

THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 4th DAY OF OCTOBER, 2010 IN THE FLOWER MOUND TOWN HALL, LOCATED AT 2121 CROSS TIMBERS ROAD IN THE TOWN OF FLOWER MOUND, COUNTY OF DENTON, TEXAS AT 6:00 P.M.

The Town Council met in a regular meeting with the following members present:

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

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

Harlan Jefferson	Town Manager
Joy Franklin	Executive Assistant
Terry Welch	Town Attorney
Chuck Springer	Assistant Town Manager/Chief Financial Officer
Kent Collins	Assistant Town Manager
Kenny Brooker	Police Chief
Gary Sims	Executive Director of Community Services
Doug Powell	Executive Director of Development Services

A. CALL BRIEFING SESSION TO ORDER

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

B. BRIEFING SESSION

1. Town Council Boards and Commissions Subcommittee Reports

Mayor Pro Tem Filidoro attended the Planning and Zoning Commission meeting on September 27, 2010, and the main topic of discussion was the sign ordinance.

2. Discuss Consent and Regular Items

Councilmember Dixon requested that Consent Items 1, 2, 3, and 4 be pulled from the Consent Agenda and be placed on the Regular Agenda.

3. Discuss Future Agenda Items

None

4. Discuss Council Communications

Town Manager, Harlan Jefferson stated that there was one outstanding Council Communication regarding the Master Plan update process. He asked the Council if they would like the Master Plan update brought to a work session.

Mayor Northern stated that the Council agreed that no work session was necessary.

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 6:06 p.m.

E. INVOCATION

Mike Liles gave the invocation.

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

Mayor Northern led the pledges.

G. PRESENTATIONS

- **Presentation by Williams Production Company, LLC regarding gas drilling operations in the Town of Flower Mound**

Lucas Smith, Environmental Health and Safety Specialist for Williams Production Company, gave a powerpoint presentation. The presentation is on file, and available for viewing, in the Town Secretary's Office.

Deputy Mayor Pro Tem Hayden asked if the first spill only contained water and sand.

Mr. Smith stated that it was 99% salt and water. He stated that there could be traces of any elements picked up from a natural source that could be dissolved in water.

Deputy Mayor Pro Tem Hayden asked if there could be any residual chemicals used during the fracing process in the remaining 1%.

Mr. Smith stated that there was a potential for chemicals but they would be less than 99% of what was spilled.

Mayor Northern asked if it was the same contractors with all three spills.

Mr. Smith stated that there were approximately six companies on site during the three spills.

Mayor Northern asked if Williams was ultimately responsible for the spills.

Mr. Smith stated that Williams took responsibility for the spills.

Deputy Mayor Pro Tem Hayden asked Mr. Smith to list the service companies at the Charlie Cummins well site.

Mr. Smith stated that Williams took the responsibility for the companies. He stated that Williams performed all the necessary measures after the spills occurred.

Councilmember Lyda asked if Williams trained their contractors or just their direct employees.

Mr. Smith stated that they first trained the employees.

Councilmember Lyda asked if their contractors had received additional training.

Mr. Smith stated that they had a meeting with the contractors regarding performance and they gave them the protocols to be followed.

Councilmember Lyda asked how Williams ensured that their contractors were following the protocols.

Mr. Smith stated that they had personnel on site to check up on the contractors.

Deputy Mayor Pro Tem Hayden asked if the communication protocol was followed on all three spills.

Mr. Smith stated that the protocol was not followed on the first spill. He stated that field personnel **didn't** call their supervisor. He stated that the field personnel **didn't** understand that truck traffic could be allowed outside the normal hours in the event of an emergency. He stated that it was a misinterpretation of the ordinance and had the field personnel called the supervisor the misunderstanding would have been avoided.

Deputy Mayor Pro Tem Hayden asked when the incident was reported to the Town.

Mr. Smith stated that the Town was contacted between 7:00 am and 9:00 am.

Deputy Mayor Pro Tem Hayden asked if the supervisor and Town not being contacted immediately about the spill affected the outcome of the situation.

Mr. Smith stated that if he had been notified he would have told them to get pump trucks out on site to drain the tanks and to get shovels to prevent the spill from going off the pad. He **stated that the Town not being notified didn't affect the outcome.**

Mayor Pro Tem Filidoro stated that the Town needed to know that best practices in the country were being performed.

Mr. Smith stated that Williams Company evaluated every best practice available. He stated that each site was evaluated for the best practices for that site.

Deputy Mayor Pro Tem Hayden asked for the definition of best practices.

Mr. Smith stated that it was the best available in the industry. He stated that the best practices had to be reliable and valid to the situation.

Deputy Mayor Pro Tem Hayden clarified that it would be the most current technology and operation available.

Mr. Smith stated each best practice as long as reliable and valid would be evaluated to see if it would work in their environment.

Deputy Mayor Pro Tem Hayden asked if the service companies followed the same guidelines.

Mr. Smith answered yes.

Deputy Mayor Pro Tem Hayden asked if Williams did periodic air monitoring of the sites.

Mr. Smith stated that they had done monitoring.

Deputy Mayor Pro Tem Hayden asked if the data was released to the Town.

Mr. Smith answered yes.

Deputy Mayor Pro Tem Hayden asked if air testing was ever done during fracing.

Mr. Smith stated that he was not sure if there was data on air testing during fracing. He stated that the emissions released during fracing were a short term exposure of a limited amount.

Mayor Pro Tem Filidoro asked if Williams was doing what was best for the Town or for their company.

Mr. Smith stated that the goal was for both.

Mayor Pro Tem Filidoro asked for an explanation of the best practice evaluation process.

Mr. Smith used the example of air sampling. He stated that they had an air review team that would find ways to mitigate air emissions and evaluate if it could be done in the specific environments. Mr. Smith stated that sometimes a best management practice could create other problems.

Deputy Mayor Pro Tem Hayden stated that Williams had told him that VOC's were not emitted with dry gas. He stated that TCEQ reported 53 VOC's at the Wilson site but they had not received the report back of the make-up of the VOC's. He asked what would cause VOC's at that location.

Mr. Smith stated that he would need the details of the sampling collection. He stated that the only VOC's they picked up from the gas in that area was propane.

Councilmember Dixon asked for explanation on the berming on the pad sites to mitigate potential spillage.

Mr. Smith stated that on the Cummings site they piled dirt one to two feet high along the edges where the water flowed where it would potentially impact the pond located down stream. He stated that they also built dirt berms around the temporary storage tanks to mitigate anything coming out of them. Mr. Smith stated that the berm would alleviate anything from leaving the location.

Councilmember Dixon asked what a mulch berm was for.

Mr. Smith stated that the mulch berm was for storm water run-off. Mr. Smith stated that it soaked the salt up during first spill.

Councilmember Dixon asked if both the dirt and mulch berms were being maintained on the sites.

