

**Minutes
Forney City Council
Tuesday, March 17, 2020
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 6:30 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 – MAYOR MARY PENN

Pastor Nick Edwards gave the invocation and Mayor Penn led the Pledge of Allegiance.

III. APPROVAL OF MINUTES

- 1. Consider approval of the Minutes of the March 3, 2020, City Council meeting and Work Shop.**

Mayor Penn asked if Council had any changes to the Minutes. There being no changes, Mayor Penn called for a motion. Mayor Pro Tem Myers made a motion to approve the Minutes and Council Member Moon seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.

IV. 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 a Resolution authorizing the City Manager to execute a contract with the Kaufman County Election Administrator for the May 2, 2020, General Election and Special Election.**
- 2. Consider a Resolution opposing Proposition 3 approved at the March 3, 2020 statewide election advocating for the ending of taxpayer-funded lobbying.**
- 3. Consider approval of a request for street closures for the April 4, 2020, Festival on Main event.**
- 4. Consider approval of a preliminary plat for Lots 1 - 4, Block A, Fox Daycare Addition, located northeast of the intersection of South F.M. 548 and F.M 741.**
- 5. Consider approval of a final plat for the Goodyear Addition, located at the southwest corner of S. Gateway Boulevard and U.S. Highway 80.**
- 6. Consider approval of a final plat for the Trinity Capital Bank Addition, located northeast of the intersection of F.M. 741 and Interstate Highway 20.**

54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98

7. **Consider approval of a final plat of Fox Daycare Addition, located northeast of the intersection of South F.M. 548 and F.M. 741.**
8. **Consider approval of a final plat of the Broad Street East Addition II, located southeast of the intersection of East U.S. Highway 80 and F.M. 548.**
9. **Consider approval of a revised site plan for McDonald’s, located east of the F.M. 1641 and F.M. 548 intersection.**
10. **Consider a Resolution awarding a contract to Precision Management & Construction for the construction services for the Trailhouse Roadway Completion Project, Phase Two, and all related issues.**
11. **Consider approval for the project acceptance from the construction of the Elevated Water Storage Tank Project.**
12. **Consider approval for the project acceptance from the construction of the West Broad Street Sanitary Sewer Project.**
13. **Consider approval of advertising a Request for Proposals (RFP) for Electrical Services at Community Park and City Wide basic Electrical work.**
14. **Consider approval of advertising for bids for the demolition of the Booker T Washington Building.**
15. **Consider a Resolution approving a contract with WRA Architects, Inc. for Architectural / Engineering Services.**

Mayor Penn asked if anyone wanted to pull an item for separate discussion. Council Member Thomas asked that Consent Agenda Item No. 3 be pulled. Mayor Penn then called for a motion to approve the remaining Consent Agenda Items No. 1, 2, 4 through 15. Council Member Powers made a motion to approve Consent Agenda Items No. 1, 2, 4 through 15 and Council Member Thomas seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.

Consent Agenda Item No. 3 was withdrawn from consideration at this time.

V. PUBLIC HEARING ITEMS / ACTION ON PUBLIC HEARING ITEMS

1. **Hold a public hearing and discuss and consider approval of an Ordinance for a conditional use permit for auto repair (minor) at 401 East Highway 80. [Read Ordinance Caption]**

99 Community Development Director Peter Morgan discussed the background of this request. Auto
100 Max requests approval of a conditional use permit. The purpose of the request is to operate an
101 Auto Repair (Minor) business at the existing Auto Max business.
102

103 **Current Standards:** The property consists of 2.063 acres of land. A portion of the property is
104 used as a used car lot and a portion of the property was previously used as an auto repair facility.
105 Auto repair (minor) at this property was previously a legal non-conforming use. However, the last
106 tenant who was operating legally with that use ceased operations in January 2019. Another tenant
107 operated at the property without obtained a Certificate of Occupancy for the continued use. As a
108 result, the legal non-conforming use of auto repair (Minor) became abandoned in June 2019. The
109 property is zoned within the H&P Addition Planned Development. The underlying zoning is
110 General Retail District, which only permits auto repair (minor) with a Conditional Use Permit.
111

112 **Proposed Use:** The request is for a minor auto repair center. Minor auto repair is defined by
113 Section 49, Definitions, of the City of Forney Compressive Zoning Ordinance as: "AUTOMOBILE
114 REPAIR, MINOR - Minor repair or replacement of parts, tires, tubes and batteries; diagnostic
115 services; minor maintenance services such as grease, oil, spark plug and filter changing; tune-
116 ups; emergency road service; replacement of starters, alternators, hoses and brake parts;
117 automobile washing and polishing; performing state inspections and making minor repairs
118 necessary to pass said inspection; normal servicing of air-conditioning systems; and other similar
119 minor services for motor vehicles except heavy load vehicles, but not including any operation
120 named under "Automobile Repair, Major" or any other similar use." The portion of the building
121 that is used for auto repair consists of 3,000 square feet. This facility will not have outside storage
122 of vehicles. The proposed hours of operation are: Sunday thru Saturday: 9:00am-7:00pm.
123

