

**THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 19<sup>th</sup> DAY OF JULY, 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:

Al Filidoro	Mayor Pro Tem
Tom Hayden	Deputy Mayor Pro Tem
Mike Wallace	Councilmember Place 3
Steve Lyda	Councilmember Place 4

with the following members of Council absent:

Melissa Northern	Mayor
Steve Dixon	Councilmember Place 1

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
Eric Metzger	Fire Chief
Doug Powell	Executive Director of Development Services
Gary Sims	Executive Director of Community Services

**A. CALL BRIEFING SESSION TO ORDER**

Mayor Pro Tem Filidoro called the briefing session to order at 6:05 p.m.

**B. BRIEFING SESSION**

**1. Town Council Boards and Commissions Subcommittee Reports**

Councilmember Lyda attended the Environmental Conservation Commission meeting on July 8, and noted that the Commission received an overview of all ongoing road projects. There was much discussion on the progress of the FM 1171 project.

Mayor Pro Tem Filidoro stated he had received emails about FM 1171, and he noted that the state was still within the timeline for the project.

**2. Discuss Consent and Regular Items**

Councilmember Wallace asked to remove Item 3 from the Consent Agenda for further discussion.

**3. Discuss Future Agenda Items**

Town Manager Harlan Jefferson commented that at a previous meeting, Deputy Mayor Pro Tem Hayden asked to move forward with the wind turbine issue. Mr. Jefferson stated the Planning & Zoning Commission would have a work session on the topic, and it should be brought forth to the Town Council for consideration in about 90 days.

**4. Discuss Council Communications**

No discussion.

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

Mayor Pro Tem Filidoro adjourned the briefing session and called the regular meeting to order at 6:11 p.m.

**E. INVOCATION**

Chaplain Mike Simpson gave the invocation.

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

Troop 709 led the pledges.

**G. PRESENTATIONS**

- **Certificates of Achievement - Eagle Scouts Ryan Bascue and Nathan Bubeck, Keep Flower Mound Beautiful**

Councilmember Lyda presented a Certificate of Achievement to Eagle Scout Nathan Bubeck. Eagle Scout Ryan Bascue was not present at the meeting.

Mayor Pro Tem Filidoro presented a Certificate of Achievement to members of the Keep Flower Mound Beautiful organization. They made improvements to Spring Lake Park in memory of Marianne Kilpatrick. They received a first place award from Keep Texas Beautiful.

- **Proclamation - Parks and Recreation Month**

Mayor Pro Tem Filidoro presented a proclamation for Parks and Recreation Month (July 2010) to members of the Parks and Recreation staff.

**H. PUBLIC PARTICIPATION**

No speaker forms were submitted.

## 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 commented that at a recent meeting, the Council talked about canister monitoring of oil and gas drilling. He stated the Town was working to do more than having to wait at least ten days for the results. He wanted to see continuous monitoring from TCEQ, and a location at Fire Station #2 was being discussed. He noted that it may not be the optimum solution, but the Town was doing everything possible to monitor the air quality. He stated the Town was being very proactive. He noted that citizens will be able to see the analysis of air quality on-line.

Councilmember Lyda welcomed Deputy Mayor Pro Tem Hayden back from recent surgery.

Councilmember Wallace announced that the Citizens Police Academy would start a new class on August 26, 2010. This will be a free 11-week course.

Mayor Pro Tem Filidoro stated the Town was actively seeking board/commission applications and was reaching out to the community to engage the citizens. He noted that a decision package was in the 2010-2011 budget for broadcasting all board/commission meetings. Mayor Pro Tem Filidoro stated the first meeting of the Oil and Gas Advisory Board was held last week. He noted that only the public hearings of that Board would be televised.

## 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 commented that during a recent Regional Transportation Commission meeting, the Town was awarded \$2.5 million of Regional Toll Revenue funding for the FM 2499 flyover. He noted that the Council would have to approve another Advanced Funding Agreement. Recently Town staff, TxDOT, AT&T, and County Commissioners met to discuss the AT&T utility lines along FM 1171. The additional lines for Sections 2 and 3 will be placed underground. The contractor on FM 1171 should switch over to the new lanes for a portion of the project very soon. He noted that the timeframe deadline for Section 1 had been moved from November 2010 to March 2011. Progress was being made on the FM 2499 soundwall, and The Forums residents were pleased with the wall. The bids for Dixon Road were opened this month, and the winning bid was \$800,000 under budget. The Town will be moving forward with the design of Chinn Chapel.

Mayor Pro Tem Filidoro asked why there were fewer crews on the FM 1171 project.

