

THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 3rd DAY OF MAY, 2010 IN THE FLOWER MOUND TOWN HALL, LOCATED AT 2121 CROSS TIMBERS ROAD IN THE TOWN OF FLOWER MOUND, COUNTY OF DENTON, TEXAS AT 6:00 P.M.

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

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

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

Harlan Jefferson	Town Manager
Paula Paschal	Town Secretary
Terry Welch	Town Attorney
Chuck Springer	Assistant Town Manager/Chief Financial Officer
Kenny Brooker	Police Chief
Eric Metzger	Fire Chief
Kent Collins	Assistant Town Manager
Gary Sims	Executive Director of Community Services
Doug Powell	Executive Director of Development Services

A. CALL BRIEFING SESSION TO ORDER

Mayor Jody Smith called the briefing session to order at 6:04 p.m.

B. BRIEFING SESSION

1. Town Council Boards and Commissions Liaison Reports

Councilmember Wallace stated that the Oil and Gas Board of Appeals approved two items at their last meeting.

Councilmember Hayden stated the Parks, Arts, and Library Services Board held a public hearing on the Park Master Plan.

Discuss Consent and Regular Items

Councilmember Hayden requested that Items 6 and 9 be removed from the Consent Agenda.

2. Discuss Future Agenda Items – no discussion

3. Discuss Council Communications

Town Manager Harlan Jefferson asked if the Town Council was ready to move forward with appointing the members for the Sign Regulations Committee. He added that the Council needed to agree on the charge for the committee.

Mayor Smith was ready to move forward with this. She added that staff should prepare a presentation regarding realtor signs/open house signs.

Councilmember Wallace asked that staff develop a list of those who might be interested in being on the committee.

Deputy Mayor Pro Tem Dixon stated the Council should focus on the items that the Town continually gets requests about, particularly realtor sign questions and retail business owner questions. Those items should be put on the fast track.

Councilmember Filidoro agreed. The Council could look at the whole ordinance at a later date.

Mr. Jefferson stated staff would identify particular regulations and bring a list to the May 17 meeting.

Mayor Smith encouraged the Council to send their concerns to Mr. Jefferson. She stated she would also like to review oil and gas regulations at a future date.

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

Mayor Smith adjourned the briefing session and called the regular meeting to order at 6:13 p.m.

E. INVOCATION

Pastor Phil Cook gave the invocation.

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

Pastor Cook led the pledges.

G. PRESENTATIONS

Certificates of Achievement - Destination Imagination Honors

Mayor Smith and Mayor Pro Tem Levenick presented Certificates of Achievement to Destination Imagination students from Marcus High School and Bridlewood Elementary.

Proclamations - Public Works Week, Arson Awareness Week, Motorcycle Safety and Awareness Month

Mayor Pro Tem Levenick presented a proclamation for Motorcycle Safety and Awareness Month (May 2010) to Elmer McKeegan. She also presented the Public Works

Week proclamation to Director of Public Works Ken Parr. Mr. Parr presented Mayor Smith with the annual Public Works poster, signed by the employees in the Public Works Division. Fire Chief Eric Metzger accepted the proclamation for Arson Awareness Week.

H. PUBLIC PARTICIPATION

Ken Scheepers, 6505 Burning Tree Drive, Flower Mound

Mr. Skippers spoke in opposition to the moratorium ordinance.

Lauren Burden, 3513 Tanyard Court, Flower Mound

Ms. Burden spoke in support of the moratorium ordinance.

Mark Breheny, 1413 Willowcross Way, Flower Mound

Mr. Breheny spoke in support of the moratorium ordinance.

Tammi Vajda, 2828 Lake Ville Lane, Flower Mound

Ms. Vajda spoke in support of the moratorium ordinance.

Bill Norris, 3223 Raintree Drive, Flower Mound

Mr. Norris encouraged the Council to let the voters decide about the moratorium ordinance.

Larry Tullos, 6504 Hillcrest Road, Flower Mound

Mr. Tullos spoke in opposition to the moratorium ordinance.

Lori Ann Lewis, 1900 Kirkpatrick Lane, Flower Mound

Ms. Lewis stated that on April 6, 2009, she asked the Council about a resolution to her situation regarding theft of a fence. She stated nothing was ever done.

Mayor Smith directed Mr. Jefferson to follow up with Ms. Lewis.

Reba Lewis, 1904 Kirkpatrick Lane, Flower Mound

Ms. Lewis stated that in 2004, the Town condemned 9.5 feet of her property. She discovered that she was still paying taxes on the property. Ms. Lewis stated she had some property damage during the repaving of Kirkpatrick Road. She informed the Council that the road had been dropped four feet and her driveway was very steep. She was told the Town did not have an ADA Coordinator. She asked how the Council would resolve the problem with her driveway.

Nancy Wilton, 1361 Bridle Bit, Flower Mound

Ms. Wilton stated the Barnett Shale was a blessing for Flower Mound.

Dave Rettig, 1254 Bridle Bit, Flower Mound

Mr. Rettig spoke in opposition to the moratorium ordinance.

Mary Rettig, 1254 Bridle Bit, Flower Mound

Ms. Rettig spoke in opposition to the moratorium ordinance.

Debra Orzen, 3608 Ridgecrest Drive, Flower Mound

Ms. Orzen spoke in support of the moratorium ordinance.

Amy Yaeger, 3701 Kentmere Court, Flower Mound

Ms. Yaeger spoke in support of the moratorium ordinance.

Dan Cahalen, 2921 Dumas Court, Flower Mound

Mr. Cahalen spoke in opposition to the moratorium ordinance.

Al Turgon, 3714 Ridgecrest Drive, Flower Mound

Mr. Turgon spoke in opposition to the moratorium ordinance. He was disappointed that people were holding signs along FM 2499 that said "lies."

