Minutes
Forney City Council
Tuesday, January 21, 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 6:31 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 — COUNCIL MEMBER DAVID JOHNSON

III. OPEN FORUM/CITIZEN COMMENTS

This is the public's opportunity to address the City Council on any matter related to the City. Public comments on items listed on the agenda may be deferred until the specific item is brought before the City Council. In accordance with the Texas Open Meetings Act, Section 551.041, the City Council cannot discuss, consider, or take action on matters not listed on the agenda. The City Council will receive citizen comments on non-agenda items, and if necessary, may refer the matter to City staff for research, resolution or referral to Council on a future agenda. As described in the City's Public Meeting Procedures, comments will be limited to three (3) minutes.

Mayor Penn opened the floor to anyone who wished to address the Council on any subject not on tonight’s agenda. The following persons came forward to address the Council:

Rachel Stillwell
107 Greenfield Trail
Forney, Texas 75126
Ms. Stillwell introduced Ashley who is with the Red Cross. They will be holding a blood drive at the Church of Latter-day Saints on February 1st. There is a huge need for blood at this time.

Cariann Bradford
107 S. Broad
Forney, Texas 75126
Ms. Bradford is running for the 422nd District Court Judge position and asked for the Council’s support.

John Daniel
Mr. Daniel refused to give his address. He stated people came to his house and harassed him. He stated again that the Council is racist because no one will meet with him. He stated that old Forney needs sidewalks, curbs and guardrails now.
IV. APPROVAL OF MINUTES

1. Consider approval of the Minutes of the January 7, 2020, 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 and Mayor Pro Tem Myers 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 the Grayhawk Addition Phase Four.

2. Consider a Resolution approving a Professional Services Agreement with Freeman- Millican, Inc.

3. Consider approval of a preliminary plat for Lot 1, Block A, Broad Street East Addition II, located southeast of the intersection of East U.S. Highway 80 and F.M. 548.

4. Consider approval of a revised site plan for a new Forney ISD Middle and Intermediate School, located north of F.M. 740 and west of Ranch Road.

5. Consider approval of a revised site plan for Breeze-In Gas Station and Car Wash, located north of Don T. Cates Drive and east of North F.M. 548.

6. Consider approval of the acceptance of public improvements for the construction of the 12-inch water lines associated with the elevated water tank project.

7. Consider approval of the acceptance of public improvements for the Panera Bread project.

8. Consider authorizing the City Attorney’s Office to retain the services of outside counsel to assist the City in obtaining the appropriate state licenses for concession sales at the Spellman Amphitheater.

Mayor Penn asked if Council wished to pull any items for discussion. City Attorney Thatcher stated that Consent Agenda Item 2 involves an impact fee study and the formation of a CIP Committee. Council Members Thomas and Myers both stated they wanted to discuss Consent Agenda Item No. 4. Mayor Penn called for a motion on Consent Agenda Items 1, 2, 3, 5, 6, 7 and 8. Council Member Thomas made a motion to approve Consent Agenda Items 1, 2, 3, 5, 6, 7 and 8 and Council Member Johnson seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.
With regard to Consent Agenda No. 4, Council Member Thomas asked how far off the road the school will be. Community Development Director Peter Morgan advised that it will be 1500 feet off the road. Council Member Myers wanted to know the hours for the different schools. The FISD representative stated the schools would run concurrently. There being no further questions or discussion, Mayor Penn called for a motion. Council Member Thomas made a motion to approve Consent Agenda Item No. 4 and Council Member Cooper seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.

VI. DISCUSSION / ACTION ITEMS

1. Vision 2025 -- Goals and Initiatives

City Manager Carson reminded the Council that the workshop is scheduled for February 25, 2020, starting at 6:00 p.m. and will be in the Council Chambers.

2. Discuss and consider approval of a site plan for King Daycare, located northeast of the intersection of South F.M. 548 and F.M. 741.

Community Development Director Peter Morgan discussed the background of this item. Claymoore Engineering, representing the property owner, requests approval of a site plan for King Daycare, located northeast of the intersection of South F.M. 548 and F.M. 741. The purpose of the request is to establish the site design for a childcare center.

Current Standards:
The property is currently vacant and undeveloped. The property consists of 2.36 acres of land zoned within the Fox Hollow Planned Development. The Planned Development zoning (Ordinance No. 11-26) was approved by City Council in 2004. The base zoning for this property is General Retail district. A childcare center is a permitted use within the General Retail district.

