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Minutes
Forney City Council
Tuesday, February 16, 2021
Postponed to February 23, 2021
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 registration@forneytx.gov no later than Tuesday, February 16, 2021, by 1:00 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 6:38 p.m. Present were Mayor Mary Penn, Mayor Pro Tem Shaun Myers and Council Members James Traylor, Robbie Powers, Kevin Moon, Derald Cooper and David Johnson. Also present was City Manager Tony Carson.

II. INVOCATION – COUNCIL MEMBER KEVIN MOON

III. PROCLAMATIONS / PRESENTATIONS

1. **Proclamation recognizing Police Officer Markeith Pleasant and all Forney Police Professionals.**

Mayor Penn read the Proclamation.

IV. APPROVAL OF MINUTES

1. **Consider approval of the Minutes of the February 2, 2021, City Council meeting.**

Mayor Penn asked Council if they had any changes to the Minutes. No changes were made, so Mayor Penn called for a motion. Council Member Moon made a motion to approve the Minutes for the February 2, 2021 City Council meeting and Council Member Cooper seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.

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 final plat for Dossett Addition, located northwest of the intersection of F.M. 740 and County Road 209 in the City of Forney extra-territorial jurisdiction.**
2. **Consider approval of a preliminary plat for Park Trails, Phase 4.**

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3. Consider approval of a final plat for Park Trails, Phase 4.
4. Consider approval of a preliminary plat for Brookville Estates, Phase 2.
5. Consider approval of a preliminary plat for Johnson Elementary School, located southwest of Vineyard Way and South F.M. 548.
6. Consider approval of a preliminary plat for the new Forney ISD Middle and Intermediate School, located north of F.M. 740 and west of Ranch Road.
7. Consider approval of a preliminary plat for Willett Elementary School, located southwest of Honey Creek Road and South Gateway Boulevard.
8. Consider approval of the authorization to allow staff to seek bids for street work for CR 212 and all related issues.
9. Consider approval of an RFQ for SCADA system consulting and support.
10. Consider action to authorize staff to seek proposals on an RFP for a Holiday Light Display.
11. Consider action to authorize staff to seek proposals on an RFPs for Fire, Electrical, HVAC and plumbing trades.
12. Consider approval of a Resolution authorizing the application for grant funding for a TASER & Radio Acquisition Project.

Mayor Penn asked if Council wanted to pull any items for discussion. No items were pulled, so Mayor Penn called for a motion. Mayor Pro Tem Myers made a motion to approve the entire Consent Agenda and Council Member Moon seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.

VI. PUBLIC HEARING ITEMS / ACTION ON PUBLIC HEARING ITEMS

1. **Hold a public hearing and discuss and consider approval of an Ordinance amending the City of Forney Comprehensive Zoning Ordinance by providing a definition and regulations for Food Trucks and Trailers.** [Read Ordinance Caption]

Community Development Director Peter Morgan discussed this item. The City of Forney Codes and Ordinances currently allow a food truck/trailer to operate only in the following circumstances:

1. As a mobile food truck, not stopping to set up in one location; or
2. As part of a special event permit, with approval of a temporary food permit.

The proposed Ordinance adds a third option, providing for a food truck/trailer to operate with the approval of a Conditional Use Permit. The Ordinance includes the following regulations:

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- A. A Food Truck/Trailer may operate as part of a temporary special event (with a temporary food permit), as part of an approved Farmer's Market, or with the approval of a Conditional Use Permit. If operating with an approved Conditional Use Permit, the use must follow regulations as set by Section 37.2 and by this Section.
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- B. The Food Truck/Trailer shall be located on private property where an existing business is currently operating with a valid Certificate of Occupancy (CO). The Food Truck/Trailer shall preferably be located on an improved surface (i.e. concrete or asphalt). Operation within the public right-of-way is prohibited.
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- C. Conditional Use Permit approval for a Food Truck/Trailer is limited to a maximum of sixty (60) days for each approval.
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- D. Once a Conditional Use Permit has expired, a minimum of sixty (60) days is required before a Food Truck/Trailer may operate on the same property.
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- E. Food Trucks/Trailers shall only operate between the hours of 7:00 a.m. and 10:00 p.m. and the Food Truck/Trailer shall be required to be removed from the property during non-operation hours (i.e. overnight storage on the site is prohibited).
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- F. The Food Truck/Trailer must pass a special event inspection or must obtain an annual mobile food establishment permit, which includes a health and fire inspection.
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- G. The Food Truck/Trailer shall be equipped with trash receptacles and the outside storage of trash shall be prohibited. Water and/or wastewater may not be discharged onto the ground.
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- H. The Food Truck/Trailer shall have permanent restrooms available within 300 feet of the facility. Portable restroom facilities are not permitted to meet this requirement.
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- I. The Food Truck/Trailer shall have access to a minimum of two (2) dedicated parking spaces and shall not reduce the required parking for the existing building/land use.
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- J. All noise and lighting shall be subject to the requirements of the City of Forney Code of Ordinance and the Comprehensive Zoning Ordinance. In addition, no lights associated with the operation of a Food Truck/Trailer may be directed towards an adjacent property or onto a public right-of-way.
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- K. All signage must be attached to the Food Truck/Trailer, with the exception of one freestanding menu board no greater than eight (8) square feet placed adjacent to the Food Truck/Trailer.

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- L. A Food Truck/Trailer may operate on City of Forney owned property at any time with written approval of the City Manager. This request does not require a Conditional Use Permit, but does require the appropriate food permit and inspection, and payment of a \$25 administrative fee.

Recommendation:

On February 4, 2021, the Planning and Zoning Commission voted to recommend approval.

After Council discussion, Council Member Traylor made a motion to table this item to the next meeting, March 2, 2021. Council Member Powers seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.

VII. DISCUSSION / ACTION ITEMS

1. Discuss and consider approval of a mid-year increase for all employees.

Finance Director Deborah Woodham discussed this item. The COVID-19 pandemic created many challenges in the FY 21 budgeting process. The budget was completed before the City had significant information regarding the impact to City revenue streams so revenue and expense projections were kept very conservative. However, the budget does include funding for a 5% adjustment for all employees including the three Council appointees.

Revenue collections through January 31, 2021, exceed our projections. Sales tax was budgeted to mirror prior year collections but has exceeded the prior year each month for a total increase of 16.38% to date. The majority of property tax is collected by January 31, and collections to date are 83% compared to 81% at the same time last year. Building has continued in the City causing permit collections and associated fees to exceed the budget projections. Therefore, staff recommends a one-time payment equal to 2.5% of an employee’s current salary and a 5% increase in salary (advance one step for those on the step plan) for the remainder of the fiscal year effective April 1, 2021. If an employee is at the top of the pay scale they would receive a one-time payment equal to 5% of their current salary with no increase in their base salary. This recommendation includes the three Council appointees - City Manager, City Attorney and City Secretary.

Additionally, staff recommends a 5% increase in fees paid to the Council appointed Judicial staff. Current fees:

Magistrations	\$40
Orders/warrants	\$80
Half-day docket	\$250

Proposed fees:

Magistrations	\$42
Orders/warrants	\$84
Half-day docket	\$262.50

Mayor Pro Tem Myers requested that this item be discussed in Executive Session. See below for action taken as a result of Executive Session.

205 **2. Discuss and consider approval of a revised site plan for Little Flock**
206 **Baptist Church, located northeast of the intersection of E. Aimee Street**
207 **and Chestnut Street.**
208

209 Community Development Director Peter Morgan discussed this item. The property owner
210 requests approval of a revised site plan for Little Flock Baptist Church. The purpose of the request
211 is to establish the site design for a building addition to the existing church.

212
213 **Current Standards:**

214 The property consists of 0.6 acres of land. The property is currently used as a church. This
215 property is zoned within the SF-6 (Single Family) District which permits a church as a use allowed
216 by right. The property is adjacent to residential single-family homes.