Elizabeth Mihalik, 3414 Mesa Drive, Flower Mound

Ms. Mihalik spoke in opposition to the moratorium ordinance.

Jodie Boutilier, 2201 Jester Lane, Flower Mound

Ms. Boutilier spoke in support of the moratorium ordinance.

Steve Lyda, 3128 Sheryl Drive, Flower Mound

Mr. Lyda compared early voting numbers from last year and this year. He appreciated that so many residents were voting.

Chris Tomlinson, 3907 Raintree Drive, Flower Mound

Mr. Tomlinson stated the only fair way to deal with the petition was to let the voters decide in November.

Stan Martin, 6505 Frontier Drive, Flower Mound

Mr. Martin encouraged everyone to read the Constitution and remember the people who fought for freedom. He spoke in opposition to the moratorium ordinance.

Brent Halldorson, 3321 Augusta Drive, Flower Mound

Mr. Halldorson stated he actually brought up the issue of changing the speed limit on Augusta Drive to 25 mph. He asked staff to look at the possibility of a stop sign at Augusta and Glenwick. He stated that what Flower Mound did about gas drilling was being watched and would affect people all over the world.

Carolyn Burgess, 3624 Raintree Drive, Flower Mound

Ms. Burgess spoke in opposition to the moratorium ordinance.

Carol Kohankie, 4312 Lauren Way, Flower Mound

Ms. Kohankie asked the Council to put the moratorium ordinance on the ballot in November. She stated the land swap proposition was a smart decision. She stated the name-calling throughout the election was appalling.

Sherillyn Flick, 3220 Miracle Lane, Flower Mound

Ms. Flick spoke in opposition to the moratorium ordinance. She asked the Council to let the voters decide.

Chris Payton, 3025 Monet Court, Flower Mound

Ms. Payton spoke in opposition to the moratorium ordinance.

Kelly McDonald, 4119 Mustang Trail, Flower Mound

Ms. McDonald stated the gas companies were supporting Jody Smith for mayor. Ms. McDonald trusted Melissa Northern for mayor.

Mark Whitfill, 3822 Raintree Drive, Flower Mound

Mr. Whitfill spoke in opposition to the moratorium ordinance.

Sam Morehouse, 3415 Mesa Drive, Flower Mound

Mr. Morehouse spoke in opposition to the moratorium ordinance.

Fay Jarrett, 6947 Red Bud, Flower Mound

Ms. Jared spoke in opposition to the moratorium ordinance.

Bruce Jarrett, 6947 Red Bud, Flower Mound

Mr. Jarrett stated he did not like witch hunts.

David Fuelleman, 6901 Hidden Valley Road, Flower Mound

Mr. Fuelleman spoke in opposition to the moratorium ordinance. He encouraged everyone to take care of the environment.

Terry Roof, 3024 N. Hugo Court, Flower Mound

Mr. Roof spoke in opposition to the moratorium ordinance.

Jennifer Rogers, 2608 Carterton Way, Flower Mound

Ms. Rogers stated the moratorium was not on drilling, only on the centralized collection facility (CCF). Many people wanted the right to vote in November. She asked if the Council would enact a moratorium on CCFs between now and November.

Larry Belcher, 2900 Aberdeen Drive, Flower Mound

Mr. Belcher spoke about the May 8, 2010 election and the actions of some of the candidates.

Beckie Belcher, 2900 Aberdeen Drive, Flower Mound

Ms. Belcher stated Flower Mound Citizens Against Urban Drilling was not against all drilling. She spoke in support of the moratorium. She was surprised to see commercials on cable television for three of the candidates.

Alok Bhaskar, 4517 Delaina Drive, Flower Mound

Mr. Bhaskar spoke in support of the moratorium ordinance.

Mary Kay Walker, 3229 Oak Meadow Drive, Flower Mound

Ms. Walker thanked everyone who had a hand in getting the Texas Health Presbyterian Flower Mound Hospital finished. The hospital opened for business on April 30, 2010.

Don Shields, 3815 Cortadera Court, Flower Mound

Mr. Shields spoke in opposition to the moratorium ordinance.

Mark Stewart, 3932 Ridgecrest Drive, Flower Mound

Mr. Stewart encouraged the Council to put the proposition for the moratorium on the November ballot. He stated there had been non-factual information published.

Jeff Whittaker, 4305 Auburn Drive, Flower Mound

Mr. Whittaker questioned the campaign finance reports for several of the candidates.

Terry Mauboules, 4208 Augusta Court, Flower Mound

Mr. Mauboules was in favor of lowering the speed limit to 25 mph on Augusta Drive. He was in favor of getting trucks off the road.

Mirna Dunn, 3705 Samuel Court, Flower Mound

Ms. Dunn supported the petition.

Jules Fredrick, 5100 Ironwood Court, Flower Mound

Mr. Fredrick asked the Council to enact a temporary moratorium.

Melissa Northern, 4601 Portsmouth Court, Flower Mound

Ms. Northern congratulated the petition signers. She appreciated all the people who had voted early, and she encouraged everyone to vote in the election.

Eric Barsam, 4304 Lauren Way, Flower Mound

Mr. Barsam supported the moratorium. He asked that the Oil and Gas Board of Appeals meetings be televised.

Marcia Diebel, 4220 Crescent Drive, Flower Mound

Ms. Diebel stated Flower Mound had prospered with growth, and the moratorium should go on the November ballot.

Paul Rogers, 2608 Carterton Way, Flower Mound

Mr. Rogers stated the proposed ordinance put a moratorium on CCFs for 180 days. He stated the petition ordinance had been misrepresented. He spoke in support of the moratorium ordinance.

Chuck Freeny, 4811 Lusk Lane, Flower Mound

Mr. Freeny spoke in support of a centralized collection facility. He felt property values would be higher if there was gas under the property.