124 **Accessibility:** The property has shared access to Highway 80 frontage road. Notification:
125 Notification was provided in the newspaper and to property owners within two-hundred feet (200')
126 of the property. As of this writing, staff has received no public comment regarding this request.
127

128 **Recommendation:** On March 5, 2020, the Planning and Zoning Commission recommended
129 approval.
130

131 Mayor Penn opened the public hearing and asked anyone in the audience who wished to speak
132 on this item to please come forward. No one came forward so Mayor Penn closed the public
133 hearing. There were no Council comments. Mayor Penn called for a motion. Council Member
134 Thomas made a motion to approve the Ordinance and Council Member Johnson seconded the
135 motion. The ordinance caption was read as follows:
136

137 **CITY OF FORNEY, TEXAS**

138 **ORDINANCE NO. 20-06**

139 **AN ORDINANCE OF THE CITY OF FORNEY, TEXAS, AMENDING THE COMPREHENSIVE**
140 **ZONING ORDINANCE, ORDINANCE NO. 1085, AND MAP, AS AMENDED, BY CHANGING THE**
141 **ZONING FROM PLANNED DEVELOPMENT (ORDINANCE 1072) USES TO PLANNED**
142 **DEVELOPMENT (ORDINANCE 1072) USES WITH A CONDITIONAL USE PERMIT (CUP) FOR**
143 **AUTO REPAIR (MINOR) TO OPERATE ON PROPERTY IDENTIFIED AS 401 E. U.S. HIGHWAY**
144 **80, IN THE CITY OF FORNEY, KAUFMAN COUNTY, TEXAS, LOCATED IN THE JOHN GREGG**
145 **SURVEY, ABSTRACT NO. 171, IN ACCORDANCE WITH THE CITY'S COMPREHENSIVE**
146 **MASTER PLAN AND ZONING ORDINANCE; PROVIDING A SEVERABILITY CLAUSE;**
147 **PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING A**
148 **PENALTY CLAUSE; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.**
149
150
151

152 The motion passed unanimously by a vote of 7 ayes and 0 nays.
153

154 **VI. DISCUSSION / ACTION ITEMS**

155
156 **1. Vision 2025 -- Goals and Initiatives**

157
158 City Manager Carson had nothing new.

159
160 **2. Discuss and consider an Ordinance amending Chapter 2, Article 2.01,**
161 **“General Provisions,” and Article 2.06 “Dangerous Dogs” of the City**
162 **of Forney Code of Ordinances regarding the fence requisite to confine**
163 **an animal and dangerous dog regulations.**

164
165 City Attorney Jon Thatcher introduced Jenni Smith who is our part-time attorney. Ms. Smith
166 discussed the background of this item. City staff has been in the process of reviewing the City’s
167 Animal Control ordinances specifically related to secure enclosures and Dangerous Dog
168 regulations. The proposed Ordinance amends Section 2.01 of the Code of Ordinances, 2.01.002
169 Definitions, to update certain definitions to clarify that any fence used to secure or confine a dog
170 be a physical fence. Invisible fences shall not be an allowable enclosure.

171
172 Additionally, Section 2.06 is proposed to be amended to update regulations for Dangerous Dogs.
173 Further, the proposed ordinance creates a Vicious Dog designation, updates the definitions of a
174 dangerous and vicious dog, and updates the requirements of an owner of a Dangerous and
175 Vicious Dog. Staff recommends approval of the Ordinance.

176
177 Council had no comments. Mayor Penn called for a motion. Council Member Powers made a
178 motion to approve the Ordinance and Council Member Cooper seconded the motion. The
179 ordinance caption was read as follows:

180
181 **CITY OF FORNEY, TEXAS**
182
183 **ORDINANCE NO. 20-07**
184
185 **AN ORDINANCE OF THE CITY OF FORNEY, TEXAS, AMENDING CHAPTER 2, ARTICLE 2.01,**
186 **“GENERAL PROVISIONS,” OF THE CODE OF ORDINANCES OF THE CITY OF FORNEY,**
187 **TEXAS, BY AMENDING THE DEFINITIONS RELATED TO THE FENCE REQUISITE TO CONFINE**
188 **AN ANIMAL, AND ARTICLE 2.06 “DANGEROUS DOGS,” OF THE CODE OF ORDINANCES OF**
189 **THE CITY OF FORNEY, TEXAS, BY AMENDING PERTINENT SECTIONS OF THE ARTICLE;**
190 **PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING AND SEVERABILITY CLAUSES;**
191 **PROVIDING A PENALTY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

192
193 The motion passed unanimously by a vote of 7 ayes and 0 nays.