217
218 **Site Plan:**

219 The existing single-story church building is 3,679 square feet. The site plan proposes a single
220 story, 4,550 square foot building addition. The property has direct access to S. Chestnut Street.
221 The site plan also displays eleven (11) parking spaces and two (2) bike racks for members.

222
223 The Zoning Ordinance requires one (1) large shade tree to be planted per forty (40) linear feet
224 of street frontage. There also needs to be a minimum of one (1) tree planted in the parking area
225 for every ten (10) parking spaces for parking lots having more than twenty (20) spaces. The
226 landscape plan now meets these requirements.

227
228 The building elevation plan shows that brick will be the primary exterior construction material.
229 The building material is accepted by the International Building Code.

230
231 A solid brick/masonry screening wall of not less than six feet (6'), nor more than eight feet (8'),
232 in height is required along the property line separating the church property from the adjacent
233 residential properties. The applicant is proposing to construct a 6' wooden fence along the
234 property line separating the church property from the adjacent residential properties. The City
235 Council has the authority to approve this alternative screening. Based on the fencing in the
236 surrounding areas staff recommends this alternative.

237
238 **Future Requirements:**

239 If approved, future development of the property will require approval of:

- 240
241 1. Replat
242 2. Building & Civil Plans (staff approved)

243
244 **Recommendation:**

245 On February 4, 2021, the Planning and Zoning Commission voted to recommend approval.

246
247 Mayor Penn advised that no one had requested to speak on this item. Mayor Penn called for a
248 motion. Council Member Powers made a motion to approve this item and Council Member
249 Cooper seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.

250
251 **3. Discuss and consider action on a Resolution approving an**
252 **expenditure under Section 501.073 Texas Local Government Code**
253 **and a Performance Agreement between the Forney Economic**
254 **Development Corporation and Best Massage Ever, LLC.**

255
256 City Attorney Jon Thatcher discussed this item. A Performance Agreement between the FEDC
257 and Best Massage Ever, LLC was approved at the FEDC's regular meeting on January 14, 2021.
258 The City must approve any expenditure of FEDC funds pursuant to Section 501.073 Texas Local
259 Government Code before any grant is made.

260
261 The economic development project covers the creation and maintenance of seven (7) full-time
262 equivalent employment positions at Best Massage Ever, a spa and massage parlor located at
263 522 Pinson Road, Forney, Texas 75126, contingent upon the positions being filled by the
264 employees for one (1) year.

265
266 The applicant will be responsible for employing and maintaining a minimum of seven (7) full-time
267 Equivalent employment positions for a minimum of one (1) year.

268
269 Thatcher advised that the applicant requested \$5,000, but the EDC Board approved a \$10,000
270 grant. After discussion, Mayor Penn called for a motion. Mayor Pro Tem Myers made a motion
271 to deny the expenditure and Council Member Moon seconded the motion. The motion passed
272 unanimously by a vote of 7 ayes and 0 nays. Council instructed the City Manager to request the
273 EDC Board take this matter back under consideration so that the applicant can get what she
274 applied for.

275
276 **4. Discuss and consider action regarding a Resolution approving a**
277 **Chapter 380 Grant Agreement with Bloomfield Homes, L.P.; finding**
278 **that such agreement and grant constitutes a program to make grants**
279 **and loans of public money pursuant to Section 380.001 of the Texas**
280 **Local Government Code to promote economic development and to**
281 **stimulate business and commercial activity within the City;**
282 **authorizing the City Manager to execute the agreement and providing**
283 **an effective date.**

284
285 City Attorney Thatcher discussed this item. Staff was recently contacted by Doug Duffie, CPA,
286 who proposed a Chapter 380 Agreement for sharing his client's (Bloomfield Homes, L.P.) use
287 tax paid in connection with building materials used to build new homes by his client in Forney.
288 The City Council has approved similar grant agreements for other home builders in the City of
289 Forney including Horizon Homes and First Texas Homes.

