

August 25, 2009

The City Council of the City of Fort Morgan, Colorado, met this day in the Council Chambers of City Hall. The Honorable Mayor Jack L. Darnell called the special meeting to order at 7:00 p.m.

The Pledge of Allegiance was given.

Roll Call: Present: Honorable Mayor Jack L. Darnell
Councilmember Sharol Lyn Deal
Councilmember Debra J. Forstedt
Councilmember Terry McAlister
Councilmember James A. Powers
Councilmember Ron Shaver
Councilmember Alberta M. Simmons

The meeting was also attended by City Manager Pat Merrill, City Attorney Jeffrey Wells, Police Chief Keith Kuretich, Director of Water Resources/Wastewater Treatment Gary Dreessen, Municipal Engineer Brad Curtis, Director of Human Resources & Risk Management Jody Prentice, Community Services Director Don Shedd, Community Development Director David Callahan, Treasurer Terri Schafer and City Clerk Andrea Strand.

PRESENTATION OF THE QUIET ZONE FINAL REPORT

Chief Kuretich provided a summary of the final report that he received. A representative from SEH was scheduled to present the final report at this meeting, but he was unable to attend. They could be available at a September Council meeting to provide a presentation. Chief Kuretich proposed taking questions from Council; he said he would then convey those questions to the representative from SEH. Chief Kuretich added that Morgan County provided a letter of support for the project and funding may be available to complete the project. SEH could provide the details when they are present.

Attorney Wells asked about the liability the City would incur if the Quiet Zones were implemented. Other questions asked were about the cost of maintaining the property and the risk factors. Mayor Darnell stated that the presentation date would be discussed at the upcoming agenda planning meeting with the Mayor and Staff.

SECOND AND FINAL READING OF ORDINANCE NO. 1087, AS AMENDED, ENTITLED, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FORT MORGAN, COLORADO, SUBMITTING A BALLOT QUESTION TO THE ELECTORS OF THE CITY AUTHORIZING THE CITY TO ENGAGE IN SERVICES RELATED TO PROVIDING TELECOMMUNICATIONS, CABLE AND ADVANCED SERVICES THROUGH THE CITY'S FIBER NETWORK ENTERPRISE, AS PROVIDED UNDER C.R.S SECTION 29-27-101, ET SEQ.," AND DETERMINE PUBLISHING REQUIREMENTS

Attorney Wells presented for Council consideration on second and final reading an Ordinance entitled, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FORT MORGAN, COLORADO, SUBMITTING A BALLOT QUESTION TO THE ELECTORS OF THE CITY AUTHORIZING THE CITY TO ENGAGE IN SERVICES RELATED TO PROVIDING TELECOMMUNICATIONS, CABLE AND ADVANCED SERVICES THROUGH THE CITY'S FIBER NETWORK ENTERPRISE, AS PROVIDED UNDER C.R.S SECTION 29-27-101, ET

SEQ,” noting for the record that this Ordinance would need to be amended from the first reading. The title was changed and the date of the election would need to be changed from November 10, 2009, to November 3, 2009. Also, the portion of the Ordinance which reflects the ballot question would need to be amended to reflect the same wording as the title. Clerk Strand also indicated that Council would need to determine whether the amended Ordinance, as presented, should be published in full or by title only with the portions of the amended paragraphs published.

Councilmember Simmons offered the following Resolution and moved for its adoption. Her motion was seconded by Councilmember Powers; said Resolution being in words, letters and figures as follows, to-wit:

RESOLUTION

WHEREAS, an Ordinance entitled above was duly and legally presented to the City Council of Fort Morgan, Colorado, at a special meeting held on the 11th day of August, 2009, and was duly read at length at the time; and

WHEREAS, the City Council at said meeting, by Resolution, ordered the publication of said Ordinance to be made in *The Fort Morgan Times*, a daily newspaper of general circulation, published and printed in the City of Fort Morgan, Colorado, not less than ten days before further consideration; and

WHEREAS, said Ordinance was again read to the Council and was designed Ordinance No. 1087, being in words, letters and figures as follows, to wit:

ORDINANCE NO. 1087

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF FORT MORGAN, COLORADO, SUBMITTING A
BALLOT QUESTION TO THE ELECTORS OF THE CITY AUTHORIZING THE CITY TO
ENGAGE IN SERVICES RELATED TO PROVIDING TELECOMMUNICATIONS, CABLE AND
ADVANCED SERVICES THROUGH THE CITY'S FIBER NETWORK ENTERPRISE AS
PROVIDED UNDER
C.R.S SECTION 29-27-101 ETSEQ.**

WHEREAS, the City of Fort Morgan City Council finds that it is in the best interests of the City to provide and/or facilitate high speed internet, cable television and telecommunication services through its dark or unused fiber; and,

WHEREAS, the Council has determined that by offering and/or facilitating these services, the City could fully realize the potential of the infrastructure previously installed to provide and/or facilitate these advanced services; and,

WHEREAS, C.R.S. § 29-27-201(2), requires that prior to the City expanding the City's current services, a question must be referred to the electors of the City of Fort Morgan; and,

WHEREAS, to become effective under this statute, a ballot question must be approved by a majority vote of the qualified electors voting in the election; and,

WHEREAS, pursuant to Article VIII, Sec. 21 of the *Charter* provides that the City Council can refer an Ordinance to the qualified electors of the City of Fort Morgan.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF FORT MORGAN, COLORADO:

Section 1: Pursuant to the *Charter of the City of Fort Morgan (2008)*, and the Constitution of the State of Colorado, the City proposes to provide directly or indirectly cable, telecommunications and advanced services within the City of Fort Morgan. This proposal shall hereby be submitted to the electors of the City, shall become effective if, and only if, it is approved by the majority of the voters at the general election to be held November 3, 2009.

Section 2. That the following ballot language is hereby adopted for submitting Proposed Establishment of a Fiber Network Enterprise to the voters at said election:

PROPOSED BALLOT QUESTION REGARDING AUTHORIZING THE CITY TO ENGAGE IN SERVICES RELATED TO PROVIDING TELECOMMUNICATIONS, CABLE AND ADVANCED SERVICES THROUGH THE CITY'S FIBER NETWORK ENTERPRISE AS PROVIDED UNDER C.R.S. SECTION 29-27-101 ETSEQ.	
Shall the City of Fort Morgan, Colorado be authorized to directly, indirectly, by contract or through the sale or purchase in resale or wholesale form, through a sale or leaseback arrangement provide cable television, telecommunications and advanced services to subscribers within the corporate limits of the City and in unincorporated Morgan County effective December 1, 2009?	YES _____ NO _____

Section 3. It is the intent of this ordinance to comply with the requirements set forth in C.R.S. § 29-27-101 et seq., and any specific definitions of terms set forth in that statute shall apply to those terms in this ordinance.

INTRODUCED AND PASSED UPON FIRST READING this 11th day of August, 2009, for publication once in a newspaper of the City of Fort Morgan, Colorado, at least ten days before its final passage.

THE CITY COUNCIL OF THE CITY OF
FORT MORGAN, COLORADO

[SEAL]

BY: /s/ Jack L. Darnell
Mayor

ATTESTED:

/s/ Andrea J. Strand
City Clerk

FINALLY PASSED, ADOPTED AND APPROVED this 25th day of August, 2009, for publication by title only as amended, once in the newspaper of the City of Fort Morgan, Colorado, within five days of the final passage, to take effect five days after final publication.

THE CITY COUNCIL OF THE CITY OF
FORT MORGAN, COLORADO

[SEAL]

BY: /s/ Jack L. Darnell
Mayor

ATTESTED:

/s/ Andrea J. Strand
City Clerk

STATE OF COLORADO)
COUNTY OF MORGAN) **CERTIFICATE**
CITY OF FORT MORGAN)

I, Andrea Strand, the duly appointed, qualified and acting Clerk of the City of Fort Morgan, Colorado, do hereby certify and attest that the foregoing Ordinance No 1087 was, as a proposed Ordinance, duly and legally presented to the City Council of the City of Fort Morgan, Colorado, at a Special Meeting on the 11th day of August, 2009. Said Ordinance, as proposed, was duly read at length at said regular meeting, and thereafter the same was, on the 14th day of August, 2009, published in the *Fort Morgan Times*, a daily newspaper of general circulation published and printed in the City of Fort Morgan, Morgan County, Colorado. Said proposed Ordinance was again taken up and read a second time, as amended, duly and legally passed, approved and adopted at a Special Meeting of the City Council held on the 25th day of August, 2009. Within five (5) days after its final passage, said Ordinance was published in the *Fort Morgan Times*, a daily newspaper of general circulation published and printed in the City of Fort Morgan, Morgan County, Colorado.

