

**Minutes
Forney City Council
Tuesday, June 1, 2021
6:30 p.m. Regular Meeting
City Hall, 101 E. Main Street, Forney, Texas 75126**

I. CALL TO ORDER

Mayor Lewis called the meeting to order at 6:30 p.m. Present were Mayor Amanda Lewis, Mayor Pro Tem Traylor and Council Members Robbie Powers, Sarah Salgado, Derald Cooper and Jason Roberson. There is a vacancy in Place 2. Interim City Manager Charles Daniels was also present.

**II. INVOCATION AND PLEDGE OF ALLEGIANCE – COUNCIL MEMBER
JASON ROBERSON**

III. PROCLAMATIONS / PRESENTATIONS

1. Presentation to outgoing Mayor Mary Penn.

Mayor Lewis read a Certificate of Recognition and presented Ms. Penn with a shadow box and an art supply kit.

IV. APPROVAL OF MINUTES

1. Consider approval of the Minutes of the May 18, 2021, City Council meeting.

Mayor Lewis asked if Council had any changes to the Minutes. Mayor Lewis stated she had a change on line 162. After small smaller lots, it should read – “and that the property was originally zoned a Planned Development in 2003, and subsequently it was amended in November 2019 to include townhomes and smaller lot sizes.” There being no other changes, Mayor Lewis called for a motion. Council Member Roberson made a motion to approve the Minutes of the May 18, 2021, City Council meeting, as amended, and Council Member Salgado seconded the motion. The motion passed by a vote of 6 ayes and 1 vacancy.

V. PUBLIC HEARING ITEMS / ACTION ON PUBLIC HEARING ITEMS

1. Public Hearing related to the proposed City of Forney Property Assessed Clean Energy (“PACE”) Program and consider a Resolution establishing the City of Forney PACE Program pursuant to Chapter 399 of the Texas Local Government Code.

City Attorney Jon Thatcher discussed this item. PACE is an innovative way to finance energy efficiency, water efficiency, and renewable energy upgrades for commercial, industrial, and large multifamily (five or more dwelling units) real property. Property owners who participate in the program repay the financings through a voluntary contractual assessment collected together with their property taxes. One of the most notable characteristics of PACE programs is that the financing is attached to the property rather than belonging to an individual. Therefore, when the owner sells the property, the financing may be paid off during the sale, or stay with the property and be transferred to the new owner, who also benefits from the upgrades that were completed.

54 PACE financing enables businesses to align the costs of energy and water efficiency
55 improvements with the utility savings provided by the improvements. PACE financings are paid
56 over a long period of time while energy costs are simultaneously lower, which typically provides
57 the property owner with immediate net savings. PACE overcomes challenges that have hindered
58 adoption of energy and water efficiency for many property owners.

59
60 Participation in this program is voluntary and offers property owners a cost-effective means of
61 making energy and water efficiency improvements to their property. Property owners repay the
62 financing over a period of years reflecting the useful life of the improvements.

63
64 The benefits to the property owner include:

- 65
- 66 • Helps Lower Electric, Gas and Water Utility Bills
- 67 • 100% Financing on Hard and Soft Costs
- 68 • Typically Results in Savings From Day One
- 69 • Increases Property Value
- 70 • Results in More Comfortable Buildings and Improved Indoor Air Quality
- 71 • Lowers Carbon Footprint and Improves the Environment
- 72 • Provides Long-Term Funding and Results in Immediate Benefit to Cash Flow
- 73 • Offers a Range of Accounting Treatments
- 74 • Treatments

75
76 The benefits to the City include:

- 77
- 78 • Supports Commercial Businesses with No Cost, Liability, or Administration to the City
- 79 • Upgrades the Efficiency and Competitiveness of Existing Building Stock
- 80 • Helps Attain Energy and Water Efficiency Goals
- 81 • Increases Commercial Property Values and Improves Tax Base
- 82 • Creates Jobs for Local Contractors, Manufacturers and Engineering Firms

83
84 The proposed Resolution authorizes Lone Star PACE to accept applications from owners of
85 property within the City's territory for financing of qualified improvements. It also authorizes Lone
86 Star PACE to conduct assessment proceedings to levy assessments against the property of
87 participating owners within the territory of the City.

88
89 In order for Lone Star PACE to have the authority to provide PACE financing in the City, it is
90 necessary for the City to execute the Professional Services Agreement. The Professional
91 Services Agreement provides that Lone Star PACE is an authorized representative and program
92 administrator, separate and apart from the City executing such agreement. There are no costs to
93 the City associated with participation in the City of Forney
94 PACE Program.

