively approve a compression facility with the amended ordinance. If a variance was needed, the application would have to go through the Oil and Gas Board of Appeals.

Mayor Northern asked why the settlement negotiations were not made a public process.

Mr. Welch answered that litigation settlement negotiations were not done in a public process, however the Council was kept abreast of the process. He commented that if the settlement did not go forward, the Town would not have the ability to enforce some of the air emission standards on the company. If the Town could not require specific items from the company, it had two options—get some type of standards or require on-site compression at the wellhead with limited standards. Williams had stated they had time constraints, but the Town could not tell them they must do all the new things. Mr. Welch believed the Town had utilized land use issues more than other local governments in terms of setbacks and screening requirements. The **Town's** requirements were very stringent. He added there was not scientific evidence for setbacks. Many other cities were struggling with this. There was no case law or interpretation about wells being in thickly settled areas in a municipality. Flower Mound had to be realistic in assessing the legal risks. If someone met all the standards and was entitled to a permit, a court would order the Town to give them the permit.

Mayor Pro Tem Filidoro asked if compression was at the site, would the company still give the Town \$125,000.

Mr. Jefferson responded no.

Mayor Pro Tem Filidoro stated the Town was trying to negotiate to put an end to the lawsuit. He was hearing that timelines were coming up.

Mr. Welch stated Williams already had a pipeline around Fire Station No. 2, and they did not need the **Town's** easement. The case could be dismissed, but it may not be moot. The court of appeals would make the decision.

Mr. Jefferson stated the **Town's** goal was to address the safety concerns. Also the Town wanted to decouple Flower **Mound's** name from gas drilling and Williams. Everyone wanted Flower Mound to be known as the safest place to live and raise families.

Councilmember Dixon commented that the Town had not executed the agreement.

Deputy Mayor Pro Tem Hayden stated there had been many efforts made by staff. There were good things in the agreement. He did not like considering Item 16 along with Item 14. He felt the residents should see and discuss the proposed agreement. He was in favor of tabling these items. He asked if Williams had time for that.

Mr. Jefferson stated if the items were tabled, the deal would probably go off the table and would have to start anew.

Deputy Mayor Pro Tem Hayden stated he needed more time to formulate his questions.

Mr. Jefferson stated this had been discussed at the May 20th work session, where the Mayor directed staff to bring certain agenda items forward for the June 7 and June 21 meetings. He was not sure what the air compressors would do to air quality.

Councilmember Lyda stated the Council was at this point because this had been a very public process, with the residents being involved. He stated he would like the Oil and Gas Advisory Board to make some recommendations, and he would like to look at the agreement. He was not in favor of a huge wastewater collection system, and he wanted to see that the compression facilities were monitored.

Deputy Mayor Pro Tem Hayden stated that at this point, there was no time for the Advisory Board to review this. He wanted to walk the area where compressors would be located and wanted to know what the larger compressors would do. He felt this was happening too rapidly, and he wanted to give the residents an opportunity to participate.

Councilmember Dixon stated the Advisory Board had not even been appointed yet. He did not think Williams was going away. He was in favor of tabling both items.

Deputy Mayor Pro Tem Hayden moved to table Items 14 and 16 to the July 19, 2010 regular Council meeting. Councilmember Dixon seconded the motion.

VOTE ON THE MOTION

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

- 13. Consider approval of a Professional Services Agreement between the Town of Flower Mound and Halff Associates, Inc., in the amount of \$59,000.00 for the architectural design services, specifications, and related engineering for the renovation of Building C, 2121 Cross Timbers Road, formerly old Town Hall, for use as a temporary senior citizens center, and authorization for the Mayor to execute same on behalf of the Town.**

Gary Sims, Executive Director of Community Services, commented that at the May 20, 2010 work session, staff was directed to look into the conversion of the old Town Hall into a senior center. Staff went out for Statements of Qualifications by inviting five architectural firms to respond. Halff Associates, Inc. was selected as the best firm and negotiated a fee of \$59,000.

