



City Council Agenda Item Summary Report

Meeting Date: April 21, 2026

Submitted by: Jon Thatcher, City Attorney

Consent	Discussion Only	Public Hearing	Action Item X
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Item Title: Discuss and deliberate the creation of a municipal housing authority and consider a Resolution finding and declaring that there exists a need for the Housing Authority of the City of Forney to function and establishing a governing commission of five persons. (Staff has no recommendation on the item.)

I. Background and Purpose

This item was placed on the agenda at the request of Council Members James Traylor and Sarah Salgado. Chapter 392 of the Texas Local Government Code, known as the Housing Authorities Law, authorizes municipalities to create housing authorities as public bodies corporate and politic for the purpose of providing safe and sanitary housing for persons of low income. This report provides the City Council with an overview of the statutory framework governing the creation, governance, powers, and operations of a municipal housing authority under Chapter 392 to assist the Council in considering whether to adopt a resolution establishing the Housing Authority of the City of Forney.

II. Statutory Framework – Chapter 392, Texas Local Government Code

A. Creation of a Municipal Housing Authority (Sec. 392.011)

Under Section 392.011, a housing authority is created by operation of law in each municipality in the state; however, it may not transact business or exercise its powers until the governing body of the municipality adopts a resolution that:

- Finds and declares that there is a need for the housing authority to function within the municipality; and
- Determines that unsafe or unsanitary dwelling accommodations exist in the municipality, or that there is a shortage of safe or sanitary dwelling accommodations available to persons of low income at rentals they can afford.

A municipal housing authority is a public body corporate and politic, constituting a unit of government exercising essential governmental functions. Under Section 392.006, a housing authority is subject to the Texas Tort Claims Act but is also subject to applicable landlord obligations and tenant remedies under the Texas Property Code.

B. Area of Operation (Sec. 392.014)

The area of operation of a municipal housing authority encompasses the municipality for which it is created and the area within five miles of the municipal boundaries that lies outside the boundaries of any other municipality — which generally corresponds to the City’s extraterritorial jurisdiction (ETJ). This allows the Authority to address housing needs in both the city proper and nearby unincorporated areas.

C. Governing Commission — Appointment and Composition (Sec. 392.031)

Each municipal housing authority must be governed by a board of commissioners. The governing body of the municipality may establish the commission at five, seven, nine, or eleven members. The proposed resolution would establish a commission of five (5) commissioners. Key provisions include:

- Commissioners are appointed by the mayor.
- Commissioners serve two year terms, with two commissioners designated to serve one-year terms and three designated to serve two-year terms.
- Commissioners serve without compensation, but may be reimbursed for necessary expenses.
- For a five-member commission, at least one commissioner must be a tenant of a public housing project under the authority's jurisdiction or a recipient of housing assistance administered through the authority's housing choice voucher or project-based rental assistance program (Sec. 392.0331).
- A commissioner may not be an officer or employee of the municipality.

D. Removal of Commissioners (Sec. 392.041)

The mayor may remove a commissioner for inefficiency, neglect of duty, or misconduct in office. Before removal, the commissioner must receive a copy of the charges and be given an opportunity to be heard in person or by counsel at a public hearing. The commissioner may seek judicial review of the removal.

E. General Powers of the Authority (Sec. 392.051)

A housing authority exercises public and essential governmental functions and possesses broad powers necessary to carry out the purposes of Chapter 392, including the power to:

- Sue and be sued; have a seal; make and execute contracts and other instruments.
- Prepare, carry out, acquire, lease, and operate housing projects.
- Arrange or contract for services, privileges, works, or facilities for housing projects.
- Investigate living, dwelling, and housing conditions, and the means and methods of improving them.
- Borrow money and issue bonds, notes, or other obligations to finance housing projects.
- Accept grants, loans, and contributions from the federal government, the state, or any other source.
- Exercise eminent domain to acquire property necessary for housing projects.
- Do all things necessary or convenient to carry out the powers granted under Chapter 392.

F. Bonds and Financing (Secs. 392.071–392.101)

A housing authority may issue bonds, including revenue bonds and general obligation bonds, to finance the development, construction, or operation of housing projects. Bonds issued by a housing authority are not a debt of the state or the municipality and are payable solely from the authority's revenues or other designated funds. The authority may also apply for and receive federal funding from the U.S. Department of Housing and Urban Development (HUD), including public housing operating subsidies and Housing Choice Voucher (Section 8) program funds.

G. Cooperation with Other Governmental Entities (Sec. 392.059)

A housing authority may cooperate with the municipality, the county, other political subdivisions, or the state to address problems related to slum clearance, replanning, and providing housing for persons of low income. Housing authorities may also cooperate with each other to jointly finance, plan, construct, or operate housing projects.

H. Interested Commissioners and Employees (Secs. 392.042–0.043)

To protect the public interest, commissioners and employees of the authority are prohibited from having a direct or indirect financial interest in any housing project or contract related to the authority. Violations of this prohibition render the commissioner's office vacant and constitute a misdemeanor offense.

III. REQUIRED FINDINGS FOR ADOPTION OF RESOLUTION

For the City Council to lawfully activate the Housing Authority of the City of Forney, the proposed resolution

must include a finding that one or both of the following conditions exist within the City (Tex. Local Gov't Code § 392.011(f)):

- Unsafe or unsanitary dwelling accommodations exist in the municipality; or
- There is a shortage of safe or sanitary dwelling accommodations available at rentals that persons of low income can afford.

In making this determination, the Council may consider factors such as the degree of overcrowding, availability of light, air, space, and access to inhabitants, the size and arrangement of rooms, sanitary facilities, and the extent to which housing conditions expose persons or property to fire or other hazards (Sec. 392.011(g)).

IV. NEXT STEPS UPON ADOPTION

Should the City Council adopt the proposed resolution, the following actions would generally follow:

- The mayor would appoint five commissioners, with Council approval, to staggered terms of one and two years.
- The commission would organize by electing a chair, vice chair, and secretary from among its members.
- The commission would adopt bylaws governing its operations and procedures.
- The authority would register with the Texas Secretary of State as a public corporation.
- City staff and the authority would coordinate on applying for eligibility with the U.S. Department of Housing and Urban Development (HUD) if federal programs are sought.
- The authority may engage legal counsel, retain staff or contract for administrative services, and begin the process of identifying housing needs and potential projects within the City's area of operation.

V. FISCAL IMPACT

The creation of the Housing Authority of the City of Forney itself does not impose a direct fiscal obligation on the City. However, the City Council should be aware of the following:

- A housing authority is a separate legal entity and is responsible for its own debts and obligations. Its bonds and notes are not a liability of the City.
- The City may choose to appropriate funds to support the authority's startup and administrative operations, particularly in its early years before the authority secures its own revenue sources.
- The City and the authority may enter into cooperation agreements that have fiscal implications for city services, infrastructure, or tax abatements associated with housing projects.
- Federal and state funding opportunities — such as HUD Public Housing Capital Fund grants, Community Development Block Grants (CDBG), or Low-Income Housing Tax Credits (LIHTC) — may be accessible to the authority and could benefit the City's housing supply without direct General Fund expenditures.

VI. STAFF RECOMMENDATION

Staff have no recommendation to the City Council on this specific item.