

August 6, 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 Ronald Shaver
Absent: Councilmember Joe Segura Jr.

The meeting was also attended by City Manager Jeff Wells, Police Chief Keith Kuretich, Water Resources/Utilities Director Brent Nation, City Treasurer Jean Kinney, Human Resources/Risk Management Director Michael Boyer, Assistant City Attorney Jason Meyers, FMPD Lt. Jared Crone, Municipal Court Administrator Christina Thyne, Municipal Court Clerk Dawn Korrell, FMPD Detective Sgt. Loren Sharp, FMPD Officer Cindy Brackett, FMPD Officer Noah Carter, General Accountant Chris Bostron, FMPD Officer Kevin Miller and City Clerk/PIO John Brennan.

APPROVAL OF MINUTES OF THE JULY 16, 2013 CITY COUNCIL REGULAR MEETING

Councilmember Debra Forstedt offered a resolution to approve the minutes as presented in the council packets, which was seconded by Councilmember Ron Shaver and approved on a unanimous vote of 6-0, with Councilmember Joe Segura Jr. absent.

RECOGNITION OF THE CITY EMPLOYEE OF THE QUARTER

City Manager Jeff Wells said this was a new recognition program for the city designed to highlight the work of employees who had gone above and beyond in their performance of their jobs. The first recipient was detective Sgt. Loren Sharp of the Fort Morgan Police Department, and Wells reviewed some of the reasons he was chosen for the award and some of the information contained in his nomination by an anonymous fellow employee. Wells and Police Chief Keith Kuretich presented Sharp with a framed certificate and a personal gift, and the council members thanked Sharp for his good work.

APPOINTMENT OF MATTHEW SHARP AND BETSY PORTER TO FILL VACANCIES ON THE LIBRARY ADVISORY BOARD

Councilmember Christine Castoe noted that previous board member Trenton Klimper had resigned and other vacancies existed on the library board, and two applications had been received. The board had recommended the appointment of those applicants, with Matthew Sharp to be appointed to fulfill the remainder of Klimper's term to expire on Dec. 31, 2013, and Elizabeth (Betsy) A. Porter to be appointed to a new term to expire on Dec. 31, 2015. Castoe made a motion to appoint those members to those terms as recommended, which was seconded by Councilmember Lisa Northrup and approved unanimously.

SECOND READING AND FINAL APPROVAL OF ORDINANCE NO. 1141, AMENDING THE 2012 BUDGET

Wells noted that this ordinance had been amended with updated figures since the first reading on July 16, and if approved the revised ordinance would be published in full in the newspaper as a result.

Northrup offered a resolution to approve the second and final reading of Ordinance 1141, Amending the appropriation of monies for the funds of the City of Fort Morgan, Colorado. That resolution was seconded by Councilmember Scott Bryan and approved unanimously.

PRESENTATION OF THE DRAFT 2012 FINANCIAL AUDIT

Wells thanked City Treasurer Jean Kinney and her staff for their hard work in preparing for the annual financial audit, and Kinney introduced Randy Watkins of auditing firm Anton Collins Mitchell LLP.

Watkins reviewed the Audit Wrap Up document and the financial statements in detail, including the methodology and approach used, and said the firm had offered a clean opinion of the city's financial position in the audit. He reviewed some deficiencies found and city management's response to these, and noted that the city had already taken steps to correct some of these even before the audit.

Some discussion of issues related to the audit followed, and council questions were answered by Watkins, Wells and Kinney, No formal action was taken.

RESOLUTION AUTHORIZING THE MAYOR TO SIGN A MEMORANDUM OF UNDERSTANDING WITH INTERVENTION INC. FOR PROBATION SERVICES

Wells explained that the use of an outside contractor to provide probation services for the municipal court was an idea that had been considered for a number of years, and the issue had been examined more closely in the past year with input sought from the municipal judge, court personnel and others. He said Intervention Inc. was a nonprofit organization that provided such services for many courts throughout Colorado, and the city could realize savings by using this organization rather than the full-time in-house probation officer currently employed.

Julie Stransky, director of field services for Intervention, explained that the company serves nine judicial districts in Colorado, including the 13th district of which Fort Morgan is a part for more than 10 years, and had offices in Fort Morgan and Sterling. Intervention's services are 100 percent paid for by the offenders, she said, and additional staff would be hired to handle Fort Morgan's caseload.

After Wells and Stransky answered several council questions, Forstedt offered a resolution to authorize the mayor to sign the memorandum of understanding with Intervention Inc. for probation services, which was seconded by Northrup and approved unanimously.

FIRST READING OF AN ORDINANCE AMENDING THE FORT MORGAN MUNICIPAL CODE REGARDING WATER TAP ABANDONMENTS

Water Resources and Utilities Director Brent Nation explained that the March 2013 effective date of provisions of an ordinance approved by the council in 2011 had brought to light some impacts of the ordinance that the council may want to re-examine. The ordinance allowed a two-year grace period for owners of water taps to make back payments of monthly water service base charges, and Nation said some real estate professionals had pointed out that in cases of bankruptcy or foreclosure proceedings the legal case could last much longer than the 24-month

grace period. Another complaint was that the city had not provided sufficient notice to owners of taps that may be affected.

