

**Minutes  
Forney City Council  
Tuesday, May 19, 2020  
6:30 p.m. Regular Meeting  
City Hall, 101 E. Main Street, Forney, Texas 75126**

The general public can view the meeting live on our video stream at <https://www.forneytx.gov/803/Watch-Meetings>. If you wish to address the Council on any subject or in open forum at this meeting, you are required to email [dbrooks@forneytx.gov](mailto:dbrooks@forneytx.gov) no later than Tuesday, May 19, 2020, by 3:00 p.m. You must provide your name and telephone number and state which item(s) you wish to speak on. You will be provided a telephone number and meeting id which you must dial into 15 minutes prior to the scheduled meeting start time. Due to technical restrictions, those who fail to dial into the meeting at the prescribed time may forfeit their ability to speak at said meeting.

**I. CALL TO ORDER**

Mayor Penn called the meeting to order at 6:33 p.m. Present were Mayor Mary Penn, Mayor Pro Tem Shaun Myers and Council Members Kevin Moon, Derald Cooper and David Johnson. Council Members Mike Thomas and Robbie Powers were absent. Also present was City Manager Tony Carson.

**II. INVOCATION – COUNCIL MEMBER MIKE THOMAS**

Mayor Penn gave the invocation.

**III. PROCLAMATIONS / PRESENTATIONS**

**1. Proclamation for National Public Works Week**

Mayor Penn read the Proclamation for National Public Works Week.

**IV. APPROVAL OF MINUTES**

**1. Consider approval of the Minutes of the May 5, 2020, City Council meeting.**

Mayor Penn asked if Council had any changes to the Minutes. Mayor Pro Tem Myers stated that the date for Chief Lunt to bring the juvenile curfew back to the Council should be 2021. There being no other changes, Mayor Penn called for a motion. Mayor Pro Tem Myers made a motion to approve the Minutes with the change requested and Council Member Cooper seconded the motion. The motion passed by a vote of 5 ayes and 2 absent [Thomas and Powers].

**V. 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 application for grant funding for a COVID-19 Hazard Pay and Personal Protective Equipment Project as part of the Texas Office of the Governor, Public**

52 **Safety Office, Criminal Justice Division: Coronavirus Emergency**  
53 **Supplemental Funding (CESF) Program FY 2020 funding opportunity.**

- 54
- 55 2. **Consider approval of a Resolution authorizing the application for**  
56 **grant funding for a TASER & Radio Acquisition Project as part of the**  
57 **Texas Office of the Governor, Public Safety Office, Criminal Justice**  
58 **Division: Criminal Justice Program FY 2021 funding opportunity.**
- 59
- 60 3. **Consider a Resolution awarding a contract to Midwest Wrecking**  
61 **Co. of Texas, Inc., for demolition services at 702 E. Main Street,**  
62 **known as the Booker T Washington site, and all related issues.**
- 63
- 64 4. **Consider approval of a Resolution authorizing the City Manager to**  
65 **submit applications for grant projects related to the COVID-19**  
66 **pandemic.**
- 67
- 68 5. **Consider approval of advertising a Request for Qualifications (RFQ)**  
69 **for the City Storage Buildings project.**
- 70
- 71 6. **Consider approval to allow staff to seek bids for the Manhole**  
72 **Rehabilitation/Reconstruction Services and all related issues.**
- 73
- 74 7. **Consider approval for a change order for streetlights to be installed**  
75 **on Trailhouse Lane CIP #169.**
- 76

77 Item No. 5 was pulled from consideration at this time. Mayor Penn announced that Mr. David  
78 Watts had requested to comment on Consent Agenda Items 3, 6 and 7. Mr. Watts stated that  
79 these items should be postponed at this time – the City should not be spending the money at  
80 this time because of the Covid-19 affect on the citizens and businesses in Forney.

81  
82 Mayor Penn asked if Council wanted to pull any items for discussion. No items were pulled, so  
83 Mayor Penn called for a motion. Council Member Johnson made a motion to approve Consent  
84 Agenda Items 1, 2, 3, 4, 6 and 7. Council Member Moon seconded the motion. The motion  
85 passed by a vote of 5 ayes and 2 absent [Thomas and Powers].

## 86 87 **VI. DISCUSSION ONLY ITEMS**

- 88
- 89 1. **Discussion on joining the North East Texas Library Consortium for**  
90 **access to the Digital Library.**
- 91

92 IT Director Neil Cardwell discussed this item. Staff is looking for guidance on joining the North  
93 East Texas Library Consortium for access to a Digital Library. The contract with the Consortium  
94 would allow the City of Forney to join the Consortium for an initial period of 2 years at a cost of  
95 \$3,000 per year. The IT department would work with the vendor “OverDrive” to setup a webpage  
96 on our City Website that would allow the creation of a “Digital Library Card” that would then allow  
97 them access to the Digital Library that all members of the Consortium have access to.