95
96 There is no negative fiscal impact to the City's general fund incurred by consenting to the inclusion
97 of properties within the City limits in the City of Forney PACE Program.

98
99 Mayor Lewis called for a motion. Mayor Pro Tem Traylor made a motion to approve the
100 Resolution establishing the City of Forney PACE Program and Council Member Cooper seconded
101 the motion. The motion passed by a vote of 6 ayes and 1 vacancy.

102

103 VI. DISCUSSION / ACTION ITEMS
104

105 1. Discuss and consider a Resolution approving a Professional Services
106 Agreement for Administration of a Property Assessed Clean Energy
107 (“PACE”) Program.
108

109 City Attorney Thatcher had nothing to add to the discussion that was held for the public hearing
110 above. Mayor Lewis called for a motion. Council Member Salgado made a motion to approve
111 the Resolution and Mayor Pro Tem Traylor seconded the motion. The motion passed by a vote
112 of 6 ayes and 1 vacancy.
113

114 2. Update on Ground Warning Siren System.
115

116 Deputy City Manager Neil Cardwell discussed the background of this item. The City uses a
117 combination of methods for alerting the public of emergencies, recognizing that no one application
118 can provide warning to all citizens.
119

120 The City has put out an RFP, which will close on June 4, 2021. We will bring back a
121 recommendation at our next Council meeting.
122

123 Cardwell stated that several staff members have completed the administrative training and
124 passed the first step in this IPAWS system. Only 85 cities in Texas have the iPAWS system and
125 few of our size have this system.
126

127 The City is recommending that connectivity to towers be done via fiber. Cities overall are moving
128 away from radio as a primary mode of communication to these towers - due to limitations and
129 hacking. The City will engage its current vendor for the City's fiber project to expand its network
130 to include ground warning sirens. Depending on the recommendation of where additional towers
131 are to be placed, will determine the length of time to complete this project.
132

133 The RFP includes a request of the annual maintenance (operating) expense for their program for
134 5 years, so the City can budget appropriately. This is standard with any CIP project. The City
135 has not had a maintenance contract on its current 3 towers for the past 10 years. It was always
136 a “break/fix” situation. The current 3 towers are intermittently operational. The City did not engage
137 in repair bids because the vendors said that they would need to be ripped and replaced because
138 the parts are not available for the age of the system.
139

140 A cloud-based VPN option is not viable because we would be reliant on the internet/ third party
141 which is not a reliable form of communication in an emergency. The current plan for the upcoming
142 season is to utilize the Everbridge as the primary alerting method. Resident response of the
143 current Everbridge system has been mixed; but overall, but Cardwell feels that there is positive
144 feedback as they look to add more information and numbers into the system. Citizens can sign
145 up through the ‘Residents’ tab of the City’s webpage under Emergency Notifications or the
146 Everbridge website directly. Social media campaigns and reminders in utility bills help get more
147 registered.
148

149 There is no way to fix the current system because it would need to be a rip and replace process.
150 The City would need to go to bid anyway because it would exceed \$50,000. There is no guarantee
151 that the three towers and their locations are ideal, so best to wait on the bid returns for their
152 recommendation for tower placements.
153

154 **3. Discuss and consider a Resolution approving a Developer**
155 **Participation Agreement with GVSW Forney Property Owner, L.P. for**
156 **Design Construction Services of CR 212.**
157

158 City Attorney Jon Thatcher discussed the background of this item. GVSW Forney Property
159 Owner, L.P. represents the development on CR 212 known as the Stillwater development. As
160 part of their development they are willing to participate with the City in the design construction of
161 a portion of CR 212 between Highway 80 just south of the train tracks and Gateway Blvd. The
162 City's thoroughfare plan provides a 4 lane divided roadway for this area. The initial construction
163 services provided for in the proposed Developer Participation Agreement provide for the design
164 and construction of two lanes of concrete. The estimated project cost is 2.1 million dollars. The
165 developer's share will consist of just over \$660,000 with the City's share at just under 1.44 million
166 dollars. The project calls for a 60/40 split, with the City paying 60% and the developer paying
167 40%.
168

169 The developer will design and construct the project in accordance with the City's design standards
170 and the improvements are subject to City inspection and acceptance. Progress payments for the
171 City's share shall be made no more than monthly subject to the reimbursement requests for work
172 performed being reviewed and verified.
173

174 The improvement of CR 212 is considered an off-site improvement and as such the Developer is
175 entitled to Roadway Impact Fee credits for any roadway impact fees owed for the development
176 of their site.
177

