

Town Council Regular Meeting



March 18, 2024
Town Hall
2121 Cross Timbers Road
Flower Mound, TX 75028

6:00 p.m.

MINUTES

A. CALL TO ORDER

Mayor France called the meeting to order at 6:00 p.m. with the following members present:

Derek France, Mayor
Jim Engel, Mayor Pro Tem
Ann Martin, Deputy Mayor Pro Tem
Adam Schiestel, Councilmember Place 1
Chris Drew, Councilmember Place 2
Brian Taylor, Councilmember Place 3

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

Theresa Scott, Town Secretary
James W. Childers, Town Manager
Bryn Meredith, Town Attorney
Tommy Dalton, Assistant Town Manager
Tiffany Bruce, Assistant Town Manager/Town Engineer
Lexin Murphy, Director of Development Services
Melody Eby, Senior Economic Development Specialist
Ray Watson, Director of Economic Development
Sue Ridnour, Director of Library Services
Tammy Wilson, CFO
John Zagurski, CFO

B. INVOCATION

Chaplain Liles gave the invocation.

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

"Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible."

Mayor France led the pledges.

D. PRESENTATION(S)

1. Proclamation for commemorating Vietnam Veterans Day
Mayor France recited the proclamation and it was accepted by members of the Regent of the Flower Mound DAR (Daughter's) and SAR (Son's) Chapter.
2. Texas Municipal Library Directors Association 2023 Achievement of Excellence in Libraries Award
Sue Ridnour, Director of Library Services, accepted the award.

E. PUBLIC COMMENT

The purpose of this item is to allow the public an opportunity to address the Town Council regarding any item on this agenda that is not a "Public Hearing." Issues regarding daily operational or administrative matters should first be dealt with by calling Town Hall at 972.874.6000 during business hours.

In accordance with the Texas Open Meetings Act, the Town Council is restricted from discussing or acting on items not listed on the agenda.

To speak to Council during public comment, please fill out a [comment form \(PDF\)](#).

- Speakers are limited to 3 minutes, a tone will sound at 30 seconds left and when time has expired, and times may be adjusted by the mayor
- Speakers must address their comments to the Town Council
- Please state your name and address when speaking

Names listed below don't necessarily reflect the order in which each person spoke and all addresses are located in Flower Mound unless otherwise indicated.

	Speaker name and address	Subject (as written on the form)
1.	Rob Rawson, 1409 Basil Dr	Election
2.	Joe Bernard, 10605 Sunrise Cir	\$40,000 wasted
3.	Clare Harris, 416 North Wood	DCMGA Events
4.	Paul Stone, 1868 Meyerwood Ln	Citizen comment
5.	Kathy Travis, 2605 Russwood Dr	Wendell Mitchell - Police Chief
6.	Jacque Narrell, 4801 Lusk Ln	Historical Commission
7.	Cindy Clark, 8704 Baltusrol	Historical Commission
8.	Tyler Radbourne, 7400 Cross Timbers	Eden Ranch
9.	Julia Radbourne, 7400 Cross Timbers Rd*	Eden Ranch

** Indicates person did not wish to speak*

F. ANNOUNCEMENTS

1. Announcements from the mayor and council members
There were announcements from Mayor and Council regarding:
 - upcoming Easter events

G. TOWN MANAGER'S REPORT

1. Capital Improvement Projects
2. Economic Development Projects
3. Organizational Updates, including staff announcements
Mr. Childers had the following staff announcements:
 - John Zagurski - new CFO is official
 - Megan Jakubik, new Director of Budget Services
 - Open positions update (Library Director and Police Chief)
4. LISD Career Out Day
Ms. Eby gave a presentation identifying or noting:
 - program overview
 - event photos

and Mr. Childers highlighted the benefits of the program.

H. FUTURE AGENDA ITEM(S)

The purpose of this item is to allow the Mayor and members of Council an opportunity to bring forward items they wish to discuss at a future meeting, with the understanding that a consensus of Council is needed in order for that item to be placed on a future agenda and in accordance with the Town Council Agenda Setting Policy (Ord. 65-15).
There were no future agenda item request.

