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**Minutes**  
**Forney City Council**  
**Tuesday, March 2, 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](mailto:registration@forneytx.gov) no later than Tuesday, March 2, 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 6:34 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 DERALD COOPER**

Pastor Shawn Deterding of Water of Life Lutheran Church gave the invocation.

**III. 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 1, 2021, General Election.**

Mayor Penn asked if Council wanted to discuss this item. No discussion took place, so Mayor Penn called for a motion. Mayor Pro Tem Myers made a motion to approve the Consent Agenda and Council Member Johnson seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.

**IV. 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/Trailers. [Read Ordinance Caption]**

Community Development Director Peter Morgan discussed this item. This is being brought back before the Council pursuant to their request. 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.

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The proposed Ordinance adds a third option, providing for a food truck/trailer to operate with the approval of a Conditional Use Permit. Staff has revised the original proposal to allow for one Conditional Use Permit approval to be valid for one (1) full year. Multiple approvals and extensions will not be necessary during that year. The Ordinance includes the following regulations:

- 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.
- 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.
- C. An approved Conditional Use Permit for the property shall be valid for a period of one (1) year. Consideration of a Conditional Use Permit shall include a site plan showing the location of the Food Truck/Trailer.
- D. A Food Truck/Trailer is not intended to be a permanent use at one location. Following approval of a Conditional Use Permit, a Food Tuck/Trailer may operate on a property for a maximum of sixty (60) days, followed by a thirty (30) day rest period. This may be repeated throughout the one (1) year approval timeframe.
- 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 unless otherwise approved with the Conditional Use Permit).
- 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.
- 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.
- 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 unless otherwise approved in conjunction with a special event.
- 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.
- 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

103 lights associated with the operation of a Food Truck/Trailer may be directed  
104 towards an adjacent property or onto a public right-of-way.

105  
106 K. All signage must be attached to the Food Truck/Trailer, with the exception of  
107 one freestanding menu board no greater than eight (8) square feet placed  
108 adjacent to the Food Truck/Trailer.

109  
110 L. A Food Truck/Trailer may operate on City of Forney owned property at any  
111 time with written approval of the City Manager. This request will not require a  
112 Conditional Use Permit, but does require the appropriate food permit and  
113 payment of a \$25 administrative fee.

114  
115 After Council discussion, Mayor Penn called for a motion. Council Member Powers made a  
116 motion to approve the Ordinance with the following revisions: There will only be a one-time CUP  
117 fee of \$100 and the time between operating on a property for a maximum of sixty (60) days, will  
118 be a thirty (30) day rest period. Council Member Moon seconded the motion. The Ordinance  
119 caption was read as follows:

120  
121 **ORDINANCE NO. 21-12**

122  
123 **AN ORDINANCE OF THE CITY OF FORNEY, TEXAS, AMENDING THE COMPREHENSIVE**  
124 **ZONING ORDINANCE, ORDINANCE NO. 1085, AS AMENDED, BY AMENDING ARTICLE IV,**  
125 **“USE REGULATIONS,” SECTION 37, “USE REGULATIONS (CHARTS),” BY ADDING “FOOD**  
126 **TRUCK/TRAILER” AS A TYPE OF LAND USE; BY AMENDING ARTICLE V, “DEVELOPMENT**  
127 **STANDARDS,” SECTION 47, “SPECIAL REGULATIONS FOR CERTAIN TYPES OF USES,” BY**  
128 **ADDING SECTION 47.13, “FOOD TRUCK/TRAILER”; BY AMENDING ARTICLE V,**  
129 **“DEVELOPMENT STANDARDS,” SECTION 49, “DEFINITIONS,” BY ADDING A DEFINITION**  
130 **FOR “FOOD TRUCK/TRAILER”; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A**  
131 **SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING A PENALTY CLAUSE;**  
132 **AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.**

133  
134 The motion passed unanimously by a vote of 7 ayes and 0 nays.

135  
136 **V. DISCUSSION / ACTION ITEMS**

137  
138 **1. Receive annual audit presentation by Pattillo, Brown & Hill.**

139  
140 Finance Director Deborah Woodham introduced Chris Pruitt with Pattillo, Brown & Hill who  
141 presented the audit findings. Pruitt stated that this audit was conducted to ensure that the City’s  
142 Finance Department operates in accordance with accounting principles generally accepted for  
143 state and local governments. These standards require that the auditing firm obtain reasonable  
144 assurance about whether financial statements are free from material misstatement. In conclusion,  
145 Pattillo, Brown & Hill, LLP. determined that the City of Forney’s financial reporting complies with  
146 the accounting requirements established by the Governmental Accounting Standards Board  
147 (GASB). Mr. Pruitt stated that the City should receive another award for the CAFR, which should  
148 be in September or October this year. Pruitt stated that this is a “clean” audit, free of misstatement  
149 and people can depend on it. Our processes were also given a “clean” opinion.