Nation said the city's Water Advisory Board had discussed these issues and recommended an exception for instances of foreclosure and bankruptcy, but felt that the notice of the change had been sufficient and the rest of the municipal code should remain in place as is.

Several council members said they were concerned about the provisions of the original ordinance that considered taps to be abandoned after they were unused without payment of the monthly base charge for two years, which would require the property owners to purchase a new tap and corresponding water units that could cost as much as \$20,000. Mayor Terry McAlister suggested there was a way around this issue that would allow owners to pay the monthly charges in arrears, or place a lien on a property equivalent to the total of those payments, without relinquishing ownership of the tap. Owners could voluntarily abandon their taps if they did not want to pay the back charges, the mayor noted.

Discussion of the policy and alternatives followed, with public comment offered by Robert Becker of 114 Walnut Street and Chuck Miller of 26060 County Road S in Brush. Water Advisory Board Chairman Jack Odor also offered comments and views on the provisions of the ordinance and why it was put in place.

Wells suggested that the council could approve the first reading of the new ordinance providing the foreclosure/bankruptcy exemption at this meeting, and staff could research the numbers of taps affected and potential impacts and make amendments to the new ordinance to conform with the council's direction before the second reading and final approval. Wells noted that the second reading of the ordinance did not necessarily have to be done at the next council meeting and the council could allow staff more time to make the needed amendments.

Northrup then offered a resolution approving the first reading of the Ordinance amending Section 240 of Chapter 18 Article 2 of the Fort Morgan Municipal Code. That resolution was seconded by Forstedt and approved unanimously.

RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN INTERGOVERNMENTAL AGREEMENT WITH THE MORGAN COUNTY QUALITY WATER DISTRICT REGARDING CITY WATER SERVICE WITHIN THE MCQWD SERVICE AREA

Nation explained that a Quality Water service line, which led to a commercial building that was also served by the city water system, would be abandoned and capped under this agreement, which would benefit the city, Quality Water and the customer. The line also crossed a property that was recently annexed by the city and planned for development soon.

Shaver offered a resolution to approve the Resolution authorizing the mayor to execute the Potable Water Supply Agreement Concerning 909 E. Railroad Avenue, Fort Morgan, CO 80701. That resolution was seconded by Bryan and approved unanimously.

RESOLUTION AUTHORIZING THE MAYOR TO SIGN A POLE ATTACHMENT AGREEMENT WITH KCI

Wells said this was a standard agreement the city enacted with all telecommunications companies that want to place equipment on city electric system poles. Wells said Kentec Communications Inc. was planning to provide services and needed permission to locate equipment on the poles.

Wells noted that the council would need to add a condition to its approval that KCI provide a list of the poles it planned to use, so the city could determine whether there was adequate infrastructure and space to accommodate the new services.

Shaver offered a resolution to authorize the mayor to execute a Master Pole Attachment Agreement with Kentec Communications Inc., with the condition that a master list of the poles to

be used be submitted to the city before the mayor signed the agreement. That resolution was seconded by Forstedt and approved unanimously.

BIDS FOR WATER TANK PAINTING AND STAIR ADDITION AT THE WATER TREATMENT PLANT

Nation said this work was necessary to preserve the condition of the city's two finished water storage tanks, and explained that the bids had been set up for bidders to provide a cost for painting one of the two tanks in 2013 and a separate cost for the other tank to be done if money was appropriated for the 2014 budget.

Shaver offered a resolution to accept the bid from Norvell Construction of Colorado Springs in an amount not to exceed \$355,000 for the 2013 water tank painting and stair addition project at the Water Treatment Plant. That resolution was seconded by Bryan and approved unanimously.

RESOLUTION AUTHORIZING THE MAYOR TO SIGN A SETTLEMENT AGREEMENT UNDER THE AMERICANS WITH DISABILITIES ACT

Human Resources/Risk Management Director Michael Boyer reminded the council of a 2012 audit of the city's compliance with the ADA conducted by the U.S. Justice Department, and said the settlement agreement had finally been received. The agreement spelled out measures the city would need to take to bring all facilities and programs into compliance.

Bryan offered a resolution to authorize the mayor to sign the settlement agreement regarding the Americans with Disabilities Act, which was seconded by Shaver and approved unanimously.

FIRST READING OF AN ORDINANCE DESIGNATING A LOCAL LICENSING AUTHORITY FOR MARIJUANA ESTABLISHMENTS

Wells explained that the city was required to designate an official to act as the licensing authority for commercial marijuana licensing matters, regardless of whether the council decided to allow and regulate or to prohibit such marijuana operations. The person designated would provide the state with information regarding any local regulations.