I. COORDINATION OF CALENDARS

Mayor France confirmed that all members of Council plan to attend the following meetings.

1. March 21 - Work Session
2. April 1 - Regular Meeting

J. BOARDS/COMMISSIONS

Conduct interviews and discuss and consider resignations, appointments, evaluations, reassignments, discipline, or dismissals for the following boards or commissions: Animal Services Board, Capital Improvements Advisory Committee, Cultural Arts Commission, Denton County Transportation Authority, Environmental Conservation Commission, Historical Commission, Parks Board, School Liaison Committee, SMARTGrowth Commission, Tax Increment Reinvestment Zone Number (TIRZ #1), Transportation Commission, and Veterans Liaison Board.

Town Council interviewed Brian Williams for the Historical Commission.

ACTION: Adam Schiestel moved to appoint Brian Williams to the Historical Commission, Place 9, with a term expiration date of September 30, 2025. Ann Martin seconded the motion.

AYES: Ann Martin, Jim Engel, Adam Schiestel, Brian Taylor, Chris Drew

NAYS: None

ABSTAIN: None

RESULT: 5 : 0

K. CONSENT ITEM(S)

This part of the agenda consists of non-controversial or "housekeeping" items required by law. Items may be removed from Consent by any council member by making such request prior to a motion and vote.

ACTION: Jim Engel moved to approve items 1 - 6 as presented in the agenda caption. Chris Drew seconded the motion.

AYES: Ann Martin, Jim Engel, Adam Schiestel, Brian Taylor, Chris Drew

NAYS: None

ABSTAIN: None

RESULT: 5 : 0

1. Minutes 3/4 - Consider approval of the minutes from a regular meeting held on March 4, 2024.
2. Lower Timber Interceptor Rehabilitation - Construction Award - Consider approval of a Construction Agreement with Canary Construction, Inc for the Lower Timber Interceptor Rehabilitation project, in the amount of \$675,995.00; and authorization for the Mayor to execute same on behalf of the Town.
3. Lead and Copper Rule Revisions - PSA - Consider approval of a Professional Service Agreement with Freese and Nichols, Inc. to provide support, a monitoring plan, and asset inventory records review for the EPA Lead and Copper Rule Revision Compliance Program as part of the Utility Asset Management and Utility Replacement project, in the amount of \$95,000.

4. Upper Timber Interceptor - Buy Board Award - Consider approval of Sanitary Sewer Rehabilitation Services related to the Upper Timber Interceptor (Morris Road to One Place Lane) project, with Insituform Technologies, LLC., utilizing The Local Government Purchasing Cooperative Contract #635-21, administered through BuyBoard, in the amount of \$912,658.25.
5. Timber Creek Park Collector Rehabilitation - Buy Board Award - Consider approval of Sanitary Sewer Rehabilitation Services related to the Timber Creek Park Collector Rehabilitation (Hanover Drive to Timber Creek Road) project, to Insituform Technologies, LLC., utilizing The Local Government Purchasing Cooperative Contract #635-21, administered through BuyBoard, in the amount of \$897,754.00.
6. Whyburn Addition Development Agreement - Consider approval of a Developers Agreement with CND Whyburn, LLC., for a 3.525-acre Public Park to be dedicated via special warranty deed to the Town with reimbursement of Park Development fees associated with the Whyburn Addition development for park-related items; and authorization for the Mayor to execute same on behalf of the Town.

L. REGULAR ITEM

1. 2023 ACFR - Consider approval of the Annual Comprehensive Financial Report (ACFR) for the fiscal year ended September 30, 2023.
Ms. Wilson introduced Shelby Ebarb, with Eide Baily, LLP.

Ms. Ebarb summarized the work of the audit and highlighted various pages within the report.