Mr. Jefferson stated TxDOT had identified the pace as being slow since late last summer. They believed the bid document was flawed, as it allowed the contractor to work on intersections and that took an extended amount of time. TxDOT believed the contractor had primarily worked with developments rather than with state roadways.

Councilmember Lyda asked about the fencing material for the Morriss Road project.

Mr. Jefferson stated he received no comments on the composite product. Staff was also looking at pre-stained cedar and the costs associated with the project.

#### **K. CONSENT ITEMS**

Deputy Mayor Pro Tem Hayden made a motion to approve by consent Items 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13. Councilmember Lyda 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 work session of the Town Council held on June 17, 2010.**

**RECOMMENDATION:** Approve the minutes from a work session of the Town Council held on June 17, 2010.

2. **Consider approval of minutes from a regular meeting of the Town Council held on June 21, 2010.**

**RECOMMENDATION:** Approve the minutes from a regular meeting of the Town Council held on June 21, 2010.

3. **Consider approval of an ordinance amending the Town of Flower Mound's Annual Budget for the fiscal year beginning on October 1, 2009, and ending on September 30, 2010, as adopted by Ordinance No. 36-09 and amended by Ordinance Nos. 47-09, 01-10, and 21-10, for adjustments to the General Fund.**

This item was removed from the Consent Agenda by Councilmember Wallace.

4. **Consider approval of an agreement with Pattillo, Brown & Hill, L.L.P. for external financial audit services, in the amount of \$44,540, and authorization for the Mayor to execute the same on behalf of the Town.**

**RECOMMENDATION:** Approve an agreement with Pattillo, Brown & Hill, L.L.P., for external financial audit services, in the amount of \$44,540, and authorize the Mayor to execute the same on behalf of the Town.

5. **Consider approval of an Interlocal Cooperation Agreement with Denton County for the assessment and collection of ad valorem taxes for the period beginning October 1, 2010, and ending September 30, 2011, subject to renewal for an additional one-year term, and authorization for the Mayor to execute same on behalf of the Town.**

**RECOMMENDATION:** Approve an Interlocal Cooperation Agreement with Denton County for the assessment and collection of ad valorem taxes for the period beginning October 1, 2010, and ending September 30, 2011, subject to renewal for an additional one-year term, and authorize the Mayor to execute same on behalf of the Town.

6. **Consider approval of a resolution authorizing the adoption of the Town of Flower Mound's Program Years 2010-2014 Strategic Plan for Housing and Community Development; Program Year 2010 One-Year Action Plan; Citizen Participation Plan;**

**Residential Anti-Displacement and Relocation Assistance Plan; Analysis of Impediments to Fair Housing Choice; and Employment and Training Opportunities Section 3 Plan, which are required under the Town's Community Development Block Grant Project #B-10-MC-48-00420; and authorization for the Mayor to execute same on behalf of the Town and submit to the U.S. Department of Housing and Urban Development.**

**RECOMMENDATION:** Approve Resolution No. 15-10 authorizing the adoption of the Town of Flower Mound's Program Years 2010-2014 Strategic Plan for Housing and Community Development; Program Year 2010 One-Year Action Plan; Citizen Participation Plan; Residential Anti-Displacement and Relocation Assistance Plan; Analysis of Impediments to Fair Housing Choice; and Employment and Training Opportunities Section 3 Plan; and authorize the Mayor to execute same on behalf of the Town and submit to the U.S. Department of Housing and Urban Development. The caption of the resolution reads as follows:

**RESOLUTION NO. 15-10\_\_\_\_\_**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, PROVIDING FOR ADOPTION OF THE TOWN OF FLOWER MOUND'S PROGRAM YEARS 2010-2014 STRATEGIC PLAN FOR HOUSING AND COMMUNITY DEVELOPMENT; PROGRAM YEAR 2010 ONE-YEAR ACTION PLAN; CITIZEN PARTICIPATION PLAN; RESIDENTIAL ANTI-DISPLACEMENT AND RELOCATION ASSISTANCE PLAN; ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE; AND EMPLOYMENT AND TRAINING OPPORTUNITIES SECTION 3 PLAN, WHICH ARE REQUIRED UNDER THE TOWN'S COMMUNITY DEVELOPMENT BLOCK GRANT PROJECT #B-10-MC-48-0042.**

7. **Consider approval of a grant proposal to be submitted to the CoServ Charitable Foundation for funding to develop a long-range needs assessment and master plan for the Town Library; acceptance of money if the grant is awarded; and authorization for the Mayor to execute same on behalf of the Town. (The PALS Board recommended approval by a vote of 6 to 0 at the June 10, 2010, meeting.)**

**RECOMMENDATION:** Approve a proposal to be submitted to CoServ Charitable Foundation for a grant application for funding to develop a long-range needs assessment and master plan for the Town Library; acceptance of money if the grant is awarded; and authorize the Mayor to execute same on behalf of the Town.