Site Plan:
The proposed childcare center facility consists of 14,230 square feet. Brick is the primary exterior building material. The applicant is requesting an exception to the drop off and pick up area requirements. The Zoning Ordinance requires a circular drop off lane with stacking spaces for childcare facilities. The applicant prefers that only parking spaces are used for child pick up and drop off. Staff recommends approving the exception request. Staff considers the circular lane design to be outdated and is preparing an Ordinance to remove the requirement at a future City Council meeting.

The property is located directly adjacent to Fox Hollow residential lots along the northern property line. The site plan shows that a 6' masonry wall will meet the screening requirement along the northern property line. The Zoning Ordinance requires screening when a non-residential use is adjacent to a residential use.

The landscape plan complies with zoning regulations. Trees are provided throughout the site and within the parking areas.

Accessibility:
The plans show that the property has shared access to South F.M. 548 and F.M. 741.
Future Requirements:
If approved, future development of the property will require approval of:

1. Preliminary Plat
2. Final Plat
3. Building Plans (staff approved)

Recommendation:
On January 2, 2020, the Planning and Zoning Commission recommended approval with an exception to the Zoning Ordinance requirement for a circular drop-off lane and a stipulation that the site plan comply with TVEC requirements. Following the Planning and Zoning Commission meeting, the applicant discussed easement requirements with TVEC and agreed to revise the plan. Staff recommends approval of the site plan with the exception to the circular drop-off lane.

The applicant's engineer stated that the circular drive is not functional. Mayor Penn called for a motion. Mayor Pro Tem Myers made a motion to approve the site plan and Council Member Johnson seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.

3. Discuss and consider approval of a revised site plan for 105 McGraw Street.

Community Development Director Peter Morgan discussed the background of this item. Mr. Phil Saragusa requests approval of a revised site plan for 105 McGraw Street. The purpose of the request is to establish the site design necessary to convert the property from single-family residential to General Retail.

Current Standards:
The building was previously, and most recently, used for single-family residential purposes. The property was rezoned to General Retail in the early 2000's. The adjacent property to the southwest has been converted to an office use and the property across the street has also been converted to an office use. The property to the north remains a residential use.

Site Plan:
No exterior changes are proposed to the existing building. Several changes are proposed to the property. A handicap ramp is proposed at the rear of the structure and five new parking spaces are shown on the site plan. One handicap parking space is located directly behind the structure and four standard parking spaces at the rear of the property. The existing garage is shown to remain. The applicant is requesting to maintain the existing fence as separation to the residential properties. Staff notes that a five-foot (5') sidewalk needs to be added across the front of the property.

Accessibility:
The property has direct access to McGraw Street.

Future Requirements:
If the site plan is approved, future development of the property will require approval of a concrete pavement for the parking lot and any necessary interior remodel permits.
Recommendation:

On January 2, 2020, the Planning and Zoning Commission recommended approval with a stipulation that a wood fence provide screening adjacent to the residential uses and a stipulation that a five-foot sidewalk is provided adjacent to McGraw Street. The Commission also directed staff to research any alternative designs for the driveway and garage.

Following the Planning and Zoning Commission meeting, the applicant met with staff and agreed to add the fence and sidewalk. The applicant also stated that he is speaking to the adjacent property owner about the possibility of extending the pavement from the parking lot of the adjacent law office property. That would allow for a more direct parking drive that would not have to weave around the existing garage. Those revisions have not yet been provided on the site plan, so the stipulations remain as the recommended action.

Morgan stated that there will be fence screenings, a 5-foot sidewalk along McGraw and the parking has been redesigned and all stipulations have been met. The garage will remain. With regard to visibility, it is okay as is.

Mayor Penn called for a motion. Council Member Thomas made a motion to approve the revised site plan and Mayor Pro Tem Myers seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.

4. Discuss and consider any necessary action regarding recommended amendments to the City of Forney Home Rule Charter.

City Attorney Jon Thatcher discussed the background of this item. The Forney Charter Commission began meeting in October upon receiving the charge from the City Council to review the City’s Charter and report to the City Council for consideration of any recommendations.

This agenda item is provided to allow the Council the opportunity to discuss each of the recommended Charter amendments and take any interim votes if necessary on the individual items in order to finalize the amendments that will be submitted to the voters in May.

At the Council meeting held on January 7, 2020, the City Council asked that this item be placed on the agenda for the 21st to allow for review and consideration of the Commission’s report.

A public notice of the comprehensive summary of the report is to be published in the Forney Messenger pursuant to Section 11.15 of the Forney City Charter.

If the City Council decides to send any propositions to the voters of the City, an ordinance authorizing the action will be prepared with ballot language for consideration at the first City Council meeting in February.

