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**Minutes
Forney City Council
Tuesday, September 3, 2019
6:30 p.m. Regular Meeting
City Hall, 101 E. Main Street, Forney, Texas 75126**

I. CALL TO ORDER

Mayor Penn called the meeting to order at 6:32 p.m. Present were Mayor Mary Penn, Mayor Pro Tem Shaun Myers and Council Members Mike Thomas, Robbie Powers, Kevin Moon, Derald Cooper and David Johnson. Also present was City Manager Tony Carson.

II. INVOCATION / PLEDGE OF ALLEGIANCE – COUNCIL MEMBER KEVIN MOON

Prior to the invocation, Mayor Penn called for a moment of silence from the City of Forney to the City of Odessa in this time of tragedy. We are here for you. Pastor Marty Reid gave the invocation and Council Member Moon led the Pledge of Allegiance.

III. PROCLAMATIONS / PRESENTATIONS

1. Presentation of the GFOA Budget Award

Mayor Penn presented the GFOA Award to Charity Wilson and Deborah Woodham. This award represents a significant achievement by the City of Forney. It reflects the commitment of the governing body and staff to meeting the highest principles of governmental budgeting. In order to receive the budget award, the City had to satisfy nationally recognized guidelines for effective budget presentation. This is the 11th year that the City has received this award.

IV. OPEN FORUM/CITIZEN COMMENTS

This is the public's opportunity to address the City Council on any matter related to the City. However, in accordance with the Texas Open Meetings Act, Section 551.041, the City Council cannot discuss, consider, or take action on matters not listed on the agenda. The City Council will receive citizen comments, and if necessary, may refer the matter to City staff for research, resolution or referral to Council on a future agenda. As described in the City's Public Meeting Procedures, comments will be limited to three (3) minutes.

Mayor Penn opened the floor to anyone in the audience who wished to address the Council on any subject not on tonight's agenda. The following person came forward and addressed the Council:

John Daniel
630 Cedar
Forney, Texas 75126

Mr. Daniel feels that the City has let them down. He thanked crews for cleaning out the drains, but there is still a lot that needs to be done. There are problems in "Old Forney" that need to be taken care of.

There being no other people wishing to speak to the Council, Mayor Penn closed the Open Forum session.

V. APPROVAL OF MINUTES

1. Consider approval of the Minutes from the August 20, 2019, City Council meeting.

55 Mayor Penn asked if Council had any changes to the minutes. There being no changes, Mayor Penn
56 called for a motion. Council Member Johnson made a motion to approve the Minutes from the August
57 20, 2019, City Council meeting and Mayor Pro Tem Myers seconded the motion. The motion passed
58 by a vote of 6 ayes and 1 abstain [Moon].
59

60 VI. CONSENT AGENDA

61 [The items on the Consent Agenda are considered to be self-explanatory by the Council and will be enacted in one
62 motion. There will be no separate discussion of these items unless requested by a Council Member.]
63

- 64 1. **Consider a Resolution approving a Professional Services Agreement with Lee**
65 **Engineering.**
66
- 67 2. **Consider a Resolution approving an Interlocal Agreement between the City of**
68 **Forney and the Texas Department of Public Safety (“TXDPS”), to implement the**
69 **provisions of Texas Transportation Code, Chapter 706, related to the Failure to**
70 **Appear Program for municipal courts.**
71
- 72 3. **Consider approval of the acceptance of public improvements for Emerson**
73 **Apartments.**
74
- 75 4. **Consider approval of the acceptance of public improvements for the Race Trac**
76 **Project.**
77
- 78 5. **Consider approval of the project acceptance for the Weaver Lift Station Project.**
79

80 Mayor Penn asked if Council wanted to pull any items for discussion. Council Member Johnson
81 requested that Consent Agenda Item No. 1 be pulled. Mayor Penn then asked for a motion to approve
82 the remaining items. Mayor Pro Tem Myers made a motion to approve Consent Agenda Items No. 2
83 through 5 and Council Member Powers seconded the motion. The motion passed unanimously by a
84 vote of 7 ayes and 0 nays.
85

86 Council Member Johnson stated that he was very pleased to see the agreement with Lee Engineering.
87 Council Member Johnson then made a motion to approve Consent Agenda Item No. 1 and Council
88 Member Thomas seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0
89 nays.
90