/s/ Andrea J. Strand
City Clerk

The vote upon roll call being as follows: Ayes: Mayor Darnell; Councilmembers Deal, Forstedt, McAlister, Powers, Shaver and Simmons.

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE THE DEEDS OF PERPETUAL EASEMENT AND THE LICENSE AGREEMENT BETWEEN THE CITY OF FORT MORGAN AND KNUTSON FARMS, LLC

Attorney Wells presented four separate documents which require execution by the Mayor. This would allow the existence of the City's electrical structure and storm water sewer, as well as the license for the road that circles Gateway Park. Manager Merrill provided the history of the transactions and mentioned that it was necessary to clean-up past actions. He stated that the utilities were placed on property without proper easements and he also thanked the owner of the property, Jim Knutson.

Councilmember Powers asked if the City was currently operating an alley without consent. Staff stated that we would need to shift the alley to the east of the present alley. A second survey was conducted to confirm this.

Councilmember McAlister offered the following Resolution and moved for its adoption. His motion was seconded by Councilmember Forstedt; said Resolution being in words, letters and figures as follows, to-wit:

RESOLUTION NO. 09 08 06

**AUTHORIZING THE MAYOR TO EXECUTE THE
DEEDS OF PERPETUAL EASEMENT AND THE LICENSE AGREEMENT
BETWEEN THE CITY OF FORT MORGAN AND KNUTSON FARMS, LLC.**

WHEREAS, the Electric Superintendent has determined it is necessary to seek entry to the property known as Knutson Farms, LLC to maintain and operate utilities of the City; and,

WHEREAS, the Office of the City Attorney has requested that this be accomplished through three (3) Deeds of Perpetual Easement to include Electric Transformers, Storm Sewers, and Aerial and Underground Utilities, that currently lie over and under Knutson Farms, LLC; and,

WHEREAS, in addition to the Deeds, the City seeks a License Agreement providing license to use and improve the road located in Gateway Park, and more particularly set forth in the legal description as recorded in Book 954 at Page 730, of the Records of the Morgan County Clerk and Records Office; and,

WHEREAS, the parties have outlined the terms and conditions of these easements in the Deed of Perpetual Easement (Electric Transformers), Deed of Perpetual Easement (Underground Utility-Storm Sewer), Deed of Perpetual Easement (Aerial and Underground Utility), and License Agreement in the forms attached hereto and incorporated herein by this reference.

WHEREAS, City Staff has recommended that the execution of all conveyances set forth above is in the best interest of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT MORGAN, COLORADO:

SEC. 1: The Mayor is hereby authorized to execute the Deed of Perpetual Easement (Electric Transformers), Deed of Perpetual Easement (Underground Utility-Storm Sewer), Deed of Perpetual Easement (Aerial and Underground Utility), and License Agreement.

INTRODUCED, PASSED, APPROVED AND ADOPTED this 25th day of August, 2009, the vote upon roll call being as follows:

Ayes: Mayor Darnell; Councilmembers Deal, Forstedt, McAlister, Powers, Shaver and Simmons.

Nays: None.

Absent / Abstain: None.

THE CITY COUNCIL OF THE CITY OF
FORT MORGAN, COLORADO

[SEAL]

BY: /s/ Jack Darnell, Mayor

ATTEST:

/s/ Andrea Strand, City Clerk

STATE OF COLORADO)
COUNTY OF MORGAN) ss. **CERTIFICATE**
CITY OF FORT MORGAN)

I, Andrea Strand, City Clerk of the City of Fort Morgan, Colorado, do hereby certify that the above and foregoing Resolution is a true, perfect and complete copy of the Resolution adopted by the City Council and is identical to the original thereof appearing in the official records of the City of Fort Morgan, Colorado, and that the same has not been, since its adoption, in any respect, rescinded or amended.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the City of Fort Morgan this 26th day of August, 2009.