After Council discussion, Mayor Penn called for a motion. Council Member Thomas made a motion to direct Staff to prepare amendments to the City Charter for all of the recommendations of the Charter Review Committee and Council Member Powers seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays. A special election will be called at the second meeting in February (February 18th).
5. Discuss and consider an Ordinance amending Chapter 8 of the City of Forney Code of Ordinances regarding the consumption of alcoholic beverages in public places for special events purposes.

City Attorney Jon Thatcher discussed the background of this item. As part of the Vision 2025, the City Council has given direction to staff to look into ways to expand the use of the Spellman Amphitheater for concerts and various events as well as bring more special events to the downtown area.

Since then, the Council approved an ordinance in June of 2019 that would allow for the sale and consumption of alcoholic beverages in conjunction with a Special Event at the Spellman Amphitheater and other park facilities and allow the City Manager to grant a variance for the sale of alcoholic beverages in the downtown area during a special event.

The City has held two downtown special events since the change to the City's Code of Ordinances. Staff has determined that it would be beneficial to propose an additional change to the City's Code, specifically in Chapter 8 to clarify that the consumption of alcoholic beverages in public places (to specifically include public streets and any public place adjacent to a public street in the city) is allowable when it is done in conjunction with a special event. Currently, the Code of Ordinances distinguishes between consumption of an alcoholic beverage in a public street, right of way, or alley and public place adjacent to a public street, right of way or alley. To help avoid confusion, these areas are being combined to better apply the exceptions to the prohibition.

It also would include a restatement that the consumption is only allowable for alcoholic beverages that are sold or dispensed by a holder of a valid alcoholic beverage permit at the special event and that a police officer has the authority and discretion to arrest any person in violation of the ordinance.

Thatcher stated that this clarifies our process for the citizens and the police department and will help with special events. People cannot bring in alcohol and this will enable the Police Department to issue tickets and make arrests.

Council Member Thomas stated he would like to see signage posted where the public can see it coming in and out of venues where alcohol will be served. Mayor Penn called for a motion. Council Member Powers made a motion to approve the Ordinance and Mayor Pro Tem Myers seconded the motion. The Ordinance caption was read as follows:

ORDINANCE NO. 20-02

AN ORDINANCE OF THE CITY OF FORNEY, TEXAS, AMENDING CHAPTER 8, "OFFENSES AND NUISANCES" OF THE CODE OF ORDINANCES OF THE CITY OF FORNEY, TEXAS, BY AMENDING SECTION 8.01.004, "CONSUMPTION OF ALCOHOLIC BEVERAGE IN PUBLIC PLACE," EXPANDING THE EXEMPTIONS FOR SPECIAL EVENTS; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION.

The motion passed unanimously by a vote of 7 ayes and 0 nays.
VII. CITY MANAGER'S REPORT

Police Chief Lunt gave an update on the enforcement of commercial vehicle violations at the Knox. Council wanted to know if we post signage, if the police could take immediate action. Lunt stated we would have to have a contract with a tow truck operator. City Attorney Thatcher stated that the Police Chief could post signs, but that we will have to work with TxDOT because of the location. Chief Lunt was instructed to work with TxDOT to be able to post signs.

VIII. COUNCIL COMMENTS

Council Member Thomas had no comments.

Mayor Pro Tem Myers thanked staff for their hard work.

Council Member Powers stated she was glad to be here and thanked everyone for coming out.

Council Member Moon thanked Chief Townsend for the dinner.

Council Member Cooper had no comments.

Council Member Johnson stated he wanted the community to know that Dee Dee McGee passed away in a car accident this past weekend and to please keep his family in your prayers.

Mayor Penn stated that Mr. McGee was very active in the Lions Club and he will be greatly missed. She asked everyone to keep the families of the persons killed in the recent fatality accident. She thanked Chief Lunt and Chief Townsend for their work on the accident. She stated she would like to re-address a YMCA during the upcoming workshop.

Mayor Penn stated that Council would now adjourn into Executive Session under Chapter 551 of the Texas Government Code and asked for a motion. Council Member Johnson made a motion at 7:45 p.m. to go into Executive Session and Council Member Cooper seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.

IX. EXECUTIVE SESSION

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

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

2. 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):
X. RECONVENE INTO REGULAR SESSION

Council returned to Chambers at 8:36 p.m. Mayor Penn called for a motion to adjourn out of Executive Session at that time. Council Member Powers made a motion to adjourn out of Executive Session and Council Member Moon seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.

Mayor Penn stated there was no action to be taken as a result of Executive Session and asked for a motion to adjourn. Mayor Pro Tem Myers made a motion to adjourn the meeting at 8:37 p.m. and Council Member Cooper seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FORNEY, TEXAS, this 4th day of February, 2020.

ATTEST:

Mary Penn, Mayor

Dorothy Brooks, City Secretary