

December 15, 2015

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 Clint Anderson
Councilmember Christine Castoe
Councilmember Kevin Lindell
Councilmember Lisa Northrup

Absent: Councilmember Joe Segura Jr. (excused)
Councilmember Ron Shaver (excused)

The meeting was also attended by City Manager Jeff Wells, Police Chief Darin Sagel, Community Services Director Josh Miller, Human Resources/Risk Management Director Michael Boyer, Water Resources/Utilities Director Brent Nation, City Attorney Jason Meyers and City Clerk/PIO John Brennan.

COUNCIL ACTING AS THE BOARD OF THE ELECTRIC DEPARTMENT AND SYSTEM ENTERPRISE OF THE CITY OF FORT MORGAN, COLORADO – RESOLUTION DECREASING ELECTRIC RATES

Water Resources/Utilities Director Brent Nation said city staff had been working hard for the past several years through the Municipal Energy Agency of Nebraska, one of its power suppliers, to restructure the way wholesale electric rates were set. The results of those efforts as well as the fact that the city had resolved its under-recovery in electric system costs made it possible to bring forward this Resolution to decrease electric rates to consumers.

Nation said the reduced rates would be effective Jan. 1, 2016 and would mean a savings to the average residential customer of about \$7.50 a month or about \$90 a year.

City Manager Jeff Wells explained that the city's participation in MEAN was effective in getting the overhaul of rates accomplished, and said he believed the new method of calculating rates would offer long-term stability in rates and be a model for the way the industry was moving. He said the change was likely to result in between \$2 million and \$3 million in savings for city ratepayers over the next two years.

Councilmember Lisa Northrup offered a resolution to approve the Resolution adjusting the electric rates for the Electric Department and System Enterprise of the City of Fort Morgan, which was seconded by Councilmember Christine Castoe and approved on a unanimous vote of 5-0, with Councilmembers Joe Segura Jr. and Ron Shaver absent.

PRESENTATION ON ADDITIONAL AUDIT REQUIREMENTS AND COSTS

Wells said the city would need to pay for additional auditing services under new rules of the Governmental Accounting Standards Board, which require separate single audits of unfunded liabilities like pension funds. The city has four of these for police and fire personnel as well as the Colorado Public Employees Retirement Association, he said, Wells noted that representatives of the city's auditing firm were scheduled to be present at this meeting but had

been unable to make the trip because of the snowstorm that day. He said they would come to a future meeting to further explain this, and no action was taken.

ORDINANCE RENEWING THE CABLE FRANCHISE

Mayor Terry McAlister said representatives of Charter Communications, the cable franchise holder, were also unable to come to this meeting because of the snowstorm, so this item would be moved to a later council meeting agenda.

UPDATE ON COMPREHENSIVE PLAN

Mayor McAlister said this item would also be moved to a future agenda because representatives of the consulting firm working on the Comprehensive Plan were unable to attend due to weather conditions.

DISCUSSION REGARDING THE DAHMS-TALTON BAND SHELL

Wells said the Band Shell Steering Committee had requested to come and speak to the council. Kerry Hart spoke to the council and said he represented the committee and the donors who had contributed to the fundraising campaign to construct the band shell. Hart said the committee was proud of the accomplishment and of the mayor and council when the band shell was dedicated in May 2014, but was at the meeting to express concern about the current state of the band shell. He reviewed a packet of information the committee had submitted for the council's meeting packets, and said the construction and maintenance of the band shell did not meet the group's expectations and their efforts to get the city to correct the problems had been unsuccessful. Hart said the steering committee was requesting an addendum to the original Memorandum of Understanding between the committee and the city or a new MOU to ensure that what the group saw as problems with the facility were fixed and funding set aside for ongoing maintenance.

Wells said he disagreed with some the characterizations made by Hart about the events and communication throughout the process but did not feel this meeting was an appropriate forum for debating those issues. He said he could address what the city had done and had not done, and reviewed the list of shortcomings submitted by the committee and the city's efforts to correct them. He said if the committee had any other issues with the band shell he would like to hear them, and noted that the city had received many very positive comments about the facility from performers and visitors as well as inquiries from other communities about how the city had accomplished this fine community project.

