

August 20, 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 Lisa Northrup  
Councilmember Joe Segura Jr.

Absent: Councilmember Debra J. Forstedt (excused)  
Councilmember Ronald Shaver (excused)

The meeting was also attended by City Manager Jeff Wells, Police Chief Keith Kuretich, Municipal Engineer Brad Curtis, City Treasurer Jeanne Kinney, Water Resources/Utilities Director Brent Nation, Human Resources/Risk Management Director Michael Boyer, Community Development Director David Callahan, Parks Superintendent Doak Duke, Streets Superintendent Jim Willis, FMPD Lt. Darin Sagel, FMPD Lt. Jared Crone, FMPD Administrative Assistant Beverly Morford, Recreation Coordinator Jane Perkins and City Clerk/PIO John Brennan.

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#### **RE-APPOINTMENT OF MEMBERS TO HISTORIC PRESERVATION BOARD**

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Councilmember Joe Segura Jr. explained that the terms of two members of the city's Historic Preservation Board had expired on Aug. 11. Before those terms expired the city publicized the impending vacancies and solicited applications from the community, and the two current members applied for new terms but no other applications were received. Segura said the applications for re-appointment were reviewed Aug. 8 by the board, which voted to accept them and recommend the appointment of the current members to new terms.

Councilmember Lisa Northrup made a motion to appoint Don Ostwald and Deb Elrick to new terms on the Historic Preservation Board, to expire on Aug. 11, 2016. That motion was seconded by Councilmember Christine Castoe and approved on a unanimous vote of 5-0, with Councilmembers Debra Forstedt and Ron Shaver absent.

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#### **REQUEST FOR WAIVER OF FEES AND IN-KIND SERVICES FOR THE FALL HARVEST CAR SHOW**

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Before discussion of this agenda item began, Councilmember Northrup said she was recusing herself because she was a member of the car show committee, and left the room.

Recreation Coordinator Jane Perkins reviewed the request from the car show committee, which was seeking a waiver of fees and deposits for this event, which attracts a large number of people to the city and generates substantial economic benefit. The total value of the request was \$2,800, Perkins said.

Councilmember Scott Bryan noted that the event was one of the best things that happens in downtown Fort Morgan for the entire year, and offered a resolution to waive fees and damage deposits totaling \$2,800 for the Fall Harvest Car Show. That resolution was seconded by Castoe and approved on a vote of 4-0, with Northrup having stepped down.

Northrup then returned to the meeting.

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### **ACCEPTANCE OF THE FINAL 2013 FINANCIAL AUDIT**

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City Treasurer Jean Kinney said she had distributed copies of the final audit to council members just before the meeting began, and said the document was essentially the same as that reviewed by the council with the auditor at the previous meeting, with only minor formatting and cosmetic changes. No council questions were asked, but Bryan noted that this audit was much more clear and precise than the first audit presentation he had heard four years earlier, and he complimented city staff on all of the work it had done to fix issues with the financial reporting and accounting process in the city.

Northrup offered a resolution to accept the final 2013 financial audit, which was seconded by Bryan and approved on a unanimous vote of 5-0.

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### **HEARING FOR CONSIDERATION OF REVOCATION OR SUSPENSION OF CONTRACTOR REGISTRATION FOR TJU CONSTRUCTION ROOFING AND SIDING**

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Mayor McAlister reviewed the reasons for this hearing, which was required before the council could take action against a contractor's registration to perform work in the city. The mayor asked Community Development Director David Callahan whether proper notice of the hearing had been provided to TJU Construction, and Callahan confirmed that a certified letter had been sent and received by Dan Edwards of TJU Construction on Aug. 5.

Callahan said all of the evidence provided by the complainant in this case, Jimmy Kernodle, was include in the council packets, and added that Kernodle was present and had informed him before the meeting that three other people who had similar experiences also were in attendance.

Kernodle told the council that TJU Construction abandoned a job at his house about six months earlier and he was out several thousand dollars. He claimed the others who were present at the meeting had also paid money for work that had not been done, with one instance amounting to almost \$9,500. Kernodle said he had attempted a number of times to contact Edwards, to no avail, and said Edwards was not cooperative and Kernodle's request was that the contractor license for TJU Construction be revoked.

McAlister then said comments and testimony from the contractor would be heard, and was informed that the contractor was not present for the hearing.

Segura asked if TJU currently had any projects ongoing in the city, and whether a revocation or suspension of the license would affect the homeowners in those cases. Callahan said he had heard that TJU had as many as five roofing jobs under way, and asked that if the council did decide on a suspension or revocation of the company's registration that it be done in a way that would allow those jobs to be completed.

Bryan asked if city staff had investigated TJU's Better Business Bureau status and whether there were reports of negative experiences with the company in other communities. Callahan said he had heard of such reports but did not have details, and noted that the potential criminal aspects of this case had been turned over to the Fort Morgan Police Department, which was researching the matter.

More discussion followed about the events leading to Kernodle's complaint.