8. **Consider approval of the appointment of three members to the Public Arts Committee with terms expiring September 30, 2012. (The PALS Board recommended approval by a vote of 6 to 0 at its June 10, 2010, meeting.)**

**RECOMMENDATION:** Approve Sweety Bowman, Linda McCall, and Louise Eberle as members of the Public Arts Committee with terms expiring September 30, 2012.

9. **Consider approval of an ordinance amending Chapter 66, Article V, Section 66-214 of the Code of Ordinances of the Town of Flower Mound, relating to school zone times and limits and prima facie speed limits for specific streets by adding, deleting, and amending various streets.**

**RECOMMENDATION:** Approve Ordinance 42-10 amending Chapter 66, Article V, Section 66-214 of the Code of Ordinances of the Town of Flower Mound, relating to school zone times and limits and prima facie speed limits for specific streets by adding, deleting, and amending various

streets. The caption of the ordinance reads as follows:

**ORDINANCE NO. 42-10**

**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 REMOVING SPECIFIC ENUMERATIONS PREVIOUSLY REQUIRED FOR SIX STREET LOCATIONS REVISING SPECIFIC ENUMERATIONS FOR TWENTY-TWO STREET LOCATIONS, ADDING THIRTY MORE STREET LOCATIONS TO THE LIST OF STREETS ENUMERATED THEREIN, AND IDENTIFYING THE MAXIMUM PRIMA FACIE SPEED LIMITS FOR SAID STREETS AND THE TIME FRAMES FOR SUCH REDUCED SPEEDS, IF APPLICABLE; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

10. **Consider approval of final acceptance for Bid No. 7409-B, ATMS Grant - Provide and Install Video Image Vehicle Detection Ethernet Radio Systems project, and authorization of final payment to Durable Specialties, Inc., in the amount of \$4,255.00.**

**RECOMMENDATION:** Approve final acceptance of Bid No. 7409-B, for the ATMS Grant - Provide and Install Video Image Vehicle Detection Ethernet Radio Systems project, and authorize final payment to Durable Specialties, Inc., in the amount of \$4,255.00.

11. **Consider approval of Addendum No. 1 for an increase in the amount of \$17,225.00 to the Professional Services Agreement with Kleinfelder Central, Inc., to provide geotechnical and material testing services associated with the Spinks Road Phase IV project, and authorization for the Mayor to execute same on the behalf of the Town.**

**RECOMMENDATION:** Approve Addendum No. 1 for an increase in the amount of \$17,225.00 to the Professional Services Agreement with Kleinfelder Central, Inc., to provide geotechnical and material testing services associated with the Spinks Road Phase IV project, and authorize the Mayor to execute same on the behalf of the Town.

12. **Consider approval of an ordinance vacating and abandoning the existing 7.5-foot utility easement located in the back yard of Lot 4, Block 7, Country Meadows Addition Phase II, also known as 6213 Cold Water Drive. Country Meadows Addition Phase II is generally located west of Morriss Road and south of Justin Road.**

**RECOMMENDATION:** Approve Ordinance No. 43-10 vacating and abandoning the existing 7.5-foot utility easement located in the back yard of Lot 4, Block 7, Country Meadows Addition Phase II. Country Meadows Addition Phase II is generally located west of Morriss Road and south of Justin Road. The caption of the ordinance reads as follows:

**ORDINANCE NO. 43-10**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, VACATING AND ABANDONING THE EXISTING 7.5-FOOT WIDE UTILITY EASEMENT LOCATED WITHIN THE BACKYARD OF LOT 4, BLOCK 7, COUNTRY**

**MEADOWS ADDITION, AN ADDITION TO THE TOWN OF FLOWER MOUND, DENTON COUNTY, TEXAS; DETERMINING THAT THERE IS NO CURRENT NOR PROJECTED FUTURE NEED FOR THAT PORTION OF SAID EASEMENT AS DEPICTED IN EXHIBIT "A"; REQUIRING A HOLD HARMLESS AGREEMENT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

13. Consider approval of an ordinance vacating and abandoning the northern 5 feet of the existing 15-foot utility easement located in the back yard of Lot 15, Block 27, Coventry at Bridlewood, also known as 4621 Manor Way. Coventry at Bridlewood is located west of Bridlewood Boulevard, north of Windsor Road, and south of Kings Road.

