

**Minutes
Forney City Council
Tuesday, April 20, 2021
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 6:32 p.m. Present were Mayor Mary Penn and Council Members James Traylor, Robbie Powers, Kevin Moon, Derald Cooper and David Johnson. There is a vacancy in Place 2. Also present was Interim City Manager Karl Zook.

II. INVOCATION – COUNCIL MEMBER ROBBIE POWERS

III. PROCLAMATIONS / PRESENTATIONS

1. Presentation by CWD of their 2020 Annual Review.

Greg Roemer, President of CWD, gave a short presentation of their 2020 events. Roemer stated that the growth of Forney, in addition to the pandemic, along with the ice storm, has caused a large increase in tonnage and their workers are working a lot of overtime to collect the waste. Roemer reminded everyone about their Hazardous Household Waste program. They conduct it monthly and pick up electronics in addition to the hazardous wastes. If someone needs items to be picked up they should contact CWD and a door-side collection driver will pick up the material. Each year CWD gifts the City with an item that is made of recycled materials. This year it is a picnic table.

IV. APPROVAL OF MINUTES

1. Consider approval of the Minutes of the April 6, 2021, City Council meeting.

Mayor Penn asked if Council had any changes to the Minutes. There being no changes, Mayor Penn called for a motion. Council Member Moon made a motion to approve the Minutes of the April 6, 2021, City Council meeting and Council Member Powers seconded the motion. The motion passed by a vote of 6 ayes and 1 vacancy.

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 the acceptance of public improvements for the Grayhawk Phase 4 development project.**
- 2. Consider approval of a final plat for the Forney ISD Middle and Intermediate School, located north of F.M. 740 and west of Ranch Road.**
- 3. Consider approval of a final plat for the Van Trust Gateway Industrial Addition, located south of U.S. Highway 80 and east of S. Gateway Boulevard.**

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4. **Consider approval of a final plat for Windmill Farms Phase 6B.**
5. **Consider approval of a preliminary plat for First Presbyterian Church, located at 12433 FM 1641.**
6. **Consider approval of a revised site plan for First Presbyterian Church, located at 12433 FM 1641.**
7. **Consider approval of a preliminary plat for Lots 1 & 2, Block 1, Platform 80-20 Addition, located northwest of the County Road 212 and S. Gateway Boulevard intersection.**
8. **Consider approval of a right-of-way plat for Innovation Boulevard.**
9. **Consider approval of a site plan for Forney Marketplace Lot 3 & 4, located north of U.S. Highway 80 and west of Marketplace Boulevard.**
10. **Consider approval of a site plan for Wildwood Blvd, located north of U.S. Highway 80 and Trailhouse Lane.**
11. **Consider approval of the Forney Industrial final plat, consisting of 101.833 acres located south of U.S. Highway 80 and Clements Drive.**

Mayor Penn asked if Council wanted to pull any items for discussion. Council Member Johnson stated that he has a comment regarding Consent Agenda Item No. 4 for public information purposes. This property is in our ETJ. The Developer did not renew the Development Agreement with the City. We cannot dictate home or lot size. All we can do is approve construction standards. We have no option but to approve this item.

Council Member Traylor had a question regarding Consent Agenda Item No. 7. He wanted to know what kind of zoning this property has. Community Development Director Peter Morgan advised that it is a Planned Development District with Light Industrial uses. Similar to projects in that area.

Mayor Penn called for a motion to approve the Consent Agenda. Council Member Traylor made a motion to approve the entire Consent Agenda and Council Member Johnson seconded the motion. The motion passed by a vote of 6 ayes and 1 vacancy.

VI. PUBLIC HEARING ITEMS / ACTION ON PUBLIC HEARING ITEMS

1. **Hold a public hearing and discuss and consider approval of a replat for the Forney Business Center Addition, located on East Main Street between Center Street and South Chestnut Street.**

Community Development Director Peter Morgan discussed this item. PSA Engineering, representing the property owner, requests approval of a replat for Lot 1R, Block 47, Forney Business Center Addition No. 1. The property is adjacent to the contractor's office operated by Phillips Electric. The purpose of the request is to establish a new fire lane and utility easement to serve a new building.

105 **Current Standards:**
106 The property consists of 1.06 acres of land. The property is currently vacant and undeveloped.
107 This property is zoned General Retail District which permits a contractor office to operate without
108 any outside storage.

109
110 **Replat:**
111 The replat consists of one (1) lot and 1.06 acres of land. The plat is designed in compliance with
112 the City of Forney Comprehensive Zoning Ordinance and the City of Forney Subdivision
113 Ordinance. The replat is designed in accordance with all of the requirements for platting a
114 property.