91 VII. PUBLIC HEARING ITEMS / ACTION ON PUBLIC HEARING ITEMS

- 92
- 93 1. **Hold a public hearing (2nd public hearing) on a proposal to increase total tax**
94 **revenues from properties on the tax roll in the preceding tax year by 3.5%.**
95

96 Finance Director Deborah Woodham discussed the background of this item. Mayor Penn called for a
97 motion to open the public hearing at 6:42 p.m. Council Member Johnson made a motion to open the
98 public hearing and Council Member Powers seconded the motion. The motion passed unanimously
99 by a vote of 7 ayes and 0 nays.
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101 Mayor Penn called for public input on this item, but no one came forward to address the Council.
102 Mayor Penn called for a motion to close the public hearing at 6:42 p.m. Mayor Pro Tem Myers made
103 a motion to close the public hearing and Council Member Moon seconded the motion. The motion
104 passed unanimously by a vote of 7 ayes and 0 nays.
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2. Hold a 2nd public hearing and discuss and consider action on a proposed Strategic Partnership Agreement between the City of Forney and Kaufman County Fresh Water Supply District No. 6 and the voluntary annexation for limited purposes of collecting sales tax on a tract of land consisting of 34.263 acres, situated in the Martha Musick Survey, Abstract No. 312, Kaufman County, Texas, KCAD Property ID No. 9714.

City Attorney Jon Thatcher discussed the background of this item. The proposed Strategic Partnership Agreement between the City of Forney and the Kaufman County Fresh Water Supply District No. 6 provides for the limited purpose annexation of approximately 34.263 acres located adjacent to the Vintage Meadows residential subdivision on the northwest corner of FM 741 and I-20.

A Strategic Partnership Agreement requires that the parties to the agreement hold two public hearings giving the public an opportunity to be heard on the matter of the partnership and limited purpose annexation. The District held its two public hearings in May and June 2015. The property is currently vacant. This is the City's second public hearing. The City Council can consider approval of the Agreement and limited purpose annexation for sales tax purposes at this time.

Mayor Penn called for a motion to open the public hearing at 6:45 p.m. Council Member Thomas made a motion to open the public hearing and Council Member Cooper seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.

Mayor Penn called for public comment. No one came forward to address the Council. Mayor Penn called for a motion to close the public hearing at 6:45 p.m. Mayor Pro Tem Myers made a motion to close the public hearing and Council Member Thomas seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.

Mayor Penn called for a motion on the item. Council Member Thomas made a motion to approve entering into the Strategic Partnership Agreement with Kaufman County Fresh Water Supply District No. 6 and Council Member Johnson seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.

3. Hold a public hearing on an Ordinance and discuss and consider and any necessary action amending Ordinance 08-1290 to approve the First Amended and Restated Project Plan and Reinvestment Zone Financing Plan that enlarges the TIRZ boundaries, extends the duration of the Zone and updates projects and project costs.

City Attorney Thatcher discussed the background of this item. The First Amended and Restated Project Plan and Reinvestment Zone Financing Plan is proposed to be amended as follows:

- The TIRZ Boundaries will be enlarged to include an additional 200 acres of land owned by the developers near the Gateway Parks residential development;
- The length of the Zone will be extended three years and will now terminate on December 31, 2041;
- The realignment of Reeder Road will be added as an eligible project cost;
- Project cost table is updated to include Reeder Road and reflect the reduction in interest from 12% to 6% per annum on owner advances and set forth in the amendment to the Owner Reimbursement Agreement.

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Other Notes:

- The County is not included in the participation of the Zone expansion or extended life of the Zone;
- The City’s participation rate in the Zone will remain at 85% of its tax rate.

Mayor Penn called for a motion to open the public hearing at 6:50 p.m. Mayor Pro Tem Myers made a motion to open the public hearing and Council Member Powers seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.

Mayor Penn opened the floor for anyone in the audience who wished to comment on this matter. No one came forward to address the Council. Mayor Penn called for a motion to close the public hearing at 6:50 p.m. Council Member Moon made the motion to close the public hearing and Council Member Johnson seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.