290
291 A Texas Direct Payment Permit (i.e. Use Tax Permit) allows a Texas taxpayer to self-assess
292 and pay use taxes on building materials used or consumed as opposed to paying sales taxes
293 directly to suppliers based on the suppliers' places of business (primarily in larger metropolitan
294 cities). Bloomfield Homes, L.P. anticipates applying for a Texas Direct Payment Permit and
295 paying use taxes on a monthly basis to state and local governments based on the locations
296 where the materials are used at job sites. In order to limit administrative costs for the City,
297 Bloomfield will pay use taxes monthly, but request grants on a semi-annual basis after the end
298 of June and after the of December each year.

299
300 Since all of the system, accounting and administrative costs are paid by Bloomfield Homes, L.P.,
301 the Grant was requested based on 60% of the 1% General City Use Tax, and none of the
302 incremental .5% FEDC Sales Tax and none of the .5% sales tax for property tax reduction.
303

304 Based on Bloomfield's suppliers' place of business, the City is not receiving any sales tax
305 revenue from those suppliers today, and this approach will generate net new tax revenue for the
306 City without incurring new costs.
307

308 With an anticipated development of an approximate 250 new homes in Forney, Bloomfield
309 Homes, L.P. anticipates (presuming no inflation in the cost of building materials) that Forney's
310 net City tax revenues after Grants are to be a total of \$250,000 with \$75,000 for Bloomfield
311 Homes, L.P.
312

313 Staff recommends approval of the Resolution.
314

315 Mayor Penn called for a motion. Council Member Powers made a motion to approve the
316 Resolution and Mayor Pro Tem Myers seconded the motion. The motion passed unanimously by
317 a vote of 7 ayes and 0 nays.
318

319 **5. Discuss Parks and Recreation current and future plans.**
320

321 Parks Director Kyle Rouvaldt gave a video presentation of the accomplishments this year and the
322 plans for next year. Council congratulated Kyle and his staff on their accomplishments. City
323 Manager Carson stated he was very proud of Kyle.
324

325 **6. Discuss Administration present and future plans.**
326

327 City Manager Carson stated that our Finance Department is making sure that our departments
328 have enough money. We are searching for building space for future growth. Zach is doing an
329 excellent job on getting the public information out on social media. We have planned some
330 Special Events:
331

- 332 1. Easter Egg Hunt – April 3, 2021 starting at 1:00 p.m.
333 There will be 3 groups and they will have to pre-register. We are limiting
334 each group to 100 participants.
335
- 336 2. July 3 – Independence Day at Community Park
337 We will also have a 150th Anniversary event at the Amphitheater
338
- 339 3. Brews on Bois D'Arc in October
340
- 341 4. The Ball Drop on December 31st
342
- 343 5. November – December – Christmas Light Show
344

345 The future events will, of course, be dependent on the status of the Covid pandemic.
346

347 The EDC continues to field requests from people wanting to come to Forney. It has been said by
348 several developers that "Residential growth is bringing renewed interest from retail/commercial
349 businesses."
350

351 Council Member Traylor asked where we are with the search for a new EDC Director. Carson
352 stated that we have a Committee to review the applications and they will be closing out the review
353 next week.
354

355 **VIII. OPEN FORUM/CITIZEN COMMENTS**

356 This is the public's opportunity to address the City Council on any matter related to the City. In
357 accordance with the Texas Open Meetings Act, Section 551.042, the City Council cannot
358 discuss, consider, or take action on matters not listed on the agenda. The City Council will
359 receive citizen comments on non-agenda items, and if necessary, may refer the matter to City
360 staff for research, resolution or referral to Council on a future agenda. As described in the City's
361 Public Meeting Procedures, comments will be limited to three (3) minutes.
362

363 Mayor Penn opened the floor to the following persons who signed up to speak and reminded them
364 that they would be limited to three (3) minutes:
365

366 Joshua Martin
367 1105 Gateway Boulevard
368 Forney, Texas

369 Mr. Martin stated that he is a former Forney Police Office, that he now works for
370 Heath. He spoke in favor of Chief Lunt.
371