115
116 **Recommendation:**
117 On April 8, 2021, the Planning and Zoning Commission voted to recommend approval.
118
119 Mayor Penn opened the public hearing, but no one came forward to address the Council. Mayor
120 Penn closed the public hearing. There was no discussion. Mayor Penn called for a motion.
121 Council Member Johnson made a motion to approve the replat and Council Member Moon
122 seconded the motion. The motion passed by a vote of 6 ayes and 1 vacancy.

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124 **2. Hold a public hearing and discuss and consider approval of an**
125 **Ordinance for a Conditional Use Permit for All Terrain Vehicle**
126 **Dealer/Sales and Personal Watercraft Sales to operate at 117 E. U.S.**
127 **Highway 80. [Read Ordinance Caption]**

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129 Community Development Director Peter Morgan discussed this item. RideNow Powersports
130 requests approval of a Conditional Use Permit. The purpose of the request is to revise a previously
131 approved Conditional Use Permit to allow for the expansion of the existing RideNow Powersports
132 business.

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134 **Current Standards:**
135 The property consists of 3.82 acres of land in the General Retail zoning district. RideNow
136 Powersports currently operates on the property under a previously approved (April 18, 2017)
137 Conditional Use Permit for all terrain vehicle dealer/sales.

138
139 **Proposed Use:**
140 The application letter states that the applicant would like to expand by adding a new 13,500
141 square foot addition. The new stucco building is proposed to be located directly to the west of the
142 existing building, fronting on U.S. Highway 80.

143
144 The site plan shows that portions of the rear of the property are proposed to be used for unloading,
145 storage and additional parking. The far rear section of the property will remain vacant. Masonry
146 screening will be provided adjacent to the residential properties at the rear.

147
148 **Zoning Ordinance Considerations:**
149 When considering applications for a Conditional Use Permit, Section 34b of the City of Forney
150 Zoning Ordinance provides the following considerations for the City Council:

- 151
152 1. The proposed use at the specified location is consistent with the goals, objectives
153 and policies contained in the adopted Comprehensive Plan;
154 2. The proposed use is consistent with the general purpose and intent of the
155 applicable zoning district regulations;

- 156 3. The proposed use meets all supplemental standards specifically applicable to the
157 use as set forth in Article V of this Ordinance;
- 158 4. The proposed use is compatible with and preserves the character and integrity of
159 adjacent development and neighborhoods and, as required by the particular
160 circumstances, includes improvements or modifications either on-site or within the
161 public rights-of-way to mitigate development-related adverse impacts, including
162 but not limited to:
163
- 164 a. Adequate ingress and egress to property and proposed structures
165 thereon with particular reference to vehicular and pedestrian safety
166 and convenience, and access in case of fire;
 - 167 b. Off-street parking and loading areas;
 - 168 c. Refuse and service areas;
 - 169 d. Utilities with reference to location, availability, and compatibility;
 - 170 e. Screening and buffering, features to minimize visual impacts,
171 and/or setbacks from adjacent uses;
 - 172 f. Control of signs, if any, and proposed exterior lighting with
173 reference to glare, traffic safety, economic effect, and compatibility
174 and harmony with properties in the district;
 - 175 g. Required yards and open space;
 - 176 h. Height and bulk of structures;
 - 177 i. Hours of operation;
 - 178 j. Exterior construction material and building design; and
 - 179 k. Roadway adjustments, traffic control devices or mechanisms, and
180 access restrictions to control traffic flow or divert traffic as may be
181 needed to reduce or eliminate development- generated traffic on
182 neighborhood streets.
- 183
- 184 5. The proposed use is not materially detrimental to public health, safety,
185 convenience and welfare, or results in material damage or prejudice to other
186 property in the vicinity.
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188 **Accessibility:**

189 The property provides existing access to U.S. Highway 80.
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191 **Notification:**

192 Notification was provided in the newspaper and to property owners within two-hundred feet (200')
193 of the property. As of this writing, staff has received no public comment regarding this request.
194

195 **Future Requirements:**

196 If approved (including the site plan), future development of the property will require approval of:
197

- 198 1. Building Plans (staff approved)
199

200 **Recommendation:**

201 On April 8, 2021, the Planning and Zoning Commission voted to recommend approval.
202

203 Mayor Penn opened the public hearing, but no one came forward to address the Council. Council
204 stated that they are glad they are doing well and it is good to see positive growth. The applicant
205 stated that they have grown with Forney. There will be 34 additional parking spaces added.
206 Mayor Penn called for a motion. Council Member Johnson made a motion to approve the