Ladd Biro, 3405 Veronica Drive, Flower Mound

Mr. Biro gave details about gas drilling accidents. He stated the very best protections should be put in place first.

Diania Hanson, 4048 Pepperwood Drive, Flower Mound

Ms. Hanson asked the Council to put the moratorium ordinance on the ballot at the next election.

Shelly Biro, 3405 Veronica Drive, Flower Mound

Ms. Biro stated she was embarrassed for some of the behavior during the campaign. Children should be taught responsibility and accountability.

Sue Ann Lorig, 4613 Foxglove Court, Flower Mound

Ms. Lorig stated it was sad to see the community up in arms, particularly during the campaigns for the election.

Alfredo Sanchez, 4805 Dominion Court, Flower Mound

Mr. Sanchez stated he was disappointed with negative campaigning. He was not opposed to gas drilling, just a CCF.

Todd Stanfield, 4705 Hampshire Drive, Flower Mound

Mr. Stanfield supported the Flower Mound Cares petition group and the moratorium ordinance. He stated the Council should protect the residents' innocence.

Steve Strickland, 3204 Springwood Road, Flower Mound

Mr. Strickland supported the moratorium ordinance.

Virginia Simonson, 3104 Native Oak Drive, Flower Mound

Ms. Simonson supported a moratorium on CCFs. She thanked the staff for putting facts regarding gas drilling on the website.

Bryan Webb, 4112 High Road, Flower Mound

Mr. Webb congratulated the petition group on their endeavor. He was in favor of putting the moratorium proposition on the ballot, and for the Town to work out the issues until then. He felt the election was about leadership.

Gerald Robinson, 6920 Hidden Valley Road, Flower Mound

Mr. Robinson thanked Mayor Pro Tem Levenick for serving the Town on the Council. He stated he would work to bring the Town back together.

Wendy McKisic, 4212 Gallant Court, Flower Mound

Ms. McKisic spoke in support of the moratorium ordinance.

Rob Marcoe, 3416 Courtney Drive, Flower Mound

Mr. Marcoe doubted that a drilling operation would increase home values. He supported adoption of a temporary moratorium on CCFs.

Stewart Chance, 740 Teakwood, Flower Mound

Mr. Chance supported the adoption of a moratorium ordinance. He was in favor of recycling. He stated the proposed ordinance needed a review by an expert. He was in favor of a temporary moratorium if the proposition was going to be on the November ballot.

Tony Silvestri, One Williams Center MD 25-5, Tulsa, Oklahoma, Williams Company

Mr. Silvestri stated Williams knew that the moratorium only applied to the CCF. He stated Williams has permitted eight pads in Flower Mound. The company needed compression to move the gas. They desired to have a CCF on the Sam Wilson site. They had not yet applied for a Specific Use Permit.

Patsy Mizeur, 1821 Castle Court, Flower Mound

Ms. Mizeur stated gas drilling was a law in the state of Texas. Natural gas was clean and an alternative for fuel. She noted that the Governor's office had established a rainy day fund from the tax revenue from oil and gas. That fund made Texas the most economically sound state. She was in favor of putting the moratorium ordinance on the ballot in November.

Erin Bouck, 3429 Courtney Drive, Flower Mound

Mr. Bouck volunteered to serve on the board that would be established by the moratorium ordinance. He stated that if the Council was going to ignore the petition, they needed a temporary moratorium for CCFs.

Greg Santschi, 6405 Meadowcrest Lane, Flower Mound

Mr. Santschi stated the petition circulators told him that "toxic waste dumps" would eventually be all over the metroplex. He stated he was told that every site had received variances, and they did not. He supported putting the issue on the ballot in November.

Tony Robson, 3421 Courtney Drive, Flower Mound

Mr. Robson encouraged the Council to slow down and impose a moratorium on CCFs. He stated the Town needed to protect the environment.

Gabrielle Schweikart, 3915 Raintree Drive, Flower Mound

Ms. Schweikart stated the Council needed to look at the bigger picture because Texas was blessed to have resources. She asked the Council to stop the moratorium.

John Todd, 5600 Wichita Trail, Flower Mound

Mr. Todd was disappointed that people believed propaganda. He stated there would not be a collection system at every well site. He added that changes could be made without a moratorium.

Warren Campbell, 6000 Wichita Trail, Flower Mound

Mr. Campbell was opposed to the moratorium.

The Council took a break at 9:32 p.m. until 9:55 p.m.

I. ANNOUNCEMENTS

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

Councilmember Filidoro stated the Flower Mound Symphony had an interactive concert last week with over 700 in attendance.

Deputy Mayor Pro Tem Dixon thanked Jennifer Rogers for setting up a presentation at the Library regarding gas drilling. He stated the speaker did a good job and there was proactive discussion.

Mayor Smith stated that Tony Silvestri noted that residents could find more information on the Williams Company website.

J. TOWN MANAGER'S REPORT

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

Town Manager Harlan Jefferson stated that over 600 pounds of medicines were collected at the 2nd Annual Medication Disposal. He thanked all who participated in Kidfish. Mr. Jefferson stated that TxDOT had approved a hooded left turn on FM 2499 at Kroger. Section 2 of FM 1171 was moved to February 2011.

K. CONSENT ITEMS

Deputy Mayor Pro Tem Dixon made a motion to approve by consent Items 1, 2, 3, 4, 5, 7, and 8. Mayor Pro Tem Levenick 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 Amendment No. 1 to a Tower/Ground Lease Agreement dated January 6, 2005, between Sprint Spectrum, L.P. and the Town of Flower Mound, Texas, and authorization for the Mayor to execute same on behalf of the Town.**

RECOMMENDATION: Approve Amendment No. 1 to a Tower/Ground Lease Agreement dated January 6, 2005, between Sprint Spectrum, L.P. and the Town of Flower Mound, Texas, and authorize for the Mayor to execute same on behalf of the Town.