**RECOMMENDATION:** Approve Ordinance No. 44-10 vacating and abandoning the northern 5 feet of the existing 15-foot utility easement located in the back yard of Lot 15, Block 27, Coventry at Bridlewood. Coventry at Bridlewood is west of Bridlewood Boulevard, north of Windsor Road and South of Kings Road. The caption of the ordinance reads as follows:

**ORDINANCE NO. 44-10**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, VACATING AND ABANDONING THE NORTHERN 5 FEET OF THE EXISTING 15-FOOT WIDE UTILITY EASEMENT LOCATED ALONG THE SOUTHERN PROPERTY LINE WITHIN THE BACKYARD OF LOT 15, BLOCK 27, COVENTRY AT BRIDLEWOOD, AN ADDITION TO THE TOWN OF FLOWER MOUND, DENTON COUNTY, TEXAS; DETERMINING THAT THERE IS NO CURRENT NOR PROJECTED FUTURE NEED FOR THAT PORTION OF SAID EASEMENT AS DEPICTED IN EXHIBIT "A"; REQUIRING A HOLD HARMLESS AGREEMENT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**VOTE ON THE MOTION**

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

**L. REGULAR ITEMS**

3. Consider approval of an ordinance amending the Town of Flower Mound's Annual Budget for the fiscal year beginning on October 1, 2009, and ending on September 30, 2010, as adopted by Ordinance No. 36-09 and amended by Ordinance Nos. 47-09, 01-10, and 21-10, for adjustments to the General Fund. (This item was removed from the Consent Agenda by Councilmember Wallace.)

Councilmember Wallace commented that \$550,000 was being transferred into the General Fund as a result of a rebate from the hospital and an increase in legal expenses. He asked for the amount that was attributed to the hospital.

Assistant Town Manager/Chief Financial Officer Chuck Springer responded that the amount for the hospital was \$250,000. He noted that the Town entered into an agreement with the hospital for them to designate the point of sale for sales tax. The other transfer was for legal expenses in the amount of \$300,000.

Councilmember Wallace commented that one of the conditions of the process of

amending the budget was for unforeseen changes in the budget. He noted that the Town knew the hospital was coming last year at about the same time, and asked how this was designated as an unforeseen item.

Mr. Springer commented that when the initial discussions were held with hospital staff, they were not sure about the rebate item. The first request for a rebate was in February 2010, and the size of the rebate was larger than anticipated. The number was based on an estimate from the hospital for the rest of the fiscal year.

Councilmember Wallace asked for the percentage of increase in legal expenses.

Mr. Springer responded that staff budgeted \$574,000 in the General Fund for FY 2009-2010. The increase was \$300,000 which totaled about 52%. There had been an increase in legal expenses due to lawsuits against the Town.

Councilmember Wallace noted that the staff report did not include this explanation.

Mr. Springer commented that the Home Rule Charter allowed for the Town Manager to make budget amendments within a department, but not transfers between departments.

Councilmember Wallace requested that staff include more information and clarity in the future. He asked if staff members who were recently let go could have been saved if there had been a similar budget transfer.

Mr. Springer stated that about half of the savings came from changes in the Town's health plan and from the vacant positions.

Deputy Mayor Pro Tem Hayden stated that legal expenses were estimated at \$575,000, and the average over the last six years had been \$795,000. The Town had not really exceeded what the average was over that time. He asked if the greatest expense had been from an activist group that wanted to bring in high-density apartments.

Mr. Jefferson stated there was a lawsuit regarding low-income housing, and it was a federal suit. Many of the costs were for the consultants and experts that came in to testify during the trial.

Deputy Mayor Pro Tem Hayden asked if low-income housing would be mandated if the Town lost the lawsuit.

Mr. Jefferson stated that during the opening statements, the Town was accused of failing to identify a tract of land where low-income housing could be built.

Mr. Welch stated this type of case was a Fair Housing Act case. Very few had ever been tried in federal court. These types of suits are expert-intensive and not necessarily fact-based intensive. He noted that the Town had experts from Chicago, Las Vegas, and Dallas that testified on behalf of the Town.

Mayor Pro Tem Filidoro stated that federal officials took this type of lawsuit very seriously, and it was not unusual to have unforeseen costs with this type of suit.

Mr. Welch commented that ICP also filed a lawsuit against McKinney, and they were in mediation about a year ago. The demand was to approve the program and let ICP build the



housing, and for the city to pay all lawyer fees. The trial concluded last week in Sherman. He noted that ICP had guaranteed the cities that if they lose the trial, they will go all the way to the Supreme Court.

Councilmember Wallace stated his interest was in government transparency and increasing it. Had he not pulled this item from the Consent Agenda, it would have been approved with no information to the public. He felt this item needed additional clarity than was not included in the packet, and that staff should supply additional information in the future.

