

March 19, 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 7:00 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, Assistant City Attorney Jason Meyers, Parks Superintendent Doak Duke, FMPD Detective Joshua Kaber, Wastewater Treatment Plant Superintendent Mike Hecker, FMPD Officer Tim Malone, FMPD Detective Todd Zwetzig and City Clerk/PIO John Brennan.

APPOINTMENT OF CLAIR LEIBHART TO SENIOR CENTER ADVISORY BOARD

Councilmember Scott Bryan said the Senior Center Advisory Board had discussed and approved Leibhart's application and recommended that council appoint him to the board. Bryan made a motion to approve the appointment of Clair Leibhart to the Senior Center Advisory Board, which was seconded by Councilmember Debra Forstedt and approved unanimously.

APPOINTMENT OF BRITTANY MEYERS TO THE LIBRARY ADVISORY BOARD

Councilmember Lisa Northrup said the Library Advisory Board had met with the applicant the previous evening and voted unanimously to appoint Meyers to the board. Northrup made a motion to ratify that appointment, which was seconded by Councilmember Ron Shaver and approved unanimously.

RESOLUTION APPOINTING REPRESENTATIVES TO NMPP MEMBERS' COUNCIL

City Manager Jeff Wells said this item was to correct an oversight by the Nebraska Municipal Power Pool, which had informed the city that it needed a formal action by the City Council to appoint representatives to this board.

Shaver offered a resolution to approve the Resolution appointing Jeff Wells as the city's representative and Brent Nation as the alternate representative to the Nebraska Municipal Power Pool Members' Council. That resolution was seconded by Northrup and approved unanimously.

PRESENTATION AND DIRECTION ON AN ORDINANCE PROHIBITING ANIMALS IN THE CITY CEMETERY

Wells reminded the council that this issue had been discussed at the council's retreat in February and staff was asked to bring forward a proposed ordinance that would ban dogs from

the cemetery. This was because of complaints that some dog owners were walking their animals at the city cemetery and not cleaning up after the dogs.

Wells said cemetery staff spent several hours per week cleaning up dog droppings, and noted that of an estimated 30 people who regularly walk their dogs in the area about five or six owners were failing to clean up after the animals.

Discussion followed about enforcement of the ordinance if approved, and Councilmember Joe Segura Jr. asked that an exception be added to the proposed ordinance that would allow pets of deceased owners to attend services for those owners. Police Chief Keith Kuretich reminded everyone that under the city's current animal code all pet owners are responsible for cleaning up after their pets throughout the city.

Wells said the requested changes would be made to the draft ordinance and it would be scheduled for first reading on April 2. No formal action was taken.

COUNCIL ACTING AS THE LOCAL LICENSING AUTHORITY – APPLICATION FOR TRANSFER OF OWNERSHIP OF RETAIL LIQUOR STORE LICENSE FOR MIDWEST LIQUOR

City Clerk/PIO John Brennan reviewed the background of this transfer application, which had been received by the city on Feb. 28. All of the paperwork had been reviewed and deemed complete, background checks performed and the appropriate fees paid, Brennan said.

Brennan informed the council that new information had come to light that day that the sale of the business and property to the new owner could be delayed, so staff was proposing to move forward with approval of the transfer by the Local Licensing Authority but to hold the application and not forward it to the State Liquor Licensing Division unless and until the transaction was completed.

Councilmember Scott Bryan offered a resolution to accept and approve the Transfer of Ownership application for the Retail Liquor Store License for Midwest Liquor at 105 S. Main St., contingent upon the two parties closing their transaction. That resolution was seconded by Forstedt and approved unanimously.

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

Mayor McAlister reviewed the format to be followed during the public hearing on this application, Brennan confirmed that proper legal notice of the hearing had been published in the Fort Morgan Times, and Kuretich testified to the posting of notice on the property.

Brennan introduced the applicant, Ronald Sand, and reviewed the background of this application, noting that Sand had originally proposed seeking a transfer of ownership of the existing beer and wine license on the property. Because Sand planned to modify the licensed premises to add a new outdoor seating area, however, it was decided that an application for a new license would be a simpler process.

