Minutes
Forney City Council
Tuesday, February 18, 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 6:30 p.m. Present were Mayor Mary Penn, Mayor Pro Tem Shaun Myers and Council Members Mike Thomas, Kevin Moon, Derald Cooper and David Johnson. Council Member Robbie Powers was absent. Also present was City Manager Tony Carson.

II.  INVOCATION / PLEDGE OF ALLEGIANCE – COUNCIL MEMBER SHAUN MYERS

Pastor Marty Reid gave the invocation and Mayor Pro Tem Myers led the Pledge of Allegiance.

Council Member Mike Thomas made a motion to suspend the rules and Mayor Pro Tem Myers seconded the motion. The motion passed by a vote of 6 ayes and 1 absent [Powers]. Council Member Thomas asked that Action Item No. 7 be addressed at this time.

7. Discuss and consider action to ratify the Rules of Procedure for the City Council and the Boards, Commissions and Committees of the City of Forney, Texas reestablishing the Agenda Order for regular City Council and its Board, Commission and Committee meetings.

Council Member Thomas made a motion to re-establish the Agenda Order, placing the Open Forum session after all agenda items have been heard (before the City Manager’s Comments). Council Member Cooper seconded the motion. The motion passed by a vote of 6 ayes and 1 absent [Powers].

Mayor Penn then read the following notice: “anyone wishing to address the Council on specific Agenda items will be given an opportunity to speak when the item is brought before the Council.”

IV.  APPROVAL OF MINUTES

1. Consider approval of the Minutes of the February 4, 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 by a vote of 6 ayes and 1 absent [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 the quarterly investment report ending 12/31/19.

2. Consider a Resolution approving a Professional Services Agreement with Surdukan Surveying, Inc.

3. Consider approval of a revised site plan for Criswell Elementary School, located southwest of the intersection of Ridgecrest Road and Pinson Road.

4. Consider approval of advertising a Request for Proposals (RFP) - Outside Plant Optical Fiber Backbone Infrastructure.

5. Consider approval of the acceptance of public improvements for the construction of the Lady Liberty Monument project.

6. Consider approval of the acceptance of public improvements for the Ridgecrest Center Addition project.

7. Consider Approval to Accept Public Improvements - Golden Chick.

8. Consider approval of the authorization to allow staff to seek bids for the residential sidewalk improvements, and all related issues.

Mayor Penn asked Council of they wanted to pull any item off the Consent Agenda for discussion. No items were pulled. 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 by a vote of 6 ayes and 1 absent [Powers].

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 amending the parking, loading, and unloading requirements for a childcare use. [Read Ordinance Caption]

Community Development Director Peter Morgan discussed the background of this item. Staff proposes a change to the off-street loading requirements for certain uses. Child-care uses are currently required to provide the following:

"Kindergartens, elementary schools, day schools, and similar child training and care establishments shall provide one (1) paved off-street pedestrian loading and unloading space for an automobile on a through, "circular" drive for each ten (10) students cared for (excluding child care in a residence). An additional lane shall also be required to allow pass by or through traffic to move while automobiles waiting or parked to pick up children occupy loading/unloading areas."
The majority of these uses are now designed with traditional parking and guardians are required to enter the facility to check-in and check-out students. Based on this, staff proposes the following amended language:

Exception: A child-care establishment, and any other similar use, may be provided an exception from this requirement if the applicant provides a plan showing that there is acceptable traffic flow and parking without the circular drive. The City Engineer shall review the plan and make a recommendation to accept or deny the exception.

Recommendation:
On February 6, 2020, the Planning and Zoning Commission unanimously recommended approval.