Councilmember Lyda moved to approve Ordinance No. 45-10 amending the Town of Flower Mound's Annual Budget for the fiscal year beginning on October 1, 2009, and ending on September 30, 2010, as adopted by Ordinance No. 36-09 and amended by Ordinance Nos. 47-09, 01-10, and 21-10, for adjustments to the General Fund. Councilmember Wallace seconded the motion. The caption of the ordinance reads as follows:

**ORDINANCE NO. 45-10**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE TOWN'S BUDGET FOR THE FISCAL YEAR BEGINNING ON OCTOBER 1, 2009, AND ENDING ON SEPTEMBER 30, 2010, AS ADOPTED BY ORDINANCE NO. 36-09 AND AMENDED BY ORDINANCE NOS. 47-09, 01-10, AND 21-10; for adjustments to the GENERAL FUND; PROVIDING THAT EXPENDITURES FOR SAID FISCAL YEAR SHALL BE MADE IN ACCORDANCE WITH SAID BUDGET, AS AMENDED; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

Mayor Pro Tem Filidoro stated he talked with Mr. Springer and Mr. Jefferson last Friday, and the lawsuit was very intensive and was going well.

**VOTE ON THE MOTION**

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

- 14. **Consider approval of a resolution creating a Sign Regulation Stakeholders Committee, appointing committee members, and providing an effective date. (This item was postponed at the May 17, 2010, Town Council meeting.)**

Councilmember Wallace stated the Council had previously discussed each member appointing someone, and additionally including a Chamber of Commerce representative, and the Planning & Zoning Commission Chair and Vice Chair (Nick Hollingshad and Tom Goss, respectively).

Councilmember Wallace appointed Bill Collins. Councilmember Lyda appointed Tim Trotter. Mayor Pro Tem Filidoro appointed Karen Wilkerson. Deputy Mayor Pro Tem Hayden appointed Hal Callahan. The Chamber representative was Russ Webb. Town Secretary Paula Paschal noted that Councilmember Dixon had indicated he would appoint Duane Baccus and Mayor Northern had sent an email appointing Gail Dwight.

Deputy Mayor Pro Tem Hayden asked staff how they anticipated the Committee making a recommendation.

Doug Powell, Executive Director of Development Services, anticipated a minimum of 90 days for the Committee's review, as the Sign Code was 125 pages long.

Deputy Mayor Pro Tem Hayden asked staff to send a Council Communication when the recommendations were finalized.

Mayor Pro Tem Filidoro asked when the Sign Code was last reviewed.

Mr. Powell stated there had been minor changes over the years, however, a comprehensive review of the Sign Code had not been done in a long time.

Mayor Pro Tem Filidoro stated the Sign Code was a huge issue in the Town and the committee would have to work very hard over the next several months. He looked forward to progress reports along the way.

Councilmember Wallace emphasized that the Committee should proceed as expeditiously as possible by reviewing open house signs first and bringing a recommendation to the Town Council before proceeding on. He stated that would be in the interests of realtors, residents, and future residents.

Mayor Pro Tem Filidoro commented that 80-85% of local realtors had tried to stay within the regulations. He stated the realtors should self-police their own industry.

Deputy Mayor Pro Tem Hayden asked if the ordinance would be amended in pieces or if there would be a comprehensive review.

Mr. Jefferson commented that in previous discussions, there were two options, but no real conclusion was ever reached. The Council could direct the Committee to address realtor signs first and then look at the entire rest of the ordinance. The process could take anywhere from 90 days to 12 months, depending on the direction.

Councilmember Lyda was concerned about signage on the backs of buildings/businesses. He suggested prioritizing the areas of concern as follows: open house signs, street fronting/back of building signs, design of monument signs, off premise signs, size of signs, pole signs (to allow for additional street signs), and banners.

Councilmember Wallace was in agreement with Councilmember Lyda. He wanted the Town to take swift action regarding the Sign Code.

Councilmember Wallace moved to approve Resolution No. 16-10 creating a Sign Regulations Stakeholders Committee, appointing committee members (Bill Collins, Tim Trotter, Karen Wilkerson, Hal Callahan, Russ Webb, Duane Baccus, Gail Dwight, Nick Hollingshad, and Tom Goss), and providing an effective date. Deputy Mayor Pro Tem Hayden seconded the motion.

Councilmember Lyda asked to amend the motion to change the priority of the issues to open house signs, street fronting/back of building signs, off premise signs, size of signs, pole signs (to allow for additional street signs), banners, design of monument signs. Councilmember Wallace seconded the amendment.