Wells said the council could continue the hearing if it felt additional information was needed; decline to suspend or revoke the contractor registration if it felt the evidence was insufficient; or suspend or revoke if it found the contractor had violated the standards contained in Section 21-12-40 of the Fort Morgan Municipal Code. He added that a suspension or revocation could be done for a specified length of time, and conditions could be imposed that a contractor would be required to meet before applying for a city registration after that time had elapsed.

Pam Jackson then addressed the council, saying she had also had a bad experience with TJU Construction, and the company had been difficult to work with, the quality of the work was shoddy and the company left a mess behind.

After further council discussion regarding the status of other current jobs under way in the city by TJU Construction, Callahan said city staff would provide those homeowners with information on other companies available to complete that work. Northrup then made a motion to close the public hearing, which was seconded by Castoe and approved unanimously.

Wells advised the council of its options for action, and Bryan offered a resolution to revoke the contractor's license for Mr. Dan Edwards doing business as TJU Construction, or any other companies in which he may be a principal, for a period of five years, at which point one of the requirements for him to be re-registered would be posting a surety bond with the city in an amount determined to be appropriate by the city's building department. That resolution was seconded by Castoe and approved unanimously.

Mayor McAlister then stated that the next two items on the meeting agenda were public hearings on important issues for which he felt it was necessary to have the full council present. As two members were absent he asked for input from the council about whether to proceed with the hearings or postpone them.

Bryan said it appeared a number of people were at the meeting to speak on these items and he felt the council should hear them out. After some discussion, McAlister asked for a motion to continue these matters to the next scheduled council meeting. No such motion was made, so McAlister said the council would proceed to the next item on the agenda as scheduled.

#### **SECOND READING AND PUBLIC HEARING ON ORDINANCE NO. 1142, AMENDING THE FORT MORGAN MUNICIPAL CODE REGARDING WATER TAPS**

Mayor McAlister reviewed the format for the hearing, and City Clerk/PIO John Brennan confirmed that proper legal notice of the hearing had been published.

Wells said the city staff had made amendments to the proposed ordinance since it had been presented to the council for first reading two weeks earlier, to meet the desires of the council and the public as expressed at that previous meeting. Council discussion followed about such issues as the fairness of the proposed ordinance, requiring people to pay water service base charges in arrears when they have never received bills for these charges, and whether the city had accurate records of all water taps in the city. Several other alternatives to the language of the ordinance as presented were also raised and discussed.

Mayor McAlister then asked for public comment, and Richard Reiber of 508 Sherman Street said the ordinance penalized people for not using water. Reiber said the council should not get in the habit of charging people for things they don't use.

Chuck Miller of 26060 County Road S in Brush said the proposed ordinance still contained unfairness, and suggested the council table the issue until the rest of the council was present because it would have repercussions for many years. More council discussion followed about costs of maintaining the city water system and water supplies, and the potential number of taps affected by the proposed ordinance.

Brennan said no public comments had been received by his office, and Northrup made a motion to continue the public hearing until the next scheduled City Council meeting on Sept. 3, 2013. That motion was seconded by Castoe and approved unanimously.

Wells said further revisions to the proposed ordinance, based on the discussion at this meeting, would be made by staff before the next meeting.

McAlister then stated that the next agenda item was a public hearing on an important issue, the second reading of an ordinance prohibiting commercial marijuana operations in the city, and the

mayor again suggested postponing action until the next meeting. Bryan made a motion to continue the public hearing on Ordinance No. 1144, regarding commercial marijuana, until the next meeting. That motion was seconded by Northrup and approved unanimously.

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### **BIDS FOR A STREETS DEPARTMENT SINGLE-AXLE DUMP TRUCK**

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Streets Superintendent Jim Willis reviewed the bidding process for this item, and the bids received, and said staff was requesting approval of the low bid from Transwest Trucks of Commerce City for a 2013 Freightliner truck with an OJ Watson dump body and metal bangboard option for a bid of \$88,740, and was also asking for approval of expenses related to a mobile radio and other miscellaneous equipment, with the total cost not to exceed \$90,000.

Bryan offered a resolution to accept the bid from Transwest Trucks for the 2013 Freightliner and OJ Watson dump body in an amount no to exceed \$90,000. That resolution was seconded by Castoe and approved unanimously.

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### **BIDS FOR A PARKS DEPARTMENT TRACTOR**

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Parks Superintendent Doak Duke reviewed the bid process for this item, and explained that staff was recommending acceptance of the second-lowest bid because it included a hydrostatic transmission, which was expected to save the city money in the long run because of the high cost to replace clutches in the previous tractor of this type in the parks department. He recommended acceptance of a bid from Wickham Tractor of Fort Morgan for a Kubota tractor in the amount of \$36,000 including credit for a trade-in, which was \$3,663 more than the bid from 21<sup>st</sup> Century Equipment of Fort Morgan for a John Deere tractor at a cost of \$32,337.05 including trade-in.

Discussion followed about how the bid was structured and whether the specifications dictated a hydrostatic transmission, and Duke explained that the bid contained minimum specifications because the city did not want to exclude any potential bidders by making the specifications too specific or proprietary.