ACTION:	Jim Engel moved to approve L.1. as presented in the agenda caption. Chris Drew seconded the motion.
AYES:	Ann Martin, Jim Engel, Adam Schiestel, Brian Taylor, Chris Drew
NAYS:	None
ABSTAIN:	None
RESULT:	5 : 0

M. CLOSED MEETING

The Town Council to convene in to a closed meeting pursuant to Texas Government Code Section 551.071 for consultation with Town Attorney, as indicated below. The Town Council may convene in executive session to conduct a private consultation with its attorney on any legally posted agenda item, when the Town Council seeks the advice of its attorney about pending or contemplated litigation, a settlement offer, or on a matter in which the duty of the

attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the provisions of Chapter 551, including the below-referenced items.

Mayor France announced that the Town Council is convening into a closed meeting at 6:51 p.m., pursuant to Texas Government Code Chapter 551, Section 071 for consultation with the Town Attorney.

1. Consultation with Town Attorney.

a. Town regulation of public franchise utilities

N. RECONVENE

The Town Council reconvened into an open meeting at 7:31 p.m., and no action was taken on the above item(s).

O. REGULAR ITEMS

1. Oncor Electric line upgrades on High Road and Rolling Hills - Public Hearing to receive updates and input on the Oncor Electric line upgrade project on High Road and Rolling Hills.

Mr. Childers acknowledged the guests in attendance (Representatives from Senator Tan Parker and Kronda Thimesch's office, State Representative Bumgarner, Don Spencer, Chief Appraiser, Denton Central Appraisal District, and Erik Montoya, Area Manager, Oncor. Mr. Dalton provided background information on the topic and Mr. Meredith addressed the legal elements involved, and they responded to the following questions or comments from Council, some of which were after the public hearing:

- permit filing (for trimming or removal of trees)
- past pole replacement work
- requirements that can be placed on the service provider, including a signage requirement
- the need for the utility provider to declare what they are going to do and assistance is needed from the state legislature to allow local authorities to have some control
- frustrations regarding the current situation with the removal of trees
- the need for better coordination and communication (facts and expectations) and some protection for homeowners
- how Oncor chose to cut the trees down instead of trimming
- franchise agreement language
- delineation between private property and right of way (resident recourse)
- transformer proximity to residential homes

Mr. Spencer responded to questions regarding:

- property tax impact as a result of the tree removal

Mayor France opened the public hearing at 8:01 p.m.

Names listed below don't necessarily reflect the order in which each person spoke and all addresses are located in Flower Mound unless otherwise indicated.

	SUPPORT	OPPOSITION	QUESTIONS OR COMMENTS ONLY
1.		Deb Wyse, 7705 Emerson Ln	Neal Seidner, 3965 High Rd
2.		Nick Stump, 3525 High Rd	Bert Auburn, 7500 Arabian Cir
3.		Clark Canant, 7708 Emerson Ln	John Kurilecz, 7705 Emerson Ln
4.		Jennifer Christmas, 3443 Shady Oaks Dr*	Kim Kerr, 4204 Thoreau*
5.		Shane Kimbrel, 7608 Emerson Ln*	Donna Conrad, 7516 Emerson Ln*
6.		Cathy Krause, 7401 Arabian Cir*	Gayla Carrant, 7708 Emerson Ln*
7.		Gilbert Barth, 7380 Lost Creek*	
8.		Marc Barth, 7380 Lost Creek*	
9.		Anand Bhatia, 2224 Waterstone Trl*	
10.		Dawn Runte, 5480 High Rd*	
11.		Viannah Christmas, 3443 Shady Oaks Dr*	
12.		Mark Mathson, 7701 Emerson Ln*	
13.		Lori Oates, 3525 High Rd*	

** Indicates person did not wish to speak*

Mayor Francend closed the public hearing at 8:18 p.m.