150  
151 **2. Overview of the Technology, Facilities, GIS, Fleet, and Grounds**  
152 **departments current and future plans.**

153  
154 Deputy City Manager Neil Cardwell discussed the current and future plans for the departments  
155 he oversees. Operations include: Facilities is custodial services and general maintenance and

156 repair. Fleet Services – this is a new group. By forming this group, he consolidated all  
157 expenditures for all City vehicles. Ground – We have taken over all of the contracts for  
158 maintenance of College, 548, and Downtown. GIS – Jason Brenner is the GIS Manager and he  
159 is mapping city streets, sewer lines, technology infrastructure, etc. He is working on a new Police  
160 and Fire System, which is like a GPS on steroids; there will be more information available.  
161 Technology – Every single department is changing their software. The goal is to consolidate  
162 everything. The concerns are Facilities – we are busting at the seams; we have people doubling  
163 up. With regarding to Fleet/Grounds we need to continue to have departments tell us what they  
164 need.

165  
166 The Grounds crew is doing all the mowing and fertilization except at Community Park. We hope  
167 to have fertilizer licenses within the next week and a half.

168  
169 **3. Discuss and consider making appointments to the Bond**  
170 **Committee.**

171  
172 City Attorney Thatcher advised that the Bond Committee will consist of two Council Members and  
173 10 citizens. He advised that discussion of the appointments could take place in Executive  
174 Session. Mayor Pro Tem Myers stated that he would like to table this matter until the next  
175 meeting. Mayor Penn asked for a motion. Mayor Pro Tem Myers made a motion to table this  
176 item until the next meeting (March 16, 2021) and Council Member Johnson seconded the motion.  
177 The motion passed unanimously by a vote of 7 ayes and 0 nays.

178  
179 **VI. OPEN FORUM/CITIZEN COMMENTS**

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

186  
187 Mayor Penn stated that no one had signed up to speak in Open Forum and closed the Open  
188 Forum session.

189  
190 **VII. CITY MANAGER'S REPORT**

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

194  
195 City Manager Carson stated that we will announce the new partners for the Easter Egg Hunt  
196 during the March 16, 2021, City Council meeting.

197  
198 Mayor Pro Tem Myers asked about a discount to citizens on their water bills. He thinks it is better  
199 to go the 4,000 gallon minimum.

200  
201 Council Member Cooper asked if Grayhawk would get a discount, too. Finance Director  
202 Woodham stated she will reach out to Mesquite. City Manager asked if we can do some sort of  
203 discount/credit for them.

204  
205 Council Member Johnson stated that his bill was only about \$20 more and that all of the water  
206 faucets in his house ran the entire week. Finance Director Woodham stated that it would not  
207 affect the sewer charge. She also advised that we will be offering a leak adjustment. We can  
208 look at water consumption in mid-March.

209  
210 City Manager Carson stated that the governor had opened everything back up and wanted to  
211 know the Council's thoughts on opening back up. Council Member Traylor is okay to open back  
212 up. Council Member Powers stated they could open back up so long as we can social distance.  
213 She will still be wearing a mask. We need to be cautious. Mayor Penn stated she is okay to open  
214 back up. Council Member Johnson stated that he likes virtual, but if we open up it needs to be  
215 socially distanced. He will be wearing a mask. Mayor Pro Tem Myers stated we should check  
216 the data and that we need get input from our Boards and Commissions. Council Member Moon  
217 asked if we could setup without seating. Is the City going to require a mask? City Attorney  
218 Thatcher stated that they can still do virtual meetings.

219  
220 It is a City management decision whether or not to require city employees to wear masks and for  
221 masks to be required to enter the building. City Attorney Thatcher stated that this needs to be  
222 put on a future agenda for discussion and a decision.

223  
224 Council Member Traylor asked about the Racial Profiling Report. Police Chief Lunt stated that  
225 the data is as accurate as we could get. There was no force on any stop at all in 2020. There  
226 were 3 complaints that were determined to be unfounded. We do not compare stops to what our  
227 demographics are. It is for every single stop we make – not just people who live in Forney. There  
228 was a question about an increase from 2019 to 2020. Chief Lunt stated he would check on it.

