

**Minutes
Forney City Council
Tuesday, October 1, 2019
5:30 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 5:32 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 DAVID JOHNSON

III. PROCLAMATIONS / PRESENTATIONS

1. Energy Efficiency Day Proclamation

Mayor Penn read the Proclamation and presented it to North Forney Student Council Members Sydney Fishback, President, Nivin Sunesh, Vice President, Blake Quintana, Secretary, and Evelyne Karanja, Parliamentarian.

2. Breast Cancer Awareness Month

Mayor Penn read the proclamation in honor of her family members and others who suffered with this disease.

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 no on tonight's agenda. No one came forward, so Mayor Penn closed the open forum session.

V. APPROVAL OF MINUTES

1. Consider approval of the Minutes from the September 17, 2019, City Council meeting.

Mayor Penn asked if there were any changes to the Minutes. There being no changes, Mayor Penn called for a motion. Council Member Moon made a motion to approve the September 17, 2019 Minutes and Council Member Powers seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.

VI. CONSENT AGENDA

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

1. Consider approval of the project acceptance for the CR 212 Roadway Restoration Project.

2. Consider a Resolution approving the 2019 Annual Update to the Service and Assessment Plan and Assessment Rolls for The Villages of Fox Hollow Public Improvement District No. 1 (Capital PID) including the collection of the 2019 annual installments.

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- 3. Consider an Ordinance approving the limited purpose annexation of approximately 34.263 acres of land situated in the Martha Musick Survey, Abstract No. 312, Kaufman County, Texas, KCAD Property ID No. 9714 in accordance with a Strategic Partnership Agreement between the City of Forney and Kaufman County Fresh Water Supply District No. 6.

Mayor Penn pulled Consent Agenda Item No. 3 and called for a motion on the remaining items. Council Member Johnson made a motion to approve Consent Agenda Items 1 and 2 and Mayor Pro Tem Myers seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.

Mayor Penn called for a motion on Consent Agenda Item No. 3. Mayor Pro Tem Myers made a motion to approve Consent Agenda Item No. 3 and Council Member Thomas seconded the motion. The Ordinance caption was read as follows:

ORDINANCE NO. 19-45

AN ORDINANCE ANNEXING APPROXIMATELY 34.263 ACRES OF LAND OUT OF THE MARTHA MUSICK SURVEY ABSTRACT NUMBER 312, LOCATED IN KAUFMAN COUNTY, TEXAS, FOR THE LIMITED PURPOSES OF COLLECTING SALES AND USE TAX REVENUES IN ACCORDANCE WITH THE STRATEGIC PARTNERSHIP AGREEMENT BETWEEN THE CITY OF FORNEY AND THE KAUFMAN COUNTY FRESH WATER SUPPLY DISTRICT NO. 6.

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

VII. PUBLIC HEARING ITEMS / ACTION ON PUBLIC HEARING ITEMS

- 1. Conduct a public hearing, consider and act upon an ordinance levying special assessments against the assessable property within the “Fox Hollow Public Improvement District No. 1” (Maintenance PID) and approving the final update to the Service and Assessment Plan, pursuant to the provisions of Chapter 372 of the Texas Local Government Code. The PID contains approximately 813.605 acres of land generally located southeast of FM 548 between FM 1641 and FM 741 (Fox Hollow).

City Attorney Jon Thatcher discussed the background of this item. In 2004, the City of Forney created the Fox Hollow Public Improvement District No. 1 for the purpose of levying assessments to fund several enumerated maintenance items in the Fox Hollow subdivision. This includes the maintenance of the perimeter wall, common areas, landscaping, and public lighting. In 2016, the City took over the oversight of this PID and is currently receiving the revenue from the assessments to be used for the aforementioned purposes. To assist the City with the operation of this PID, an administrator was hired to oversee the proposed Service and Assessment Plan and operate under a proposed budget. The City must review annually a 5-year plan, assessment roll, and budget for the PID. Additionally, because this PID was created for maintenance costs it must call a public hearing to receive public comments prior to approving the levy of any special assessments and accepting a service and assessment plan. The Service and Assessment Plan outlines the assessments to be levied against the identified property within the District, the projects that will be funded by the assessments, and the manner by which the assessments can be paid. Because the Maintenance PID funds maintenance only projects, the assessments levied are done annually to cover the budgeted expenses. The proposed levy is \$0.12 per \$100 valuation, which is the same rate that was levied in previous years. These assessments are collected through the Kaufman County Tax Collector’s Office. Following the Public Hearing, the Council will have the opportunity to consider adopting an ordinance approving the Final Service and Assessment Plan and levy assessments against the assessable property within the District.

