Minutes
Forney City Council
Tuesday, March 17, 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, Robbie Powers, Kevin Moon, Derald Cooper and David Johnson. Also present was City Manager Tony Carson.

II. INVOCATION / PLEDGE OF ALLEGIANCE – MAYOR MARY PENN
Pastor Nick Edwards gave the invocation and Mayor Penn led the Pledge of Allegiance.

III. APPROVAL OF MINUTES
1. Consider approval of the Minutes of the March 3, 2020, City Council meeting and Work Shop.
Mayor Penn asked if Council had any changes to the Minutes. There being no changes, Mayor Penn called for a motion. Mayor Pro Tem Myers made a motion to approve the Minutes and Council Member Moon seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.

IV. 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 2, 2020, General Election and Special Election.
2. Consider a Resolution opposing Proposition 3 approved at the March 3, 2020 statewide election advocating for the ending of taxpayer-funded lobbying.
3. Consider approval of a request for street closures for the April 4, 2020, Festival on Main event.
4. Consider approval of a preliminary plat for Lots 1 - 4, Block A, Fox Daycare Addition, located northeast of the intersection of South F.M. 548 and F.M. 741.
5. Consider approval of a final plat for the Goodyear Addition, located at the southwest corner of S. Gateway Boulevard and U.S. Highway 80.
7. Consider approval of a final plat of Fox Daycare Addition, located northeast of the intersection of South F.M. 548 and F.M. 741.

8. Consider approval of a final plat of the Broad Street East Addition II, located southeast of the intersection of East U.S. Highway 80 and F.M. 548.

9. Consider approval of a revised site plan for McDonald's, located east of the F.M. 1641 and F.M. 548 intersection.

10. Consider a Resolution awarding a contract to Precision Management & Construction for the construction services for the Trailhouse Roadway Completion Project, Phase Two, and all related issues.

11. Consider approval for the project acceptance from the construction of the Elevated Water Storage Tank Project.

12. Consider approval for the project acceptance from the construction of the West Broad Street Sanitary Sewer Project.

13. Consider approval of advertising a Request for Proposals (RFP) for Electrical Services at Community Park and City Wide basic Electrical work.


15. Consider a Resolution approving a contract with WRA Architects, Inc. for Architectural / Engineering Services.

Mayor Penn asked if anyone wanted to pull an item for separate discussion. Council Member Thomas asked that Consent Agenda Item No. 3 be pulled. Mayor Penn then called for a motion to approve the remaining Consent Agenda Items No. 1, 2, 4 through 15. Council Member Powers made a motion to approve Consent Agenda Items No. 1, 2, 4 through 15 and Council Member Thomas seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.

Consent Agenda Item No. 3 was withdrawn from consideration at this time.

V. PUBLIC HEARING ITEMS / ACTION ON PUBLIC HEARING ITEMS

1. Hold a public hearing and discuss and consider approval of an Ordinance for a conditional use permit for auto repair (minor) at 401 East Highway 80. [Read Ordinance Caption]
Community Development Director Peter Morgan discussed the background of this request. Auto Max requests approval of a conditional use permit. The purpose of the request is to operate an Auto Repair (Minor) business at the existing Auto Max business.

**Current Standards:** The property consists of 2.063 acres of land. A portion of the property is used as a used car lot and a portion of the property was previously used as an auto repair facility. Auto repair (minor) at this property was previously a legal non-conforming use. However, the last tenant who was operating legally with that use ceased operations in January 2019. Another tenant operated at the property without obtaining a Certificate of Occupancy for the continued use. As a result, the legal non-conforming use of auto repair (Minor) became abandoned in June 2019. The property is zoned within the H&P Addition Planned Development. The underlying zoning is General Retail District, which only permits auto repair (minor) with a Conditional Use Permit.

**Proposed Use:** The request is for a minor auto repair center. Minor auto repair is defined by Section 49, Definitions, of the City of Forney Compressive Zoning Ordinance as: “AUTOMOBILE REPAIR, MINOR - Minor repair or replacement of parts, tires, tubes and batteries; diagnostic services; minor maintenance services such as grease, oil, spark plug and filter changing; tune-ups; emergency road service; replacement of starters, alternators, hoses and brake parts; automobile washing and polishing; performing state inspections and making minor repairs necessary to pass said inspection; normal servicing of air-conditioning systems; and other similar minor services for motor vehicles except heavy load vehicles, but not including any operation named under "Automobile Repair, Major" or any other similar use.” The portion of the building that is used for auto repair consists of 3,000 square feet. This facility will not have outside storage of vehicles. The proposed hours of operation are: Sunday thru Saturday: 9:00am-7:00pm.