The caption of the resolution reads as follows:

**RESOLUTION NO. 16-10**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, CREATING THE SIGN REGULATION STAKEHOLDERS COMMITTEE AND DEFINING THE COMMITTEE'S RESPONSIBILITIES; APPOINTING MEMBERS TO SERVE ON THE SIGN REGULATION STAKEHOLDERS COMMITTEE; AND PROVIDING AN EFFECTIVE DATE.**

**VOTE ON THE MOTION**

**AYES:** Filidoro, Hayden, Wallace, Lyda

**NAYS:** None

**ABSENT:** Dixon

15.

**Public Hearing**

**Public Hearing to consider approval of a resolution authorizing the application of a grant proposal to be submitted to the Texas Parks & Wildlife Department, for funding assistance for the Wilson-Carmel Park Project; acceptance of money if the grant is awarded; and authorization for the Mayor to execute same on behalf of the Town.**

**Staff Presentation**

Gary Sims, Executive Director of Community Services, stated the Town was seeking matching funding from the Texas Parks and Wildlife (TPW) for \$500,000. He stated the Town recently approved the Parks and Trails Master Plan. He stated the TPW had two calls for grants each year. One condition of the application was to conduct a public hearing to solicit input. This item had been presented to the PALS Board and had been discussed with the Community Development Corporation (CDC). The Town's portion was set aside for the Wilson-Carmel tract in CDC funds. The Town should find out in January if the grant was received. If funded, the Town would move the Wilson-Carmel tract ahead of schedule. The funding was being requested for surface trails, a skate park, disc golf, signage, natural/conservation amenities, picnic pavilion, restrooms, an inclusive accessible playground with a nature learning theme designed for all able and challenged youth, an off-leash dog exercise area, a splash pad, an amphitheater with restrooms and grass seating, volleyball, croquet, and bocce courts, horseshoe and washer pits, and dedicated conservation areas with overlooks.

**Questions and Answers From the Governing Body**

Councilmember Wallace asked about the grant accessibility since the state of Texas had a budget deficit.

Mr. Sims stated the grants were funded in the state budget already.

Deputy Mayor Pro Tem Hayden asked if the Town could receive more than one grant, particularly for a permanent senior center.

Mr. Sims stated this particular grant was for outdoor recreation and there was another one for indoor facilities (\$750,000). He stated the Town could only have one grant from each side until the projects were complete, and a municipality had up to three years to complete a project.

**Public Comments**



Paul Stone, 709 Lake Bluff Drive, Flower Mound

Mr. Stone recalled where the Town had received other grants and they were not all matching, however it was good to see the residents participating with tax dollars. He felt secure the Town would receive the grant and was in support of the item.

### Close Public Hearing

### Council Deliberation

Deputy Mayor Pro Tem Hayden moved to approve Resolution No. 17-10 authorizing the application of a grant proposal to be submitted to the Texas Parks and Wildlife Department, for funding assistance for the Wilson-Carmel Park Project; acceptance of money if the grant is awarded; and authorize the Mayor to execute same on behalf of the Town. Councilmember Lyda seconded the motion. The caption of the resolution reads as follows:

### RESOLUTION NO. 17-10

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, DESIGNATING AN OFFICIAL TO ACT FOR AND ON BEHALF OF THE TOWN WITH THE TEXAS PARKS & WILDLIFE DEPARTMENT REGARDING THE LOCAL PARK GRANT PROGRAM; CERTIFYING THAT THE TOWN IS ELIGIBLE TO RECEIVE PROGRAM ASSISTANCE; CERTIFYING THAT THE TOWN MATCHING SHARE IS READILY AVAILABLE; DEDICATING THE PROPOSED SITE FOR PERMANENT PUBLIC PARK AND RECREATIONAL USES; AND CERTIFYING THAT THE APPLICATION HAS BEEN SUBMITTED TO THE NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS FOR TEXAS REVIEW AND COMMENT SYSTEM (TRACS) CONSIDERATION.**

### VOTE ON THE MOTION

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

Mayor Pro Tem Filidoro opened Items 16 and 17 together.

16. **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. (The Planning and Zoning Commission recommended approval by a vote of 3 to 2 at its June 14, 2010, meeting.) (This item was tabled at the June 21, 2010, Town Council meeting.) We received a request to table this item until July 22, 2010.
17. **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." (This item was tabled at the June 21, 2010, Town Council meeting.) We received a request to table this item until July 22,**

**2010.**

Town Manager Harlan Jefferson explained that the items were asked to be tabled to a special called meeting on July 22, 2010 when he had learned that two voting members would be absent this evening. However, only one voting member was absent.