Community Services Director Josh Miller reviewed the city's efforts to correct the shortcomings in the design and construction of the band shell, and the procedures and practices being undertaken for ongoing maintenance.

Wells reviewed some of the difficulties the city had encountered with the project, including a lack of bidders when the project was first put out for bid and the fact that the general contractor had essentially walked away from the project, leaving the city to try to find qualified contractors to complete elements of the project, which turned out to be scarce in the region. He noted that the city staff and council had discussed possible recourse for the contractor issues and decided that litigation was not the best course for resolving the issues.

City Attorney Jason Meyers clarified the difference between an incomplete project and ongoing maintenance or warranty issues, and Miller explained that some of the required repairs would need a lengthy window of warm weather which was not likely before the following spring.

Hart reiterated that the committee's request was either a new MOU or an addendum to the original MOU addressing maintenance, to give the committee leverage that there would be a

budget and assurance that maintenance would be done. Meyers pointed out that as the current MOU reads, funding for maintenance was subject to council appropriation, and any such MOU that set a specific dollar amount for maintenance could run afoul of requirements under the state's Taxpayer Bill of Rights.

Mayor McAlister said he felt confident the city staff would do its best to maintain the band shell, and he believed Wells and Miller were trying to address the committee's issues. He said the current council could not bind future councils to a dollar amount for maintenance. McAlister also said that despite Hart's implication that the facility was in shambles, the mayor had received several reports of people who had performed at the band shell the previous summer and said it was a beautiful facility and the best facility they had performed in.

Alan Dahms then addressed the council, saying he was one of the donors to the band shell fundraising campaign and shared the committee's frustration. He said the group had been trying to work with the city on these issues for two years and sometimes received no response, which he said was not a respectful way to treat people who were trying to do something good for the community. Dahms said he didn't understand why the city had not required a performance bond by the construction contractor or signed off on the completion of the band shell considering its condition.

McAlister said he knew that Wells had responded to the committee's concerns and that everyone should forget about what could have been done or should have been done and move forward and get the issues resolved.

Wells said he had great respect for the committee and its work, and apologized for not rising to the level of customer service the group deserved. He said city staff would continue to work on the list of repairs and maintenance and bring those issues back to the council as part of the budget process. No action was taken.

RESOLUTION AUTHORIZING THE CITY ATTORNEY TO MOVE FORWARD WITH THE JOINT PETITION TO DISSOLVE THE LEGION FIELD TRUST

Meyers said the Legion Field baseball facility was owned and maintained under a 1920 trust agreement between the local American Legion post and the city, and the Legion board had decided it could no longer maintain the facility and had turned over responsibility to the city. He said this petition would dissolve that trust agreement and the city would take over ownership of the field and maintain it as a public park.

Meyers explained that the city still needed to work out an issue with Morgan County for an easement allowing access to the county's emergency operations building on the same property, but would like council authorization to move forward with the dissolution petition as that issue was resolved.

Northrup offered a resolution to approve the Resolution authorizing the City Attorney to file a Joint Petition to dissolve the 1920 Trust Agreement with American Legion and Morgan County, pending the resolution of the easement issue with the county. That resolution was seconded by Castoe and approved unanimously (5-0, Segura and Shaver absent).

RESOLUTION CONCERNING THE ESTABLISHMENT AND OPERATION OF AN INTERIM BANK ACCOUNT

Wells said this item had been discussed with the council previously and was being brought forward for formal approval. The new account was needed because the city was changing administrators for its health care coverage and the account needed to be opened by Jan. 1.

Castoe offered a resolution to approve the Resolution concerning the establishment and operation of an interim bank account, which was seconded by Northrup and approved unanimously (5-0, Segura and Shaver absent).

