

February 5, 2013

The City Council of the City of Fort Morgan, Colorado, met this day in the Council Chambers of City Hall. The Honorable Mayor Terry L. McAlister called the regular meeting to order at 6:00 p.m.

The Pledge of Allegiance was given.

Roll Call: Present: Honorable Mayor Terry L. McAlister  
Councilmember Scott Bryan  
Councilmember Christine Castoe  
Councilmember Debra J. Forstedt  
Councilmember Lisa Northrup  
Councilmember Joe Segura Jr.  
Councilmember Ronald Shaver

The meeting was also attended by City Manager Jeff Wells, Police Chief Keith Kuretich, Municipal Engineer Brad Curtis, Community Development Director David Callahan, Water Resources/Utilities Director Brent Nation, City Treasurer Jean Kinney, Human Resources/Risk Management Director Michael Boyer, FMPD Lt. Jared Crone, Inventory Control/Building Maintenance Superintendent Doug Hofman, Assistant City Attorney Jason Meyers and City Clerk/PIO John Brennan.

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#### **UPDATE ON MORGAN COUNTY ECONOMIC DEVELOPMENT CORPORATION**

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MCEDC Executive Director Cassandra Wilson provided the council with an update on the activities of her organization, in which the city is an investor. Wilson said she meets regularly with City Manager Jeff Wells and tries to have ongoing conversations with city staff regarding economic development projects and initiatives that could benefit the city and on which the city and MCEDC could work together. She also reviewed some current projects, and areas of focus for 2013.

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#### **APPOINTMENT OF ROBERT FARMER TO THE GOLF COURSE ADVISORY BOARD**

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Councilmember Ron Shaver said Farmer had applied for the Golf Course Advisory Board, which was short a couple of members, and the golf board had reviewed his application and unanimously recommended his appointment by the council. Shaver made a motion to accept Farmer as a member of the golf board, which was seconded by Councilmember Debra Forstedt and approved unanimously.

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#### **DISCUSSION OF PROPOSED CHANGES TO THE DESIGN OF THE BANDSHELL**

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Wells reviewed the history of the bandshell project, for which the city had approved \$50,000 for design and appointed a committee to gather community input and determine what the facility would look like. The design chosen was estimated at the time to cost about \$300,000, Wells said, and another committee began a fundraising campaign to pay for construction of the project in City Park. Having raised nearly all of the estimated cost, this fundraising committee had approached the city about the possibility of adding other features to the design, including dressing rooms.

Wells said the committee understood that they would be responsible for covering any additional cost, and that the additions and alterations also could push back the timeline of the project. He asked for council direction on how to proceed.

Much discussion followed about the project, the uncertainty regarding cost until bids were solicited, and whether the council should accept the money from the fundraising committee before a more firm cost was determined. Suggestions included seeking bids for construction of the original design or obtaining new designs from the architect and bidding either or both of the proposed designs.

The council consensus that emerged was to accept the \$5,000 cost of the additional design work from the bandshell fundraising committee, have the facility redesigned to include the committee's desired additions, and then solicit bids for construction. The council would then accept the contribution from the committee for the construction costs when the city was confident that the amount would cover the full cost of the project.

No formal action was taken.

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### **COUNCIL ACTING AS THE LOCAL LICENSING AUTHORITY – APPLICATION FOR TRANSFER OF OWNERSHIP FOR 3.2 BEER LICENSE AT THE EAST 7-ELEVEN STORE**

City Clerk/PIO John Brennan explained that the 7-Eleven corporation had signed a franchise agreement for this store, and the application was being filed jointly by the corporation and the franchise holder. All of the paperwork was in order, the corresponding fees had been paid and the background investigations had come back clean, Brennan said, so staff was recommending approval of the application.

Councilmember Lisa Northrup made a motion to accept the application for Transfer of Ownership of a 3.2 Percent Beer Retail License (Off Premises) for the 7-Eleven store at 703 E. Platte Ave. That motion was seconded by Shaver and approved unanimously.

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### **COUNCIL ACTING AS THE LOCAL LICENSING AUTHORITY – ACCEPTANCE OF AN APPLICATION FOR A NEW BEER AND WINE LICENSE FOR SAND'S CHICKEN INN AND SCHEDULING OF A PUBLIC HEARING ON THE APPLICATION**

Brennan said this was a new license application at a location that had previously held the same type of license, and the application documents had been reviewed by the City Clerk's Office, the Fort Morgan Police Department and the City Attorney's Office and were deemed complete. Staff was asking the council to formally accept the application and schedule a public hearing for March 19.

Councilmember Scott Bryan made a motion to accept the application for a new Beer and Wine License – Malt and Vinous Liquors for Sand's Chicken Inn at 725 Main St., and to schedule a public hearing on the application for March 19. That motion was seconded by Councilmember Joe Segura Jr. and approved unanimously.

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### **COUNCIL ACTING AS THE LOCAL LICENSING AUTHORITY – PUBLIC HEARING ON AN APPLICATION FOR A NEW HOTEL & RESTAURANT LICENSE FOR LITTLE BAMBOO INC.**

Mayor Terry McAlister reviewed the format to be followed for the public hearing, Brennan confirmed that proper legal notice of the hearing had been published, and Police Chief Keith Kuretich attested to the proper posting of notice on the property.