**Accessibility:** The property has shared access to Highway 80 frontage road. Notification: Notification was provided in the newspaper and to property owners within two-hundred feet (200’) of the property. As of this writing, staff has received no public comment regarding this request.

**Recommendation:** On March 5, 2020, the Planning and Zoning Commission recommended approval.

Mayor Penn opened the public hearing and asked anyone in the audience who wished to speak on this item to please come forward. No one came forward so Mayor Penn closed the public hearing. There were no Council comments. 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:

**CITY OF FORNEY, TEXAS**

**ORDINANCE NO. 20-06**

AN ORDINANCE OF THE CITY OF FORNEY, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE, ORDINANCE NO. 1085, AND MAP, AS AMENDED, BY CHANGING THE ZONING FROM PLANNED DEVELOPMENT (ORDINANCE 1072) USES TO PLANNED DEVELOPMENT (ORDINANCE 1072) USES WITH A CONDITIONAL USE PERMIT (CUP) FOR AUTO REPAIR (MINOR) TO OPERATE ON PROPERTY IDENTIFIED AS 401 E. U.S. HIGHWAY 80, IN THE CITY OF FORNEY, KAUFMAN COUNTY, TEXAS, LOCATED IN THE JOHN GREGG SURVEY, ABSTRACT NO. 171, IN ACCORDANCE WITH THE CITY’S COMPREHENSIVE MASTER PLAN AND ZONING ORDINANCE; 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 unanimously by a vote of 7 ayes and 0 nays.
VI. DISCUSSION / ACTION ITEMS

1. Vision 2025 -- Goals and Initiatives

City Manager Carson had nothing new.

2. Discuss and consider an Ordinance amending Chapter 2, Article 2.01, “General Provisions,” and Article 2.06 “Dangerous Dogs” of the City of Forney Code of Ordinances regarding the fence requisite to confine an animal and dangerous dog regulations.

City Attorney Jon Thatcher introduced Jenni Smith who is our part-time attorney. Ms. Smith discussed the background of this item. City staff has been in the process of reviewing the City’s Animal Control ordinances specifically related to secure enclosures and Dangerous Dog regulations. The proposed Ordinance amends Section 2.01 of the Code of Ordinances, 2.01.002 Definitions, to update certain definitions to clarify that any fence used to secure or confine a dog be a physical fence. Invisible fences shall not be an allowable enclosure.

Additionally, Section 2.06 is proposed to be amended to update regulations for Dangerous Dogs. Further, the proposed ordinance creates a Vicious Dog designation, updates the definitions of a dangerous and vicious dog, and updates the requirements of an owner of a Dangerous and Vicious Dog. Staff recommends approval of the Ordinance.

Council had no comments. Mayor Penn called for a motion. Council Member Powers made a motion to approve the Ordinance and Council Member Cooper seconded the motion. The ordinance caption was read as follows:

CITY OF FORNEY, TEXAS

ORDINANCE NO. 20-07

AN ORDINANCE OF THE CITY OF FORNEY, TEXAS, AMENDING CHAPTER 2, ARTICLE 2.01, “GENERAL PROVISIONS,” OF THE CODE OF ORDINANCES OF THE CITY OF FORNEY, TEXAS, BY AMENDING THE DEFINITIONS RELATED TO THE FENCE REQUISITE TO CONFINE AN ANIMAL, AND ARTICLE 2.06 “DANGEROUS DOGS,” OF THE CODE OF ORDINANCES OF THE CITY OF FORNEY, TEXAS, BY AMENDING PERTINENT SECTIONS OF THE ARTICLE; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING AND SEVERABILITY CLAUSES; PROVIDING A PENALTY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

3. Discuss and consider a Resolution taking action on RFP 20-001 Holiday Light Displays, authorizing the execution of an Interlocal Agreement between the City of Forney and the City of Grand Prairie and authorizing the engagement of services for additional custom holiday light displays.