Northrup offered a resolution to approve the first reading of an Ordinance designating a local licensing authority for marijuana establishments, which was seconded by Forstedt and approved unanimously.

FIRST READING OF AN ORDINANCE PROHIBITING COMMERCIAL MARIJUANA OPERATIONS IN THE CITY OF FORT MORGAN

Wells said the city had various options on what action to take regarding commercial recreational-use marijuana operations in the city, and had held discussions of this issue on several occasions and also held public forums on commercial marijuana. Wells said the staff had placed the ordinance to prohibit commercial marijuana operations in the packets because it was simple, whereas if the council decided to allow such establishments there would need to be much more discussion of the regulations that would be imposed on this industry before an ordinance of that nature could be brought forth.

Bryan offered a resolution approving the first reading of an Ordinance amending Chapter 10 of the Fort Morgan Municipal Code to prohibit marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores within the City of Fort Morgan, and scheduling a public hearing for Aug. 20. That resolution was seconded by Forstedt and approved on a vote of 5-1, with Castoe voting against the measure and Segura absent.

RECOMMENDATION FROM THE CONTRACTORS' FORUM

Wells noted that the city had hosted a forum for contractors and others involved in development, and staff had drafted several proposals to help make the development process easier. Wells outlined these proposals, which included a menu-style format for city services for developers, possible adjustments to the method and timing of collection of use taxes and the restructuring of some departments to streamline the process. Council discussion of the proposals followed, and Wells said he would use that council feedback to firm up the proposals and conduct a follow-up meeting with the contractor group. No formal action was taken.

UPDATE TO THE 2014 BUDGET CALENDAR

Wells said staff had decided to conduct presentations and reviews of the General Fund budgets over two meetings instead of three, and then review the overall budget during the third meeting originally planned for General Fund presentations. This would allow the elimination of a planned retreat for the overall budget review if council felt that was appropriate.

The council consensus was to accept the changes to the budget calendar as presented, and no formal action was taken.

PRESENTATION ON MID-YEAR BUDGET ADJUSTMENTS

Kinney said the city had to make adjustments to its budget during the course of the year as new and unforeseen revenues and expenses were recognized. Examples of such issues included the City Park bandshell project, for which a private fundraising group had contributed more than \$300,000, and a Great Outdoors Colorado grant for \$100,000 for which the city was acting as the fiscal agent for the local school district.

The council consensus was to accept the mid-year adjustments to the 2013 city budget, and no formal action was taken.

2014 BUDGET CALENDAR – PRESENTATION OF THE 2014 CAPITAL IMPROVEMENT FUND AND CONSERVATION TRUST FUND

Wells reviewed the proposed expenditures for 2014 Capital Improvement Fund, including several that would be funded from the Conservation Trust Fund. He explained that some of the projects would only be done if funding from other sources such as grants was obtained. He provided the council with a full list of all capital projects and a second list in which some of the expenses had been cut to reduce expenses. He also explained that some of the expenditures were required for various reasons.

The council consensus was to further review the CIP list as the budget was developed, and direct staff to provide further information in several areas. No formal action was taken.

PUBLIC COMMENT / AUDIENCE PARTICIPATION

None.

REPORTS BY OFFICIALS AND STAFF

Wells reported on several ongoing streets projects, and one emergency repair to a storm drainage line that would come back to council for ratification of the emergency expenses soon. He also noted the promotion of Jim Willis to the position of Streets Superintendent.

BIDS, MEETINGS AND ANNOUNCEMENTS

Brennan announced current bids and upcoming meetings, as well as several items of news including the availability of candidate nomination petitions and packets for the November city election.

EXECUTIVE SESSIONS

The regular portion of the meeting concluded at 9:42 p.m., and Mayor McAlister stated that the council would move to the first of two scheduled executive sessions. Forstedt made a motion to go into executive session, which was seconded by Bryan and approved unanimously. This first executive session began at 10:04 p.m. and ended at 10:11 p.m., and was attended by the mayor and five council members (Segura absent) along with City Manager Jeff Wells and Assistant City Attorney Jason Meyers. The 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: WAPA replacement power.

At the conclusion of the executive session the council returned to the open meeting, where Forstedt reported that the council had met in executive session for the reason stated on the agenda. Forstedt made a motion to direct staff to move forward with what was discussed in the executive session, which was seconded by Shaver and approved unanimously.

The council then convened the second scheduled executive session, which began at 10:15 p.m. and ended at 10:32 p.m., and was attended by the mayor and five council members (Segura absent) along with Wells and Meyers. 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: Water purchase.

At the conclusion of the executive session the council returned to the open meeting, where Forstedt reported that the council had met in executive session for the reason stated on the agenda. Forstedt made a motion to direct staff to proceed with negotiations for water purchase as discussed in executive session, which was seconded by Shaver and approved unanimously.

Mayor McAlister adjourned the August 6, 2013 regular meeting at 10:33 p.m.

/s/ Terry L. McAlister
Mayor

/s/ John J. Brennan
City Clerk