Northrup offered a resolution to approve the purchase of a Kubota tractor in the amount of \$36,000 from Wickham Tractor, which was seconded by Castoe. Bryan then said he was not certain that the structure of the bid was fair to 21<sup>st</sup> Century, and he would vote against it. Northrup's resolution was then approved on a vote of 3-2, with Bryan and Segura voting against.

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### **2014 BUDGET CALENDAR – START PRESENTATION OF 2014 BUDGET EXPENDITURES FOR THE GENERAL FUND**

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Wells and department heads and directors reviewed the preliminary budgets for various General Fund departments, including the Mayor/Council, City Manager, Finance, City Clerk, City Attorney, Airport, Human Resources, General Government, Police, Building Inspector, Municipal Court, Planning/Zoning and Director of Community Services. Wells noted that revenues and the administrative support allocation had not yet been calculated, but would be included when the staff presented the overall preliminary budget in mid-September.

Wells and other staff answered questions from council members, and no formal action was taken.

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### **PRESENTATION OF 2014 BUDGET EXPENDITURES FOR THE PERPETUAL CARE FUND**

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Wells briefly reviewed this budget, which includes revenues from a portion of the sale price of cemetery lots, which is used to care for the cemetery. No formal action was taken.

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**PRESENTATION OF 2014 BUDGET EXPENDITURES FOR THE RIVERVIEW COMMONS GENERAL IMPROVEMENT DISTRICT**

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Wells also reviewed the proposed preliminary budget for this fund, which essentially serves as a pass-through account of revenues from property assessments from the Riverview Commons development. No action was taken.

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**PRESENTATION AND POSSIBLE DIRECTION ON ADMINISTRATIVE ALLOCATION CALCULATIONS**

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City Treasurer Jeanne Kinney reviewed several slides with information on the current formulas used for allocating administrative costs of various city departments that perform work in support of certain other departments and funds. She noted that these formulas had been pointed out by the city's financial auditors as an area for improvement for the city, and Kinney showed some proposals for new calculation formulas that would give the city a more easily understood rational basis for allocation of these costs across other funds and departments. Some council discussion followed and questions were raised and answered, and no formal action was taken. Wells said staff would use the newly developed formulas for the 2014 budget and consider further refinement to the formulas going forward, taking into consideration any further input from the auditors.

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**CONSENT AGENDA BY RESOLUTION**

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Brennan presented the Consent Agenda for Council consideration, as follows:

**CONSENT AGENDA**

- A. Second reading and possible final approval of Ordinance 1143, designating a local licensing authority for marijuana establishments, and authorization to publish by title only
- B. Approval of the disbursements and payroll for July
- C. Approval of the minutes of the August 6, 2013 City Council regular meeting

All matters listed under the Consent Agenda are considered to be routine business by the Council and will be enacted with a single motion and a single vote by roll call. There will be no separate discussion of these items. If discussion is deemed necessary, that item should be removed from the Consent Agenda and considered separately.

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

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**PUBLIC COMMENT / AUDIENCE PARTICIPATION**

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None.

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**REPORTS BY OFFICIALS AND STAFF**

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Wells reported that Police Chief Keith Kuretich had recently announced his retirement from the city, to be effective Sept. 6, 2013. Wells praised Kuretich for his long and dedicated service to the city, and noted that FMPD Lt. Darin Sagel would be serving as interim chief.

Wells also announced that the city gas department had recently received a national award for safety.

Water Resources/Utilities Director Brent Nation reviewed an incident several weeks earlier in which a failure in a city storm sewer line had caused the line to drain the water from an agricultural irrigation ditch. Nation praised the cooperation of the various agencies involved including the ditch company and city staff, and especially praised the work of Ransom Boone Excavating and Jim Boone for their rapid response and their willingness and ability to fix the problem quickly and on short notice.

Kuretich then thanked the council and the city staff for the opportunity to serve with the police department for nearly 30 years, and for the support he had received from staff and elected officials over the years.

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## **BIDS, MEETINGS AND ANNOUNCEMENTS**

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Brennan announced current bids and upcoming meetings and city events.

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## **EXECUTIVE SESSION**

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The regular portion of the meeting concluded at 9:45 p.m., and Mayor McAlister said the council would move to a scheduled executive session. Councilmember Northrup made a motion to convene this executive session, which was seconded by Councilmember Castoe and approved unanimously.

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.

The session began at 9:55 p.m. and concluded at 10:15 p.m., and was attended by the mayor and four council members (Forstedt and Shaver absent) along with City Manager Wells, Water Resources/Utilities Director Brent Nation and Assistant City Attorney Jason Meyers.

At the conclusion of the executive session, the council returned to the regular meeting, where Northrup reported that the council had met in executive session for the reason stated on the agenda, and had received an update on WAPA replacement power. No motion was made.

Mayor McAlister adjourned the Aug. 20, 2013 meeting at 10:16 p.m.

*/s/ Terry L. McAlister*  
Mayor

*/s/ John J. Brennan*  
City Clerk