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

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

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

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

4. Consider approval of a proposal to be submitted to the Texas Comptroller of Public Accounts for a Tobacco Compliance Grant to help defray costs associated with compliance, education, and enforcement of tobacco regulations; acceptance of money if the grant is awarded; and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve a proposal to be submitted to the Texas Comptroller of Public Accounts for a Tobacco Compliance Grant to help defray costs associated with compliance, education, and enforcement of tobacco regulations; acceptance of money if the grant is awarded; and authorize the Mayor to execute same on behalf of the Town.

5. Consider approval of a Professional Services Agreement with Kleinfelder Central, Inc., subject to approval of funding by Denton County, Texas, to provide geotechnical and material testing services, associated with the construction of Garden Ridge Boulevard Phase III and Garden Ridge Boulevard Phase III Water Line projects, in the amount of \$160,000.00, and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve a Professional Services Agreement with Kleinfelder Central, Inc., subject to approval of funding by Denton County, Texas, to provide geotechnical and material testing services, associated with the construction of Garden Ridge Boulevard Phase III and Garden Ridge Boulevard Phase III Water Line projects, in the amount of \$160,000.00, and authorize the Mayor to execute same on behalf of the Town.

6. Consider approval of Amendment No. 3 to the Fiscal Year 2009-2010 Capital Improvement Program.

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

7. Consider approval of final acceptance for the Wilson-Carmel Tract Clean-up project; authorization for final payment to The Marcon Group, Inc., dba Marcon Construction, in the amount of \$8,097.15; and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve final acceptance for the Wilson-Carmel Tract Clean-up project; authorize for final payment to The Marcon Group, Inc., dba Marcon Construction, in the amount of \$8,097.15; and authorize the Mayor to execute same on behalf of the Town.

8. Consider approval of a Professional Services Agreement with Halff Associates, Inc., subject to approval of funding by Denton County, Texas, to provide construction related services associated with the construction of the Garden Ridge Boulevard Phase III project, in the amount of \$25,000.00, and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Approve a Professional Services Agreement with Halff Associates, Inc., subject to approval of funding by Denton County, Texas, to provide construction related services associated with the construction of the Garden Ridge Boulevard Phase III

project, in the amount of \$25,000.00, and authorize the Mayor to execute same on behalf of the Town.

9. Consider approval of Change Order No. 1 for the construction of phase one of the Morriss/Gerault Improvement project, amending the contract with TISEO Paving Company, for a decrease in the amount of \$278,304.60, and authorization for the Mayor to execute same on behalf of the Town.

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

VOTE ON THE MOTION

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

L. REGULAR ITEMS

6. Consider approval of Amendment No. 3 to the Fiscal Year 2009-2010 Capital Improvement Program. *(This item was removed from the Consent Agenda by Councilmember Hayden.)*
9. Consider approval of Change Order No. 1 for the construction of phase one of the Morriss/Gerault Improvement project, amending the contract with TISEO Paving Company, for a decrease in the amount of \$278,304.60, and authorization for the Mayor to execute same on behalf of the Town. *(This item was removed from the Consent Agenda by Councilmember Hayden.)*

Councilmember Hayden asked for an explanation of the amendment to the Capital Improvement Program (CIP).

Town Manager Harlan Jefferson stated there was a \$3 million increase for the Morriss/Gerault project. Mr. Jefferson presented the following information.

Funding Sources and Cost (June 2009)

- Regional Toll Revenue (\$10.77 million)
 - AFA approved, funding considered existing
- County Bond, TRIP-08 (\$5.5 million)
 - Bonds approved, funding considered existing
- Developer (\$4.9 million)
 - Initial contributions made (\$247,500), but majority is future funding
- Funding issues: flexibility, constraints, timing
- Current Cost Estimate (\$16.52 million)

Changes in scope

- Enhancements to flyover (stone cladding, monument, decorative lighting)
- More extensive intersection improvements
- Right-of-way and easements for intersection improvements and flyover

Increases due to scope changes

- Flyover cost increased from \$2.1 million to \$4 million
- Right-of-way cost increased from \$300k to \$1.8 million
- Other enhancements (e.g. improvements at Forestwood M.S.) have increased core cost of project (note, project only includes extra 2 lanes on Gerault)
- Current estimate for Phase 1 is \$19 million

Deputy Mayor Pro Tem Dixon asked about the pedestrian underpass in the Forestwood Middle School area. He asked if there would be any type of emergency kiosk at that location.

Councilmember Hayden asked if the Town was able to go back and request additional funding.

Mr. Jefferson responded that the RTR funding had a reserve for cost over-runs. Any interest income earned could be used for cost over-runs.

Councilmember Hayden asked if the future funding (\$4.8 million) was particularly for Phase 2 of the Morriss/Gerault project.

Mr. Jefferson responded yes.

Councilmember Hayden stated that he understood the merits of the flyover, however he did not think Phase 2 was the right thing for the community. He noted that the River Walk project was the impetus and now part of the project was in foreclosure. He suggested tabling Item 6 until the Morriss/Gerault project was split into two phases (projects) on the CIP.

Mr. Jefferson responded that tabling the item would delay the flyover portion. Because there were two funding sources, Denton County would not allow their funding to be spent on the flyover, which would be located in Tarrant County. He stated the CIP amendment needed to be approved.

Councilmember Filidoro stated there was much confusion every time something on this project was on the agenda. Staff needed to break the Morriss/Gerault project into two projects instead of Phase 1 and Phase 2. He asked if the future funding could be removed from the CIP and still adopt the items.

Mr. Jefferson stated the future funding could be removed. He stated staff should have some type of response from RTR within the next two weeks.