Mayor Pro Tem Myers thanked David, Jon, Tony and Petro Hunt for their hard work in getting this agreement together so we can move forward. Mayor Penn called for a motion. Council Member Powers made a motion to approve the Ordinance and Council Member Cooper seconded the motion. The Ordinance caption was read as follows:

ORDINANCE NO. 19-38

AN ORDINANCE OF THE CITY OF FORNEY, TEXAS, AMENDING ORDINANCE 08-1290 BY WHICH THE CITY CREATED REINVESTMENT ZONE NUMBER ONE, CITY OF FORNEY TO EXPAND THE BOUNDARIES OF THE ZONE, EXTENDING THE DURATION OF THE ZONE, AND APPROVING THE FIRST AMENDED AND RESTATED PROJECT PLAN AND REINVESTMENT ZONE FINANCING PLAN; PROVIDING FOR A SAVINGS, SEVERABILITY AND REPEALER CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

The motion passed unanimously by a vote of 7 ayes and 0 nays.

VIII. DISCUSSION / ACTION ITEMS

1. Vision 2025 -- Goals and Initiatives

City Manager Carson had nothing new at this time.

2. Discuss and consider an Ordinance approving a negotiated settlement between the ATMOS Cities Steering Committee (“ACSC”) and ATMOS Energy Corp., Mid-Tex Division regarding the Company’s 2019 Rate Review Mechanism filing.

City Attorney Thatcher discussed the background of this item. The City, along with 171 other Mid-Texas cities served by Atmos Energy Corporation, Mid-Tex Division (“Atmos Mid-Tex” or “Company”), is a member of the Atmos Cities Steering Committee (“ACSC”). In 2007, ACSC and Atmos Mid-Tex settled a rate application filed by the Company pursuant to Section 104.301 of the Texas Utilities Code for an interim rate adjustment commonly referred to as a GRIP filing (arising out of the Gas Reliability Infrastructure Program legislation). That settlement created a substitute rate review process, referred to as Rate Review Mechanism (“RRM”), as a substitute for future filings under the GRIP statute.

Since 2007, there have been several modifications to the original RRM Tariff. The most recent iteration of an RRM Tariff was reflected in an ordinance adopted by ACSC members in 2018. On or about April 1, 2019, the Company filed a rate request pursuant to the RRM Tariff adopted by ACSC members. The Company claimed that its cost-of-service in a test year ending December 31, 2018, entitled it to additional system-wide revenues of \$70 million. Application of the standards set forth in ACSC’s RRM

212 Tariff required Atmos to reduce its request to \$54 million, \$39.3 million of which would be applicable
213 to ACSC members. ACSC's consultants concluded that the system-wide deficiency under the RRM
214 regime should be \$38.7 million instead of the claimed \$54 million. The amount of the \$38.7 million
215 deficiency applicable to ACSC members would be \$28.2 million.
216

217 After the Company reviewed ACSC's consultants' report, ACSC's Executive Committee and the
218 Company negotiated a settlement whereby the Company would receive an increase of \$35.4 million
219 from ACSC Cities.
220

221 The Executive Committee recommends a settlement at this amount. The Effective Date for new rates
222 is October 1, 2019.
223

224 Mayor Penn called for a motion. Council Member Thomas made a motion to approve the Ordinance
225 and Council Member Johnson seconded the motion. The Ordinance caption was read as follows:
226

227 **ORDINANCE NO. 19-37**
228

229 **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FORNEY APPROVING A**
230 **NEGOTIATED SETTLEMENT BETWEEN THE ATMOS CITIES STEERING COMMITTEE**
231 **("ACSC") AND ATMOS ENERGY CORP., MID-TEX DIVISION REGARDING THE COMPANY'S**
232 **2019 RATE REVIEW MECHANISM FILING; DECLARING EXISTING RATES TO BE**
233 **UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT**
234 **WITH THE NEGOTIATED SETTLEMENT; FINDING THE RATES TO BE SET BY THE ATTACHED**
235 **SETTLEMENT TARIFFS TO BE JUST AND REASONABLE AND IN THE PUBLIC INTEREST;**
236 **APPROVING AN ATTACHED EXHIBIT ESTABLISHING A BENCHMARK FOR PENSIONS AND**
237 **RETIREE MEDICAL BENEFITS; APPROVING AN ATTACHED EXHIBIT REGARDING**
238 **AMORTIZATION OF REGULATORY LIABILITY; REQUIRING THE COMPANY TO REIMBURSE**
239 **ACSC'S REASONABLE RATE MAKING EXPENSES; DETERMINING THAT THIS ORDINANCE**
240 **WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN**
241 **MEETINGS ACT; ADOPTING A SAVINGS CLAUSE; DECLARING AN EFFECTIVE DATE; AND**
242 **REQUIRING DELIVERY OF THIS ORDINANCE TO COMPANY AND THE ACSC'S LEGAL**
243 **COUNSEL.**
244