Councilmember Dixon stated Halff was considered a preferred vendor. He asked if the Town ever got actual bids.

Assistant Town Manager Kent Collins stated Halff was one of the Town's preferred firms for engineering services.

Councilmember Dixon asked how many firms were on the preferred list.

Mr. Collins responded there were seven firms.

Councilmember Dixon asked staff to send the Council a list of the preferred firms.

Deputy Mayor Pro Tem Hayden asked how staff and Halff would interact with the seniors about the design.

Mr. Sims stated staff had provided the seniors with a proposed floor plan and asked for

input. At 30% design, the seniors will be provided with what had been designed so far.

Deputy Mayor Pro Tem Hayden asked about the timing for move in.

Mr. Sims stated it would be about one year out.

Councilmember Dixon asked about the cost of a senior center as compared to offices.

Mr. Sims stated if the space was finished out for staff, it would cost about \$175,000. Finish out for a senior center would be considerably higher.

Mayor Pro Tem Filidoro moved to approve a Professional Services Agreement between the Town of Flower Mound and Halff Associates, Inc., in the amount of \$59,000.00 for the architectural design services, specifications, and related engineering for the renovation of Building C, 2121 Cross Timbers Road, formerly old Town Hall, for use as a temporary senior citizens center, and authorized the Mayor to execute same on behalf of the Town. Councilmember Lyda seconded the motion.

VOTE ON THE MOTION

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

Mayor Northern opened Items 17 and 18 together.

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. This item was postponed at the May 17, 2010, regular 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. This item was postponed at the May 17, 2010, regular meeting.)

Tommy Dalton, Planning Manager, stated the site bordered Lewisville to the north and east. There were five tracts involved, with the corner piece being an old demolished

convenience store. He highlighted the retail component of the development along the frontage on FM 3040 and Old Orchard Lane. A mini-storage component was planned for the west side of the site. The residential component consisted of a one-story product and a three-story product. Staff had received correspondence throughout the process. A development agreement was also a component of the two items.

Dean Eldridge, Cadence

Mr. Eldridge stated his company had invested money in cleaning up the property, and he felt uses would be appropriate for Flower Mound. The plan had affordable housing, and he had located financing.

Barry Metcalf, Cadence

Mr. Metcalf stated they had cleaned up the site and prepared it to be a gateway into Flower Mound. The driving range and Shell station had been removed, and the site had been fully reviewed by TCEQ. He stated he began the re-zoning efforts in 2008. At the Executive Development Team meeting, staff and Council indicated they wanted retail on the site. The applicant started out with a grocery store anchor, took the concept to the market, and it was determined that it could not support the amount of retail they wanted. Multiple uses were needed on this site, including residential. He noted that a self storage component would be located on the western side of the property. The three-story residential component had a 12,000 -square-foot club house (amenity center). The residential portion was named The Aspens at Orchard Flower Senior Community. A market study indicated that within five miles of the site, the 55+ population increased. Mr. Metcalf stated he had made friends with some members of the senior community who were interested in the project. The project included open space, walking trails and water features. An elevator would be located in the three-story building. A full-time activities director would be on site. There would be no three bedroom facilities. Regarding the age restriction, at least one person must be 55 years old in a unit. No person under 19 years of age shall occupy or stay overnight in a unit for more than 90 days during any 12 consecutive months. There would be enforcement for age violations. The commercial component would be located mainly along FM 3040. There would be retail, restaurant, and office opportunities, all within walking distance on the property. They also planned for public open spaces. Mr. Metcalf requested approval.

Questions and Answers From the Governing Body

Councilmember Dixon asked about the grade elevation at the retail level and the three -story building.

Rick Jones, Advantage Storage

Mr. Jones stated Advantage Storage had completed 20 ground-up developments since it had been in business, and the use of self storage had doubled in the last ten years. Over that time there had been an increase in long term tenants. A 290' setback was required off of Flower Mound Road. The loading areas would be internal and there would be screened fencing between the buildings. The office manager would have an on-site residence.