98  
99 It would take several weeks to implement and would be open only to the citizens of Forney.  
100 Council directed Mr. Cardwell to explore this further and to bring back a contract for approval at  
101 a later date. No action was taken by Council at this time.

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**VII. DISCUSSION / ACTION ITEMS**

- 1. Discuss and consider a Resolution approving an Interlocal Cooperation Agreement between the City of Forney and Kaufman County pursuant to Section 242.001 of the Texas Local Government Code for the regulation of subdivision plats and related permits in the extraterritorial jurisdiction of the City of Forney.**

City Attorney Jon Thatcher discussed this item. The intent of the City subdivision rules and regulations are to guide the growth of the City in an orderly manner, to provide attractive and planned subdivisions, and to ensure the provision of adequate streets, utilities and building sites. Consistent application of these regulations insures that land developed today will not become a burden on the general public in the future.

Under Chapter 212 of the Texas Local Government Code, the City is empowered to adopt rules that govern plats and subdivisions of land within the City and with the ETJ. The City's Subdivision Ordinance states that this ordinance shall govern all subdivision of land within the City and within the ETJ. Under Chapter 242 of the Texas Local Government Code, cities and counties must enter into an Interlocal Agreement granting review and approval authority of subdivisions in the ETJ to allow for clarity of process to the individual applicant/developer. Currently, the City of Forney and Kaufman County have such an agreement in place.

The agreement outlines the duties of both the City and the County regarding subdivision regulations in the City's ETJ. Under this agreement, the City of Forney is responsible for enforcing its subdivision regulations within its ETJ. Kaufman County agrees that it shall not enforce its subdivision regulations within the ETJ of the City.

The proposed agreement would supersede the current agreement for subdivision regulations in the ETJ. The proposed agreement provides additional detail regarding certain items including road development and acceptance as well as floodplain regulation controls. Such matters are not clearly outlined in the current agreement. As proposed, the City will be the controlling authority for floodplain controls within the City's ETJ. Additionally, the City will continue to enforce its subdivision rules and regulations in its ETJ. However, for any streets not to be considered private streets in a new subdivision, the County shall review the plans for all streets as they will be tasked with accepting the thoroughfares not in the City's corporate limits for maintenance purposes and responsibilities. The agreement requires clear and additional communication between the parties when there is proposed development in the City's ETJ. The proposed agreement will carry a term until December 31, 2021, where it will renew for additional two-year periods unless otherwise terminated by the parties as provided for in the agreement. Staff recommends approval of the agreement.

Mayor Penn called for a motion. Mayor Pro Tem Myers made a motion to approve the Resolution and Council Member Johnson seconded the motion. The motion passed by a vote of 5 ayes and 2 absent [Thomas and Powers].

- 2. Discuss and consider board and commission appointments: North Texas Municipal Water District; Planning & Zoning Commission, and all related issues.**

City Secretary Brooks discussed this item. We received notice from the North Texas Municipal

154 Water District that John Carr's term on their Board ends on May 31, 2020. I spoke with Mr. Carr  
155 and he stated that he would like to be consider for reappoint to the Board. If reappointed, his term  
156 would be from June 1, 2020 to May 31, 2022.

157  
158 On March 17, 2020, Brigham Wilcoxson resigned from the Planning and Zoning Commission due  
159 to increased job duties. His term would have ended 6/30/2020. Appointments made to fill a  
160 vacancy are only to complete the term of office for that position.

161  
162 Mayor Penn called for a motion for the NTMWD appointment. Council Member Johnson made a  
163 motion to reappoint John Carr to the NTMWD Board and Council Member Cooper seconded the  
164 motion. The motion passed by a vote of 5 ayes and 2 absent [Thomas and Powers].

165  
166 Mayor Penn called for a motion to fill the vacancy on the Planning and Zoning Commission. Mayor  
167 Pro Tem Myers made a motion to appoint Greg Helm to fill the vacancy with a term ending June  
168 30, 2020 and Council Member Johnson seconded the motion. The motion passed by a vote of 5  
169 ayes and 2 absent [Thomas and Powers].

170  
171 **3. Discuss and consider action related to the Declaration of State of**  
172 **Disaster and Public Health Emergency, and all related issues.**

173  
174 City Manager Carson stated that Staff is looking for recommendations by the Council on (1)  
175 Opening of the Park; (2) Playground equipment and Basketball Courts; (3) Splash Pad; (4)  
176 opening of City Hall; and (5) the June Summer Concerts.

177  
178 After a short discussion, Staff was directed to (1) open the Park on Friday, May 22; (2) open the  
179 Playground equipment and Basketball Courts on Friday, May 22 and notify the citizens that the  
180 Playground equipment and Basketball Courts will not be sanitized; (3) the Splash Pad will not be  
181 reopened at this time; (4) City Hall will reopen on Tuesday, May 26; and (5) we will cancel the  
182 June Summer Concerts. Staff will get social distancing information out on social media and it is  
183 the citizens' responsibility to conform to the social distancing requirements. It will be up to the  
184 Layden Center to determine if they will reopen at this time.