Brennan reviewed the application, which had been formally accepted by the council on Jan. 2, noting that the applicant had previously held a Beer and Wine license at the same location. Brennan said the applicant had submitted petitions containing approximately 145 valid signatures in support of the issuance of the license, and no written or oral comments had been

received by the City Clerk's Office regarding the application. Kuretich said the investigative reports had been completed with no issues.

Brennan then swore in the applicant, Wendy Tong, who noted that her establishment had experienced two violations for sale to minors over a number of years and had worked hard at retraining staff on proper serving requirements, and that she felt the business was now ready for a full liquor license. Tong said customers had been asking for cocktails often in the past couple of years, but she did not want to move to that level until she felt comfortable that her staff could handle it.

No public comments were received.

Forstedt made a motion to close the public hearing, which was seconded by Bryan and approved unanimously.

Wells then advised the council of its options, which included approval or denial of the application or continuation of the public hearing to a future date. Forstedt made a motion to approve the application for a Hotel & Restaurant Liquor License – Malt, Vinous and Spirituous Liquors for Little Bamboo at 613 W. Platte Ave. That motion was seconded by Bryan and approved unanimously.

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### **BIDS FOR TWO PATROL VEHICLES FOR THE FORT MORGAN POLICE DEPARTMENT**

FMPD Lt. Jared Crone reviewed the bidding process for these budgeted items, which were part of the department's scheduled replacement program for police vehicles. He outlined the staff recommendation to accept the low bid for two Dodge Chargers.

Councilmember Lisa Northrup offered a resolution to accept the bid from Colorado Springs Dodge for two Dodge Chargers for a total of \$50,614. That resolution was seconded by Shaver and approved unanimously.

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### **BIDS FOR ELECTRICAL CONDUCTORS**

Inventory Control/Building Maintenance Superintendent Doug Hofman reviewed the bid process for this item, which would purchase electrical wire for city projects and electrical system maintenance. Hofman said the staff recommendation was to accept the unit pricing bids from Kriz Davis Company of Scottsbluff, Neb., for overhead and secondary underground conductors, as that company had the lowest overall prices for those items, and to accept the unit bid prices for primary underground conductors from Western United Electric of Brighton, Colo., which was the only company to bid on those items. Hofman said the conductors would be placed into city stores for use by the Light & Power Department on an as-needed basis, in an amount not to exceed \$195,000.

Shaver offered a resolution to accept the bids as presented and recommended by staff, which was seconded by Forstedt and approved unanimously.

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### **RESOLUTION AUTHORIZING THE MAYOR TO SIGN A CONSENT AGREEMENT WITH THE NORTHERN COLORADO WATER CONSERVANCY DISTRICT FOR THE USE OF THE RIGHT OF WAY FOR THE SOUTHERN WATER SUPPLY PIPELINE**

Water Resources/Utilities Director Brent Nation explained that several of the numerous participants in this pipeline had proposed using a portion of the right of way for another pipeline for their own use, and would compensate the remaining participants for this. Fort Morgan's share of the compensation would be approximately \$100,000, Nation said, and this agreement would still leave half of the 90-foot right of way available for future use.

Forstedt offered a resolution authorizing the mayor to sign the consent agreement with Northern Water, which was seconded by Shaver and approved unanimously.

At this point in the meeting technical difficulties arose with a slide presentation to be conducted by Nation, so Mayor McAlister moved to the next agenda item while that issue was resolved.

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**PRESENTATION AND DISCUSSION OF POLICY STATEMENTS TO BE USED IN SETTING BUDGET PRIORITIES FOR THE 2014 BUDGET, AND SCHEDULING OF A BUDGET RETREAT**

Wells said he wanted to make sure the broad policy statements proposed by staff for use in the process of setting budget priorities were acceptable to council, and council members indicated no concerns with the statements.

After some discussion, a budget retreat was scheduled for Feb. 12 at 5:00 p.m. at City Hall.

With the technical issues resolved, the council returned to the previous agenda item.

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**PRESENTATION ON CITY WATER RESOURCES AND DROUGHT PLAN AND POSSIBLE ACTION ON A RESOLUTION ADJUSTING FEES RELATED TO C-BT WATER SALES**

Nation conducted a PowerPoint presentation that outlined the city's total available water supplies and average demand, and described the city's augmentation plan for well pumping and the associated water accounting that must be done in connection with the plan. He said the city would have adequate water supplies for 2013 but the ongoing drought meant shortages could occur in the future, so he was proposing reductions in well pumping for 2013.

Regarding the Resolution adjusting the cost of Colorado-Big Thompson water shares, Nation said the market price of these shares fluctuates due to conditions and demand. The city was currently charging \$7,500 per unit when developers asked the city to broker C-BT purchases on their behalf, which was close to the market price when that figure was set several years earlier. But the current market price was between \$10,000 and \$12,000, Nation said, so the city stood to lose money on every such transaction unless the price was adjusted.