Mr. Smith answered yes.

Councilmember Lyda asked what was involved in remediation of a site spill.

Mr. Smith stated that if there were levels of hydrocarbons and chlorides lower than the clean level requirement the dirt could be left in place.

Councilmember Lyda stated that that concerned him that they were trying to get it to the clean level and not removing the dirt to make it as pristine as possible.

Mr. Smith stated that removing the soil would cause more damage.

Councilmember Wallace asked if there were opportunities to share and learn from mistakes made with other companies inside and outside the Barnett Shale.

Mr. Smith stated there was a local forum within the Barnett Shale called the North Texas Exploration and Production Safety Network where all the organizations go and share information. Mr. Smith stated that safety, health, and environmental **didn't** stop at company lines.

Mayor asked if the meeting he was referring to were the STEPS meetings.

Mr. Smith stated that it was NTEPS in north Texas.

Deputy Mayor Pro Tem Hayden read the following details from the TCEQ report that was referenced earlier in the meeting report "On September 23, 2010 at 20:20 hours TCEQ staff arrived in the area of the complaint, a faint periodic hydrocarbon was detected near the intersection of Scenic Drive and FM 1171. Investigators obtained a read of 53 parts per million outside the Williams compression station main gates. A summa canister was utilized to take a 30 minute air sample from 21:05 to 21:35. The wind was from the southeast at the time the sample was taken, thus the sample position was down wind of the target facility. We take our canister and send it to Austin to have it analyzed" Deputy Mayor Pro Tem Hayden asked how **the VOC's** could have come about. He asked if there could have been leaks in the equipment.

Mr. Smith stated that truck traffic was one of the biggest readings that would have been picked up. He stated that the gasoline in cars had a higher concentration than the natural gas produced in that area.

Deputy Mayor Pro Tem Hayden asked if there had been spills in Flower Mound that **hadn't** been reported.

Mr. Smith answered no.

Deputy Mayor Pro Tem Hayden stated that there were residents concerned with noise. He asked if they had policies and procedures in place to ensure the noise guidelines are being followed.

Mr. Smith stated that any time a complaint was received they take noise measurements and have never been out of compliance.

Mayor Northern asked for Mr. Smith to explain the specific procedures they followed.

Mr. Smith stated that they had a noise management plan which was required by the Town. He stated that the noise management plan determined if noise mitigation measures would be needed. He stated that on the Cummings site a soundwall was required during the fracing and compressing operations. He said that once the soundwall was installed they had a

third party company take measurements to ensure compliance which was produced in a report.

Deputy Mayor Pro Tem Hayden asked if he would give the Town a copy of the report.

Mr. Smith stated that he would give Matt Woods a copy.

Deputy Mayor Pro Tem Hayden asked if there were policies in place to ensure the work hours set by the Town were being followed.

Mr. Smith stated that there was a supervisor on site that ensured compliance.

Deputy Mayor Pro Tem Hayden asked if there had ever been a problem with compliance of hours.

Mr. Smith answered no. He stated that they had requested longer hours for special circumstances.

Mayor Pro Tem Filidoro asked if their process with the noise issues was reactive or proactive.

Mr. Smith felt that they were proactive with the soundwalls and measurements to ensure compliance while it was there.

Councilmember Lyda thanked Mr. Smith for the presentation. He stated that Williams needed to do everything in their power to stop the spills.

Mr. Smith stated that the spills angered him as much as it did staff. He stated that he had gone a year with no spills in the Barnett Shale.

Mayor Pro Tem Filidoro stated that Williams was facing the issue of losing their credibility. He stated that residents needed to know the spills were not going to happen.

Mr. Smith stated that they were continually working toward fixing the issues.

Deputy Mayor Pro Tem Hayden stated that the Town needed to look at the amount of insurance that was being charged. He stated that the residents of Flower Mound had high standards and **didn't** want their safety put in jeopardy. He stated that when Williams left the Town they would like it to be as if they were never there. He encouraged Williams to install vapor recovery devices even if they only made a marginal difference.

Mayor Pro Tem Filidoro asked what was left when they were finished with a site.

Mr. Smith stated that they took everything.

Mayor Pro Tem Filidoro asked if they took pipes.

Mr. Smith stated that it depended on the site. He stated that if a pipeline were being used for another well site then they were left in place. He stated that it was based on an agreement with the land owner.

Mayor Pro Tem Filidoro asked if they were conducting any surface waste.

Mr. Smith stated that they remove all waste located on a site.

Deputy Mayor Pro Tem Hayden stated that he had heard that a centralized collection facility would be in place for 20 to 30 years and when it was done it would have fresh water pumped through it and the pipes would be left.

Mr. Smith stated that it depended on the site.

Councilmember Wallace asked if he had received complains from Mr. Cummings on the spills.

Mr. Smith stated that Mr. Cummings was upset about the spills.

Councilmember Dixon asked Mr. Smith how the information flowed back to Williams corporate headquarters after a spill.

Mr. Smith stated that his first action was to take care of the emergency. He stated that he then would call his boss while the supervisor on site was also calling up the chain of command. He stated that he then would call the Town of Flower Mound and the Railroad Commission. He stated by 5:00 p.m. the day following the spill he would give a report to the Town.

Councilmember Dixon stated that Williams needed to get their act together and not let the spills happen again.

Mr. Smith stated that he agreed.

Deputy Mayor Pro Tem Hayden asked Mr. Welch if the Town could say that the health, safety, and welfare of the Town was being jeopardized.

Mr. Welch stated there could be a situation where a remedial action would need to be taken.

Deputy Mayor Pro Tem Hayden asked if the Town had ever had to do that.

Mr. Welch was not aware of that type of situation ever happening.

Deputy Mayor Pro Tem Hayden asked if it was the decision of the Railroad Commission.

Mr. Welch stated that if there was an immediate health, safety, and welfare issue the Oil & Gas Inspector had the ability to stop operations to prevent danger to people or property.

Mayor Northern thanked Mr. Smith for the presentation. She stated that she felt it was clear how the residents felt about **Williams's** performance in Flower Mound. She stated that they the Town expected that the actions Williams had taken to correct the problem would fix the issue.

H. PUBLIC PARTICIPATION

Jeff Tasker, 3709 Sandhurst, Flower Mound

Mr. Tasker stated that the Flower Mound Bar Association had a program called "**Wills for Heroes**" where free wills would be provided to Flower Mound Police Officers. He stated the event was on Saturday, October 9, 2010, from 10:00 am to 2:00 pm. He stated that they hoped to provide this service next year to the Flower Mound Firefighters.

Jerry Stevens, 4217 Rollo Court, Flower Mound

Mr. Stevens stated that three residents near Rollo Court were flooded during the last rain event. He stated that there had been a drainage problem on Rollo Court, John Court, and Gayle Court ever since they were built. He stated that the Timber Creek needed to be cleaned out to prevent future flooding. He stated that his subdivision was built in 1984.