Kuretich said the background investigation of Sand raised no concerns, and Brennan said the applicant had submitted petitions containing approximately 20 valid signatures in support of the issuance of the license. No comments had been received either for or against the license by the City Clerk's Office, Brennan said.

Sand briefly described the plans for operation of the restaurant. No public comments were received during the hearing. Forstedt made a motion to close the public hearing, which was seconded by Shaver and approved unanimously.

Wells then informed the council of its options for taking action on the application, which included approving it if the council believed Sand had met the burden of proving the needs and desires of the neighborhood and the adult inhabitants for the license; denying it and stating a specific

reason for denial if any; or continuing the public hearing to a future date pending more information.

Forstedt offered a resolution to approve the application for a new Beer and Wine License – Malt and Vinous Liquors for Ronald E. Sand, dba Sand's Chicken Inn, at 725 Main St. That resolution was seconded by Bryan and approved unanimously.

RESOLUTION AUTHORIZING THE MAYOR TO SIGN THE AGREEMENT FOR THE SALE OF LOT 6 IN THE INDUSTRIAL PARK

Wells said the council had met in executive session about a month ago to discuss this property sale with the purchaser, who planned to move an existing business from the Denver metro area to Fort Morgan. The sale agreement had been negotiated and this action would authorize the mayor to execute the contract for the sale.

Northrup offered a resolution authorizing the mayor to sign the agreement to sell Lot 6 in the Fort Morgan Industrial Park to Mr. Tom Reagan, which was seconded by Shaver and approved unanimously.

MEMORANDUM OF UNDERSTANDING BETWEEN THE RECREATION DEPARTMENT AND THE MUSTANG BASEBALL CLUB

Community Development Director David Callahan told the council that this and the following two agenda items were essentially housekeeping matters, renewing agreements from the previous year that would protect the interests of both parties and prevent future disagreements. Wells said the cost of services provided by the city under these agreements was beyond his authority as city manager to approve so they were brought to the council for approval.

Northrup offered a resolution to approve the Memorandum of Understanding between the city Recreation Department and the Mustang Baseball Club, which was seconded by Shaver and approved unanimously.

MEMORANDUM OF UNDERSTANDING BETWEEN THE RECREATION DEPARTMENT AND THE MARLINS SWIM CLUB

Callahan said this item was another renewal similar to the previous item, but noted one difference from the previous year's agreement. The city was now requiring the Marlins Swim Club to be responsible for providing a lifeguard during all of its sessions. Callahan acknowledged that this would cost the club some money but city staff felt it was necessary because swim club coaches could not perform effectively as lifeguards while coaching.

Northrup offered a resolution to approve the Memorandum of Understanding between the city Recreation Department and the Marlins Swim Club, which was seconded by Shaver and approved unanimously.

MEMORANDUM OF UNDERSTANDING BETWEEN THE RECREATION DEPARTMENT AND OPTIMIST SOCCER

Callahan said this was a renewal of a longtime relationship with the Sunrise Optimist Club to provide youth soccer programs.

Northrup offered a resolution to approve the Memorandum of Understanding between the city Recreation Department and Optimist Soccer, which was seconded by Shaver and approved unanimously.

ANNUAL RENEWAL OF INTERGOVERNMENTAL AGREEMENTS WITH THE MORGAN COUNTY RE-3 SCHOOL DISTRICT FOR A SCHOOL RESOURCE OFFICER

Kuretich reviewed the terms of these intergovernmental agreements, under which the city and the school district each pay a portion of the cost of a police officer who works as a school resource officer in district schools. He noted that two separate IGAs were being brought for approval, for two separate school years, and also introduced Officer Tim Malone, the SRO for a number of years.

Wells noted that the SRO program was a valuable asset to the city's community policing philosophy, and he received many positive comments about the program in general and about Malone in particular.

Shaver offered a resolution to approve renewal of the IGAs with the Morgan County Re-3 School District for a school resource officer for the 2012-13 and 2013-14 school years. That resolution was seconded by Forstedt and approved unanimously.