Councilmember Wallace stated he was the only member of the Council who lived on the east side of Town, and he supported the expansion of Morriss Road. He opposed splitting the funding and the project. He stated that the Town Council previously agreed to move forward with this project when the River Walk project comes in or in five years, whichever came first.

Councilmember Hayden asked why the flyover was \$2 million more than anticipated.

Mr. Jefferson stated the Town had been working on a median master plan to include more plantings, and monuments at entrances to the Town. The flyover was planned to have an entry feature. He stated that TxDOT planned to let the Green Ribbon funding next month, and the medians would be complemented by the flyover.

Councilmember Hayden commented that many residents along Morriss Road were frustrated with the expansion of Morriss Road.

Councilmember Filidoro moved to table Item 9 to the May 17, 2010 meeting. Councilmember Hayden seconded the motion.

Motion for Item 6

Councilmember Wallace moved to approve Amendment No. 3 to the Fiscal Year 2009-2010 Capital Improvement Program. Mayor Pro Tem Levenick seconded the motion.

VOTE ON THE MOTION

AYES: Wallace, Levenick, Dixon, Filidoro, Hayden

NAYS: None

Motion for Item 9

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

VOTE ON THE MOTION

AYES: Dixon, Filidoro, Hayden

NAYS: Levenick, Wallace

10. **Public Hearing to consider a request to amend the Master Plan 2001 (MPA 01-10 – Parks and Trails Master Plan) by deleting existing Section 5.0 Parks and Trails Master Plan and replacing said section with a new Section 5.0 Parks and Trails Master Plan and adopting the 2010 Parks and Trails Master Plan Update. (The PALS Board recommended approval of the proposed master plan update with five amendments by a vote of 7-0 at its April 8, 2010, meeting. The Planning and Zoning Commission recommended approval of the proposed master plan update with four amendments by a vote of 6-0 at its April 12, 2010, meeting.)**

Staff Presentation

Gary Sims, Executive Director of Community Services, stated the proposed ordinance would adopt the 2010 Parks and Trails Master Plan and change the executive summary in the Master Plan. The process had taken eight months and there was much citizen input.

Larry O'Flynn and Barry Hudson, Dunaway and Associates

Mr. O'Flynn introduced the presentation, a copy of which is on file in the Town Secretary's Office.

Questions from the Governing Body and Answers

Councilmember Hayden commented that nearby residents were concerned about parking on the north side of Gerault Park. He asked what barrier would be between the neighborhood and the park.

Mr. Hudson responded there was a 100-foot buffer. He added that the parking area between the Community Activity Center (CAC) and the proposed Seniors In Motion facility had been shifted about 100 feet further south.

Mr. O'Flynn commented that the plan called for additional evergreen plantings on the north side of the park.

Mayor Smith asked for an overview of the tennis center.

Mr. O'Flynn stated they looked at public property sites around town and none were ideal for a tennis center. He recommended that the Town look for a 10-acre tract somewhere centrally located in the town.

Mr. Sims stated staff would keep an eye out for tracts that were large enough for a tennis center, as development occurs.

Mayor Smith stated Roanoke Hills was the last subdivision west that touched the lake. She asked how a neighborhood park could be established there.

Mr. O'Flynn stated staff would always be on the lookout for land for neighborhood parks and community parks.

Mayor Smith stated she was glad to see the off-leash area in the Master Plan. She suggested having a blue ribbon committee to become a 501(c)3 group to raise money.

Councilmember Hayden stated it would take a philanthropic effort to acquire land on the west side of the Town. He asked how other towns worked to get land donated by developers.

Mr. O'Flynn suggested that staff and the Council start talking to people now. Many people would donate park land in order to give back to the community.

Public Comments

Steve Lyda, 3128 Sheryl Drive, Flower Mound

Mr. Lyda spoke in favor of the plan.

Stuart Chance, 740 Teakwood Drive, Flower Mound

Mr. Stuart asked if the Council would consider an all-access type of park.

Mayor Smith responded that there would be such a park that would be close to the CAC.

Sherillyn Flick, 3220 Miracle Lane, Flower Mound

Ms. Flick asked if the proposed trail head on the Dunham Road site was part of the plan.

Alfredo Sanchez, 4805 Dominion Court, Flower Mound

Mr. Sanchez spoke in favor of the plan. He supported pushing the development of Post Oak Park, Green Acres Park, and Twin Coves Park. He stated the off-leash park should not be a priority, and he suggested putting it near the Animal Adoption Center. Mr. Sanchez stated that the seniors could use computers at the Library rather than having a computer room in the senior center.

Fay Jarrett, 6947 Red Bud Drive, Flower Mound

Ms. Jarrett supported the plan and keeping the dog park at Gerault Park.

Elizabeth Covington, 2845 London Lane, Flower Mound

Ms. Covington supported the plan and the off-leash area. She stated Flower Mound's Parks Department was second to none, and the Town had a great trail system.

Bruce Jarrett, 6947 Red Bud Drive, Flower Mound

Ms. Jarrett supported the Master Plan and the priorities that were set.

Diania Hanson, 4048 Pepperwood Drive, Flower Mound

Ms. Hanson supported the Master Plan, and she stated Roanoke Hills did need a park.

Close Public Hearing

Council Deliberation

Tony Neilson, Senior Project Administrator, stated the plan did call for the trail head at Dunham Road. Parking would be on the Corps property. Staff had sent a letter to the Corps regarding Twin Coves and was waiting to see if the Corps would lease the property to the Town.

Mayor Smith re-opened the public hearing.

Sherillyn Flick, 3220 Miracle Lane, Flower Mound

Ms. Flick asked that the trail head be included on the map.

Mayor Smith verified that it was on the trails map.