Norma McDonald, 4221 Rollo Court, Flower Mound

Ms. McDonald stated that her neighbor had built up their property and caused water to pour onto her lot. She stated that two years ago the Town stopped her neighbor from bringing in dirt until the drainage problem was fixed. She stated that the problem was still not fixed. She stated that the day after the flood her neighbor brought in dirt again. Ms. McDonald asked if she could build a retaining wall or build her yard up and the Town had told her no. She asked why her neighbor was allowed to build their yard up and she was not. She mentioned talking to several engineering staff members.

Deputy Mayor Pro Tem Hayden asked how much damage was done to her property.

Ms. McDonald stated that there was \$3,700 in damage done to her property.

Deputy Mayor Pro Tem Hayden asked if Ms. McDonald would mind if he came to look at her property.

Ms. McDonald stated that he was welcome to come by.

Mayor Pro Tem Filidoro asked if she had taken civil action against her neighbor. He stated that it was it was against the law to revert water that way.

Ms. McDonald stated that she had not.

Robert Crotty, 4215 Rollo Court, Flower Mound

Mr. Crotty stated that in the 15 years he had lived in his house there had never been a flood the way that it flooded during the last rain event. He stated that due to the vegetation and trees around and under the bridge the water was being backed up and it needed to be addressed. He stated that the neighbor had built their property up and was changing the flood plain. He asked if the Town had a responsibility to enforce the code.

Mark Breheny, 1413 Willowcross Way, Flower Mound

Mr. Breheny stated that he was speaking on behalf of Narayan Srinevasan. Mr. Breheny stated that the Hilliard field being in the middle of so many residents and schools posed risks to the health, safety, and overall property values. He asked why the Council waited until May 28, 2010, to institute the gas drilling moratorium. He stated that he believed the Council had an opportunity to prevent the Hilliard application since it was submitted on May 27, 2010. He stated that he was disappointed that the Town had shown no interest in reviewing the City of **Southlake's** superior ordinances. He stated that in highly populated areas zoning restrictions would greatly help alleviate the unnecessary collision of interests of gas drillers and residents. He requested that the Town request an open presentation with the City of **Southlake's** attorney. He stated that he had heard from other residents that the Town Attorney and Town Council were giving input to the Oil and Gas Advisory Board and had turned down the recommendation of a board member to review the City of **Southlake's** approach to regulations to gas drilling practices. He asked the Council to allow the Oil and Gas Advisory Board to give recommendations in an environment of openness. He requested that the Council re-review the Hilliard application.

Christina Henry, 4500 Delaina Drive, Flower Mound

Ms. Henry stated that she had called TCEQ to report a noxious odor coming from the scenic gas facility. She stated that TCEQ stated they would visit the site to see if the VOC's registered more than five parts per million. She stated that the TCEQ initial test resulted in fifty-three parts per million and it would take thirty to sixty days to get the results from air quality test that they performed. She asked why it took someone like her to report the odor. She stated that she was concerned that the residents around the facility and Liberty Elementary would be exposed for months while waiting for the test results, citations, and repairs. Ms. Henry asked for a wind dispersion map and a permanent air quality monitor be installed at all schools near drilling locations. She stated that a Cook **Children's** study found that across Texas seven percent of children ages eight to nine suffer from asthma. She stated that in the Barnett Shale the rates were at twenty-five percent. She stated that the American Lung Association rated Denton County air an F. She stated that she was concerned about the Bunn site being refraced. She stated that the site was mishandled allowing the flaring of toxins. She requested that the Town use independent expert witness such as the City of **Southlake's** attorney to explore ways to strengthen the Town's ordinances.

Jennifer Rogers, 2608 Carterton Way, Flower Mound

Ms. Rogers stated that the citizens had donated over \$400 to have the Southlake Town attorney give a public presentation. She asked why a variance was required on Armstrong Huggins and not required on Hilliard. She stated that she believed the permit should be pulled and they should be required to go before the Oil and Gas Board of appeals to request a variance for their tank batteries that were within 1,000 feet of residences. She read the following excerpt from Mr. **Welch's** memo "**Even** a slight error in measurement could result in many months delay of drilling activities while another setback variance was **sought**". She stated that **Titan's** permit to drill should be delayed while a setback variance was sought. She stated that she **didn't** think it was practical to ask for a 510-foot variance when one **wasn't** needed unless it was closer than 500 feet. She stated that Mr. Welch said they were of mineral interest so they **didn't** need a variance unless it was less than 500 feet and it **didn't** imply that the 1,000-foot set back was mandated in all instances. She stated that she disagreed with Mr. Welch. She asked to see the Rule 11 Agreement.

Virginia Simonson, 3104 Native Oak, Flower Mound

Ms. Simonson stated that Judge Margaret Barnes made her ruling on the **Town's** Plea to the Jurisdiction against her lawsuit. She stated that she **didn't** have a copy of the order and **didn't** have any details on the reason for the ruling. She stated that the Judge **didn't** rule on the contention that the Flower Mound Oil and Gas Ordinance violates State zoning laws. She said that she contended that permitting gas wells without public hearing, without reasonable consideration of the suitability of the landuse changes, and with no view of conserving the value of the **resident's** homes the Town expressly violated the spirit and letter of the Texas Local Government Code. Ms. Simonson read the following Town attorney argument from the hearing "**The** court does not have subject matter jurisdiction over plaintiff claims because they cannot demonstrate that they have suffered any injury by the Town distinct from that of the general **public**". She stated that it was ok for the Town to violate State law as long as all the residents in the Town suffer the exact same damages from gas drilling. She stated that a member of the Flower Mound Citizens Against Urban Drilling told her that using the law to fight the issues was wasting time and that they only paid attention when there was a body count. She stated that the residents had taken extraordinary measures to stop the industrialization of the community. She requested that there be no more Council or staff interference in the Oil and Gas Advisory Board proceedings. She asked that the Town let the City of **Southlake's** attorney speak to the Oil and Gas Advisory Board.

Garrick Palmer, 4971 Red Rock Lane, Flower Mound

Mr. Palmer stated that he had health and safety concerns with the gas drilling and with the natural gas compressor station in the Bartonville ETJ. He stated that there was a gas line break on July 14, 2010, that was not reported. He said that when they severed the line they were not able to shut off the gas at the meter. He stated that one of the excavators approached his wife and asked her to call the gas company because they would not respond to the excavators. He stated that Williams should have reported the incident to the Texas Railroad Commission and did not.