The City recently sought proposals under RFP 20-001 for holiday light displays. The RFP established an initial budget of $400,000 for the design, construction and purchase of the light displays. The City received several responses. Additionally, the City received a proposal from the City of Grand Prairie wherein the City of Forney could lease many of their light displays at a reduced cost while also receiving their services to provide oversight in the installation, take down and operation of the drive through light display at Community Park. The consideration provided for in the agreement is the greater of $75,000 per season or 50% of any ticket revenue.
The Agreement also provides that any custom light displays can be acquired through Grand Prairie’s providers. As a result, the City of Forney would be effectively rejecting the proposals under the original scope of services. However, staff would also like the option to acquire additional custom displays from a separate vendor in order to ensure competitive pricing. The proposed Resolution authorizes the City Manager to engage Mosca Design, Inc. for any potential custom light displays. Any custom displays, whether acquired through the City of Grand Prairie or Mosca Design, Inc. will have to be stored and maintained by the City of Forney. Staff recommends approval of the Resolution.

Council Member Thomas recognized City Manager Carson for his work on this project. He thanked Tony and the Staff and stated it is a great deal. City Manager Carson recognized Neil Cardwell for his work on this project.

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 unanimously by a vote of 7 ayes and 0 nays.

VII. OPEN FORUM/CITIZEN COMMENTS

This is the public’s opportunity to address the City Council on any matter related to the City. 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.

The following persons were speakers under Open Forum/Citizen Comments:

Mr. John Daniel
630 Cedar Street
Forney, Texas 75126

Ms. Christie Albertie
1502 Tavistock Road
Forney, Texas 75126

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:

The Festival on Main event scheduled for 4/4/20 and the reception for Chief T on 4/7/20 have been cancelled or postponed.

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:

Council Member Thomas stated that these are very trying times – bars and restaurants are closed down. Our Staff is taking this very seriously and things are happening. Our citizens are important and we will be giving updates as soon as we can.

Mayor Pro Tem Myers thanked everyone for coming tonight. He thanked Staff and stated that he agreed with Mike. Please consider our local businesses. We need to support them as best we
can. It is a very weird time. Stay strong – stay smart.

Council Member Powers stated “ditto” for Mike and Shaun’s comments. She wanted to recognize Darrell Malloy who put on a showing of black art at the Spellman. She thanked Kendall and Mr. Beason and Mr. Higgins. It was a beautiful thing. Thanks again to Mr. Malloy. The Covid-19 is here. Please be sure to wash your hands, use hand sanitizer. Stay safe. It is exhausting to the healthcare workers. Please patronize our local businesses and check on your elderly neighbors. Love thy neighbors.

Council Member Moon told everyone to please be safe. Wash your hands. He thanked Staff for their hard work. He thanked Neil and Tony for the Grand Prairie agreement. He thanked Robbie for her work as a healthcare worker.

Council Member Cooper stated he echoes everyone. He welcomed Jennifer Smith.

Council Member Johnson stated he echoes everyone, too. He thanked everyone for all that they do.

Mayor Penn thanked Neil and Tony for the lights. She thanked Robbie. She thanked Mike Thomas and his wife for helping the Food Pantry. She also thanked Primrose School, Starbucks and others who are helping. It is time to pull together. She asked Chief Lunt to give an update on the situation.

Chief Lunt came forward and gave an update on the Covid-19 situation. Chief Lunt and Chief T are our EM Coordinators. Lunt stated that visitors and employees are important and we try to keep them safe. There are no positive tests in Kaufman County. Notices will be posted on the City of Forney Police Department Facebook page. Mayor Pro Tem Myers asked for the definition of “presumable.” Chief Lunt advised that if symptoms appear the person is presumable until a nasal swab comes back and it is positive. As of now there are no active cases in Forney or the County.

Mayor Penn stated that Council would now go into Executive Session under Chapter 551, Texas Government Code, Sections 551.071, 551.072 and 551.087 and asked for a motion. Council Member Johnson made a motion to adjourn into Executive Session at 7:17 p.m. and Mayor Pro Tem Myers seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.

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. Appointments to the Kaufman County Appraisal District Board.


d. Parkland Dedication

2. Deliberate the purchase, exchange, lease, or value of real property (Tex. Gov't Code Section 551.072).

3. 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 V
   b. Project Calcite
   c. Project Fireball

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 reconvened at 8:19 p.m. Mayor Penn adjourned the Executive Session at that time. Mayor Penn asked if there are any actions to be taken as a result of Executive Session. Council Member Powers made a motion to approve a Chapter 380 Agreement with Goodyear and Council Member Cooper seconded the motion. The motion passed unanimously by a vote of 7 ayes and 0 nays.

Mayor Penn called for a motion to adjourn. Council Member Moon made a motion to adjourn at 8:21 p.m. and Mayor Pro Tem Myers 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 ___ day of April, 2020.

ATTEST:

Mary Penn
Mary Penn, Mayor

Dorothy Brooks, City Secretary

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