**Staff Presentation**

Doug Powell, Executive Director of Development Services, stated the two items were companion pieces. The first would repeal provisions of the zoning code. The other was to adopt new standards for pipelines, and would repeal action that was taken on January 21, 2010.

Dr. Kenneth Tramm, Kleinfelder

Dr. Tramm gave the following presentation.

































### Questions and Answers From the Governing Body

Councilmember Wallace clarified with Dr. Tramm that the results of the testing showed that the monitored levels were the same as normal suburban/urban air with or without gas drilling.

Dr. Tramm stated that was correct.

Matt Woods, Director of Environmental Services stated that the Sam Wilson #2 pad site had two compressors and three proposed compressors. He pointed out specific landmarks for the Town Council.

Councilmember Wallace asked Dr. Tramm to talk about risks.

Dr. Tramm stated the specific site was not unlike similar compressor facilities other than the horizontal drilling line. He stated in that line was where ESLs might be present.

Mayor Pro Tem Filidoro asked Dr. Tramm to comment on the horizontal vent systems versus vertical systems.

Dr. Tramm responded that with any piece of equipment, there would be some type of emissions. Most compressors used a vertical stack.

Councilmember Wallace asked if formaldehyde and acrolein were carcinogens.

Dr. Tramm responded no.

Councilmember Wallace noted there had been seven air quality tests conducted in the last few months. None of these tests had either component in them. He asked if these compounds would be detected if there was a permanent testing facility with the TCEQ.

Dr. Tramm stated he had not seen all the previous sampling. These compounds would also be present if someone was modeling vehicle emissions.

Deputy Mayor Pro Tem Hayden stated that the study showed a small uptick. He stated the Town needed to prevent the air quality from getting worse.

Dr. Tramm stated he had the benefit of sampling from two quarters. It did show a trend, but it was very small, and the detections were when the testing was done right next to the pad itself.

Deputy Mayor Pro Tem Hayden asked Dr. Tramm if he expected the testing numbers to increase as the number of wells increased.

Dr. Tramm stated one could expect to see the numbers increase around certain activities on pad sites, and if the operations produced some type of emissions. Some operators were more diligent than others about their operations.

Town Manager Harlan Jefferson stated that this model was used to look out into the future about compressors (centralized and decentralized). Neither one would affect residents, but a centralized one would have a bigger footprint.

Dr. Tramm stated the primary source of emissions was an existing compressor with a

horizontal stack.

Councilmember Wallace stated he was hearing that health concerns were greater for dry cleaners that used toxic products than for the gas wells. He stated it might be a good idea to do a comparison of where cleaners are located and how close they are to residents.

Mr. Jefferson stated that a Specific Use Permit was required for dry cleaner plants in Flower Mound, and he did not recall that any such permits had ever been issued.

Councilmember Lyda asked how many compressors an average dry cleaner business had.

Dr. Tramm stated that dry cleaners used small compressors.

Councilmember Lyda commented that continuous air monitoring would give real life data and he looked forward to that happening.

Mayor Pro Tem Filidoro stated continuous air monitoring was good for prevention.

Councilmember Lyda stated a compressor was just an engine. He asked why a natural gas engine was better than an electric one.

Dr. Tramm stated that an electric engine required a power source and there was difficulty regulating potential surges.

Deputy Mayor Pro Tem Hayden stated that several months ago Williams sued the Town to condemn public land, and discussions had been held regarding settlement agreements. As part of the settlement, Williams asked for centralized compression. Deputy Mayor Pro Tem Hayden had heard that electrical compressors were better for air quality than combustion engines. He asked if there was a tangible benefit to the air quality with centralized compression as opposed to compressors at each pad site.

Dr. Tramm stated many criterions were needed to decide what was better. It depended on where the receptors were located in comparison to the compressors.

Mayor Pro Tem Filidoro asked if it was possible to clean up the existing compressor.

Mr. Jefferson stated he would speak to the operator about the existing compressor. He summarized where the Town was in working with Williams. The Town requested that Williams not bring a produced water pipeline in Flower Mound, and Williams agreed. Williams provided the line of sight drawing of the proposed centralized compression facility from FM 1171. The Town requested that Williams provide \$250,000 for air monitoring instead of \$125,000. The funding was needed to purchase a 24-hour air monitoring facility. Since that time, TCEQ agreed to construct the facility in Flower Mound at Fire Station #2. The Town just needed sufficient equipment for monitoring and staffing. TCEQ would also add a second facility for measuring green house gasses. Williams was requested to provide an analysis on blast radius information and they did provide the information. It showed that based on the pressure of the high-pressure gas lines that run through Flower Mound, a blast radius was within the 1,000-foot setback that would be required. The Town asked for a PSI for compression facilities and pad sites, and Williams complied. Williams was requested to provide a site plan for the compression facilities, and it would be an attachment to the settlement agreement. Williams was requested to install electric compressors, and they did not agree to this. Williams was