Kendra Stephenson, 2321 Roadrunner Drive, Flower Mound

Ms. Stephenson stated that the legislative intent of the petition ordinance was expressed by about 6,000 people in Town. She stated that it was a result of people in Town not believing that there had been a full discussion related to CCF before the ordinance was passed. She stated that the make-up of the Oil and Gas Advisory Board was based on proven facilitated management meeting techniques. She stated that the Council was free to expend funds to get an expert when requested by the Oil and Gas Advisory Board. She stated that the goal of the board was to have a mechanism building consensus and recommendations that were conclusive of all sides. She stated that the reports had come out of the Advisory Board that lists what the Council will and will not accept. She stated that there were limits of how and why information was presented to the Board. She asked the Council to be as diligent to apply the ordinance as it was intended in relation to Mr. Hilliard's property.

Alok Bhaskar, 4517 Delaina Drive, Flower Mound

Mr. Bhaskar stated that he asked several questions during the Oil and Gas Board of Adjustment meeting on May 19, 2010, and during public participation at another Town Council meeting he requested that his questions be answered before the Hilliard permit was approved. He stated that the permit was approved before doing any risk analysis and response to critical safety questions. He stated that the administrative approval of a gas permit did not take any input on concerns raised during public participation of the Oil and Gas Board of Appeals. He stated that during ordinance review the Oil and Gas Advisory Board members should have the opportunity to look into the SUP versus general Board of Adjustment process and decide which was better. He stated that the Town's ordinances were designed to prevent lawsuits rather than protecting residents. He stated that the whole landscape of gas drilling including technologies and public awareness had changed over the last few years. He stated that the Town was trying to defend the old ordinances under the general Board of Adjustment umbrella. He stated that the Town needed to use the SUP process and allow public participation.

James Wall, 2500 Standford Drive, Flower Mound

Mr. Wall stated that he attended the court hearing for the suit that his neighbors had filed against the Town of Flower Mound. He stated that he believed the Town officials should be protecting them from such gas drilling operations. He stated that it seemed strange to see the Town lawyer sitting with the Titan and Hilliard lawyers. He stated that one of the arguments was that the court lacked authority to hear the case and that the citizens lacked standing to complain about the situation because all the people in the Town were in the same risk and they were not on the suit. He stated that they were facing a large scale gas well installation on Hilliard field. He stated that he was counting on the Council to keep the neighborhoods around Hilliard from having the problems that occurred in Dish.

Ullas Chadaga, 3609 Leanne Drive, Flower Mound

Mr. Chadaga stated that he was disappointed that the Council had mishandled the mandate that they were given. He stated that the current Council was responsible for Hilliard. He stated that by not delaying the approval of Titan's second permit while the first permit awaited the conclusion of the lawsuit, they ignored the residents who spoke against the permit. He stated they were ignoring the citizens concerns to conduct a risk analysis and to get additional legal opinions. He stated that the Council caved when Titan sued the Town in May of 2010. He read the following from the minutes of January 6, 2000, "Mayor Deluca stated the Council would continue to make sound decisions based on the wishes of Flower Mound residents and would not allow themselves to be paralyzed by fear of litigation. She thanked Town Attorney Terry Welch for his sound **advice**". He read the following from the minutes of November 6, 2000, "Mayor Deluca assured the public the Town Council had never been afraid of litigation and did not make decision based on fear of litigation or when **threatened**". He stated that it seemed decisions were made very differently in 2010. He stated that it was clear on May 19, 2010, that the residents **didn't** want the permit approved to drill on Hilliard field and yet they waited until May 28, 2010, to declare a moratorium on new gas permits which was the day after Titan submitted its amended application. He requested that for the discontinuation of the interference with the Oil and Gas Advisory Board. He asked the residents around Hilliard field to protest against Titan at the Texas Railroad Commission hearings. He stated that the Council had given the Town attorney too much power.

Stuart Chance 740 Teakwood Drive, Flower Mound

Mr. Chance stated that there was a lot of effort to put the Oil & Gas Advisory Board in place and the new Council put into office. He stated that there was progress in the beginning with an immediate CCF moratorium. He stated that the same moratorium was not put in place on oil and gas wells. He stated that they were disappointed that the Titan application was allowed to move forward and the administrative approval of the Hilliard site. He said the ordinance clearly stated that it was a 1,000-foot setback for tank batteries. He stated that the letter of the law needed to be read and not the spirit of the regulation. He stated that the Town attorney had more influence on what went on in the Town than the elected officials.

Dawn Tarpey, 3403 Diamond Point Drive, Flower Mound

Ms. Tarpey stated that before January 21, 2010, she believed the Council had the best interest of the residents in mind when making or changing ordinances. She stated that she helped elect a new Council majority specifically to help stop the proliferation of gas wells until a stronger oil and gas ordinance was written. She stated that she was elated when the variance request was denied to drill on Hilliard and the Council adopted a petition ordinance appointing an Oil and Gas Advisory Board. She stated that she was disappointed that an immediate moratorium **wasn't** issued allowing several new requests to be grandfathered. She stated that her rights were being ignored and her opinions were being dismissed. She stated that the Council **didn't** require the second application for Hilliard to go before the Oil and Gas Board of

Appeals and hid behind the staff that allowed upland habitat be chopped down and rewrote history regarding tank battery setbacks to residences. She stated that the Town attorney was restricting the discussions of the Oil and Gas Advisory Board. She stated that the public should have a right to speak in opposition or support for every gas well that was requested in Flower Mound and should be reviewed by a Planning and Zoning Board and the Town Council.

Ladd Biro, 3405 Veronica Drive, Flower Mound

Mr. Biro stated that it was obvious that “Spilliams” **wasn’t** concerned with citizen input. He stated that Mr. Smith left out that there was a fourth spill in Argyle. He stated that all the spills had happened since the election. He stated that there had been drilling for decades and still had not perfected their protocols. He stated that “Spilliams” had at least 16 spills of produced water from their coal bed methane wells in Wyoming. He stated that the combined spills in Wyoming amounted to nearly 1,000,000 gallons and they paid at least \$60,000 in fines. He stated that “Spilliams” **didn’t** take their spills seriously. He stated that he was concerned with the strangle hold the Town attorney had on the Council. He stated that it was time for the Terry Welch the Town Attorney to leave.

Mary Strickland, 3204 Springwood Road, Flower Mound

Ms. Strickland stated that the previous March or April Williams had said they were studying wastewater recovery, recycling, and vapor recovery and would like them to present their findings. She stated that her four year old grandson who lived in Flower Mound was diagnosed with leukemia on July 28. She stated that he had a blood transfusion, a platelet transfusion, bone marrow testing, had general surgery to put a port in his chest, received chemo, and received a spinal tap to inject chemo into his brain. She stated that the cost of the first hospital visit exceeded \$90,000. She stated that he went through 28 days of twice daily steroids with chemo that had changed his personality, caused weight gain, and caused his voice to change. She stated that another chemo that he took caused him to drag his foot. She stated that the medication caused him extreme pain requiring him to take pain medication including morpheme. She stated that every week he feared to go to the clinic. She stated that he had just finished phase two which included four weeks of weekly spinal taps to inject chemo in his brain. She stated that he was entering phase three in which every ten days he would have an injection of chemo. She stated that phase four would include shots of steroids. She stated that phase five where he would have three years of daily steroid along with a shot in his brain every three months. She stated that her **grandson’s** pediatrician believed it was linked to the drilling in Flower Mound.