Councilmember Wallace asked if the police department would have the opportunity to do patrols at night with the controlled access gates.

Mr. Jones stated both the police and fire departments would have access codes.

Councilmember Lyda asked if there was fencing between the self storage and the residential area.

Mr. Metcalf stated the residential area would have three secured gates.

Councilmember Dixon asked for the average occupancy per unit.

Mr. Metcalf stated the average was 1.5.

Councilmember Dixon noted the tremendous amount of telephone poles.

Mr. Metcalf understood they were in the FM 3040 right-of-way and the applicant was not obligated to bury those lines.

Councilmember Wallace asked about the proposed fencing—tubular steel with masonry columns around the residential area. He asked about maintenance on the property after and few years, and what would happen if there was an ownership change.

Mr. Metcalf stated Cap Stone Management out of Austin would manage the property, and about 10% of their portfolio was senior housing.

Councilmember Wallace asked if the applicant had talked to the Lewisville residents that would be adjacent to the property.

Mr. Metcalf stated they had met with the Lewisville residents and the homeowners' association, and the residents west of the Korean Church.

Mayor Northern asked how many units were in the three-story building.

Mr. Metcalf responded there would be 90 in the three-story building and over 106 in the one story buildings.

Mayor Northern expressed concern about parking.

Mr. Metcalf noted there would be parking around the three-story building.

Mr. Dalton commented that the applicant had satisfied the code requirements for parking spaces.

Public Comments

Denis Toth, 2020 Skelton, Flower Mound

Mr. Toth stated that Flower Mound seniors had been soliciting the Council for senior housing for some time. He noted they also still wanted a stand-alone senior center. Mr. Toth noted that the Planning & Zoning Commission recommended approval of the Orchard Flower development. He noted that many seniors felt the interim center would be very interim. He stated many other communities were developing senior housing, and the Town needed to compromise more. He added that the Orchard Flower development would bring in tax dollars.

Representative of the Korean Church

The representative asked for the same tubular steel fencing between the subject property and the Korean Church as was proposed for the abutting residential area. He stated the church members were concerned about screening.

Clare Schroeder, 3004 Parkhaven, Flower Mound

Ms. Schroeder recalled that in 2006 the Seniors In Motion program gave back \$500,000

in funding to the Town from the Green Acres Farm project. She spoke in favor of Flower Mound Orchard Flower as it would accommodate senior housing.

Close Public Hearing

Council Deliberation

Town Manager Harlan Jefferson explained that when staff was balancing the budget in 2006, they were pursuing options for a senior center and exploring the use of Green Acres Farm. The seniors wrote a letter to the Mayor and Town Council about reallocating funding accordingly.

Councilmember Lyda asked about the western edge landscaping.

Mr. Jones stated the applicant proposed to provide screening on the backs of the storage facility. The building had no openings, windows, or doors facing the west.

Mr. Dalton commented that the Code did not require screening fences in this case on the western side.

Deputy Mayor Pro Tem Hayden asked if there had been any discussions between the church and the developer.

Councilmember Wallace noted that he had served on the 2006 Master Plan Update Committee, and this property was listed as an infill parcel. The result of the brainstorming was that the five lots could be combined into a single lot in order to spur growth. Coupled with senior housing, the idea was that this infill parcel could be developed. Councilmember Wallace stated this project would satisfy many concerns expressed by people 55 and over. He supported both items.

Councilmember Dixon echoed those comments. He stated one would not be able to see the residential areas behind the retail because of the drop in elevation. There would be a dramatic increase of beauty driving from Lewisville to Flower Mound, and he supported both items.

Deputy Mayor Pro Tem Hayden stated the project was a beautiful design, however he was still not sure of the location and expressed his concerns regarding the development.

Mayor Pro Tem Filidoro agreed with Deputy Mayor Pro Tem Hayden. He stated he would support ownership over rental. He was concerned that this was an entrance to the Town, and he did not care for the mini storage component.