194
195 **3. Discuss and consider a Resolution taking action on RFP 20-001**
196 **Holiday Light Displays, authorizing the execution of an Interlocal**
197 **Agreement between the City of Forney and the City of Grand Prairie**
198 **and authorizing the engagement of services for additional custom**
199 **holiday light displays.**

200
201 The City recently sought proposals under RFP 20-001 for holiday light displays. The RFP
202 established an initial budget of \$400,000 for the design, construction and purchase of the light
203 displays. The City received several responses. Additionally, the City received a proposal from
204 the City of Grand Prairie wherein the City of Forney could lease many of their light displays at a
205 reduced cost while also receiving their services to provide oversight in the installation, take down
206 and operation of the drive through light display at Community Park. The consideration provided
207 for in the agreement is the greater of \$75,000 per season or 50% of any ticket revenue.

209 The Agreement also provides that any custom light displays can be acquired through Grand
210 Prairie's providers. As a result, the City of Forney would be effectively rejecting the proposals
211 under the original scope of services. However, staff would also like the option to acquire additional
212 custom displays from a separate vendor in order to ensure competitive pricing. The proposed
213 Resolution authorizes the City Manager to engage Mosca Design, Inc. for any potential custom
214 light displays. Any custom displays, whether acquired through the City of Grand Prairie or Mosca
215 Design, Inc. will have to be stored and maintained by the City of Forney. Staff recommends
216 approval of the Resolution.

217
218 Council Member Thomas recognized City Manager Carson for his work on this project. He
219 thanked Tony and the Staff and stated it is a great deal. City Manager Carson recognized Neil
220 Cardwell for his work on this project.

221
222 Mayor Penn called for a motion. Council Member Thomas made a motion to approve the
223 Resolution and Council Member Johnson seconded the motion. The motion passed unanimously
224 by a vote of 7 ayes and 0 nays.

225

226 **VII. OPEN FORUM/CITIZEN COMMENTS**

227 This is the public's opportunity to address the City Council on any matter related to the City. In
228 accordance with the Texas Open Meetings Act, Section 551.042, the City Council cannot discuss,
229 consider, or take action on matters not listed on the agenda. The City Council will receive citizen
230 comments on non-agenda items, and if necessary, may refer the matter to City staff for research,
231 resolution or referral to Council on a future agenda. As described in the City's Public Meeting
232 Procedures, comments will be limited to three (3) minutes.

233
234 The following persons were speakers under Open Forum/Citizen Comments:

235
236 Mr. John Daniel
237 630 Cedar Street
238 Forney, Texas 75126

239
240 Ms. Christie Albertie
241 1502 Tavistock Road
242 Forney, Texas 75126

243
244 **VIII. CITY MANAGER'S REPORT**
245 **THE CITY MANAGER WILL DISCUSS CURRENT CITY ACTIVITIES, UPCOMING MEETINGS,**
246 **FUTURE LEGISLATIVE ACTIVITIES, AND OTHER RELATED MATTERS FOR POSSIBLE**
247 **ACTION, INCLUDING THE FOLLOWING:**

248
249 The Festival on Main event scheduled for 4/4/20 and the reception for Chief T on 4/7/20 have
250 been cancelled or postponed.

251
252 **IX. COUNCIL COMMENTS**
253 **PURSUANT TO SECTION 551.0415 TEX. GOV'T CODE, CITY COUNCIL MEMBERS MAY MAKE**
254 **A REPORT ABOUT ITEMS OF COMMUNITY INTEREST DURING A MEETING OF THE**
255 **GOVERNING BODY WITHOUT HAVING GIVEN NOTICE OF THE REPORT. ITEMS OF**
256 **COMMUNITY INTEREST INCLUDE:**

257
258 Council Member Thomas stated that these are very trying times – bars and restaurants are closed
259 down. Our Staff is taking this very seriously and things are happening. Our citizens are important
260 and we will be giving updates as soon as we can.