178 City Engineer Karl Zook advised that the cost is current but could go up because of construction
179 costs. However, we have been as conservative as possible when estimating the projected costs.
180

181 Mayor Lewis called for a motion. Council Member Roberson made a motion to approve the
182 Resolution and Council Member Cooper seconded the motion. The motion passed by a vote of
183 6 ayes and 1 vacancy.
184

185 **4. Discuss and consider approval of an Ordinance amending the budget**
186 **for fiscal year 2020-2021. [Read Ordinance Caption]**
187

188 Finance Director Deborah Woodham discussed this item. The proposed budget amendment will
189 add a Human Resources Director at a cost of approximately \$34,000 for the remainder of the
190 fiscal year. The additional position will be funded through unallocated fund balance. The annual
191 salary range for this position is \$105 - \$115. Interim City Manager Charles Daniels stated that
192 this is the most important need that he saw when reviewing City staffing. This position will report
193 to the City Manager. We will advertise through TML and other governmental agencies. He does
194 not feel it is necessary to use a professional search firm.
195

196 Mayor Lewis called for a motion. Council Member Powers made a motion to approve the
197 Ordinance and Council Member Salgado seconded the motion. The Ordinance caption was read
198 as follows:
199

200 **ORDINANCE NO. 21-18**
201

202 **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FORNEY, TEXAS, AMENDING**
203 **THE BUDGET OF THE CITY FOR THE FISCAL YEAR OCTOBER 1, 2020 THROUGH**
204 **SEPTEMBER 30, 2021; AND PROVIDING FOR AN EFFECTIVE DATE.**
205

206 The motion passed by a vote of 6 ayes and 1 vacancy.
207

208 **5. Discuss and consider action pursuant to the authority of the City of**
209 **Forney Home Rule Charter Section 3.05 to fill a vacancy for City**
210 **Council Place 2.**
211

212 City Attorney Jon Thatcher discussed this item. On May 21, 2021, Council Member Shaun Myers
213 submitted his resignation from City Council Place 2. A vacancy of a City Council seat is declared
214 upon acceptance of the resignation by the City Council or on the eighth day after the date of its
215 receipt by the City, whichever comes first. The vacancy occurred on May 29, 2021.
216

217 Section 3.05 of the City of Forney Home Rule Charter states that within 30 days of the vacancy,
218 the position shall be filled by a majority of the remaining Council members, for the unexpired term
219 only, and provided the successor shall possess all qualifications for the position. Thirty days from
220 the date of the vacancy will be June 28, 2021.
221

222 The Council may consider action to establish the appointment process for Place 2.
223

224 After discussion, it was determined that applications and resumes will be accepted until June 4,
225 2021. The City Secretary will have the information to the Council by June 8, 2021. On June 15,
226 2021, each Council Member should have 3 or 4 top names, which will be discussed in Executive
227 Session and narrowed down to approximately 5 people. A special meeting will be held on June
228 28, 2021, to interview those persons and to name someone to Place 2.
229

230 **6. Discuss and consider the appointment of qualified individuals to fill**
231 **the vacancies on the 2021 Bond Committee and consider a Resolution**
232 **to extend the term of the Committee.**
233

234 City Attorney Jon Thatcher discussed the background of this item. On December 15, 2020, the
235 City Council approved a Resolution creating the 2021 Bond Committee and outlining the function
236 and the duties of the Committee. It provided the process for making the appointment of City
237 Council and Non-Council persons to the Committee and established an original term until June
238 30, 2021.
239

240 The Council made appointments to the Committee in March of this year and the Committee has
241 been meeting twice per month since that time analyzing the feasibility of a bond election for city
242 projects. To allow the Committee to fully fulfill its purpose, there is a need to extend the term of
243 the Committee. Staff proposes to allow the Committee to serve indefinitely until such time the
244 Committee is able to provide its report of recommendations to the Council, or until the Council
245 takes action to dissolve the Committee.
246

247 Additionally, two of the members originally appointed by the Council have submitted their
248 resignations due to time constraints. As a result, the membership includes 10 members. The
249 Council may consider filling the two vacancies by appointment.
250

251 Mayor Lewis called for a motion to approve the Resolution to extend the term of the Committee.
252 Mayor Pro Tem Traylor made a motion to approve the Resolution and Council Member Cooper
253 seconded the motion. The motion passed by a vote of 6 ayes and 1 vacancy.
254