The Resolution would adjust the cost for such shares to \$10,500 per unit plus a \$500 fee per transaction required to purchase the total number of shares needed.

Shaver offered a Resolution setting the price the city will charge for the purchase of C-BT water shares on behalf of developers as stated in the Fort Morgan Municipal Code Chapter 18, Article 2, Section 220. That resolution was seconded by Bryan and approved unanimously.

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**CONSENT AGENDA BY RESOLUTION**

Brennan presented the Consent Agenda for Council consideration as follows:

**CONSENT AGENDA**

- A. Approval of the final disbursements for 2012
- B. Approval of the minutes of the January 15, 2013 City Council regular meeting

Forstedt offered a resolution to approve the Consent Agenda as presented, which was seconded by Shaver and approved unanimously.

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**PUBLIC COMMENT / AUDIENCE PARTICIPATION**

None.

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**REPORTS BY OFFICIALS AND STAFF**

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Wells reported that a number of city utility customers had been calling and visiting the utility billing department to express frustration with the size of their most recent bills. Wells said the primary reasons for the widespread bill increases were the fact that there were three extra days in the billing cycle, some very cold weather and the readjustment of gas and electric rates in November after a long period of artificially low rates to repay overcollected revenues. He said he understood the customers' frustrations and wanted to explain the reasons for the unusually high bills.

Police Chief Keith Kuretich noted that the council packets had included copies of the FMPD's 2012 annual report.

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**BIDS, MEETINGS AND ANNOUNCEMENTS**

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Mayor McAlister mentioned that a new Korf car dealership had recently opened, and he was glad to see that the business was open and had made many improvements to the property. McAlister also reminded residents that they should pick up after their dogs when they walk the animals in city streets, parks and particularly the cemetery. The mayor said stations that dispense plastic bags for that purpose might be something worth consideration by the city. Wells said staff would investigate that, noting that some animal welfare organizations may contribute funding, and also mentioned that the possibility of a dog park had been raised in a recent council survey and would also be explored.

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**EXECUTIVE SESSION**

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The regular portion of the meeting concluded at 8:33 p.m. McAlister noted that the council had three scheduled executive sessions, and would conduct each and return to the open meeting to report on those sessions, then reconvene for the following executive sessions.

Councilmember Forstedt made a motion to proceed to the first executive session, which was seconded by Councilmember Shaver and approved unanimously. This first executive session had been published as follows:

**EXECUTIVE SESSION** for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. Section 24-6-402(4)(e); AND THE FOLLOWING ADDITIONAL DETAILS ARE PROVIDED FOR IDENTIFICATION PURPOSES: Economic incentives.

This session began at 8:47 p.m. and concluded at 9:27 p.m., and was attended by the mayor and six council members along with Wells, Curtis, Assistant City Attorney Jason Meyers, Nation, MCEDC Executive Director Cassandra Wilson, Community Development Director David Callahan, Tom Reagan and Sheila Reagan.

At the conclusion of the executive session the council returned to the open meeting, where Forstedt reported that council met in executive session to discuss matters related to negotiations for an application for economic incentives. Forstedt made a motion directing staff to negotiate according to the parameters discussed in the executive session, which was seconded by Northrup and approved unanimously.

Forstedt made a motion to go into second executive session, which was seconded by Northrup and approved unanimously.

The council then convened the second scheduled executive session, which had been published as follows:

**EXECUTIVE SESSION** for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. Section 24-6-402(4)(e); AND THE FOLLOWING ADDITIONAL DETAILS ARE PROVIDED FOR IDENTIFICATION PURPOSES: Land purchase.

This executive session began at 9:36 p.m. and concluded at 9:55 p.m., and was attended by the mayor and council along with Wells, Nation, Meyers, Callahan and Curtis.

At the conclusion of the executive session the council returned to the open meeting, where Forstedt reported that the council met in executive session to discuss the potential purchase of property. Forstedt made a motion to authorize negotiators to proceed with the potential purchase as discussed in executive session, which was seconded by Northrup and approved unanimously.

Forstedt then made a motion to go into the third scheduled executive session, which was seconded by Shaver and approved unanimously.

The council then convened the third scheduled executive session, which had been published as follows:

**EXECUTIVE SESSION** for a conference with the City Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b); AND THE FOLLOWING ADDITIONAL DETAILS ARE PROVIDED FOR IDENTIFICATION PURPOSES: Pending litigation.

This session began at 9:58 p.m. and concluded at 10:35 p.m., and was attended by the mayor and council along with Wells and Meyers. At the conclusion of the executive session the council returned to the open meeting, where Forstedt reported that council met in executive session to receive legal advice on pending litigation.

Forstedt made a motion directing the interim city attorney to engage in mediation and take any other legal action necessary to address the legal issue, which was seconded by Shaver and approved unanimously.

Mayor McAlister adjourned the Feb. 5, 2013 regular meeting at 10:36 p.m.

/s/ Terry L. McAlister  
Mayor

/s/ John J. Brennan  
City Clerk