Mayor Penn opened the floor to anyone in the audience who wished to address the Council on this item, but no one came forward to address the Council. Mayor Penn closed the public hearing. There being no Council discussion, Mayor Penn called for a motion. Council Member Thomas made a motion to approve the Ordinance and Council Member Johnson seconded the motion. The Ordinance caption was read as follows:

ORDINANCE NO. 20-04

AN ORDINANCE OF THE CITY OF FORNEY, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE, ORDINANCE NO. 1085, AS AMENDED, BY AMENDING ARTICLE V, "DEVELOPMENT STANDARDS," SECTION 38, "OFF-STREET PARKING AND LOADING REQUIREMENTS," BY AMENDING SECTION 38.4, "OFF-STREET LOADING SPACE – ALL DISTRICTS"; 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 absent [Powers].

VII. DISCUSSION / ACTION ITEMS

1. Vision 2025 -- Goals and Initiatives

City Manager Carson stated he had nothing to discuss at this time.

2. Receive annual audit presentation by Pattillo, Brown & Hill.

Chris Pruitt of Pattillo, Brown & Hill presented the audit findings. This is a clean opinion. No action was taken by Council.

3. Discuss and consider a Resolution awarding a contract with R&P Hunt Brothers for the Forney Parks and Recreation maintenance and fertilization.

Parks Director Kyle Rouvaldt discussed the background of this item. In late 2019, the City of Forney and Forney Independent School District mutually agreed to cancel the ongoing interlocal agreement. The cancelling of this agreement impacted the amount of acreage that would be maintained by contractors with the subtraction of fields at Henderson Elementary, the Administration Football field and several others.
On January 24, 2020, the City released an RFP for parks landscape maintenance. The sealed bids were open on February 11, 2020 and the review and scoring was completed on February 12, 2020.

The scoring criteria, landscape maintenance chart, and scope of services can all be found within the RFP.

After a short discussion, Mayor Penn called for a motion. Mayor Pro Tem Myers made a motion to award the mowing contract to R&P Hunt Brothers and fertilizer contract to Enhanced Views. Council Member Cooper seconded the motion and the motion passed by a vote of 6 ayes and 1 absent [Powers].

4. Discuss and consider a Resolution to waive penalties and interest on delinquent taxes for Tax Parcel # 185246 and 191685, pursuant to Section 33.011 Texas Tax Code.

City Attorney Jon Thatcher discussed the background of this item. The City of Forney has received a request for a waiver of penalties and interest on delinquent taxes paid by the property owner on Tax Parcel # 185246 and 191685 for tax years 2016-2018.

The property owner purchased certain property in Forney (Mustang Crossing Shopping Center) in 2016. The Appraisal District did not effect change of ownership on all associated property tax accounts, leaving two parcels under the previous ownership. As a result, the taxes became delinquent. When the mistake was realized, the property owner paid all taxes owed and now seeks reimbursement of the penalties and interest that accrued.

The Appraisal District acknowledges the mistake. Pursuant to Section 33.011 Texas Tax Code, the City Council shall waive the penalties and interest when they are assessed due to a mistake by the Appraisal District.

The amount of penalties and interest for the City of Forney for the two parcels over the tax years 2016-2018 totals $10,410.16.

Mayor Penn called for a motion. Council Member Thomas made a motion to approve the Resolution and Council Member Johnson seconded the motion. The motion passed by a vote of 6 ayes and 1 absent [Powers].

5. Discuss and consider appointing an ad hoc member of the Capital Improvements Advisory Committee representing the extra territorial jurisdiction of the City of Forney pursuant to Chapter 395 of the Texas Local Government Code.

City Attorney Jon Thatcher discussed the background of this item. The City Council by ordinance appointed its Planning and Zoning Commission as the Capital Improvements Advisory Committee (CIAC) in accordance with Chapter 395 of the Texas Local Government Code. Further, ad hoc members of the committee must be appointed to ensure proper representation. One of the P & Z Commission member must be a representative of the real estate, development, or building industry who is not an employee or official of a political subdivision or governmental entity. Currently, there is at least one P & Z member who meets...
this criterion. Additionally, if the impact fee is to be applied in the extraterritorial jurisdiction of the City, the CIAC must include one representative from that area. In this instance, the City Council would be required to appoint one additional member to the CIAC for ETJ representation.