Gwen James, 1536 Timbercreek Road, Flower Mound

Ms. James thanked her neighbors for making a stand regarding the flooding. She stated that in 2006 they took the Mayor, the Council, and staff at the time on a tour of the creek and surrounding area. She stated that they had shown them their concern with the dead trees as it was a fire hazard. She stated that after the tornado in 2009 several of the dead trees fell into the creek. She stated that there were several trees that had fallen on an Atmos pipeline. She stated that staff had told them it was the **resident’s** responsibility. She stated that they **didn’t** have the money and needed help getting government funding to get it taken care of. She presented the Council with pictures of the issues.

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 stated that TCEQ would have the air quality report completed in 2-3 weeks.

Mayor Pro Tem Filidoro thanked the community for their support for the summit club.

Mayor Northern announced that National Night Out was Tuesday, October 5, 2010. She also announced that the Flower Mound Performing Arts Theater was doing their last weekend for Greater Tuna.

J. TOWN MANAGER'S REPORT

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

Harlan Jefferson stated that in conjunction with National Night out the Police Department was hosting an Open House. He stated that the Fire Department would be hosting an Open House on Saturday, October 9, 2010.

Councilmember Lyda stated that there would be a blood drive at the Police Open House

Deputy Mayor Pro Tem Hayden asked Mr. Jefferson to confirm that there was air sampling around the Hilliard site on September 30, 2010 and October 1, 2010, and there would continue to be base line testing.

Mr. Jefferson stated that he was correct. He stated that the Town had done two ambient air tests which consisted of eight locations. He stated that a ninth location was added which was near the Hilliard site and the Town would start monthly testing.

Deputy Mayor Pro Tem Hayden stated that there was a new water well near the Hilliard site. He asked if the Town would be taking water sampling tests in that area.

Mr. Jefferson stated that once it was completed a sample would be gathered and once the well was operational another sample would be gathered.

Deputy Mayor Pro Tem Hayden asked if Mr. Welch had previously talked to the Oil and Gas Advisory Board about the SUP process.

Mr. Welch stated that they had made a presentation on the topic on August 17, 2010. He stated that he had not spoken with anyone on the Oil and Gas Advisory Board regarding the City of Southlake's Attorney issue.

Deputy Mayor Pro Tem Hayden asked for Mr. Welch's background in dealing with an SUP process.

Mr. Welch stated that he had 30 years of experience. He stated that during the presentation to the Oil & Gas Advisory Board they went through the pros and cons with the SUP process.

Deputy Mayor Pro Tem Hayden asked if he was familiar with the City of Southlake's oil and gas ordinance.

Mr. Welch answered yes.

Deputy Mayor Pro Tem Hayden stated that he wanted the Oil and Gas Advisory Board to have an opportunity to discuss everything and make an educated decision. He confirmed that Mr. Welch was capable to answer questions regarding an SUP process.

Mr. Welch stated that he and Alan Lathrom both were capable to answer SUP process questions. He stated that speaking to the City of Southlake attorney had never been brought up to him.

Councilmember Dixon stated that he had attended the reference Oil and Gas Advisory Board public hearing and the subsequent meeting regarding the Board of Appeals and the SUP methods. He stated that his understanding was that the Town Attorney would be going over the two methodologies so the Board could consider both.

Mr. Welch stated that the meeting was not only associated with the SUP process. He stated that it was regarding several issues associated with the Oil and Gas ordinance.

Councilmember Dixon wanted to assure the Board that they could explore and discuss those items regarding the SUP process.

Mr. Welch stated he and Alan had never said that they **couldn't** discuss anything related to the process.

Mayor Northern asked the Council not to attend the Oil and Gas Advisory Board meetings **so the board members didn't feel intimidated.**

Councilmember Dixon stated that it was a public hearing that he attended.

Mayor Northern stated that they **didn't** want to intimidate the Board. She stated that the Council had given direction to the Oil and Gas Advisory Board to seek out experts in the issues they were discussing. She asked Mr. Jefferson who residents should contact about seismic testing issues.

Mr. Jefferson stated that they should contact the Environmental Division or 972-539-SERV. He stated that the Town was monitoring and addressing reports of seismic testing to make sure there was no seismic testing in the **Town's** right-of-ways and were taking appropriate action for violations.

Councilmember Wallace stated that there was a bucket containing more than \$400 that was given to the Council during public participation. He asked what staff planned to do with the money.

Mr. Jefferson stated that he **didn't** realize there was cash given. He stated that the money would need to be returned.

Mayor Northern asked someone from the organization to take the bucket of money.

K. CONSENT ITEMS

Councilmember Dixon made a motion to approve by consent Items 1, 2, 3, and 4 with the change of Councilmember Dixon's place number from Place 2 to Place 1 on all of the items.

Mayor Pro Tem Filidoro 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 special meeting of the Town Council held on September 16, 2010.

RECOMMENDATION: Approve the minutes from a special meeting of the Town Council held on September 16, 2010.

2. Consider approval of minutes from a special meeting of the Town Council held on September 21, 2010.

RECOMMENDATION: Approve the minutes from a special meeting of the Town Council held on September 21, 2010.

3. Consider approval of minutes from a special meeting of the Town Council held on September 23, 2010.

RECOMMENDATION: Approve the minutes from a special meeting of the Town Council held on September 23, 2010.

4. Consider approval of minutes from a special meeting of the Town Council held on September 29, 2010.

RECOMMENDATION: Approve the minutes from a special meeting of the Town Council held on September 29, 2010.

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

Mayor Pro Tem Filidoro made a motion to approve by consent Items 5, 6, 7, 8, and 9. Councilmember Dixon seconded the motion. Each item, as approved by consent, is restated below along with the approved recommendation for each, for the record.

5. Consider approval of an ordinance adopting the 2010 tax rolls for the Town of Flower Mound.

RECOMMENDATION: Approve an ordinance adopting the 2010 tax rolls for the Town of Flower Mound. The caption of the ordinance reads as follows:

ORDINANCE NO. 61-10

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, APPROVING THE 2010 TAX ROLLS; REPEALING CONFLICTING ORDINANCES; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

6. Consider approval of the purchase of 108 desktop computers, 22 standard laptop computers, and 19 ruggedized laptop computers from Dell Marketing, LP, through a Texas Department of Information Resources (DIR) contract, in the amount of \$169,417.50.