Motion on Item 17

Councilmember Wallace moved to approve 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. Councilmember Dixon seconded the motion.

Discussion on the Motion

Deputy Mayor Pro Tem Hayden stated he did not want the developer to be discouraged, however he wanted him to come back with ownership components instead of rental.

VOTE ON THE MOTION

AYES: Wallace, Dixon

NAYS: Lyda, Filidoro, Hayden

Item 18

Town Attorney Terry Welch noted that since the Master Plan item was denied, there was no need to vote on Item 18, the zoning case.

19. Curfew Ordinance

Public Hearing

The second of two Public Hearings to review Chapter 50, Article III, "Offenses Regarding Minors," Division 2, "Curfew," and to consider adopting a resolution continuing the current Juvenile Curfew Ordinance in effect.

Police Chief Kenneth Brooker gave the following presentation.

Chief Brooker stated the police department would conduct public service announcements after approval of the resolution.

Public Comments None

Close Public Hearing

Deputy Mayor Pro Tem Hayden moved to approve Resolution No. 14-10, continuing the current Juvenile Curfew Ordinance that was in effect. Councilmember Lyda seconded the motion. The caption of the resolution reads as follows:

RESOLUTION NO. 14-10

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, CONTINUING THE TOWN'S JUVENILE CURFEW ORDINANCE; MAKING FINDINGS RELATIVE THERETO; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON THE MOTION

AYES: Lyda, Filidoro, Hayden, Dixon, Wallace

NAYS: None

- 20. Consider approval of an ordinance amending Appendix A of the Code of Ordinances relative to Sections 70-361, 70-362 and 70-381 by revising the charges for residential and non-residential water and wastewater service; providing a severability clause; and providing an effective date.**

Assistant Town Manager/Chief Financial Officer Chuck Springer gave the following presentation.

Questions and Answers from the Governing Body

Deputy Mayor Pro Tem Hayden asked if there were any programs for helping people that could not pay their bills.

Mr. Springer stated they could check with Christian Community Action or other charitable organizations. The Town did not have any such programs.

Deputy Mayor Pro Tem Hayden asked for the rational for the rate increases.

Mr. Springer stated the rate increases would maintain the proportion of the accounts in the different "gallons" categories.

Deputy Mayor Pro Tem Hayden noticed there was a greater increase for those who use d less water.

Councilmember Dixon asked if staff could adjust the increases where they would be more across the board.

Mr. Springer stated the Town had to be able to finance the utilities.

Councilmember Dixon asked if the average bill would go above the CPI in five years.

Mr. Springer responded that if the Upper Trinity Regional Water District (UTRWD) continued to increase its rates to the Town, the average bill would go above the CPI in five years. He noted that the entity usually increases rates about 5% per year.

Deputy Mayor Pro Tem Hayden asked what happened in 2007 when the trend started.

Mayor Pro Tem Filidoro stated no one on previous Councils was willing to raise rates for 20 years, and it was subsidized by the General Fund.

Mr. Springer stated there was no transfer to the General Fund and the Vehicle Equipment Replacement Fund, and the Town did not use impact fee revenue to cover the costs in 2007.

Deputy Mayor Pro Tem Hayden stated the rate chart grew rapidly over the next few years and he asked if there was an end in sight.

Mr. Springer stated that after the next three years, the rates should drop off slightly. He added the Town was not using all of the water from the UTRWD, and the Town needed to finish the CIP projects.

Councilmember Lyda asked for an explanation of the challenges with the UTRWD.

Mr. Springer stated the UTRWD was established by the state as a regional utility district. Flower Mound was one of 29 board members and only had one vote. He added that the Town did have more votes on a capital committee, however they really had no control over the capital program and the UTRWD rate structure. Mr. Springer stated the Town had a long-term commitment as a member.