BIDS FOR REPAIR OF HAIL-DAMAGED VEHICLES

Human Resources/Risk Management Director Michael Boyer explained the bidding process for these repairs made necessary by damage incurred during a hailstorm in August. He said the city would be responsible for its deductible of \$25,000, and further repairs to building roofs would be brought to the council later and would also be covered under the same deductible payment.

Castoe offered a resolution to allow Fort Morgan Auto Body to make the repairs to the city vehicles with the city's cost to be the \$25,000 deductible. That resolution was seconded by Northrup and approved unanimously (5-0, Segura and Shaver absent).

PRESENTATION ON IMPLEMENTATION OF BACKFLOW REQUIREMENTS

Nation explained that the city would need to implement practices to comply with a new state regulation regarding cross connections and backflow prevention devices for non-residential customers of its water system. He said the city was working on a plan which would need to be in place in January to comply, and would involve surveying commercial customer properties and ensuring that the required measures were in place to prevent contamination of the city water system. Full compliance would be phased over five years and Nation said the city would be determining the amount of staff time and work required and make the necessary budget adjustments to achieve compliance in that time.

Council and staff discussion followed about the requirements and potential ways to achieve compliance, and also the possibility of having city staff perform the annual inspections for a fee that would cover the costs. Wells said this information was brought forward to bring the new regulation to the council's attention, and the city would continue working on its plan. No action was taken.

RESOLUTION ADOPTING THE 2016 SCHEDULE OF FEES

Wells said this adoption of the citywide fee schedule was normally done at the time of adoption of the budget but due to an oversight was being brought to the council now. He said the only changes to the current fee schedule involved laboratory fees at the Wastewater Treatment Plant.

Northrup offered a resolution to approve the Resolution adopting the 2016 Schedule of Fees, which was seconded by Councilmember Kevin Lindell and approved unanimously (5-0, Segura and Shaver absent).

CONSENT AGENDA BY RESOLUTION

City Clerk/PIO John Brennan presented the Consent Agenda for Council consideration as follows:

CONSENT AGENDA

- A. Approval of the disbursements and payroll for November
- B. Approval of the minutes of the Dec. 1, 2015 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.

Castoe offered a resolution to approve the Consent Agenda as presented, which was seconded by Lindell and approved unanimously (5-0, Segura and Shaver absent).

PUBLIC COMMENT / AUDIENCE PARTICIPATION

Jerry Wathen of 110 Linda St. spoke about possible legislative and election issues in 2016 and wished everyone a Merry Christmas and Happy New Year.

REPORTS BY OFFICIALS AND STAFF

Wells thanked all of the city staff who worked hard on storm response and snow removal over the last 24 hours. Boyer announced that the city would receive rebates and savings totaling about \$85,000 in 2016 because of improved workers' compensation claim numbers, and thanked the council for its support of the city's safety initiative over the past couple of years.

BIDS, MEETINGS AND ANNOUNCEMENTS

Brennan announced current bids and upcoming meetings.

EXECUTIVE SESSION

The regular portion of the meeting ended at 7:40 p.m., and Mayor McAlister announced that the next item on the agenda was a scheduled executive session. Councilmember Lindell made a motion to convene this executive session, which was seconded by Councilmember Castoe and approved on a unanimous vote of 5-0, with Councilmembers Segura and Shaver 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: Water purchase.

The executive session began at 7:48 p.m. and concluded at 7:56 p.m., and was attended by the mayor and four council members (Segura and Shaver absent) along with City Manager Jeff Wells, City Attorney Jason Meyers and Water Resources/Utilities Director Brent Nation. At the conclusion of the executive session the council returned to the regular open meeting, where Castoe reported that the council had met in executive session for the purpose stated on the agenda. Castoe made a motion to instruct staff to move forward with negotiations as discussed in executive session. That motion was seconded by Lindell and approved unanimously (5-0, Segura and Shaver absent).

Mayor McAlister adjourned the Dec. 15, 2015 regular meeting at 7:58 p.m.

/s/ Terry McAlister
Mayor

/s/ John Brennan
City Clerk