245 The motion passed unanimously by a vote of 7 ayes and 0 nays.
246

- 247 **3. Discuss and consider a Resolution approving the First Amendment to**
248 **Owner Reimbursement Agreement between Meadow Ridge Farm, LP, the**
249 **City of Forney and Reinvestment Zone Number One, City of Forney.**
250

251 City Manager Carson discussed the background of this item. The original agreement between the
252 City, Reinvestment Zone Number One and Meadow Ridge Farms LP (approved on December 17,
253 2010) is amended as follows:
254

- 255 • Interest on Owner advances will be reduced from 12% to 6% per annum
- 256 • The length of the Zone will be extended three years and will now terminate on
257 December 31, 2041
- 258 • The TIRZ Boundaries will be enlarged to include additional land owned by the
259 developers near the Gateway Parks residential development
- 260 • Reeder Road will be added as an eligible project cost
- 261 • The City's advance of \$3,000,000 towards the cost of the Interchange will be
262 reimbursed at the same time as the Owner, based on a dollar for dollar pay
263 out, until the City and Owner is reimbursed in full

264
265 The City's participation rate in the zone will remain at 85% of its tax rate
266

267 Mr. Carson thanked Mr. Hunt, Alan Bain, and Mr. Blackman for working with. Council Member Thomas
268 stated that these funds come from the TIRZ, not the City's money. This funding does not impact the
269 City's budget.

270
271 Mayor Penn called for a motion. Mayor Pro Tem Myers made a motion to approve the Resolution and
272 Council Member Cooper seconded the motion. The motion passed unanimously by a vote of 7 ayes
273 and 0 nays.

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275 **4. Discuss, consider and take any necessary action including action on a**
276 **Resolution regarding the creation of the Hall of Honor and appointing**
277 **members to the Hall of Honor Committee and providing an effective date.**
278

279 Council Member Powers made a motion to table this item until our next meeting and Council Member
280 Moon seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.

281
282 **IX. CITY MANAGER'S REPORT**
283

284 Mr. Carson advised that the Panera Bread ribbon cutting is Wednesday, September 4, 2019. The
285 construction on the Lady Liberty site has started. With regard to the "No Trucks" on Bois D'Arc in
286 August the Police Department issued 15 citations/warnings and spent approximately 12 hours on
287 assignment. The signage is now up, this is what allowed the PD to write the tickets. We had to wait
288 on TxDOT for their approval. The Police did an excellent job regarding the parking issues and the big
289 trucks and this will be the same result once there are repetitive tickets.

290
291 CIP Manager Candy McQuiston gave a quick update on the Water Tower at Bois D'Arc and Pecan.
292 The estimated completion is October 31. We do not have a firm date on raising the tank. It was noted
293 that raising the tank will take all day.

294
295 Mr. Carson thanked the Mayor and Council, Staff and the residents for their support. He really likes
296 his job and staff is excellent.

297
298 **X. COUNCIL COMMENTS**
299

300 Council Member Thomas had no comments.

301
302 Mayor Pro Tem Myers thanked everyone for coming out tonight. He thanked Tony for his hard work
303 this year and he thanked Staff for their hard work.

304
305 Council Member Powers thanked everyone for the prayers for her family regarding the loss of her
306 uncle. She thanked Tony and Staff for their hard work and thanked everyone for coming out tonight.

307
308 Council Member Moon thanked Mr. Daniels for speaking up. He thanked Tony for his hard work this
309 year and he thanked Staff for their hard work.

310
311 Council Member Cooper had no comments.