ANNUAL RENEWAL OF A MEMORANDUM OF UNDERSTANDING WITH THE INTERNET CRIMES AGAINST CHILDREN TASK FORCE

Kuretich said this was an agreement that allowed the city to access federal funding from a grant received by the Colorado Springs Police Department to assist in investigation of cases related to Internet predators. Kuretich also introduced FMPD Detectives Todd Zwetzig and Joshua Kaber, who work on such cases.

Forstedt offered a resolution to approve the annual renewal of the MOU with the Internet Crimes Against Children Task Force, which was seconded by Shaver and approved unanimously.

RFP FOR A FIBER OPTIC NETWORK FEASIBILITY STUDY

Municipal Engineer Brad Curtis explained that the proposed study would assess the status of the fiber optic network developed in the city almost a decade ago, which serves the city, Morgan County and the Morgan County Re-3 School District. He said additions and modifications had been made to the system over the years and blueprints and drawings of the system were not accurate, so the city needed to identify the elements of the system in order to decide what could be done with the system.

Curtis reviewed the bid process for the study and asked for council approval to accept the lowest of nine bids, from Magellan Advisors of Denver, with total expenses not to exceed \$40,000. Curtis noted that the expense had been planned for the 2013 budget but because of a software problem the expense line item had not made it into the final version of the budget, so a mid-year budget adjustment would be needed.

Much discussion followed among council and staff members regarding the use and potential of the system and whether the county and school district should contribute to the cost of the study. Wells said the city had not approached those parties to request their financial participation in the study but that could be done. Wells noted that under the original grant agreement the city had been responsible for repairs and maintenance of the system.

After further discussion the council consensus was that the study was needed and should not be delayed, and the city would accept the expense but contact the county and the school district about the possibility of contributing to the cost.

Forstedt offered a resolution to accept the proposal from Magellan Advisors and expend up to \$40,000 for the study. That resolution was seconded by Northrup and approved unanimously.

BIDS FOR BOOKS AND LIBRARY MATERIALS

Callahan reviewed the bid process for this item and said staff was recommending awarding the contract for 2013 books and library materials to Ingram, which had provided such materials for the library for some years and was the best choice for pricing and service. He noted that \$15,000 had been budgeted for this in 2013.

Northrup offered a resolution approving the award of the contract for 2013 books and library materials to Ingram, which was seconded by Forstedt and approved unanimously.

PRESENTATION AND DISCUSSION OF NUTRIENT PLAN FOR THE WASTEWATER TREATMENT PLANT

Water Resources/Utilities Director Brent Nation reviewed new state regulations that require monitoring of the South Platte River both above and below the city's wastewater treatment plant, as well as the discharge from the plant. Nation credited WWTP Superintendent Mike Hecker and his staff for acting quickly to comply with the new requirements and also for working cooperatively with the city of Brush on a joint plan for river monitoring.

Nation said these and other regulations on the horizon could lead to the need for costly improvements to the city's sewer plant in the future. Wells noted that the city would retire its current debt on the plant in 2015, but mandated upgrades could mean the city would need to take on new debt to fund the improvements. No action was taken.

PRESENTATION AND DISCUSSION OF COLORADO ASSOCIATION OF MUNICIPAL UTILITIES RATE SURVEY

Wells reviewed the results of this survey, which showed Fort Morgan as having the lowest residential and small commercial electric rates in the state among the dozens of utilities surveyed, and competitive rates for large commercial and industrial users. He said he wanted to bring this survey to the council's attention because sometimes residents have a perception that their utility rates are high, and this helped put the city's rates in perspective in relation to others.

PRESENTATION AND POSSIBLE ACTION ON RECOMMENDATION BY STAFF TO ADDRESS COMMERCIAL MARIJUANA MORATORIUM AND POSSIBLE PROHIBITION, INCLUDING POSSIBLE FIRST READING OF AN ORDINANCE

Wells said the council had discussed the issues surrounding Amendment 64 and commercial marijuana several weeks earlier, and the issues were complex and changing quickly. He said the council would have a lot to discuss and decide in coming months about how to deal with the retail sale of marijuana.