255 With regard to the appointment of two additional members, Council Member Salgado stated she
256 would like to table this item. After a short discussion, it was determined that the City will request
257 additional applications and make appointments at their next meeting. Council Member Roberson
258 made a motion to table this item until their next meeting and accept more applications and Council
259 Member Salgado seconded the motion. The motion passed by a vote of 6 ayes and 1 vacancy.
260

261 7. Discuss and consider action to amend the City of Forney Rules of
262 Procedure for the City Council and the Boards, Commissions and
263 Committees and Article 1.12 "Code of Ethics" of the City of Forney
264 Code of Ordinances.
265

266 City Attorney Jon Thatcher discussed the background of this item. Mayor Lewis read her
267 recommendations as follows:
268

269 **Article 1.12 Code of Ethics**
270

271 Section 1.12.003 Standards of Conduct (page 5)

- 272 a. Section (1)
273 a. Add after disclose, "including social media or online posts"
274 b. Add "This includes but is not limited to information gained and discussed
275 in closed or executive sessions"
276 b. Add a *new* Section between (1) and (2)
277

278 "City Council members, city officials, and all members of any commission,
279 committee or appointed board by the City Council will conduct themselves in
280 a reasonable and respectful manner at all times, including without limitation
281 on Social Media; shall refrain from personal attacks of any government
282 officials or employees; and shall not take any private action which would
283 reasonably be interpreted as compromising the integrity of the City or City
284 Council itself."
285

286 Council members in particular are expected to:

- 287 • Fully participate in City Council meetings and other public forums, while
288 demonstrating respect, kindness, consideration, and courtesy to others;
289 • Demonstrate honesty and integrity in every action and statement;
290 • Prepare in advance of meetings and be familiar with issues on the agenda;
291 • Represent the City at ceremonial functions at the reasonable request of the
292 Mayor;
293 • Be respectful of other people's time by staying focused and act efficiently
294 during public meetings;
295 • Inspire public confidence in Forney government;
296 • Participate in scheduled activities; and
297 • Serve as models of leadership and civility to the community
298

299 Section 1.12.009 Misuse of Official Information (page 12)

- 300 a. Section (A) Prohibition, #1, after the word "public" insert "particularly,
301 information obtained from City Council Executive or Closed Sessions"
302

303 Section 1.12.013 Distribution and Proof of Compliance (page 14)

- 304 a. Update title to Distribution, Training, and Proof of Compliance
305 b. Add that all new City Council officials (appointed or elected) receive
306 formal training on this Code of Ethics policy either through a staff liaison
307 or by presentation via board meeting within 30 days of receiving the
308 appointment or serving office
309 c. All employees (receive it as part of new employee orientation)
310

311 **Rules of Procedure**
312

313 1) Section 2.7: Emergency Meetings

- 314 a. Texas Open Meetings Act has changed that emergency notices be posted 1 hour
315 and is no longer required by law to 2 hours

- 316 2) Section 2.9: Work Sessions
 317 a. Add narrative that “work session policies are found in detail in Article 5 of this
 318 Rules of Procedure document”
 319 3) Section 3.5: Motion to Amend
 320 a. Remove “A motion to amend requires the agreement of the person making the
 321 original motion.”
 322 4) Section 3.10 Courtesy, Decorum and Order
 323 a. #4, Subset B. Point of Order. Statement to be added that the Chair rules that the
 324 Point of Order is “well” or “not well” taken.
 325 5) Section 4.8: Resident Comments on Non-Agenda Items
 326 a. Move this section after Section 4.4 Approval of Minutes
 327 6) Section 4.6 Public Hearings
 328 a. Rename title to what is published on current Agendas – which is Public Hearings/
 329 Action on Public Hearing Items
 330 7) Section 4.7 Regular Agenda Items
 331 a. Rename title to what is published on current Agendas – which is Action Items
 332 8) Section 4.10 Future Agenda Items
 333 a. Repurpose this section to Community Events. All upcoming community events
 334 must be submitted in advance to the Mayor for announcement or the Mayor shall
 335 defer to Council or staff members for detail or clarification to be made publicly
 336 9) Council Comments under Section 551.0415 of the Texas Govt Code is not listed on
 337 Forney’s Rules of Procedure and recommend should no longer be a standing future
 338 agenda item
 339

340 NOTE: Section 7.8 Council Liaisons – not an amendment but a task that needs to be done
 341

342 Mayor Pro Tem Traylor requested that board members be limited to two times during their term
 343 that they can recuse themselves.
 344