/s/ Andrea Strand, City Clerk

DISCUSSION CONCERNING DIRECTION TO CITY STAFF TO SEEK RECOMMENDATIONS FROM THE WATER ADVISORY BOARD CONCERNING ALTERNATE OPTIONS TO NORTHERN INTEGRATED SUPPLY PROJECT

Manager Merrill addressed the Council seeking clarification on the Northern Integrated Supply Project. He stated that he wanted to make sure he was carrying out the wishes of the City Council in respect to this project. He will provide Council a copy of the 2007 Rate Study. He was concerned that the City did not implement the recommendations from the 2007 Rate Study. He is also recommending that the City obtain another study in 2010 and incorporate the capital projects into this study.

He also wanted direction on whether Staff should be preparing an alternative plan in the event the permitting does not get approved for the NISP Project.

Councilmember Simmons stated that the Council previously passed an increase to the base water rate which was to go into a fund to use as money towards the NISP project. She asked for an accounting of this fund. Manager Merrill stated that he would provide this.

Discussion also was held concerning the 30,000 units of CBT water left to purchase and wondered if the City should pursue a loan to purchase some of these units. There was also discussion concerning the indebtedness in the Water Fund.

Councilmember Powers wondered why this issue was being addressed tonight as he is aware of the Water Advisory Board working on these issues. Mayor Darnell responded that he would like a report from the Water Advisory Board.

Discussion then turned to the limit of 7,200 units of CBT water that a city could own. Councilmember Powers thought the limit was based on use, and could be revised. We could apply to the Northern Board to increase the amount, because the City of Fort Morgan currently uses 8,000 units of CBT water.

Direction from Council was as follows:

Provide a summary of how many CBT units the City owns and indicate how they are titled.

Provide a summary of the funding source and whether the shares are owned or leased.

Provide a copy of the 2007 McLaughlin Rate Study.

Provide a summary of the fund which reflects money set aside from the increase in the base water rate.

Provide a projected, typical water bill for a Fort Morgan resident under the NISP project or if the City were to purchase more CBT units.

Provide a timeline to Council and discuss these issues with the Water Advisory Board.

BIDS, MEETINGS AND ANNOUNCEMENTS

Clerk Strand announced upcoming bids and meeting.

Treasurer Schafer announced that nonprofit requests to Council were to be received by September 1 and would be presented to Council on September 8. Information is on the City's Channel 17 and on the website; applications are available on the City's website.

Manager Merrill read a letter to Council that he received from Margaret McGraw.

Dear Director,

I would like to commend two city employees who have done a great service for me.

Two days ago a uniformed city employee came to my door at 323 West Street to tell me that I had a serious problem with the chimney on my house. He and his partner showed me where on the high roof of my house a big section of the metal chimney was eaten away and suggested that I ask the company that had installed the furnace to take a look at it. I called Spotts Brothers, who agreed that the chimney was indeed a danger. They asked me how I became aware of the condition, since it seemed very unlikely that I would ever have noticed such an obscure place, and I told them of the kindness and concern of the city employees. They were as impressed as I am with these two men.

I wish I knew the names of the duo, but I don't – in fact, one called me by name (maybe he suffered in my class at FMHS years ago). I hope you can identify them and commend them for their exceptional deed, which may have forestalled some serious outcomes.

He also encouraged citizens to leave their name and phone number when calling the City Manager so that he can return their call. He recently received a call concerning tree trimming, but was unable to return the call. He added that the trees to be placed in the downtown project had been bid in the project at the very beginning.

Director Prentice announced that the City recently received a loss prevention award from CIRSA for 2008. The award was given for outstanding accomplishments in the management of

a successful loss prevention program. The City was recognized for achieving the highest loss control audit score and lowest loss ratio in their respective exposure category in 2008.

Engineer Brad Curtis announced the downtown project would be done next week and streets would be opened as soon possible.

Mayor Darnell adjourned the August 25, 2009, special meeting at 8:20 p.m.

/s/ Jack L. Darnell
Mayor

/s/ Andrea J. Strand
City Clerk