Council Discussion

There was Council discussion regarding:

- interest in pursuing restoration per the franchise agreement (one to one tree replacement like what the Town requires of developers)
- for the next franchise agreement have Oncor declare what trees are slated for removal as part of the permitting process (transparency)
- use of signage in the disclosure process

2. TIRZ #2 Final Plan - Consider an ordinance approving the Final Project and Financing Plan for Tax Increment Reinvestment Zone number 2 (TIRZ #2) pursuant to Chapter 311 of the Texas Tax Code.

Mr. Childers provided background information.

Mary Petty, P3 Works, TIRZ Administrator, gave a presentation identifying or noting:

- background information
- TIRZ goals overview
- TIRZ boundary
- map of the public improvements
- project costs to be paid by TIRZ No. 2

and she, Mr. Meredith, Mr. Childers, Mr. Dalton, or Mr. Watson responded to questions or comments from Council regarding:

- types of projects that TIRZ funds could be used for
- timeline of costs and feasibility study
- clawbacks
- obligations
- capital improvement agreements, including parks
- clarification regarding what municipal services and public facilities are included in Tier Two from the funds list
- non project costs (same); inflationary factors
- intent of TIRZ (limited in scope)
- cost and revenue projections
- risks, opportunities
- 50% of the increment language and where it fits
- termination language
- town facility needs (fire station)
- services and risk
- feasibility study
- values and projections, including changing the cap amount
- forecasted revenue
- future TIRZ Board ability to change the plan

- project costs

ACTION: Jim Engel moved to approve O.2. as presented in the agenda caption. Ann Martin seconded the motion.
AYES: Ann Martin, Jim Engel, Brian Taylor, Chris Drew
NAYS: Adam Schiestel
ABSTAIN: None
RESULT: 4 : 1

P. CLOSED MEETING

The Town Council to convene into closed meeting pursuant to Texas Government Code Chapter 551, including, but not limited to, Sections 551.071, 551.072, 551.074, and 551.087 for consultation with Town Attorney, and to discuss matters relating to real property, personnel, and economic development negotiations, as indicated below. The Town Council may convene in executive session to conduct a private consultation with its attorney on any legally posted agenda item, when the Town Council seeks the advice of its attorney about pending or contemplated litigation, a settlement offer, or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the provisions of Chapter 551, including the below-referenced items.

Mayor France announced that the Town Council is convening into a closed meeting at 9:40 p.m., pursuant to Texas Government Code Chapter 551, including, but not limited to, Sections 551.071, 551.072, 551.074, and 551.087.

1. Consultation with Town Attorney.
 - a. La Estancia Investments, L.P. v. Town of Flower Mound, Texas, et al
 - b. Regulation of public art
 - c. Canyon Falls Park
2. Discuss and consider purchase, exchange, lease or value of real property for parks, cultural arts, public safety, public rights-of-way, and/or other municipal purposes and all matters incident and related thereto.
3. Discuss and consider resignations, appointments, evaluations, reassignments, discipline, or dismissals for the following boards or commissions: Board of Adjustment/Oil & Gas Board of Appeals, Community Development Corporation, and Planning and Zoning Commission.
4. Discuss and consider economic development incentives, including retail centers, grocers, corporate relocation/expansion/retention, hospitality projects, health care facilities, performance related to certain incentive agreements, and Tax Increment Reinvestment Zone (TIRZ) #1, TIRZ #2, River Walk PID No. 1, Proposed PID, MMDs, and MUDs

The Town Council may convene in executive session to conduct a private consultation with its attorney on any legally posted agenda item, when the Town Council seeks the advice of its attorney about pending or contemplated litigation, a settlement offer, or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the provisions of Chapter 551, including the above referenced items.

Q. RECONVENE

The Town Council reconvened into an open meeting at 11:50 p.m., and no action was taken on the above items.

R. ADJOURN

Mayor France adjourned the meeting at 11:50 p.m. and all were in favor.

TOWN OF FLOWER MOUND, TEXAS



DEREK FRANCE, MAYOR

ATTEST:



THERESA SCOTT, TOWN SECRETARY