207 Ordinance and Council Member Cooper seconded the motion. The Ordinance caption was read
208 as follows:

209
210 **ORDINANCE NO. 21-13**

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212 **AN ORDINANCE OF THE CITY OF FORNEY, TEXAS, AMENDING THE COMPREHENSIVE**
213 **ZONING ORDINANCE, ORDINANCE NO. 1085, AND MAP, AS AMENDED, BY CHANGING THE**
214 **ZONING FROM GENERAL RETAIL DISTRICT (GR) USES WITH A CONDITIONAL USE PERMIT**
215 **(CUP) FOR ALL-TERRAIN VEHICLE DEALER/SALES TO GENERAL RETAIL DISTRICT (GR)**
216 **USES WITH A CONDITIONAL USE PERMIT (CUP) FOR ALL-TERRAIN VEHICLE**
217 **DEALER/SALES AND PERSONAL WATERCRAFT SALES, TO OPERATE AS A PRIMARY USE**
218 **ON APPROXIMATELY 3.82 ACRES OF LAND IN THE JOHN GREGG SURVEY, ABSTRACT NO.**
219 **171, WHICH PROPERTY IS MORE COMMONLY KNOWN AS 113 E. U.S. HIGHWAY 80 AND 117**
220 **E. U.S. HIGHWAY 80, IN THE CITY OF FORNEY, KAUFMAN COUNTY, TEXAS, IN**
221 **ACCORDANCE WITH THE CITY'S COMPREHENSIVE MASTER PLAN AND ZONING**
222 **ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE;**
223 **PROVIDING A REPEALER CLAUSE; PROVIDING A PENALTY CLAUSE; AND PROVIDING FOR**
224 **PUBLICATION AND AN EFFECTIVE DATE.**

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226 The motion passed by a vote of 6 ayes and 1 vacancy.

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228 **3. Hold a public hearing and discuss and consider approval of an**
229 **Ordinance to rezone 60.233 acres to a Planned Development with a**
230 **base zoning district designated as Light Industrial. The property is**
231 **located south of U.S. Highway 80, north of S. Gateway Boulevard and**
232 **west of County Road 212.**

233
234 Community Development Director Peter Morgan discussed this item. Platform 80-20, LP,
235 requests approval to zone approximately 60.233 acres of property. The purpose of the zoning is
236 to establish planned development zoning standards for the light industrial development of the
237 property.

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239 **Current Standards:**

240 The property consists of 60.233 acres of land. The majority of the property was annexed and
241 zoned in the light industrial district by City Council on January 19, 2021. This request adds
242 additional acreage and requests to establish a planned development district with a base zoning
243 district of light industrial. Access to the property is provided by C.R. 212. The Amazon FTW5
244 facility is being constructed to the east of the property and the Gateway Parks residential
245 subdivision is located to the south of the property.

246
247 **Planned Development:**

248 The requested zoning establishes a Planned Development District with Light Industrial remaining
249 as the base zoning district for the property. The application letter states that the zoning request is
250 to facilitate the eventual development and construction of warehouse and distribution uses.

251
252 The proposed development regulations are consistent with a development agreement approved
253 by City Council on April 6, 2021:

- 254
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 1. Distribution center is a permitted use;
 - 256 2. Manufacturing as the primary use requires approval of a conditional use permit;
 - 257 3. Maximum building height of fifty-five feet (55');
 - 258 4. Minimum required off-street parking for storage or warehousing, and light
 - 259 manufacturing uses shall be 1 space for every 2,000 square feet of total floor area;
 - 260 5. Commercial trucks shall not be allowed to park or cause stacking of trucks to occur
 - 261 on a public roadway, including CR 212; and

262 6. Required screening (adjacent to Gateway Parks) shall be constructed of masonry
263 (concrete, brick or stone) or masonry-emulating materials (cast concrete, formed
264 panels, and opaque panelized fence products).
265

266 **Accessibility:**

267 The property has direct access to C.R. 212.
268

269 **Comprehensive Plan:**

270 The 2016 Comprehensive Plan does not provide a future land use designation for the property.
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272 **Zoning Ordinance Considerations:**

273 The City of Forney Comprehensive Zoning Ordinance provides the following factors for the
274 Planning and Zoning Commission and City Council to consider in making a zoning determination:
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- 276 1. Whether the uses permitted by the proposed change will be appropriate in the
277 immediate area concerned, and their relationship to the general area and to the
278 City as a whole;
- 279 2. Whether the proposed change is in accord with any existing or proposed plans for
280 providing public school, streets, water supply, sanitary sewers, and other utilities
281 to the area;
- 282 3. The amount of vacant land currently classified for similar development in the
283 vicinity and elsewhere in the City, and any special circumstances which may make
284 a substantial part of such vacant land unavailable for development;
- 285 4. The recent rate at which land is being developed in the same zoning classification
286 as the request, particularly in the vicinity of the proposed change;
- 287 5. How other areas designated for similar development will be, or are likely to be,
288 affected if the proposed amendment is approved; and
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- 290 6. Any other factors which will substantially affect the public health, safety, morals or
291 general welfare.
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297 **Public Notification:**