The CIAC's purpose is to:

- Advise and assist the City in adopting the land use assumptions;
- Review the City's capital improvements plan and file written comments with the City Council;
- Monitor and evaluate implementation of the capital improvements plan;
- File semi-annual reports on the progress of the capital improvements plan and report to City Council any perceived inequities in implementing or imposing the impact fees; and
- Advise the City Council of the need to update or revise the land use assumptions, capital improvements plan and impact fees.

The City shall make available to the CIAC any professional reports with respect to developing and implementing the capital improvements plan.

The CIAC shall follow the Rules of Procedure for City Council and the Boards, Commissions and Committees of the City of Forney, Texas.

At the Council meeting on February 4, 2020, the Council approved a resolution restating the appointment of the Planning and Zoning Commission as the CIAC. The CIAC must also include a resident of Forney's ETJ. This agenda item allows the City Council to consider an appointment to the CIAC.

Mayor Penn made a motion to appoint Tye Bowden as the ad hoc member of the Capital Improvements Advisory Committee and Council Member Thomas seconded the motion. The motion passed by a vote of 6 ayes and 1 absent [Powers].

6. Discuss and consider an Ordinance ordering a special election to be held on May 2, 2020, for the purpose of voting on the adoption or rejection of proposed amendments to the existing City Charter of the City of Forney, Texas; designating the places at which said election is to be held; appointing the early voting clerk; and providing for posting and publication of the election notice.

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.

At the Council meeting held on January 7, 2020, Chairman Weldon Bowen and Vice Chairman Andy Parker presented the Charter Commission Final Report to the City Council for their review. The City Council asked that the item be placed on the agenda for January 21, 2020 to allow for review and consideration of the Commission's report and subsequent action. At the Council meeting on the 21st, the City Council acted to direct staff to prepare an ordinance calling a special election including all propositions in the Charter Commission's final report for their consideration at the meeting on February 18, 2020.
This agenda item is provided to order a Special Election to be held May 2, 2020 for the purpose of voting on the adoption or rejection of proposed amendments to the existing City Charter. The special election will be held jointly with the City's General Election.

The City contracts with the Kaufman County Tax Assessor-Collector's Office to administer the election. At a future Council meeting, the Council will consider an election agreement for election services for the special election.

Mayor Penn called for a motion. Mayor Pro Tem Myers made a motion to approve the Ordinance calling the Special Election and Council Member Cooper seconded the motion. The Ordinance caption was read as follows:

**ORDINANCE NO. 20-05**

AN ORDINANCE OF THE CITY OF FORNEY, TEXAS, ORDERING A SPECIAL ELECTION TO BE HELD ON MAY 2, 2020, FOR THE PURPOSE OF VOTING ON THE ADOPTION OR REJECTION OF PROPOSED AMENDMENTS TO THE EXISTING CITY CHARTER OF THE CITY OF FORNEY, TEXAS, AS AMENDED; DESIGNATING THE PLACES AT WHICH SAID ELECTION IS TO BE HELD; APPOINTING THE EARLY VOTING CLERK; PROVIDING FOR POSTING AND PUBLICATION OF NOTICE; AND PROVIDING AN EFFECTIVE DATE.

The motion passed by a vote of 6 ayes and 1 absent [Powers].

**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 551.042, 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 in the audience who wishes to address the Council on any subject not on tonight's agenda. The following persons came forward to address the Council:

Mr. John Daniel  
630 Cedar Street  
Forney, Texas 75126  
Mr. Daniel made complaints about the City Manager and the Mayor. He continued to say they are racist because they will not meet with him.

Mr. Darrell Hobbs  
1013 Canterbury  
Forney, Texas 75126  
Mr. Hobbs stated that the Mayor and Council could not respond to Mr. Daniel because the law does not allow it during the open forum session. He stated that they are not racists.
Ms. Chasitee Albertie
1502 Tavistock Road
Forney, Texas 75126
Ms. Albertie stated she is a person of color and that she thinks that Mr. Daniel
is harming the City with his accusations and actions.

There being no one further to address the Council, Mayor Penn closed the open forum
session.