Town Manager Harlan Jefferson stated that a number of the members did not purchase

water but had the right to vote. When the UTRWD Board approved rate increases, it affected Flower Mound immensely. He added that when the Town joined the UTRWD, it saw the benefit of having two water companies (Dallas Water Utilities and the UTRWD).

Councilmember Lyda moved to approve Ordinance No. 41-10, amending Appendix A of the Code of Ordinances relative to Sections 70-361, 70-362 and 70-381 by revising the charges for residential and non-residential water and wastewater service; providing a severability clause; and providing an effective date. Mayor Pro Tem Filidoro seconded the motion. The caption of the ordinance reads as follows:

ORDINANCE NO. 41-10

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING APPENDIX A, "FEE SCHEDULE," OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND RELATIVE TO CODE SECTION NUMBERS 70-361, 70-362 AND 70-381 BY REVISING THE CHARGES CONTAINED THEREIN FOR RESIDENTIAL AND NON-RESIDENTIAL WATER AND WASTEWATER SERVICE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Discussion on the Motion

Deputy Mayor Pro Tem Hayden asked about the average bill for the Town's survey cities. He also asked staff to invite the UTRWD to make a presentation about their budget and how they are using the Town's money.

Councilmember Lyda agreed.

VOTE ON THE MOTION

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

M. COORDINATION OF CALENDARS AND FUTURE AGENDAS/MEETINGS

- July 6 meeting - The only item will be the Oil and Gas Advisory Board appointments. The Council will not conduct interviews.

N./O. CLOSED/OPEN MEETING

The Town Council convened into a closed meeting at 11:53 p.m. on June 21, 2010 pursuant to Texas Government Code Sections 551.071, 551.072, 551.074 and 551.087 to discuss matters relating to consultation with Town Attorney, real property, personnel, and economic development negotiations and reconvened into an open meeting at 12:47 a.m. on June 22, 2010 to take action on the items as follows:

- a. Discuss and consider economic development incentives.

No action taken.

- b. Discuss and consider acquisition and/or lease of real property for municipal purposes and all matters incident and related thereto.

Mayor Pro Tem Filidoro moved to approve conveying the Town's interest in part of a tract of land along Timbercreek to Mr. (David) Hattan, and authorized the Mayor to execute the Quitclaim Deed on behalf of the Town. Councilmember Lyda seconded the motion.

VOTE ON THE MOTION

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

Mayor Pro Tem Filidoro moved to approve the purchase of water easements, in association with the Western Elevated Storage Tank project, from Robert P. Lufburrow and Joe B. and Teresa M. Freeman, not to exceed the settlement amounts, plus closing costs; authorize the Assistant Town Manager, or his designee, to execute all documents at closing on behalf of the Town; and authorize the Town Attorney, or his designee, to file condemnation proceedings against the property owner(s) in the event a settlement cannot be reached. Councilmember Lyda seconded the motion.

VOTE ON THE MOTION

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

Mayor Pro Tem Filidoro moved to approve the purchase of right-of-way, in association with the Dixon Lane (East of FM 2499 to Crestside Drive) project, from Justin/Dixon Properties, 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: Wallace, Lyda, Filidoro, Hayden, Dixon
NAYS: None

c. Discuss and consider personnel matters.

No action taken.

d. Discuss Rembert Enterprises, Inc. v. Town of Flower Mound, Cause No. 2010-50164 -367, pending in the 367th Judicial District Court of Denton County, Texas.

No action taken.

e. Discuss Town of Flower Mound v. Mockingbird Pipeline, L.P., No. 02-10-00069-CV, pending in the Texas Court of Appeals at Fort Worth, and all matters incident and related thereto.

No action taken.

- f. 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.

No action taken.

P. ADJOURN REGULAR MEETING

Mayor Northern adjourned the regular meeting at 12:52 a.m. on Tuesday, June 22, 2010, and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

MELISSA D. NORTHERN, MAYOR

ATTEST:

PAULA J. PASCHAL, TOWN SECRETARY

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