

September 2, 2014

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 Christine Castoe  
Councilmember Kevin Lindell  
Councilmember Lisa Northrup  
Councilmember Joe Segura Jr.  
Councilmember Ronald Shaver

Absent: Councilmember Damon Mussman (excused)

The meeting was also attended by City Manager Jeff Wells, Police Chief Darin Sagel, Engineering/Public Works Director Brad Curtis, Water Resources/Utilities Director Brent Nation, Human Resources/Risk Management Director Michael Boyer, Community Services Director Josh Miller, Municipal Court Administrator Amanda Dunn, Recreation Superintendent Jay Cochran, Assistant City Attorney Jason Meyers and City Clerk/PIO John Brennan.

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#### **APPROVAL OF MINUTES - AUGUST 19, 2014 CITY COUNCIL REGULAR MEETING**

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Councilmember Lisa Northrup offered a resolution to approve the minutes as presented, which was seconded by Councilmember Ron Shaver and approved on a unanimous vote of 6-0, with Councilmember Damon Mussman absent.

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#### **RECOGNITION OF AMANDA DUNN AS CITY EMPLOYEE OF THE QUARTER**

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City Clerk/PIO John Brennan commended the work Dunn had accomplished since moving from the city attorney's office to supervise the municipal court, and the many positive changes she had made that resulted in improved operation of the court. Brennan said a personal gift ordered for Dunn had not yet arrived, but City Manager Jeff Wells presented her with a certificate of appreciation, a framed photograph like the one hung in the City Hall lobby and a \$100 gift card.

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#### **MORGAN COUNTY ECONOMIC DEVELOPMENT CORP. UPDATE**

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Wells introduced Kari Linker, executive director of the Morgan County Economic Development Corp., who provided the council with an update on her office's recent activities.

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#### **RE-APPOINTMENT TO THE HISTORIC PRESERVATION BOARD**

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Councilmember Joe Segura said an application had been received from Vicki Foy for re-appointment to the city's Historic Preservation Board and the board had agreed to recommend Foy's re-appointment. Segura offered a motion to re-appoint Vicki Foy to another term on the Historic Preservation Board, which was seconded by Northrup and approved unanimously (6-0, Mussman absent).

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**APPOINTMENT TO THE PLANNING COMMISSION**

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Engineering/Public Works Director Brad Curtis said the Planning Commission had two vacancies and had received an application from Larry Overton. The commission had agreed at its last meeting to recommend that the council accept the application and appoint Overton to the panel. Shaver made a motion to appoint Larry Overton to the Planning Commission, which was seconded by Castoe and approved unanimously (6-0, Mussman absent).

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**COUNCIL ACTING AS THE LOCAL LICENSING AUTHORITY – APPLICATION FOR RENEWAL OF A TAVERN LIQUOR LICENSE FOR THE CLUB TAP**

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Before this agenda item began Councilmember Castoe announced she would recuse herself because of a conflict of interest arising from her ownership in the establishment, and left the room.

City Clerk John Brennan said this renewal application was being brought to the council because of a violation found by the state Liquor Enforcement Division for serving a visibly intoxicated person, which resulted in a Stipulation, Agreement and Order between the state and the licensee. That agreement and the licensee's response to it were included in the council's meeting packets, Brennan said, and after review by the city clerk, city attorney and police department staff was recommending approval of the application.

Club Tap owner Ryan Stroh told the council he understood that the council took liquor license violations very seriously, and pointed to his history of cooperation with the city in addressing issues and correcting problems. Some discussion followed about the most recent violation and the licensee's history and relationship with the police department. Northrup offered a resolution to approve the renewal application for a Tavern Liquor License (Malt, Vinous and Spirituous Liquors) for the Club Tap at 212 Main St., which was seconded by Shaver and approved on a unanimous vote of 5-0, with Mussman absent and Castoe having stepped down.

Castoe then returned to the meeting.

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**COUNCIL ACTING AS THE BOARD OF ADJUSTMENT – PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT FOR A DAY CARE FACILITY IN AN AREA ZONED R-1**

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McAlister outlined the format to be followed during the public hearing, and Brennan confirmed that proper legal notice of the hearing had been published. Curtis reviewed the application and the criteria for considering such a request, and said staff was recommending approval with conditions that the applicant follow state statutes and the municipal code regarding the number of children and other requirements for day care operations.

Curtis noted that the packet materials for this item included comments from other property owners in the neighborhood. He said the Planning Commission had considered this matter at its last meeting and failed to agree on a recommendation to the council. A Planning Commission motion to approve the request died for lack of a second and another motion against approval ended in a 2-2 tie vote, he said.