298 Staff provided notification of this public hearing to adjacent property owners and the notice was
299 published in the Forney Messenger. Staff did not receive any public comment.
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301 **Recommendation:**

302 On April 8, 2021, the Planning and Zoning Commission voted to recommend approval.
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304 Mayor Penn opened the public hearing but no one came forward to address the Council, so Mayor
305 Penn closed the public hearing. Morgan stated that the surrounding area is generally
306 warehouses. Mayor Penn called for a motion. Council Member Moon made a motion to approve
307 the Ordinance and Council Member Powers seconded the motion. The Ordinance caption was
308 read as follows:
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ORDINANCE NO. 21-14

AN ORDINANCE OF THE CITY OF FORNEY, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE NO. 1085, AND MAP, AS AMENDED, BY CHANGING THE ZONING ON APPROXIMATELY 60.233-ACRES OF LAND SITUATED IN THE A. HYER SURVEY, ABSTRACT NO. 203, CITY OF FORNEY, KAUFMAN COUNTY, TEXAS, FROM AG-AGRICULTURAL DISTRICT AND PD-PLANNED DEVELOPMENT OVERLAY DISTRICT, WITH A BASE ZONING DISTRICT DESIGNATED AS LI - LIGHT INDUSTRIAL DISTRICT TO PLANNED DEVELOPMENT OVERLAY DISTRICT, WITH A BASE ZONING DISTRICT DESIGNATED AS LI - LIGHT INDUSTRIAL DISTRICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING A PENALTY CLAUSE; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

The motion passed by a vote of 6 ayes and 1 vacancy.

VII. DISCUSSION / ACTION ITEMS

- 1. Discuss and consider approval of a site plan for the Platform 80-20, located west of the County Road 212 and S. Gateway Boulevard intersection.

Community Development Director Peter Morgan discussed this item. Mr. Brad R. Williams requests approval of a site plan for the Platform 80-20. The purpose of the site plan is to establish the site design for the light industrial development of the property.

Current Standards:

The property consists of 60.233 acres of land. The majority of the property was annexed and zoned in the light industrial district by City Council on January 19, 2021. A request to zone the property to planned development has been submitted for consideration.

The majority of the property is vacant and undeveloped, with some residential structures adjacent to C.R.212. Access to the property is provided by C.R. 212. The Amazon FTW5 facility is being constructed to the east of the property and the Gateway Parks residential subdivision is located to the south of the property.

Site Plan:

The site plan is designed in accordance with the proposed planned development zoning conditions and shows that two buildings are proposed on the property. Building 1 is 430,920 square feet and Building 2 is 512,604 square feet. The two buildings share access points. The two buildings would have separate parking/loading areas and the building elevation plan shows that the buildings are designed to be forty- seven feet (47') in height.

The language in the proposed PD Amendment states that required screening (adjacent to the Gateway Parks residential subdivision) shall be constructed of masonry (concrete, brick or stone), or masonry- emulating materials (e.g., cast concrete, formed panels, and opaque panelized fence products).

The landscape plan shows that the quantity of trees is provided in accordance with the parking and street frontage requirements. All other design elements comply with the proposed Platform 80-20 Planned Development.

Accessibility:

The property provides direct access to County Road 212.

365 **Recommendation:**
366 On April 8, 2021, the Planning and Zoning Commission voted to recommend approval.

367
368 Mayor Penn called for a motion. Council Member Moon made a motion to approve the site plan
369 and Council Member Johnson seconded the motion. The motion passed by a vote of 6 ayes and
370 1 vacancy.

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372 **2. Discuss and consider a Resolution setting a public hearing under**
373 **Section 372.009 of the Texas Local Government Code on the**
374 **advisability of the creation of a public improvement district and**
375 **improvements within the City of Forney for the Bellagio residential**
376 **development, authorizing the issuance of notice by the City Secretary**
377 **of Forney, Texas regarding the public hearing.**

378
379 City Attorney Jon Thatcher discussed this item. In accordance with the Bellagio Development
380 Agreement, the developer has submitted a petition to the City to create the Bellagio Public
381 Improvement District (PID). The petition is attached to the Resolution as Exhibit A. Before the City
382 Council can create the PID, it must hold a public hearing after 15 days' publication notice. The
383 form of the notice is attached to the Resolution as Exhibit B. This resolution does not create the
384 PID. It only accepts the developer's petition and provides for the scheduling of the public hearing
385 and publishing of the notice. The resolution sets the public hearing for May 18, 2021. After the
386 hearing, the Council will consider a separate resolution creating the PID. Staff recommends
387 approval of the Resolution.