372 Jason Johnson
373 Constable Precinct 2
374 He lives in Devonshire. He spoke in favor of Chief Lunt.
375

376 Clint McNear
377 Lives in Forney. He spoke in favor of Chief Lunt.
378

379 Karen Strand
380 1200 N. Gateway Boulevard
381 Stated she chooses to live in an apartment. She requests the City to contact Oncor
382 about how they prioritize their power – specifically when it comes to multi-family
383 housing. [Council advised her to contact the City Manager regarding her request].
384

385 Lori Pierce
386 12118 Mustang Circle
387 She commended everyone for speaking out about bullying and intimidation. She
388 stated she would like to see the Mayor and Council to take responsibility.
389

390 There being no one further to address the Council, Mayor Penn closed the Open Forum session.
391

392 Mayor Penn stated that Council would now go into Executive Session, pursuant to Texas
393 Government Code Section 551.071 to discussion Discussion/Action Item No. 1 and asked for a
394 motion. Council Member Traylor made a motion to adjourn into Executive Session at 8:12 p.m.
395 and Council Member Cooper seconded the motion. The motion passed unanimously by a vote
396 of 7 ayes and 0 nays.
397

398 Mayor Penn called for a motion to adjourn out of Executive Session at 8:40 p.m. Council Member
399 Johnson made a motion to adjourn out of Executive Session and Council Member Moon
400 seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.
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402 The following action took place as a result of Executive Session:
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VII. DISCUSSION / ACTION ITEMS

1. Discuss and consider approval of a mid-year increase for all employees.

Mayor Pro Tem Myers made a motion to approve mid-year increases for all employees, including the City Secretary, City Manager and City Attorney. Council Member Cooper seconded the motion. The motion failed by a vote of 3 ayes [Cooper/Powers/Myers] and 4 nays [Penn/Traylor/Moon/Johnson].

Council Member Traylor made a motion to approve the mid-year increases for all employees, excluding the City Attorney, City Secretary and the City Manager until March 2, 2021. The motion passed by a vote of 5 ayes [Penn/Traylor/Moon/Johnson/Powers] and 2 nays [Cooper/Myers].

**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 thanked all the departments for their work last week – Public Works, Police Department, Fire Department, Parks and IT.

Mayor Pro Tem Myers thanked Tony and Staff for the rate structure for City staff.

Mayor Penn inquired about the 150th program. Carson advised that is not ready yet, we are working on it.

Council Member Moon asked if Mr. Carson had any additional discussions with JAC. Carson stated that they are working to fill dates – dependent on COVID – in late summer or fall. They are cautiously optimistic.

Council Member Powers asked if he had an update on a possible Hub for Forney. Carson stated he did not.

**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 Traylor stated City of Forney we are proud of you. There are were a lot of caring people last week.

Mayor Pro Tem Myers stated it was a crazy week last week. He thanked Staff and Zach. Kudos for everyone coming together.

Council Member Powers thanked everyone involved – churches, neighborhoods, etc. Please pray for one another. The Lord is trying to get us closer – we need each other. It is about love and how you treat your neighbor.

455 Council Member Moon stated that the City of Forney did a great job. Trust in the Lord. We are
456 all one people. Police and Fire worked 13 hours straight.

457
458 Council Member Cooper echoed everyone. He thanked Deborah Woodham for getting everyone
459 a raise.

460
461 Council Member Johnson said "Ditto." Public Works is no longer invisible. They are true first
462 responders. People have come together. He is grateful. He thanked all the City employees who
463 did above and beyond.

464
465 Mayor Penn stated that everyone pulled together. She saw so many people in need. Everyone
466 who needed blankets got them. We are now in the process of restoration. Please keep them in
467 your prayers.

468
469 There being no further business to come before the Council, Mayor Penn called for a motion to
470 adjourn the meeting at 9:07 p.m. Council Member Powers made a motion to adjourn the meeting
471 and Council Member Moon seconded the motion. The motion passed unanimously by a vote of
472 7 ayes and 0 nays.

473
474 **PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FORNEY,**
475 **TEXAS, this _____ day of _____, 2021.**

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478
479 **ATTEST:** **Mary Penn, Mayor**

480
481 _____
482 **Dorothy Brooks, City Secretary**
483