185  
186 Council took no formal action on this item.

187  
188 **VIII. OPEN FORUM/CITIZEN COMMENTS**

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

196  
197 Mayor Penn announced that the open forum session was now open and that David Watts had  
198 asked to speak.

199  
200 Mr. Watts complained that he was not allowed to speak on Action Item no. 3. Mr. Watts stated  
201 that the Council procedures set out on the website are not correct pursuant to HB 2840.

202  
203 There being no one else to speak, Mayor Penn closed the open forum session.

204

205 **IX. CITY MANAGER’S REPORT**  
206 **THE CITY MANAGER WILL DISCUSS CURRENT CITY ACTIVITIES, UPCOMING**  
207 **MEETINGS, FUTURE LEGISLATIVE ACTIVITIES, AND OTHER RELATED MATTERS**  
208 **FOR POSSIBLE ACTION, INCLUDING THE FOLLOWING:**

209  
210 City Manager Carson had nothing to report.

211  
212  
213 **X. COUNCIL COMMENTS**  
214 **PURSUANT TO SECTION 551.0415 TEX. GOV'T CODE, CITY COUNCIL MEMBERS**  
215 **MAY MAKE A REPORT ABOUT ITEMS OF COMMUNITY INTEREST DURING A**  
216 **MEETING OF THE GOVERNING BODY WITHOUT HAVING GIVEN NOTICE OF THE**  
217 **REPORT. ITEMS OF COMMUNITY INTEREST INCLUDE:**

218  
219 Mayor Pro Tem Myers thanked Public Works for all that they do and thanked all staff. He hopes  
220 everything continues to go smoothly.

221  
222 Council Member Moon thanked Parks for all their work.

223  
224 Council Member Cooper thanked City Staff.

225  
226 Council Member Johnson thanked Public Works for their hard work. He gave thanks to all City  
227 staff.

228  
229 Mayor Penn thanked staff for everything and she is excited about Parks opening. She is also  
230 excited about the virtual library.

231  
232 Mayor Penn stated that Council would now go into Executive Session under Chapter 551 of the  
233 Texas Government Code, Sections 551.071 and 551.074 and asked for a motion. Council  
234 Member Moon made a motion to open the Executive Session at 7:27 p.m. and Council Member  
235 Cooper seconded the motion. The motion passed by a vote of 5 ayes and 2 absent [Thomas and  
236 Powers].

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238  
239 **XI. EXECUTIVE SESSION**  
240 **PURSUANT TO THE OPEN MEETINGS ACT, CHAPTER 551, TEXAS GOVERNMENT**  
241 **CODE, THE CITY COUNCIL WILL RECESS INTO EXECUTIVE SESSION (CLOSED**  
242 **MEETING) TO DISCUSS THE FOLLOWING:**

243  
244 **1. Consult with legal counsel regarding pending or contemplated**  
245 **litigation or a settlement offer and/or matters in which the duty of the**  
246 **attorney to the governmental body under Texas Disciplinary Rules of**  
247 **Professional Conduct of the State Bar of Texas clearly conflicts with**  
248 **Chapter 551 of the Texas Government Code (Tex. Gov’t Code Section**  
249 **551.071):**

250  
251 **a. PUC Docket No. 46662; SOAH Docket No. 473-17-4964.WS –**  
252 **Petition of the Cities of Garland, Mesquite, Plano and**  
253 **Richardson Appealing the Decision by North Texas Municipal**  
254 **Water District Affecting Wholesale Water Rates.**  
255

256 b. PUC Docket No. 47814; SOAH Docket No. 476-18-1344.WS -  
257 Petition of High Point Water Supply Corporation, Talty Special  
258 Utility District, and Markout Water Supply Corporation  
259 Appealing the Decision by the City of Forney Affecting  
260 Wholesale Water Rates.

261  
262 c. Fox Hollow Public Improvement District No. 1.

263  
264 2. Deliberate the appointment, employment, evaluation, reassignment,  
265 duties, discipline, or dismissal of a public officer or employee (Tex.  
266 Gov't Code 551.074):

267  
268 a. Economic Development Corporation Director

269  
270 XII. RECONVENE INTO REGULAR SESSION  
271 IN ACCORDANCE WITH TEXAS GOVERNMENT CODE, CHAPTER 551, THE CITY  
272 COUNCIL WILL RECONVENE INTO REGULAR SESSION TO CONSIDER ACTION, IF  
273 ANY, ON MATTERS DISCUSSED IN EXECUTIVE SESSION.  
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275 Council adjourned out of Executive Session at 9:32 p.m. There was no action to be taken as a  
276 result of Executive Session and the meeting was adjourned at 9:32 p.m.

277  
278 PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FORNEY,  
279 TEXAS, this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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283 ATTEST: \_\_\_\_\_  
284 Mary Penn, Mayor

285  
286 \_\_\_\_\_  
287 Dorothy Brooks, City Secretary  
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