Mayor Penn read the following statement into the record:

In accordance with Section 551.042 of the Texas Government Code, the
following is a statement of factual information given in response to certain
inquiries that have been made during the open forum of this and other recent
Council meetings.

Several assertions and statements have been made about me as the Mayor, as
well as other Council members and City staff. Such statements have included
allegations of improper conduct and have publicly challenged my character.
While the Constitution protects speech from government intrusion, it does not
protect false statements made with actual malice. This includes blatantly false
statements that are only made to defame me or any other Council member or
City employees.

The fact is, that these statements and any referenced "complaints," are false,
baseless, without merit, complete lies and have the sole purpose of causing
harm to the City of Forney.

The City of Forney works for the benefit of the public as a whole, rather than
the unreasonable demands of a single individual. As Mayor, I will continue
represent the interests of the City to the best of my ability and respectfully reject
any claims to the contrary.

VIII. 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:

- Department Reports (Fire, Police, Municipal Court, Finance)
- Citizen Complaints -- Actions taken or to be taken
- Upcoming Special Events
- Personnel Changes
- Commendations
- Public Works/Streets Projects, Repairs or Construction
- Park Issues
- Inspection Issues
- CIP Projects

City Manager Carson thanked the Finance Department for a good job. Mr. Carson reminded
everyone about the Council Workshop scheduled for Tuesday, February 25, 2020, at 6:00
p.m.
IX. 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:

- Expressions of thanks, congratulations, or condolence;
- Information regarding holiday schedules;
- An honorary or salutary recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in the status of a person’s public office or public employment is not an honorary or salutary recognition for purposes of this subdivision;
- A reminder about an upcoming event organized or sponsored by the governing body;
- Information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the municipality; and
- Announcements involving an imminent threat to the public health and safety of people in the municipality that has arisen after the posting of the agenda.

Council Member Johnson thanked everyone for coming out tonight. He thanked staff for their hard work.

Council Member Cooper stated he echoed David and that we are a growing city.

Council Member Moon thanked Staff, Finance and Public Works for all their hard work.

Mayor Pro Tem Myers stated he echoes everyone and thanked Staff and Finance for their hard work. He thanked everyone for coming out tonight.

Council Member Mike Thomas stated he echoed everyone. He thanked Finance and stated that the Council does appreciate their hard work.

Mayor Penn asked for prayers from the family of the young man who was recently killed in a car accident on FM740.

Mayor Penn stated that Council would now adjourn into Executive Session under Chapter 551, Texas Government Code, Sections 551.071 and 551.087, and asked for a motion. Council Member Thomas made a motion to adjourn into Executive Session at 7:17 p.m. and Council Member Cooper seconded the motion. The motion passed by a vote of 6 ayes and 1 absent [Powers].

X. 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):

   a. Settlement Agreement and Release between the City of Forney and Alan Kent Erdman.
b. City of Forney Parks Facilities Utilization Agreement.
c. Demand Letter – James and Gail McCurry

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):

a. Project CP

XI. 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 7:52 p.m. Mayor Penn called for a motion to adjourn out of Executive Session at that time. Mayor Pro Tem Myers made a motion to adjourn out of Executive Session and Council Member Johnson seconded the motion. The motion passed by a vote of 6 ayes and 1 absent [Powers].

Mayor Penn asked if there was any action to be taken as a result of Executive Session. Council Member Thomas made a motion to approve the Settlement and Release Agreement with Alan Kent Erdman and Council Member Moon seconded the motion. The motion passed by a vote of 6 ayes and 1 absent [Powers].

There being no further business to come before the Council, Mayor Penn called for a motion to adjourn. Council Member Thomas made a motion to adjourn the meeting at 7:54 p.m. and Council Member Moon seconded the motion. The motion passed by a vote of 6 ayes and 1 absent [Powers].

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FORNEY, TEXAS, this 3rd day of March, 2020.

ATTEST:

Mary Penn, Mayor

Dorothy Brooks, City Secretary

City of Forney, Texas