requested to install high-low pressure automatic shut off devices, and they agreed to do so. Williams was requested to develop low-frequency standards for compression facilities, and they complied. Mr. Jefferson commented that a councilmember understood that when staff stated Williams should install vapor recovery on the Sam Wilson tract, he thought it would be at all current pad sites and all future sites. Williams had expressed some concerns about making those installations at the current sites. Williams communicated to staff that if they could not reach an agreement with the Town, they would pursue another site outside the Town corporate limits. He showed the Atmos line that runs through the Town. If a company was installing a compression site, it would have to be near that line. The Atmos line crossed the extraterritorial jurisdictions of Flower Mound, Bartonville, and Argyle. Mr. Jefferson stated that there were two outstanding issues with the agreement—vapor recovery at all sites and the electric compressors—and he recommended not moving forward with changes to the pipeline ordinance.

Mayor Pro Tem Filidoro asked if it would have been possible to put the first compression station on a different site.

Mr. Jefferson responded yes.

Mayor Pro Tem Filidoro stated it was not uncommon for other cities to not want a compression site in their community. Most communities asked for the facilities to be in a more rural area.

Mr. Jefferson commented that Burleson had a compression site outside their city limits. Tanks were moved away from the school areas. In Argyle, Williams was told compression facilities and produced water facilities had to be outside the Argyle city limits.

Deputy Mayor Pro Tem Hayden stated that if there was no resolution with the lawsuit, compression stations would be moved out of Flower Mound. He asked if there would be connections to wells in Double Oak and Argyle.

Mr. Jefferson stated Williams was seeking compression capacity on the Smith and Cummings sites. There was one other pad site in Bartonville that would probably be connected.

Mr. Welch noted that Mockingbird Pipeline wanted to take an easement across the Fire Station #2 property last the winter. Since that time they sought a permit to build the pipeline around Fire Station #2. The pipeline was completed and fully operational.

Mayor Pro Tem Filidoro asked about the public hearing on the agenda.

Mr. Jefferson stated that if the Council elected to table Items 16 and 17, it was not necessary to open the public hearing.

Mr. Welch added if there was a motion to table, it would need to be done prior to opening the public hearing.

Councilmember Wallace felt it would be wise to table both items until August 2, as the public had seen the agenda and might not know they were not going to be tabled.

Deputy Mayor Pro Tem Hayden stated there was no real catalyst for residents that a compression facility would improve something for the Town, and he was not inclined to support the items.

Deputy Mayor Pro Tem Hayden moved to indefinitely table Items 16 and 17. Councilmember Lyda seconded the motion.

**Discussion on the Motion**

Deputy Mayor Pro Tem Hayden stated that best practices from the drilling companies should be established. He stated it was discouraging that the Town had to go through a lawsuit to get improvements from the companies.

Mayor Pro Tem Filidoro asked if the motion was approved, were both items basically “kill ed.”

Mr. Jefferson responded yes, and a company would have to start the process over by going through the Planning & Zoning Commission.

Councilmember Lyda looked forward to the recommendations from the Oil and Gas Advisory Board.

**VOTE ON THE MOTION**

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

**M. COORDINATION OF CALENDARS AND FUTURE AGENDAS/MEETINGS**

No discussion.

**N./O. CLOSED/OPEN MEETING**

The Town Council convened into a closed meeting at 9:14 p.m. on July 19, 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, pending litigation, real property, personnel, and economic development negotiations and reconvened into an open meeting at 10:33 p.m. on July 19, 2010 to take action on the items as follows:

1. **Discuss and consider economic development incentives.**  
No action taken.
2. **Discuss and consider acquisition and/or lease of real property for municipal purposes and all matters incident and related thereto.**  
No action taken.
3. **Discuss and consider acceptance of the Town Secretary’s letter of retirement and the process for searching for a replacement.**  
No action required or taken.
4. **Discuss The Inclusive Communities Project, Inc. v. Town of Flower Mound,**



Texas, Civil Action No. 4:08-CV-0433, pending in the United States District Court for the Eastern District of Texas, Sherman Division.

No action taken.

5. 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.

6. 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 Pro Tem Filidoro adjourned the regular meeting at 10:34 p.m. on Monday, July 19, 2010, and all were in favor.

**TOWN OF FLOWER MOUND, TEXAS**

---

**ALBERT FILIDORO, JR., MAYOR PRO TEM**

**ATTEST:**

---

**PAULA J. PASCHAL, TOWN SECRETARY**