Wells said staff was recommending that the council impose a moratorium on all commercial marijuana establishments in the city, which would include commercial cultivation, manufacturing, retail sales and private smoking clubs, until some of the issues at the state level were resolved. However, staff had prepared several draft ordinances to give the council a range of options.

One proposed ordinance would place a moratorium on all commercial marijuana operations until the end of 2013, Wells said, while another would permanently ban such establishments in the city. If the prohibition ordinance were chosen, Wells said the council should also pass another proposed ordinance regarding a moratorium on smoking clubs, as those were not addressed in Amendment 64.

Assistant City Attorney Jason Meyers reviewed the specifics of each draft ordinance, and spoke to the council about the results of his research into the projected revenues that might be expected from commercial marijuana. Council and staff discussion followed about issues including the possibility of placing restrictions on commercial marijuana as opposed to a complete ban. Several council members said they believed the council should seek more feedback from residents.

Bryan said believed the public had already had an opportunity to comment, and nearly all of the comments he had received were firmly against allowing commercial marijuana in the city, so he was ready to take action and prohibit it.

Bryan offered a resolution to approve the first reading of an Ordinance to amend Chapter 10 of the Fort Morgan Municipal Code by the addition thereto of Division 5 concerning the prohibition of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores in the city of Fort Morgan. No second to that resolution was made so the resolution died.

Northrup then offered a resolution to approve the first reading of an Ordinance imposing a moratorium on the operation of marijuana establishments pursuant to Amendment 64. That resolution was seconded by Segura and approved on a vote of 6-1, with Bryan voting against.

Wells said the city staff would move forward with the plan to schedule public meetings in each ward of the city and also perform any specific research on commercial marijuana issues requested by council.

CONSENT AGENDA BY RESOLUTION

Brennan presented the Consent Agenda for Council consideration as follows:

CONSENT AGENDA

- A. Approval of the disbursements and payroll for February
- B. Approval of the minutes of the March 5, 2013 City Council regular meeting

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

PUBLIC COMMENT / AUDIENCE PARTICIPATION

None.

REPORTS BY OFFICIALS AND STAFF

Wells reported on a planned public forum for local contractors, developers, real estate professionals and others about how the city can help foster the development of residential construction. Council members decided on April 15th for the forum.

BIDS, MEETINGS AND ANNOUNCEMENTS

Brennan announced current bids and upcoming meetings, and announced that the city's annual Spring Cleanup week would begin on March 23.

Kuretich reported on an incident the previous day in which emergency responders dealt with explosives found in a home in the city, and thanked the various agencies and city departments that assisted in the safe disposal of the material.

EXECUTIVE SESSION

The regular portion of the meeting concluded at 9:34 p.m., and Councilmember Forstedt made a motion to convene the first of two scheduled executive sessions. That motion was seconded by Shaver and approved unanimously.

The 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: Property purchase.

This executive session began at 9:45 p.m. and ended at 10:10 p.m., and was attended by the mayor and council members along with Wells, Curtis, Nation and Meyers. At the conclusion of the executive session the council returned to open session, where Forstedt reported that the council had met in executive session for the purpose stated on the agenda. Forstedt made a motion directing staff to proceed with negotiations as discussed in the executive session. That motion was seconded by Shaver and approved unanimously.

Forstedt then made a motion to proceed to the second scheduled executive session, which was seconded by Segura and approved unanimously.

This 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: Siting of CES Project.

This executive session began at 10:14 p.m. and concluded at 10:59 p.m., and was attended by the mayor and council along with Wells, Curtis, Nation and Meyers. Following the conclusion of the executive session the council returned to the open regular meeting, where Forstedt reported that the council had met in executive session for the purpose stated on the agenda. Forstedt made a motion to direct staff and the city manager to proceed with negotiations as discussed in the executive session. That motion was seconded by Northrup and approved unanimously.

Mayor McAlister adjourned the March 13, 2013 City Council regular meeting at 11:00 p.m.

/s/ Terry L. McAlister

Mayor

/s/ John J. Brennan

City Clerk