Applicant Mandy Hardy and her husband, Corey Hardy, of 819 Wilson Ave. described their plans for the small home day care facility, stating that there was a need for more day care options in the community and that they believed the impacts on the neighborhood would be minimal.

In the public comment segment of the hearing, Britteney Wilson of Fort Morgan stated that she was a mother of two children who was looking for day care and that she couldn't think of a

better person than Mandy Hardy to operate a day care center. Wilson said she would like to hire Hardy to take care of her kids and hoped the council would approve the application.

Esther Reichert of 825 Wilson, next door to the proposed day care, told the council that she had lived in her home for 45 years. She said she had nothing against children but liked the quiet neighborhood where many retired people live and wanted to keep it that way. She said she had researched day care centers in the area and found a number within a few blocks of the one proposed for Wilson Avenue, and had heard that residents near those centers complained about traffic.

Edwin Reichert of 825 Wilson noted that the neighborhood of Wilson Avenue was zoned R-1, where a special use permit was required to operate a home day care, and questioned why the Hardys had purchased a home in that zoning area when it was surrounded by R-2 zoning, where a day care facility was a permitted use by right.

Alice Norton of Fort Morgan said she also lived in the neighborhood and agreed that no businesses should be allowed in the area because of the R-1 zoning.

Debra Forstedt of 905 Wilson said if the special use permit were allowed the impacts of a business would be present in the residential neighborhood, many of which the operators would be unable to control. Forstedt said she had experienced living near a day care center and things like traffic and noise were issues. She said the R-1 zoning meant the area should be strictly residential and she thought it needed to stay that way.

The council members then discussed issues such as the need for day care, why the zoning on Wilson was different than the surrounding area and whether the Hardys knew or understood the zoning issues when they purchased the property. Several council members expressed that the issue was a dilemma and they could see both sides of the situation.

Shaver made a motion to close the public hearing, which was seconded by Councilmember Kevin Lindell and approved unanimously (6-0, Mussman absent).

Wells then advised the council about its options for action, which included approving the application, denying it or approving it with conditions. Wells pointed out that, unlike a variance request, a special use permit is personal to the applicant, so if this permit were approved and the property was later sold, the permit would not carry over to the new owner.

Northrup offered a resolution to approve the special use permit for a day care in an R-1 zone. No second was made so the resolution died for lack of a second. Wells explained that this result meant that the application for the special use permit was denied for lack of action on a resolution to approve it.

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### **RESOLUTION REVISING THE BYLAWS OF THE HISTORIC PRESERVATION BOARD AND THE HISTORIC DESIGNATION CRITERIA**

Community Development Director Josh Miller explained that the Historic Preservation Board had noted that some changes were needed in the board's bylaws, which contained obsolete references to the Director of Community Development, a position that no longer existed in the city organizational structure. Miller said those references would be changed to indicate that the corresponding responsibilities would belong to the city manager or his designee.

The board had also reviewed the criteria for designating a property as historic and found some of the requirements to be excessive, such as the need for a formal public hearing and the corresponding public notices, mailings and other required actions, Miller said. He said the designation criteria would be revised to require only a public meeting, and also noted that any change to a property designated as historic would have to comply with city codes, and a public hearing could possibly be required at that time.

Shaver offered a resolution to approve the Resolution amending the bylaws for the Historic Preservation Board of the City of Fort Morgan, which was seconded by Castoe and approved unanimously (6-0, Mussman absent).

## **BIDS FOR DIGITAL COLOR MULTIFUNCTIONAL PHOTOCOPIERS FOR VARIOUS CITY DEPARTMENTS**

Brennan reviewed the bid process for this item, which was intended to obtain lease pricing for photocopiers for six city facilities. The purpose was to provide uniform equipment across all of these buildings, and significant staff input had been received throughout the process which indicated that reliability, dependability and fast, effective service were the things most desired by staffers. Brennan noted that the city had experience with the one local company that bid and that was also taken into consideration.

After much analysis of the bids, Brennan said staff was recommending acceptance of the bid from Konica-Minolta Business Solutions USA Inc. of Fort Collins.

Wells noted that Dan Haack, owner of Great Copier Service of Fort Morgan, the local bidder, was present and wanted to speak to the council. Wells said he had spoken with Haack the preceding week and expressed the city's concerns with past service by the company, and Haack wanted to address those before the council made its decision.