RECOMMENDATION: Approve the purchase of 108 desktop computers, 22 standard laptop computers, and 19 ruggedized laptop computers from Dell Marketing, LP, through a Texas Department of Information Resources (DIR) contract, in the amount of \$169,417.50.

7. **Consider approval of an advanced funding agreement with the Texas Department of Transportation for voluntary local government contributions associated with FM 2499 Section 2 & 3 Sound Wall project, in the amount of \$18,139.85, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve an advanced funding agreement with the Texas Department of Transportation for voluntary local government contributions associated with the FM 2499 Section 2 & 3 Sound Wall project, in the amount of \$18,139.85, and authorize the Mayor to execute same on behalf of the Town.

8. **Consider approval of Amendment #1 to the Municipal Maintenance Agreement with the State of Texas, for continued assistance with the maintenance and operation of state highways within the Town, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve Amendment #1 to the Municipal Maintenance Agreement with the State of Texas, for continued assistance with the maintenance and operation of state highways within the Town, and authorize the Mayor to execute same on behalf of the Town.

9. **Consider the subdivider's request for a twelve-month extension to the approval of the Record Plat (RC 01-09) for Whisper Creek, pursuant to Section 90-212(b)(1) of the Town's Code of Ordinances, to develop a residential subdivision. The property is located at 1500 Lake Forest Boulevard.**

RECOMMENDATION: Approve a twelve-month extension to the approval of the Record Plat (RC 01-09) for Whisper Creek, pursuant to Section 90-212(b)(1) of the Town's Code of Ordinances, to develop a residential subdivision.

VOTE ON THE MOTION

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

L. REGULAR ITEMS

10. **Consider approval of a resolution amending and superseding Resolution 20-10, regarding the design and implementation of the Morriss/Gerault Capacity Improvement project, to modify the trigger for initiating Phase II of the Morriss/Gerault Capacity Improvement project.**

Kent Collins, Assistant Town Manager, provided a powerpoint presentation. The presentation is on file, and available for viewing, in the Town Secretary's Office.

Mayor Pro Tem Filidoro asked if the construction done area around the schools had met the goals that were set.

Mr. Collins stated that the improvements appeared to have helped the traffic.

Deputy Mayor Pro Tem Hayden stated that having a date in the resolution caused

problems with the funding partners.

Mr. Collins stated that he had not heard any feedback specifically regarding the date.

Deputy Mayor Pro Tem Hayden asked Mr. Collins to explain the SMARTGrowth trigger.

Mr. Collins stated that a SMARTGrowth analysis would be initiated in response to a development application. He stated that one of the analyses was a transportation analysis. He stated that the first phase of the transportation analysis was whether or not the development impacted an intersection or link. He stated that an impact was defined as five percent of the directional capacity of the lane. He stated that if there was an impacted link the next phase would be to determine the level of service on the impacted link. He stated that the level of services had to be C or better.

Deputy Mayor Pro Tem Hayden asked Mr. Collins to define a link.

Mr. Collins stated that a link was a straight section of a road between two intersections.

Deputy Mayor Pro Tem Hayden asked if there were any links excluding the Riverwalk along Morriss between Flower Mound Road and FM 407 that development could cause that to happen.

Mr. Collins stated that there were a few empty pieces of property north of FM 1171 that potentially could be developed.

Deputy Mayor Pro Tem Hayden asked if a development could trigger the entire project or just the impacted link.

Mr. Collins stated that SMARTGrowth would dictate that improvements to the impacted area needed to be made for the development to move forward.

Deputy Mayor Pro Tem Hayden asked if the impacted link was improved would the improvements carry on past the link.

Mr. Collins stated that it would have to be looked at to determine the practical place for the lane to begin and end.

Councilmember Wallace asked staff to discuss possible project savings on other RTR projects in Town that could help supplement phase two funding.

Mr. Collins stated that the project had a little over one million and a half dollars unencumbered in the project as contingency. He stated that it was early to say how much funding would be available but he could provide the Council with the dollar amount unencumbered for the RTR projects.

Councilmember Wallace asked for staff to provide a summary how much under budget the bids came in for the RTR projects. He stated that he wanted to know how far away the Town was with funding for phase two of the Morriss/Gerault project in the event it could move forward.

Mr. Collins stated that moving the money between projects would have to be approved by the RTC.

Mr. Jefferson stated that the two projects the Town was looking to advance with the potential savings were Chinn Chapel and Wichita Trail. He stated that the Town hoped to have between \$4,000,000 and \$4,400,000 available. He stated that those projects were on the Council's list and could be changed if the priorities changed.

Mayor Pro Tem Filidoro asked if the Town had the developer funding.

Mr. Collins answered no.

Mayor Pro Tem Filidoro asked when the Town expected the developer funding.

Mr. Collins stated that the Riverwalk's development agreement had triggers to the development providing the funding to the Town.

Mayor Pro Tem Filidoro asked if the development funding was essential to the project.

Mr. Collins stated that the majority of phase two of the Morriss/Gerault project relied upon developer funding.

Deputy Mayor Pro Tem Hayden stated that he wanted the resolution to include the SMARTGrowth trigger and include developer funding from the Riverwalk.

Mayor Northern asked if phase two would not be put in if the Riverwalk project **didn't** develop.

Mayor Pro Tem Filidoro asked what would trigger the receipt of developer funding.

Mr. Welch stated that it would be pursuant to the development agreement the Town had with the Riverwalk.

Mr. Collins stated that the first two phases of the project accounted for the first payment which the Town had already received. He stated that future phases of the project required TIA's. **He stated that the TIA's would have indicated if improvements were needed.**

Mayor Pro Tem Filidoro asked how much the Town had received from the Riverwalk project.

Mr. Collins stated the Town had received around \$247,500 from the Riverwalk.

Councilmember Wallace asked for the motion to read that phase two would proceed when funding was available.

Mayor Northern stated that the concern of many of the Council members was that the additional funding of phase two not be the burden of the tax payers.

Councilmember Lyda asked for the trigger in the resolution to be only when needed by SMARTGrowth.

Mayor Pro Tem Filidoro asked if the developer would still have to pay the Town if the road was already built when the Riverwalk was built.

Mr. Jefferson stated that the development agreement required a TIA and if the additional lanes were already built the TIA would pass and not require additional contributions from the

developer.

Councilmember Lyda stated that it didn't necessarily mean that tax payer dollars would be used to build the road.