Close Public Hearing

Mayor Pro Tem Levenick moved to adopt Ordinance No. 29-10 to amend the Master Plan 2001 (MPA 01-10 – Parks and Trails Master Plan) by deleting existing Section 5.0 Parks and Trails Master Plan and replacing said section with a new Section 5.0 Parks and Trails Master Plan and further adopting the 2010 Parks and Trails Master Plan Update

as a component of Master Plan 2001. The motion was seconded by Councilmember Filidoro. The caption of the ordinance reads as follows:

ORDINANCE NO. 29-10

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING MASTER PLAN 2001, BY AMENDING ORDINANCE NO. 24-01 IN PART, WHICH ADOPTED MASTER PLAN 2001, THROUGH THE AMENDMENT OF SECTION 5.0 PARKS AND TRAILS PLAN THROUGH THE DELETION AND REPLACEMENT OF EXISTING SECTION 5.0 PARKS AND TRAILS PLAN WITH A NEW SECTION 5.0 PARKS AND TRAILS PLAN; DECLARING AND MAKING FINDINGS REGARDING THE ADOPTION OF, AND ADOPTING THE 2010 PARKS AND TRAILS MASTER PLAN UPDATE AS A COMPONENT OF MASTER PLAN 2001; REPEALING ALL CONFLICTING ORDINANCES, ORDERS, OR RESOLUTIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

Council Deliberation

Mayor Pro Tem Levenick stated the Plan was a great vision for the Town. She thanked everyone who worked on the Plan and the process.

Councilmember Filidoro thanked staff and Dunaway and Associates.

VOTE ON THE MOTION

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

1. Consider approval of either (1) an ordinance adopting an ordinance, submitted to the Town on or about March 31, 2010, declaring a moratorium on the issuance of permits for certain oil and gas pipelines and natural gas centralized facilities, and related matters; or (2) an ordinance calling a special election for November 2, 2010, relative to voter approval of said ordinance.

Staff Presentation

Town Secretary Paula Paschal stated on March 31, 2010, a petition was submitted to the Town Secretary's Office regarding a moratorium on the issuance of permits for certain oil and gas pipelines and natural gas centralized facilities. A total of 5,480 valid signatures were required and staff verified 5,642 signatures. On April 9, 2010, she certified the petition, and on April 19, 2010, the Town Council voted to receive the certification. Ms. Paschal stated the Council had 45 days from April 9 to take action, and the deadline date was May 24, 2010 to either adopt the proposed ordinance attached to the petition, or call a special election for November 2, 2010.

Matt Woods, Director of Environmental Services, gave a presentation. It is on file in the Town Secretary's Office.

Town Attorney Terry Welch gave an overview of the sections of the ordinance, as per his April 1, 2010 memo to the Town Council.

Questions from the Governing Body and Answers

Councilmember Hayden stated he had received many emails encouraging the Council to not support stopping all natural gas production in Flower Mound.

Mr. Welch stated the proposed ordinance would not stop applications for gas well permits. He stated there were three ways to look at permits that the Town issues. For those gas well facilities where there are existing permits to drill (and the wells and pipelines are operating) nothing happens to them at all. Applications where a permit has been filed and has not been acted on or is going through the process, under the Town ordinances and state law, when the permit is filed with the Town, a snapshot of the rules and regulations at that time is taken. Those rules and regulations lock in, for the most part, and they guide that project. The proposed ordinance would not affect those permits. Thirdly, if the proposed ordinance was adopted tonight, it would stop a pipeline permit from going forward during the temporary suspension. The proposed ordinance would also stop applications for Specific Use Permits (SUPs) for centralized collection facilities (CCFs). Mr. Welch noted that a zoning ordinance could not be amended on an initiative.

Councilmember Hayden asked if the ordinance was adopted tonight and an application came in tomorrow, if the well was drilled would the company not be able to establish pipelines and take the product to market.

Mr. Welch stated, for example, if someone had six wells at a pad site, they usually only requested permits for two wells at a time. When that comes forward to the Town, the rules and regulations that would be followed would be triggered by the first permit. If they needed a pipeline permit, they would be locked in to the rules that were in place when the first permit was issued. He noted that the key component on a CCF was that they needed a zoning amendment. If the ordinance was adopted tonight or in November, no applications for CCFs would be accepted by the Town.

The Council took a break at 11:35 p.m. until 11:49 pm.

Deputy Mayor Pro Tem Dixon asked Mr. Welch for clarification on the pipeline ordinance, as it was a little broader.

Mr. Welch stated Section 2 of the ordinance referred to oil and gas pipeline permits, and produced water permits. For those pad sites that were previously permitted, those well permits can be approved by the Town and can move forward through the Oil and Gas Board of Appeals to get variances, if needed. Pipeline permits would be allowed because there would be a series of permits that were approved by the Town, prior to the moratorium. If the moratorium was adopted, for the new pad sites or well sites, the Town could do the well permit, but could not get a pipeline permit during the moratorium timeline.

Deputy Mayor Pro Tem Dixon asked if that was related to a CCF or not.

Mr. Welch stated the proposed ordinance would not allow a zoning change (SUP).

Councilmember Hayden asked for the average time from when an application is made and a well can be drilled.

Mr. Woods stated it depended on several variables. Staff had 45 days to review the application. Staff provided comments back to the applicant. Sometimes it could take three months for comments back and forth. If a variance was needed, the timeframe could take longer.

Councilmember Filidoro commented that on December 17, 2009, the Town Council tried to pass a moratorium and it failed. On January 21, 2010 the CCF discussion was held. He stated the Town had spent so much time on this and there was much strife in the community. He stated he supported a moratorium on December 17, and he supported the proposed ordinance.