345 Council Member Roberson made a motion to accept the changes and Council Member Salgado
 346 seconded the motion. City Attorney Thatcher stated he would work on an ordinance to bring back
 347 to the Council for approval. The motion passed by a vote of 6 ayes and 1 vacancy.
 348

349 **VII. OPEN FORUM/CITIZEN COMMENTS**

350 This is the public's opportunity to address the City Council on any matter related to the City. In
 351 accordance with the Texas Open Meetings Act, Section 551.042, the City Council cannot discuss,
 352 consider, or take action on matters not listed on the agenda. The City Council will receive citizen
 353 comments on non-agenda items, and if necessary, may refer the matter to City staff for research,
 354 resolution or referral to Council on a future agenda. As described in the City's Public Meeting
 355 Procedures, comments will be limited to three (3) minutes.
 356

357 Mayor Lewis opened the floor to anyone in the audience who wished to address the Council on
 358 any subject not on tonight’s agenda. No one came forward, so Mayor Lewis closed the open
 359 forum session.
 360

361 **VIII. CITY MANAGER’S REPORT**

362 THE CITY MANAGER WILL DISCUSS CURRENT CITY ACTIVITIES, UPCOMING MEETINGS,
 363 FUTURE LEGISLATIVE ACTIVITIES, AND OTHER RELATED MATTERS FOR POSSIBLE
 364 ACTION, INCLUDING THE FOLLOWING:
 365

366 Mr. Daniels formally recognized Ray Stephens to acknowledge all the help he provided when
 367 Mr. Daniels previously served as the interim city manager.
 368

369 **IX. COUNCIL COMMENTS**

370 PURSUANT TO SECTION 551.0415 TEX. GOV'T CODE, CITY COUNCIL MEMBERS MAY MAKE
371 A REPORT ABOUT ITEMS OF COMMUNITY INTEREST DURING A MEETING OF THE
372 GOVERNING BODY WITHOUT HAVING GIVEN NOTICE OF THE REPORT. ITEMS OF
373 COMMUNITY INTEREST INCLUDE:

374
375 Mayor Lewis read the following:

- 376
377
- 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.
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392 Mayor Pro Tem Traylor thanked all who served in the military. Please keep everyone in your
393 prayers.

394
395 Council Member Powers thanked Staff for all that they do. She thanked Charles for
396 recommending the HR Director.

397
398 Council Member Salgado had no comments.

399
400 Council Member Cooper thanked Staff for all their hard work.

401
402 Council Member Roberson had no comments.

403
404 Mayor Lewis announced the Fisd's "Fill the BackPack Program" in which residents can donate
405 to fill a backpack with school supplies for \$40/ back pack. More information will be on the City's
406 social media page. Mayor Lewis stated that there is a community service project being
407 coordinated through CLife Church. There is a week of service to the community for June 12th -
408 19th. More information will be on the City's social media page or at ClifeC.com/SERVE.

409
410 Mayor Lewis announced that Council would now adjourn into Executive Session under Chapter
411 551, Texas Government Code, Sections 551.071, 551.074 and 551.072 and asked for a motion.
412 Council Member Cooper made a motion to adjourn into Executive Session at 7:59 p.m. and
413 Council Member Salgado seconded the motion. The motion passed by a vote of 6 ayes and 1
414 vacancy.

415
416 **X. EXECUTIVE SESSION**

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

- 420
421
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):
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- a. PUC Docket No. 47814; SOAH Docket No. 46-18-1344.WS – Petition of High Point Water Supply Corporation, Talty Special Utility District and Markout Water Supply Corporation Appealing the Decision by the City of Forney Affecting Wholesale Water Rates.
 - b. Claim by Mica Lunt.
 - c. Forensic Auditing Services.
2. Deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee (Tex. Gov't Code 551.074):
- a. City Council Place 2
3. Deliberate the purchase, exchange, lease, or value of real property. [Texas Gov't Code 551.072]
- a. Project CBB

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 9:17 p.m. Mayor Lewis asked for a motion to adjourn out of Executive Session at that time. Council Member Cooper made a motion to adjourn out of Executive Session and Council Member Salgado seconded the motion. The motion passed by a vote of 6 ayes and 1 vacancy.

There being no action to be taken as a result of Executive Session, Mayor Lewis called for a motion to adjourn at 9:17 p.m. Mayor Pro Tem Traylor made a motion to adjourn and Council Member Roberson 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 15 day of June, 2021.

ATTEST:

Dorothy Brooks
Dorothy Brooks, City Secretary

Amanda Lewis
Amanda Lewis, Mayor