Mayor Penn called for a motion to open the public hearing. Mayor Pro Tem Myers made a motion to open the public hearing at 5:47 p.m. and Council Member Powers seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays. No one came forward to address the Council. Mayor Penn

117 called for a motion to close the public hearing. Council Member Johnson made a motion to close the public
118 hearing at 5:48 p.m. and Council Member Cooper seconded the motion. The motion passed unanimously
119 by a vote of 7 ayes and 0 nays.
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121 Mayor Penn called for a motion on the item. Council Member Powers made a motion to approve the
122 Ordinance levying the special assessments and Council Member Moon seconded the motion. The
123 Ordinance Caption was read as follows:

124 **ORDINANCE NO. 19-46**

125 **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FORNEY, TEXAS APPROVING A SERVICE AND**
126 **ASSESSMENT PLAN AND AN ASSESSMENT ROLL FOR THE FOX HOLLOW PUBLIC IMPROVEMENT DISTRICT NO.**
127 **1; MAKING A FINDING OF SPECIAL BENEFIT TO THE PROPERTY WITHIN THE DISTRICT; LEVYING SPECIAL**
128 **ASSESSMENTS AGAINST PROPERTY WITHIN THE DISTRICT; ESTABLISHING A LIEN ON SUCH PROPERTY;**
129 **PROVIDING FOR ASSESSMENTS TO BE PAID IN ACCORDANCE WITH CHAPTER 372, TEXAS LOCAL**
130 **GOVERNMENT CODE, AS AMENDED; SPECIFYING THE METHOD AND THE AMOUNT OF PAYMENT; PROVIDING**
131 **PENALTIES AND INTEREST ON DELINQUENT ASSESSMENTS; PROVIDING FOR SEVERABILITY; AND PROVIDING**
132 **AN EFFECTIVE DATE.**
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136 The motion passed unanimously by a vote of 7 ayes and 0 nays.
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138 Mayor Penn pulled Action/Discussion Item No. 2 up for action at this time.
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140 **2. Discuss and consider approval of an Ordinance approving the Drought**
141 **Contingency Plan.**
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143 City Attorney Thatcher advised that this item needs to be a public hearing and that it was properly advertised
144 as a public hearing. Public Works Director Rick Sailer discussed the background of this item. This 2019
145 Drought Management Plan was prepared by the City of Forney, in cooperation with the North Texas
146 Municipal Water District. This plan was prepared pursuant to Texas Commission on Environmental Quality
147 (TCEQ) rules. The measures included in this Plan are intended to provide short term water savings during
148 drought or emergency conditions.
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150 Mayor Penn called for a motion to open the public hearing. Mayor Pro Tem Myers made a motion to open
151 the public hearing at 5:56 p.m. Council Member Johnson seconded the motion. The motion passed
152 unanimously by a vote of 7 ayes and 0 nays. Darrell Grooms, the City's representative on the North Texas
153 Municipal Water District Board, advised that lake levels are at 81.3% of capacity at this time. No one else
154 came forward to address the Council. Mayor Penn called for a motion to close the public hearing. Council
155 Member Thomas made a motion to close the public hearing at 5:58 p.m. and Council Member Johnson
156 seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.
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158 Mayor Penn called for a motion on this item. Council Member Thomas made a motion to approve the
159 Ordinance and Council Member Johnson seconded the motion. The Ordinance caption was read as
160 follows:

161 **ORDINANCE NO. 19-47**

162 **AN ORDINANCE OF THE CITY OF FORNEY, TEXAS, ADOPTING A DROUGHT CONTINGENCY PLAN FOR**
163 **THE CITY OF FORNEY TO PROMOTE RESPONSIBLE USE OF WATER RESOURCES AND TO PROVIDE**
164 **FOR PENALTIES AND/OR THE DISCONNECTION OF WATER SERVICE FOR NONCOMPLIANCE WITH THE**
165 **PROVISIONS OF THE DROUGHT CONTINGENCY PLAN; PROVIDING FOR REPEALING, SAVINGS AND**
166 **SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE**
167 **PUBLICATION OF THE CAPTION.**
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171 The motion passed unanimously by a vote of 7 ayes and 0 nays.
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VIII. DISCUSSION / ACTION ITEMS

1. Discuss and consider a Resolution approving an Agreement Regarding Wastewater Treatment Service between the City of Forney and the Kaufman County Fresh Water Supply District No. 1-A.