Deputy Mayor Pro Tem Dixon believed that all the councilmembers listened to the people. He understood that the reports came back "good" about cancer clusters. The logical conclusion to the origination of a moratorium was the petition - legislation by the people. He stated the Council needed to provide all citizens of Flower Mound the opportunity to express their opinion. He believed that it was reasonable to have staff bring forth an agenda item to place a moratorium on a SUP request for a CCF and associated pipelines while the Town conducts a comprehensive review of the oil and gas ordinance. He stated biosides were discussed at the Library meeting, and were classified as the dangerous additive used in the fracking process. The speaker noted that biosides would not have to be used or would be used in a lesser quantity if the companies used municipal water. He stated that between December 17, 2009 and today, the Town had not moved off center on getting this in front of the Council.

Councilmember Filidoro stated the Council had an opportunity to put this on a ballot. He noted the November election would not have a heavy turnout.

Councilmember Hayden noted this was a moratorium on applications for SUPs for CCFs. He stated he needed more facts, and the industry should be more transparent.

Councilmember Wallace clarified that this was a moratorium on CCFs, SUPs, and any new gas well pipelines that were not associated with a CCF.

Mr. Welch stated it was related to produced water pipelines. The draft ordinance provided for the acceptance and processing of applications for oil and gas and/or produced water pipeline permits pursuant to the Town's Code.

Councilmember Wallace asked if the moratorium was not approved and someone submitted an application for a CCF, would they have to go through the Planning & Zoning Commission and have a public hearing. If denied by the Commission, he asked if the Council would have to approve it with a supermajority.

Mr. Welch responded yes.

Councilmember Wallace stated that on January 21, 2010 the Council approved an ordinance that identified the process for someone to make a request for a SUP for a CCF. He stated there were only two good reasons for a moratorium. One was if the Town did not have an ordinance in place. The second was if there were clear and present health risks. He stated five air quality tests had already been done in Flower Mound. All of the tests said benzene was below the short- and long-term ESLs. The State Health Department did a test on cancer clusters over ten years. He disagreed with approving the ordinance, and was in favor of sending it to the voters in November.

Councilmember Filidoro stated he had not changed his position.

Councilmember Hayden believed that Williams had already identified their pad sites. He had not changed his position.

Councilmember Wallace supported protecting neighborhoods and protecting the property rights of mineral owners, and he had stated that a year ago.

Council Deliberation

Councilmember Filidoro moved to approve an ordinance adopting a ordinance, submitted to the Town on or about March 31, 2010, declaring a moratorium on the issuance of permits for certain oil and gas pipelines and natural gas centralized facilities, and related matters. The motion was seconded by Councilmember Hayden.

VOTE ON THE MOTION

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

Councilmember Wallace moved to approve Ordinance No. 30-10 calling a special election for November 2, 2010, relative to voter approval of an ordinance declaring a moratorium on the issuance of permits for certain oil and gas pipelines and natural gas centralized facilities, and related matters. The motion was seconded by Levenick. The caption of the ordinance reads as follows:

ORDINANCE NO. 30-10

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, ORDERING A SPECIAL TOWN ELECTION TO BE HELD ON THE 2nd DAY OF NOVEMBER 2010, FOR THE PURPOSE OF SUBMITTING ONE PROPOSITION TO THE ELIGIBLE VOTERS OF THE TOWN OF FLOWER MOUND ON WHETHER AN ORDINANCE SHALL BE APPROVED WHICH WOULD PLACE A MORATORIUM ON THE ISSUANCE OF PERMITS FOR CERTAIN OIL AND GAS PIPELINES AND NATURAL GAS CENTRALIZED FACILITIES; PROVIDING FOR ELECTION OFFICERS; DESIGNATING THE PLACES AND MANNER OF HOLDING SAID ELECTION; AND PROVIDING FOR THE POSTING AND PUBLICATION OF NOTICE.

VOTE ON THE MOTION**AYES:** Wallace, Levenick, Dixon**NAYS:** Hayden, Filidoro

2. **ZPD 01-10 - The Pines at Flower Mound** **Public Hearing**
Public Hearing to consider a request for rezoning (ZPD 01-10 - The Pines at Flower Mound) to amend Planned Development District-82 (PD-82) by amending the Comprehensive Sign Package standards contained within Exhibit I of Ordinance 89-04 and to correct the identification of the exhibits listed in Section 2(A) thereof to correspond to the identification of such exhibits as expressed in Sections 2(B) and 3, and to consider adopting an ordinance providing for said amendment. The property is located at the southwest corner of Flower Mound Road and Gerault Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its April 12, 2010, meeting.)

Staff Presentation

Doug Powell, Executive Director of Development Services, stated the owner of The Pines at Flower Mound requested a comprehensive sign package for the development. Additionally, approval of the proposed ordinance would correct the identification of the exhibits listed in Section 2(A) to correspond to the identification of said exhibits as expressed in Sections 2(B) and 3.

Bill Hanks, Rosebriar, CEO

Mr. Hanks stated The Pines was owned and maintained by Rosebriar. He stated the tenants needed identification signs. He requested approval of the comprehensive sign package.

Questions from the Governing Body and Answers **None****Public Comments**Manager of Agave Azul

The manager of Agave Azul stated he would like signage on the back side of the building where his restaurant was located.

Jay Young, Owner of City Vet

Mr. Young spoke in support of the sign package.

Jason Gerome, Highland Village

Mr. Gerome stated he needed more signage so people would know where his business was located.

Billy Bunch, 4425 Lance Drive, Flower Mound

Mr. Bunch owned Salt Water Willy's and stated he needed good food, a good location, and good signage.

Carol Kohankie, 4312 Lauren Way, Flower Mound

Ms. Kohankie recommended that the Town take care of this type of signage for all buildings and amend the sign ordinance.

Close Public Hearing

Council Deliberation

Councilmember Wallace asked that the new special committee for sign regulations look at these types of signs along with realtor signs.