312
313 Council Member Johnson thanked the public for coming out. He thanked Staff for their work and he
314 appreciates their efforts on the budget. The TIF/TIRZ agreement is very important and he thanked
315 Mr. Hawes for his input on this project.

316
317 Mayor Penn stated she is excited to see the interest rate get lowered on the TIF/TIRZ. She told Tony
318 she is excited that he is here and that he has done a great job given the challenges he faced. We
319 have a great team.

320
321 Mayor Penn stated that the State Fair of Texas is upon us. Out of 12 categories in the creative arts
322 division, there were many Forney people who placed in this very competitive and prestigious State
323 Fair. The following people who have won ribbons on projects they submitted to the State Fair.

- 324
325 Jean Nixon
326 Rochelle Gillum
327 Cynthia Risher
328 Madison Weir
329 Sheryl Cathey
330 Kim Vasquez
331 Alice Hogue
332 Harold Goodman
333 Dian Wade
334 Janet Stone
335 Karen Chism
336 Linday Rhodes
337 Rebecca Bredeweg
338 Shirley Bragg
339 Cindy Tramel
340 Susan O'Brien
341 Stone Phillips

342 Holiday Corner Needle Point, crewel, counted cross stitch, needle work and sewing
343 Ms. Penn stated that she had also placed 3rd on a drawing that she submitted.

344
345 City Manager Carson advised that our very own Fire Chief, Rick Townsend, had also won a ribbon for
346 his grape jam.

347
348 Mayor Penn stated that Council would now be adjourning into Executive Session under Chapter 551
349 of the Texas Government Code, Section 551.071 and asked for a motion to do so. Council Member
350 Powers made a motion to adjourn into Executive Session at 7:15 p.m. and Council Member Johnson
351 seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays. Council
352 Member Powers left the meeting at this time.

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355 **XI. EXECUTIVE SESSION**

356 **PURSUANT TO THE OPEN MEETINGS ACT, CHAPTER 551, TEXAS GOVERNMENT CODE, THE CITY**
357 **COUNCIL WILL RECESS INTO EXECUTIVE SESSION (CLOSED MEETING) TO DISCUSS THE FOLLOWING:**

- 358
359 **1. Consult with legal counsel regarding pending or contemplated litigation or a**
360 **settlement offer and/or matters in which the duty of the attorney to the**
361 **governmental body under Texas Disciplinary Rules of Professional Conduct of**
362 **the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government**
363 **Code (Tex. Gov't Code Section 551.071):**
364
365 **a. PUC Docket No. 46662; SOAH Docket No. 473-17-4964.WS –**
366 **Petition of the Cities of Garland, Mesquite, Plano and Richardson**
367 **Appealing the Decision by North Texas Municipal Water District**
368 **Affecting Wholesale Water Rates.**
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- b. **PUC Docket No. 47814; SOAH Docket No. 476-18-1344.WS – Petition High Point Water Supply Corporation, Talty Special Utility District, and Markout Water Supply Corporation Appealing the Decision by the City of Forney Affecting Wholesale Water Rates.**
- c. **Victorian Village**
- d. **Mediation Settlement Agreement between the City of Forney and Crescent Constructors, Inc. regarding the construction of Pump Station 2 Improvements and the 5 MG Ground Storage Tank.**

XII. RECONVENE INTO REGULAR SESSION

Council returned to Chambers at 8:20 p.m. Mayor Penn called for a motion to adjourn out of Executive Session at that time. Mayor Pro Tem Myers made a motion to adjourn out of Executive Session and Council Member Moon seconded the motion. The motion passed by a vote of 6 ayes and 1 absent [Powers].

Mayor Penn asked if there was any action to be taken as a result of Executive Session. Council Member Thomas made a motion to approve a mediation settlement agreement with Crescent Constructors, Inc. and Council Member Johnson seconded the motion. The motion passed by a vote of 6 ayes and 1 absent [Powers].

Mayor Penn called for a motion to adjourn the meeting. Council Member Cooper made a motion to adjourn the meeting at 8:22 p.m. and Council Member Johnson seconded the motion. The motion passed by a vote of 6 ayes and 1 absent [Powers].

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FORNEY, TEXAS, this _____ day of _____, 2019.

ATTEST:

Dorothy Brooks, City Secretary

Mary Penn, Mayor