Haack noted that Great Copier had been located in Fort Morgan since 1991, and described some of the challenges of a small business in a rural area, including covering a large geographical area and finding and retaining employees who are technically adept. He acknowledged some stumbles in the past due to these challenges, and also noted that the copiers the city currently had from Great Copier were quite old and obsolete, making servicing of the machines and obtaining parts difficult. Haack admitted some instances of poor service and improper handling of problems in some cases with the city in the past, and explained how he had worked to correct those issues. He emphasized that he was a local business and wanted to the opportunity to work with the city as partners and not adversaries.

Discussion followed among the council, staff and Haack regarding past service issues and expectations.

Lindell then offered a resolution to accept the bid from and direct staff to negotiate a lease agreement with Great Copier Service of Fort Morgan and authorize the mayor to sign the resulting agreement. That resolution was seconded by Castoe and approved unanimously (6-0, Mussman absent).

## **RESOLUTION AUTHORIZING THE MAYOR TO SIGN A CONTRACT FOR THE SALE OF PROPERTY**

Wells said this item pertained to the sale of the last three lots in the city's industrial park as well as the approximately 28-acre property known as the Williams Farm. If approved the city staff would enter into a contract with the buyer and close on the sale of the property as soon as possible. Shaver offered a resolution to approve the Resolution authorizing the mayor to sign a contract for the sale of property in the industrial park area, which was seconded by Northrup and approved unanimously (6-0, Mussman absent).

## **FIRST READING OF AN ORDINANCE ESTABLISHING B-2 ZONING FOR THE FORT MORGAN FARMS II ANNEXATION**

Curtis explained that this ordinance would establish the zoning for this property, which was annexed in May 2014, to B-2: General Business. Northrup offered a resolution to approve the first reading of an Ordinance establishing the zoning for the Fort Morgan Farms II Annexation and schedule a public hearing on the ordinance for the Sept. 16 council meeting. That resolution was seconded by Castoe and approved unanimously (6-0, Mussman absent).

The mayor then called for a brief recess at 8:14 p.m., and the meeting resumed at 8:27 p.m.

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**2015 BUDGET CALENDAR – CONTINUATION OF PRESENTATIONS OF THE 2015 BUDGETS FOR GENERAL FUND DEPARTMENTS**

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City staff members reviewed the proposed 2015 budgets for their General Fund departments, including Brennan (City Clerk), Police Chief Darin Sagel (Police Department, Police Forfeiture Fund), Curtis (Airport, Building Inspections/Community Development), Dunn (Municipal Court), Recreation Superintendent Jay Cochran (Recreation/Senior Center) and Miller (Community Services). The staff highlighted any significant changes in the budgets from the prior year and answered council questions, and no formal action was taken.

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**REVIEW OF SCHEDULE OF FEES**

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Wells outlined a few additional changes made to the proposed schedule of fees since it was first presented to the council earlier in the year, and noted that the schedule of fees would be approved by resolution at the time the 2015 budget was adopted. No action was taken.

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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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Nation reported that a substantial amount of ammonia had been discovered in the city's sewer system recently, and the city was still investigating the incident to try and determine the source of the contamination. He asked residents to alert police if they saw anyone dumping anything into a manhole.

Curtis updated the council on some changes to the schedules for several infrastructure projects including the Ensign Street resurfacing and the South Sherman Street storm drainage project. Wells reported on several upcoming events including the 40<sup>th</sup> anniversary of the DJ Basin golf tournament and a planned appreciation outing for representatives of the oil and gas industry.

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**BIDS, MEETINGS AND ANNOUNCEMENTS**

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Brennan reviewed current bids and upcoming meetings, and announced that he had published notice of the Nov. 4 election in which the city would propose a 2 percent lodging tax. He said the City Clerk's Office would be accepting comments in support of and opposition to the measure, from residents eligible to vote on the ballot issue, until Sept. 19.

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**EXECUTIVE SESSION**

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The regular portion of the meeting ended at 9:07 p.m., and Mayor McAlister said the next item on the agenda was a scheduled executive session. Shaver made a motion to proceed to the executive session, which was seconded by Castoe and approved unanimously (6-0, Mussman absent). 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: Western replacement power update.

The executive session began at 9:16 p.m. and concluded at 9:41 p.m. and was attended by the mayor and five council members (Mussman absent) along with Wells, Nation and Assistant City Attorney Jason Meyers. At the conclusion of the executive session the council returned to the open regular meeting, where Castoe reported that the council had met in executive session for the purpose stated on the agenda, and the council offered no further direction at this time.

Mayor McAlister adjourned the Sept. 2, 2014 regular meeting at 9:42 p.m.

/s/ Terry McAlister  
Mayor

/s/ John Brennan  
City Clerk