Mr. Welch stated that the change to section two of the resolution would read "Phase 2 would begin when needed, pursuant to applicable Town ordinances, including impact fees and SMARTGrowth, and development-related funding"

Deputy Mayor Pro Tem Hayden moved to approve a resolution amending and superseding Resolution 20-10, regarding the design and implementation of the Morriss/Gerault Capacity Improvement project, to modify the trigger for initiating Phase II of the Morriss/Gerault Capacity Improvement project. Councilmember Dixon seconded the motion. The caption of the resolution reads as follows:

RESOLUTION NO. 24-10

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING AND SUPERSEDING RESOLUTION NO. 20-10; APPROVING THE MORRISS ROAD/GERAULT ROAD CAPACITY IMPROVEMENT PROJECT WITH CERTAIN DESIGN, ENGINEERING AND IMPLEMENTATION ELEMENTS, AND OTHER RECOMMENDATIONS, AS NOTED HEREIN; MAKING FINDINGS RELATIVE THERETO; AND PROVIDING FOR AN EFFECTIVE DATE.

VOTE ON THE MOTION

AYES: Lyda, Filidoro, Hayden, Dixon
NAYS: Wallace

11. **Public Hearing**
Public Hearing to consider approval of an ordinance of the Town Council of the Town of Flower Mound, Texas, amending the Code of Ordinances of the Town of Flower Mound Chapter 30, Article II, "Alarm Services" by providing a definition of false alarm; establishing an expiration of an alarm permit; revising the application fee requirements; by amending Appendix A "Fee Schedule" by amending Section 30-53 relative to the charges for Alarm Permit Fees.

Staff Presentation

Chuck Springer, Assistant Town Manager/CFO, provided a powerpoint presentation. The presentation is on file, and available for viewing, in the Town Secretary's Office.

Councilmember Dixon asked what the Town would use the \$100,000 net revenue for.

Mr. Springer stated that the funds would be deposited into the Town's General Fund.

Councilmember Dixon asked if the Town would consider doing something specific to assist the Police Department with the funds.

Mr. Springer stated that they would be deposited in the General Fund. He stated that the Town Council budgeted the expenditures from the General Fund every year.

Councilmember Dixon asked Mr. Springer if he had any recommendations for use of the revenue.

Mr. Springer stated that he didn't want to set the Town Council's priority for the budget.

Mr. Jefferson stated that the normal practice would be to wait until mid-year to consider doing a budget adjustment.

Mayor Pro Tem Filidoro stated that he thought it made sense to use the first year get an idea of the revenue. He asked when the policy would be implemented.

Mr. Springer stated that after the policy was adopted they would go through a selection process for software. He stated that there would be a four to six month implementation period.

Mayor Pro Tem Filidoro stated that it was possible that appreciable revenue **wouldn't** be seen until the following budget year.

Mr. Springer he stated that he anticipated billing for the annual alarm during that current fiscal year.

Mayor Pro Tem Filidoro stated that the revenue could be used as a benchmark and allocating funds the following fiscal year to a police activity.

Deputy Mayor Pro Tem Hayden stated that the priority was to make up for the deficit of the Fire Fighters coming off of the SAFER grants.

Councilmember Wallace asked if the fees were being put in place to recover the cost the Town spends on responding to false alarms.

Mr. Springer stated that the Town had a false alarm fee set by the State. He stated that the fees were to recover the cost of overall police services related to alarms.

Councilmember Wallace stated that the fee was to capture reimbursement from the residents for the cost the Town had already incurred to provide police services to the residents.

Mr. Springer stated that it was not historically but for services the Town incurred to provide the services each year.

Councilmember Wallace stated that the revenue generated would be in the General Fund for the Town Council to appropriate.

Mayor Northern stated that the fees were to recover cost of services the Town provided that had been under allocated.

Mayor Pro Tem Filidoro stated that the issue he had with the fees was the database containing 13,500 people and some were not there. He stated that the Town had no way to clean up the records. He stated that anyone who paid for monitoring had the right to have someone show up. He stated that half of the 13,500 permits may not have been valid which caused confusion. He stated that the Council had attempted to bring those things in line and make sure they had a best practice in order. He stated that he **didn't** feel that what was being asked for was excessive of what was being provided. He stated that the residents had the opportunity to be in a database that gave some accuracy. He stated that information could be put into the database to assist the officers.

Councilmember Dixon asked if the responding officers would have the information in the database.

Chief Brooker answered yes.

Deputy Mayor Pro Tem Hayden asked how the fee was decided.

Mr. Springer stated that it was based on comparable cities and with discussions with the Police Department.

Deputy Mayor Pro Tem Hayden stated that one of the comparable cities had a discount for seniors. He asked if that was something the Town should consider.

Mr. Springer stated that the Council could consider it.

Councilmember Wallace stated that the Town would be the only survey city with a one time fee.

Mr. Springer answered yes.

Councilmember Wallace asked if the Town could use the utility billing system.

Mr. Springer stated that the software had to tie into the police computer aided dispatch system and may not be compatible with the utility billing.

Deputy Mayor Pro Tem Hayden asked if the fee differed based on size for commercial.

Mr. Springer answered no.

Public Comments

None

Close Public Hearing

Council Deliberation

Mayor Pro Tem Filidoro moved to approve an ordinance of the Town Council of the Town of Flower Mound, Texas, amending the Code of Ordinances of the Town of Flower Mound Chapter 30, Article II, "Alarm Services" by providing a definition of false alarm; establishing an expiration of an alarm permit; revising the application fee requirements; by amending Appendix A "Fee Schedule" by amending Section 30-53 relative to the charges for Alarm Permit Fees. Councilmember Lyda seconded the motion. The caption of the ordinance reads as follows:

ORDINANCE NO. 62-10

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND CHAPTER 30, ARTICLE II, "ALARM SERVICES" BY PROVIDING A DEFINITION OF FALSE ALARM; ESTABLISHING AN EXPIRATION OF AN ALARM PERMIT; REVISING THE APPLICATION FEE REQUIREMENTS; BY AMENDING APPENDIX A "FEE SCHEDULE" BY AMENDING SECTION 30-53 RELATIVE TO THE CHARGES FOR ALARM PERMIT FEES; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE, PROVIDING A PENALTY CLAUSE; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

VOTE ON THE MOTION

AYES: Dixon, Hayden, Filidoro, Lyda, Wallace

NAYS: None

12. **LDR 03-10 Sign Standards for Residential Real Estate Signs** **Public Hearing**
Public Hearing to consider a request to amend the Land Development Regulations (LDR 03-10) by amending Section 86-233, entitled "Temporary Commercial Signs," and by amending Section 86-239, entitled "Open House Signs," to include a change in the title of said section to "Residential Real Estate Signs," of the Town's Code of Ordinances and to consider adopting an ordinance providing for said amendment. (The Planning and Zoning Commission recommended approval by a vote of 5 to 1 at its September 27, 2010, meeting.)

Staff Presentation

Doug Powell, Executive Director of Development Services, provided a powerpoint presentation. The presentation is on file, and available for viewing, in the Town Secretary's office.

Mayor Northern clarified that the residential real estate sign issue was the first issue discussed by the advisory committee and would be followed by recommendations for other issues.

Mayor Northern stated that she liked house addresses being on the signs.