261
262 Mayor Pro Tem Myers thanked everyone for coming tonight. He thanked Staff and stated that he
263 agreed with Mike. Please consider our local businesses. We need to support them as best we

264 can. It is a very weird time. Stay strong – stay smart.
265

266 Council Member Powers stated “ditto” for Mike and Shaun’s comments. She wanted to recognize
267 Darrell Malloy who put on a showing of black art at the Spellman. She thanked Kendall and Mr.
268 Beason and Mr. Higgins. It was a beautiful thing. Thanks again to Mr. Malloy. The Covid-19 is
269 here. Please be sure to wash your hands, use hand sanitizer. Stay safe. It is exhausting to the
270 healthcare workers. Please patronize our local businesses and check on your elderly neighbors.
271 Love thy neighbors.
272

273 Council Member Moon told everyone to please be safe. Wash your hands. He thanked Staff for
274 their hard work. He thanked Neil and Tony for the Grand Prairie agreement. He thanked Robbie
275 for her work as a healthcare worker.
276

277 Council Member Cooper stated he echoes everyone. He welcomed Jennifer Smith.
278

279 Council Member Johnson stated he echoes everyone, too. He thanked everyone for all that they
280 do.
281

282 Mayor Penn thanked Neil and Tony for the lights. She thanked Robbie. She thanked Mike
283 Thomas and his wife for helping the Food Pantry. She also thanked Primrose School, Starbucks
284 and others who are helping. It is time to pull together. She asked Chief Lunt to give an update
285 on the situation.
286

287 Chief Lunt came forward and gave an update on the Covid-19 situation. Chief Lunt and Chief T
288 are our EM Coordinators. Lunt stated that visitors and employees are important and we try to
289 keep them safe. There are no positive tests in Kaufman County. Notices will be posted on the
290 City of Forney Police Department Facebook page. Mayor Pro Tem Myers asked for the definition
291 of “presumable.” Chief Lunt advised that if symptoms appear the person is presumable until a
292 nasal swab comes back and it is positive. As of now there are no active cases in Forney or the
293 County.
294

295 Mayor Penn stated that Council would now go into Executive Session under Chapter 551, Texas
296 Government Code, Sections 551.071, 551.072 and 551.087 and asked for a motion. Council
297 Member Johnson made a motion to adjourn into Executive Session at 7:17 p.m. and Mayor Pro
298 Tem Myers seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0
299 nays.
300

301 **X. EXECUTIVE SESSION**

302 **PURSUANT TO THE OPEN MEETINGS ACT, CHAPTER 551, TEXAS GOVERNMENT CODE,**
303 **THE CITY COUNCIL WILL RECESS INTO EXECUTIVE SESSION (CLOSED MEETING) TO**
304 **DISCUSS THE FOLLOWING:**
305

- 306 1. Consult with legal counsel regarding pending or contemplated litigation or
307 a settlement offer and/or matters in which the duty of the attorney to the
308 governmental body under Texas Disciplinary Rules of Professional
309 Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the
310 Texas Government Code (Tex. Gov’t Code Section 551.071):
311
 - 312 a. Appointments to the Kaufman County Appraisal District Board.
313
 - 314 b. PUC Docket No. 46662; SOAH Docket No. 473-17-4964.WS -
315 Petition of the Cities of Garland, Mesquite, Plano and Richardson
316 Appealing the Decision by North Texas Municipal Water District
317 Affecting Wholesale Water Rates.

- 318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
- c. PUC Docket No. 47814; SOAH Docket No. 46-18-1344.WS -
Petition of 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.
 - d. Parkland Dedication
2. Deliberate the purchase, exchange, lease, or value of real property (Tex.
Gov't Code Section 551.072).
3. Discuss or deliberate regarding commercial or financial information that the
governmental body has received from a business prospect that the
governmental body seeks to have locate, stay, or expand in or near the
territory of the governmental body and with which the governmental body
is conducting economic development negotiations, or to deliberate the offer
of a financial or other incentive to a business prospect (Tex. Gov't Code
Section 551.087):
- a. Project V
 - b. Project Calcite
 - c. Project Fireball

341 **XI. RECONVENE INTO REGULAR SESSION**
342 **IN ACCORDANCE WITH TEXAS GOVERNMENT CODE, CHAPTER 551, THE**
343 **CITY COUNCIL WILL RECONVENE INTO REGULAR SESSION TO CONSIDER**
344 **ACTION, IF ANY, ON MATTERS DISCUSSED IN EXECUTIVE SESSION.**
345

346 Council reconvened at 8:19 p.m. Mayor Penn adjourned the Executive Session at that time.
347 Mayor Penn asked if there are any actions to be taken as a result of Executive Session. Council
348 Member Powers made a motion to approve a Chapter 380 Agreement with Goodyear and Council
349 Member Cooper seconded the motion. The motion passed unanimously by a vote of 7 ayes and
350 0 nays.

351
352 Mayor Penn called for a motion to adjourn. Council Member Moon made a motion to adjourn at
353 8:21 p.m. and Mayor Pro Tem Myers seconded the motion. The motion passed unanimously by
354 a vote of 7 ayes and 0 nays.

355
356 **PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FORNEY,**
357 **TEXAS, this _____ day of _____, 2020.**
358

359
360
361 **ATTEST:**

Mary Penn, Mayor

362
363
364 _____
Dorothy Brooks, City Secretary
365