229  
230 **VIII. COUNCIL COMMENTS**  
231 **PURSUANT TO SECTION 551.0415 TEX. GOV'T CODE, CITY COUNCIL MEMBERS MAY MAKE**  
232 **A REPORT ABOUT ITEMS OF COMMUNITY INTEREST DURING A MEETING OF THE**  
233 **GOVERNING BODY WITHOUT HAVING GIVEN NOTICE OF THE REPORT. ITEMS OF**  
234 **COMMUNITY INTEREST INCLUDE:**

235  
236 Council Member Traylor had no comments.

237  
238 Mayor Pro Tem Myers thanked Neil Cardwell for his report and told everyone to have a good  
239 night.

240  
241 Council Member Powers told everyone to be safe and to do what is best for their family.

242  
243 Council Member Moon "Dittoed" Council Member Powers. We still have a pandemic – wear your  
244 mask and social distance.

245  
246 Council Member Cooper had no comments.

247  
248 Council Member Johnson stated that we lost a pillar of our community last week. Pastor Jimmy  
249 Pritchard was his friend. Please keep his family in your prayers. This was very sudden. He  
250 enjoyed the news story about the rescue of the senior citizen who crashed into the river. Kudos  
251 to the first responders. It is good to see a positive story.

252  
253 Mayor Penn stated that the death of Pastor Pritchard has been devastating. His wife is in the  
254 hospital with Covid. Brother Kirk and his wife both have Covid and they are quarantined.

255  
256 Mayor Penn stated that there would be ten minute break and then Council would adjourn into  
257 Executive Session under Chapter 551 of the Texas Government Code, Section 551.071, 551.074  
258 and 551.087 and asked for a motion. Council Member Moon made a motion to adjourn into

259 Executive Session at 7:59 p.m. and Council Member Cooper seconded the motion. The motion  
260 passed unanimously by a vote of 7 ayes and 0 nays.  
261

262 **IX. EXECUTIVE SESSION**  
263 **PURSUANT TO THE OPEN MEETINGS ACT, CHAPTER 551, TEXAS**  
264 **GOVERNMENT CODE, THE CITY COUNCIL WILL RECESS INTO EXECUTIVE**  
265 **SESSION (CLOSED MEETING) TO DISCUSS THE FOLLOWING:**  
266

267 1. Consult with legal counsel regarding pending or contemplated  
268 litigation or a settlement offer and/or matters in which the duty of the  
269 attorney to the governmental body under Texas Disciplinary Rules of  
270 Professional Conduct of the State Bar of Texas clearly conflicts with  
271 Chapter 551 of the Texas Government Code (Tex. Gov't Code Section  
272 551.071):

273  
274 a. Section 7.04, City of Forney Personnel Policy Manual - Formal  
275 Grievance filed by Chief Lunt on February 21, 2021.  
276

277 2. Deliberate the appointment, employment, evaluation, reassignment,  
278 duties, discipline, or dismissal of a public officer or employee (Tex.  
279 Gov't Code 551.074):  
280

- 281 a. City Manager
- 282 b. City Attorney
- 283 c. City Secretary
- 284 d. Municipal Judges

285  
286 3. Discuss or deliberate regarding commercial or financial information  
287 that the governmental body has received from a business prospect  
288 that the governmental body seeks to have locate, stay, or expand in  
289 or near the territory of the governmental body and with which the  
290 governmental body is conducting economic development  
291 negotiations, or to deliberate the offer of a financial or other incentive  
292 to a business prospect (Tex. Gov't Code Section 551.087):  
293

294 a. Project Victory

295  
296 **X. RECONVENE INTO REGULAR SESSION**  
297 **IN ACCORDANCE WITH TEXAS GOVERNMENT CODE, CHAPTER 551, THE**  
298 **CITY COUNCIL WILL RECONVENE INTO REGULAR SESSION TO**  
299 **CONSIDER ACTION, IF ANY, ON MATTERS DISCUSSED IN EXECUTIVE**  
300 **SESSION.**  
301

302 Mayor Penn asked for a motion to adjourn out of Executive Session at 9:27 p.m. Mayor Pro Tem  
303 Myers made a motion to adjourn out of Executive Session and Council Member Johnson  
304 seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.  
305

306 Mayor Penn asked if there was any action to be taken as a result of Executive Session. Council  
307 Member Traylor made a motion requesting the immediate resignation of City Manager Carson  
308 and Council Member Johnson seconded the motion. Mayor Penn stated that due to City Manager