Mayor Pro Tem Filidoro stated that he was disappointed that they had to bring this item forward. He stated that if the ordinance was followed he would have no problem increasing the number of signs allowed in the future.

Deputy Mayor Pro Tem Hayden asked what the penalty was for violations.

Mr. Powell stated that it would be a violation of the zoning code which had a fine. He stated that the code enforcement was to encourage compliance. He stated that if the signs were in the right-of-way they would be picked up.

Mayor Northern asked if the Homeowners Associations allowed the signs on their property.

Mr. Powell stated that the issue was the over abundance of signs. He stated that the signs had to be on private property with property owner permission.

Mayor Pro Tem Filidoro clarified that the Town's ordinances **didn't** supersede the Homeowners Association requirements.

Deputy Mayor Pro Tem Hayden asked what the fines were for violations.

Mr. Welch stated that the standard fine for a class C misdemeanor was \$500 per day per violation.

Deputy Mayor Pro Tem Hayden asked if the Town could set the fine amount.

Mr. Welch stated that if a citation was given for a violation it would be left to the discretion of the Judge.

Mr. Powell stated that the Town did charge \$50 to return a sign that was picked up by the Town.

Deputy Mayor Pro Tem Hayden stated that he wanted to review the compliance for six months and assess the fines.

Mr. Welch stated that there was nothing to prohibit the Council reviewing compliance and the fines that had been assessed. He stated that under state law it would have to be classified as a class C misdemeanor.

Councilmember Wallace asked if there was a limitation on garage sale signs not in the right-of-way.

Mr. Powell stated that the committee had discussed garage sale signs and would be bringing a recommendation at a later date to the Council.

Public Comments

Russell Rhodes, 3013 Wood Trail, Flower Mound

Mr. Rhodes stated that the open house signs were for the citizens to get additional exposure. He stated that he thought more than three signs should be allowed.

Pat Sibley, 2611 Cross Timber, Flower Mound

Mr. Sibley stated that he was the President of the Greater Lewisville Area of Realtors. He thanked the Council for setting up the sign committee. He stated that it was hard to give directions to a house using only three signs.

Karen Wilkerson, 3801 Post Oak Road, Flower Mound

Ms. Wilkerson stated that she was not in favor of only allowing three signs.

Patricia Fager, 1765 Meyerwood Lane, Flower Mound

Ms. Fager stated that the real estate drove the economy. She stated that people were putting their homes on the market out of need. She stated that residents expected realtors to do everything humanly possible to get traffic to their homes. She stated that the real estate agents **shouldn't be slowed down from selling the homes.**

Angie Cox, 7616 Emerson Lane, Flower Mound

Ms. Cox stated that she was speaking on behalf of the residents. She stated that she felt **it was important to drive people to the homes. She stated that she didn't feel that three** directional signs were enough.

Close Public Hearing

Council Deliberation

Councilmember Wallace stated that they were trying to weigh the visual impact versus the needs of the residents. He stated that the previous Council and the current Council had not expedited the issue. He stated that he felt three signs was a good compromise. He stated that he liked that it was one day a week and not in the right-of-way. He stated that he liked the idea of an instructional sheet to be provided to the realtors and residents.

Mayor Pro Tem Filidoro wondered if the issue with houses being on the market for a prolonged time was due to open house signs. He encouraged the realtors to provide a comparison the following year after the signs were allowed.

Councilmember Dixon recommended approving four directional signs.

Councilmember Lyda stated that he liked address being on the signs. He stated that he agreed with the recommendation.

Mayor Pro Tem Filidoro moved to approve a request to amend the Land Development Regulations LDR 03-10 - Sign Standards for Residential Real Estate Signs by amending Section 86-233, entitled "Temporary Commercial Signs," and by amending Section 86-239, entitled "Open House Signs," to include a change in the title of said section to "Residential Real Estate Signs," of the Town's Code of Ordinances. Councilmember Wallace seconded the motion. The caption of the ordinance reads as follows:

ORDINANCE NO. 63-10

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 B, CHAPTER 86 OF THE CODE OF ORDINANCES, ENTITLED "SIGNS," THROUGH THE AMENDMENT OF ARTICLE III, ENTITLED "REGULATIONS," THROUGH THE AMENDMENT OF DIVISION 4, "TEMPORARY SIGNS," BY DELETING EXISTING SECTION 86-233, "TEMPORARY COMMERCIAL SIGNS," IN ITS ENTIRETY AND REPLACING SAID SECTION WITH A NEW SECTION 86-239 ALSO

ENTITLED "TEMPORARY COMMERCIAL SIGNS," AND BY DELETING EXISTING SECTION 86-239, "OPEN HOUSE SIGNS," IN ITS ENTIRETY AND REPLACING SAID SECTION WITH A NEW SECTION 86-239 ENTITLED "RESIDENTIAL REAL ESTATE SIGNS"; REPEALING ALL CONFLICTING ORDINANCES, ORDERS, AND RESOLUTIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON THE MOTION

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

M. COORDINATION OF CALENDARS AND FUTURE AGENDAS/MEETINGS

- Deputy Mayor Pro Tem Hayden asked staff to bring the Mixed Use Report as a future agenda item.

N./O. CLOSED/OPEN MEETING

The Town Council convened into a closed meeting at 10:11 p.m. on October 4, 2010 pursuant to Texas Government Code Sections 551.071, 551.072, 551.074, and 551.087 to discuss matters relating to consultation with Town Attorney, pending litigation, real property, personnel, and economic development negotiations and reconvened into an open meeting at 11:06 p.m. on October 4, 2010 to take action on the items as follows:

- a. Discuss and consider economic development incentives.

No action taken.

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

Deputy Mayor Pro Tem Hayden moved to approve the authorization to provide for an auction for sale of approximately 4.49 acres of property adjacent to the future West Windsor roadway extension and proposed park amenities and authorization for the Assistant Town Manager, or his designee, to execute all documents associated with the auction and the closing of the property on behalf of the Town. Councilmember Lyda seconded the motion.

VOTE ON THE MOTION

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

- c. Consultation with Town Attorney regarding legal issues associated with a contract between the Town and the Flower Mound Chamber of Commerce.

No action taken.

- d. 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.

- e. **Discuss and consider Virginia Simonson and Prakash Parameswaran v. Town of Flower Mound, et al., Cause No. 2010-50955-367, pending in the 367th Judicial District Court of Denton County, Texas, 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.

- g. **Discuss selection of and applications for Town Secretary position, and all matters incident and related thereto.**

No action taken.

P. ADJOURN REGULAR MEETING

Mayor Northern adjourned the regular meeting at 11:10 p.m. on Monday, October 4, 2010, and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

MELISSA D. NORTHERN, MAYOR

ATTEST:

TRACY KNIERIM, INTERIM TOWN SECRETARY

THIS PAGE LEFT BLANK INTENTIONALLY