City Attorney Thatcher discussed the background of this item. Windmill Farms is requesting Forney's assistance to provide wastewater services to their development. Windmill Farms is made up of several Fresh Water Supply Districts both in and out of Forney's extra territorial jurisdiction. The districts are also located in the unincorporated areas of Kaufman County as well as the ETJ of the City of Dallas. Currently, wastewater services are being provided by package plant. With the expansion of the development, the developers are seeking an alternate wastewater service.

The proposed agreement provides services to District 1-A, which has or will have operating agreements with the other districts to provide wastewater capacity to the whole district through the City of Forney.

The District will construct all improvements from Windmill Farms to the Mustang Creek Lift Station currently under construction by the Grayhawk subdivision. They will be allowed certain reimbursements for upsizing to allow other developments such as Gateway to share come capacity in the improvements downstream from the Point of Connection with Windmill Farms.

As consideration, Windmill Farms will pay for the necessary costs associated to upgrading the Mustang Creek Lift Station to accommodate the increased flows from Windmill Farms as well as provide certain funding for the future engineering of the wastewater facilities that the North Texas Municipal Water District ("NTMWD") invoices to the City. Additional consideration will be provided to the City as a one-time lump sum payment for a reservation of wastewater capacity through the City's system. Further, Windmill Farms will pay to the City a usage rate calculated at what NTMWD charges the City, plus 30%.

All facilities serving Windmill Farms from the Connection Point to their development will be owned and maintained by Windmill Farms. Everything downstream from the Connection Point will be dedicated as public facilities to the City of Forney.

The term of the proposed agreement runs concurrent with the City's contract with the NTMWD or the life of the system that they will be constructing.

Also, as part of the agreement, Windmill Farms will petition to include all land not currently in the ETJ of some other municipality into the ETJ of the City of Forney.

Mayor Penn called for a motion. Council Member Thomas made a motion to approve the Resolution and Council Member Johnson seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.

IX. CITY MANAGER'S REPORT

THE CITY MANAGER WILL DISCUSS CURRENT CITY ACTIVITIES, UPCOMING MEETINGS, FUTURE LEGISLATIVE ACTIVITIES, AND OTHER RELATED MATTERS FOR POSSIBLE ACTION, INCLUDING THE FOLLOWING:

City Manager Carson had nothing to report tonight.

X. COUNCIL COMMENTS

PURSUANT TO SECTION 551.0415 TEX. GOV'T CODE, CITY COUNCIL MEMBERS MAY MAKE A REPORT ABOUT ITEMS OF COMMUNITY INTEREST DURING A MEETING OF THE GOVERNING BODY WITHOUT HAVING GIVEN NOTICE OF THE REPORT. ITEMS OF COMMUNITY INTEREST INCLUDE:

Council Member Thomas had no comments.

Mayor Pro Tem Myers had no comments.

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231 Council Member Powers asked that the family of Hattie West be kept in everyone's prayers. She passed
232 away today. She also asked for prayers for the family of Mary Hayes. Her brother, Frank Gossett, also
233 passed away today.

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235 Council Member Moon had no comments.

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237 Council Member Cooper thanked Staff for the music in downtown.

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239 Council Member Johnson had no comments.

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241 Mayor Penn thanked Fire Fighters Johnson and Smirl for helping after she locked her keys in her car.
242 Tonight is National Night Out. She would like for Staff to explore holding just one big event at Community
243 Park instead of having so many neighborhood events.

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245 Mayor Penn stated there would be no Executive Session tonight and called for a motion to adjourn. Council
246 Member Moon made a motion to adjourn at 6:17 p.m. and Council Member Powers seconded the motion.
247 The motion passed unanimously by a vote of 7 ayes and 0 nays.

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

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254 **ATTEST:** _____
Mary Penn, Mayor

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258 **Dorothy Brooks, City Secretary**

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