Councilmember Filidoro moved to approve a request for rezoning (ZPD 01-10 - The Pines at Flower Mound) to amend Planned Development District-82 (PD-82) by amending the Comprehensive Sign Package standards contained within Exhibit I of Ordinance 89-04 and to correct the identification of the exhibits listed in Section 2(A) thereof to correspond to the identification of such exhibits as expressed in Sections 2(B) and 3, and adopt Ordinance No. 31-10 providing for said amendment. The motion was seconded by Mayor Pro Tem Levenick. The caption of the ordinance reads as follows:

ORDINANCE NO. 31-10

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE OFFICIAL ZONING MAP, EXHIBIT "A" OF SUBPART B, LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY AMENDING ORDINANCE NO. 89-04 ON APPROXIMATELY 18.79 ACRES OF LAND IN THE W.H. GIBSON SURVEY, ABSTRACT NO. 464 AND THE M.L. COWAN SURVEY, ABSTRACT NO. 1637, AND BEING ALL OF THE PINES OF FLOWER MOUND ADDITION ZONED PLANNED DEVELOPMENT DISTRICT NO. 82 (PD-82) WITH RETAIL DISTRICT-2 (R-2) USES, THROUGH THE AMENDMENT OF SECTION 2(A) TO CORRECT THE LETTERING OF THE EXHIBITS IDENTIFIED THEREIN TO CORRESPOND TO THE ACTUAL LETTERING OF SAID EXHIBITS AND BY AMENDING EXHIBIT "I", ENTITLED "COMPREHENSIVE SIGN PACKAGE," TO ALLOW TENANT FACIA SIGNAGE TO BE PLACED ON THE REAR FACADES OF BUILDINGS 5B, 6, AND 7 AS IDENTIFIED IN THE ATTACHED CONCEPT PLAN CONTAINED WITHIN EXHIBIT "I" IN ADDITION TO SUCH OTHER SIGNAGE AS MAY BE ALLOWED BY THE CODE OF ORDINANCES, IN ACCORDANCE WITH SPECIFIC REQUIREMENTS STATED HEREIN AND EXHIBITS ATTACHED HERETO; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON THE MOTION

AYES: Wallace, Levenick, Dixon, Filidoro, Hayden,

NAYS: None

3. Consider approval of a resolution adopting an amended policy for establishing 25 mph speed limits on residential streets.

Staff Presentation

Assistant Town Manager Kent Collins, stated the Council had discussed this item at a previous work session. It was remanded back to the Transportation Commission for a recommendation.

Questions from the Governing Body and Answers

Mayor Smith asked if the speed limit on Glenwick could possibly be lowered.

Mr. Collins stated staff did not survey the neighborhoods looking for streets that might need to be 25 mph.

Councilmember Filidoro preferred to look at requests on a neighborhood basis.

Council Deliberation

Councilmember Filidoro moved to table this item to June 7, 2010. The motion was seconded by Councilmember Wallace.

VOTE ON THE MOTION

AYES: Levenick, Dixon, Filidoro, Hayden, Wallace

NAYS: None

4. **MPA 06-09 - Terracina** **Public Hearing**
Public Hearing to consider a request to amend Section 1.0, Land Use Plan (MPA 06-09 - Terracina), of Master Plan 2001 from Estate Residential to Low Density Residential, and to consider adopting an ordinance providing for said amendment. The properties are located at 6701 Chinn Chapel Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its April 12, 2010, meeting. The applicant has requested this item be postponed to the May 17, 2010 regular Town Council meeting.)

Councilmember Filidoro moved to postpone this item to the May 17, 2010 regular Town Council meeting. The motion was seconded by Mayor Pro Tem Levenick.

VOTE ON THE MOTION

AYES: Levenick, Dixon, Filidoro, Hayden, Wallace

NAYS: None

5. **ZPD 03-09 - Terracina** **Public Hearing**
Public Hearing to consider a request for rezoning (ZPD 03-09 - Terracina) from Single-Family Estate (SF-E) uses to Planned Development District-111 (PD-111) with Single-Family District-15 (SF-15) uses, and to consider adopting an ordinance providing for said amendment subject to the terms and conditions in the attached Development Agreement and authorization for the Mayor to execute same on behalf

of the Town. The properties are located at 6701 Chinn Chapel Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its April 12, 2010, meeting. The applicant has requested this item be postponed to the May 17, 2010 regular Town Council meeting.)

Councilmember Filidoro moved to postpone this item to the May 17, 2010 regular Town Council meeting. The motion was seconded by Mayor Pro Tem Levenick.

VOTE ON THE MOTION

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

M. COORDINATION OF CALENDARS AND FUTURE AGENDAS/MEETINGS

- May 17 regular meeting
- May 20 work session

N./O. CLOSED/OPEN MEETING

The Town Council convened into a closed meeting at 12:48 a.m. on May 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, real property, personnel, and economic development negotiations and reconvened into an open meeting at 12:56 a.m. on May 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.

Mayor Pro Tem Levenick moved to approve the purchase of right-of-way, in association with phase one of the Morriss-Gerault Improvement project, from FLCT, LTD., FLSC, LTD., and FLST, LTD., not to exceed the new settlement amount, plus acquisition expenses, and authorize the Assistant Town Manager, or his designee, to execute all documents related to acquisition of the property on behalf of the Town and the elimination of acquisition of easements from Verde Riverwalk Apartments II LP, 709 Enterprise Dr., LLC and Flozell J. Adams. Councilmember Wallace seconded the motion.

VOTE ON THE MOTION

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

- c. Consultation with the Town Attorney regarding legal issues associated with the interpretation of the provisions of Article 7 of the Town Charter and the initiative petition submitted to the Town on or about March 31, 2010.

No action taken.

P. ADJOURN REGULAR MEETING

Mayor Smith adjourned the regular meeting at 12:58 a.m. on Tuesday, May 4, 2010, and all were in favor.

TOWN OF FLOWER MOUND, TEXAS



JODY A. SMITH, MAYOR

ATTEST:




PAULA J. PASCHAL, TOWN SECRETARY

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