388
389 Mayor Penn called for a motion. Council Member Traylor made a motion to approve the
390 Resolution and Council Member Moon seconded the motion. The motion passed by a vote of 6
391 ayes and 1 vacancy. Council Member Moon stated that he thinks this is great for the City.

392
393 **VIII. OPEN FORUM/CITIZEN COMMENTS**

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

400
401 Mayor Penn opened the floor to anyone in the audience who wanted to address the Council on
402 any matter not on tonight's agenda. No one came forward to address the Council, so Mayor Penn
403 closed the open forum session.

404
405 **IX. CITY MANAGER'S REPORT**

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

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410 Interim City Manager Karl Zook thanked the Council for the opportunity to be the Interim City
411 Manager, but is glad it is for a short time.

412
413 Council Member Johnson told Zook to get with Neil regarding the maintenance of our medians.
414 741 is bad. There is major work to be done. Zook stated that he has Public Works and Kyle's
415 group helping. With regard to the Quiet Zone, he heard from the Federal Railroad Commission
416 that there is a problem with 548 with a driveway that was put in. Nothing new and still no date to
417 expect it to be reinstated.

418

419 Council Member Moon asked if Zook was getting Carson's email. Zook advised that he was.

420

421 Mayor Penn stated we need more promotion on the website about Movies in the Park.

422

423 **X. COUNCIL COMMENTS**

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

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429 Council Member Traylor had no comments.

430

431 Council Member Powers had no comments.

432

433 Council Member Moon thanked Karl for stepping in. He thanked Staff and Police and Fire for
434 their hard work. He thanked everyone that came out tonight for being here.

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436 Council Member Cooper had no comments.

437

438 Council Member Johnson stated it is nice to be back in open meetings. We need to be sure to
439 keep our protocols up. He appreciates Staff and they are doing an excellent job. He has known
440 Charles for 36 years and is looking forward to him being here.

441

442 Mayor Penn thanked Karl. She thanked Staff for their hard work and for being a team. Be sure
443 to vote.

444

445 Mayor Penn announced that Council would now adjourn into Executive Session pursuant to
446 Chapter 551, Texas Government Code, Section 551.071 and asked for a motion. Council
447 Member Cooper made a motion to adjourn into Executive Session at 7:38 p.m. and Council
448 Member Johnson seconded the motion. The motion passed by a vote of 6 ayes and 1 vacancy.

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450 **XI. EXECUTIVE SESSION**

451 **PURSUANT TO THE OPEN MEETINGS ACT, CHAPTER 551, TEXAS GOVERNMENT CODE,**
452 **THE CITY COUNCIL WILL RECESS INTO EXECUTIVE SESSION (CLOSED MEETING) TO**
453 **DISCUSS THE FOLLOWING:**

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455 **1. Consult with legal counsel regarding pending or contemplated**
456 **litigation or a settlement offer and/or matters in which the duty of the**
457 **attorney to the governmental body under Texas Disciplinary Rules of**
458 **Professional Conduct of the State Bar of Texas clearly conflicts with**
459 **Chapter 551 of the Texas Government Code (Tex. Gov't Code Section**
460 **551.071).**

461

462 **a. PUC Docket No. 47814; SOAH Docket No. 46-18-1344.WS –**
463 **Petition of High Point Water Supply Corporation, Talty Special**
464 **Utility District and Markout Water Supply Corporation**
465 **Appealing the Decision by the City of Forney Affecting**
466 **Wholesale Water Rates.**

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468 **b. Claim by Mica Lunt**

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

Council returned to Chambers at 9:09 p.m. Mayor Penn called for a motion to adjourn out of Executive Session at that time. Council Member Traylor made a motion to adjourn out of Executive Session and Council Member Moon seconded the motion. The motion passed by a vote of 6 ayes and 1 vacancy.

Mayor Penn announced that there was no action to be taken as a result of Executive Session. Mayor Penn then called for a motion to adjourn at 9:10 p.m. Council Member Johnson made a motion to adjourn and Council Member Powers seconded the motion. The motion passed by a vote of 6 ayes and 1 vacancy.

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

ATTEST:

Mary Penn, Mayor

Dorothy Brooks, City Secretary