

June 2, 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 regular 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 Terry McAlister
Councilmember James A. Powers
Councilmember Alberta M. Simmons

Excused Absence: Councilmember Ron Shaver

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 and City Clerk Andrea Strand.

PUBLIC HEARING – Consideration of the Final Plat for Underwood Minor Subdivision

Mayor Darnell made opening comments at 7:00 p.m., “Let the record show that the Public Hearing before the City Council for the purpose of hearing written and oral comments from the public concerning the Final Plat for a Minor Subdivision by Matt Underwood, Case ZA-08-14, is convened this 2nd day of June, 2009, during the hour of 7:00 p.m. Any interested party may make a statement or comment, or ask questions before City Council considers and rules on the Minor Subdivision. I would request that any person making such statements or comments identify yourself by signing in and then stating your name and address. Each person’s comments are limited to three minutes. If there is anyone present who wishes to comment regarding the application on the public record, you may come forward now.”

Clerk Strand stated that a Notice of Public Hearing was published in *The Fort Morgan Times* on May 8, 2009, as stated in the Affidavit of Publication.

Director Callahan was prepared to provide information by a PowerPoint presentation, but Councilmembers stated a condensed version would be acceptable. He continued by providing the background and analysis of the request for the minor subdivision. The City of Fort Morgan and Matt Underwood requested a minor subdivision to create three parcels of land: Lot 1 of 0.64 acres, Lot 2 of 0.4 acres and Lot 3 of 0.62 acres. The parcels are located southwest of the intersection of South West Street and the Burlington Northern Railroad, in Section 12, T3N, R56 W; currently zoned as Residential (R-2). This minor subdivision process is being used to create lots of record; currently the land is described by metes and bounds. He explained the lots will be used as: Lot 1 will be retained by the City of Fort Morgan for utility and pedestrian access purposes and Lot 2 will be conveyed from the City to Matthew Underwood and merged with Lot 3 for residential purposes. The Planning Commission reviewed this request on April 27, 2009, and voted unanimously to recommend approval of the minor subdivision.

Clerk Strand stated that her office had not received any written or verbal comments.

Comments by the Council – Councilmember Powers asked about the utility access the City has to this property. Director Callahan commented that the access would be maintained as the lot is still owned by the City.

Councilmember Powers offered a motion to close the Public Hearing. His motion was seconded by Councilmember McAlister and duly carried.

Council Action

City Attorney Wells stated that Council had received the necessary information to determine the approval of the minor subdivision as presented by Staff and addressed in the Resolution.

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

RESOLUTION NO. 09 06 01

APPROVING THE UNDERWOOD MINOR SUBDIVISION PLAT AND AUTHORIZING THE MAYOR TO SIGN THE SUBDIVISION PLAT FOR RECORDING PURPOSES

WHEREAS, the City Council has held a public meeting and provided opportunity for the community to address the proposed property division known as the Underwood Minor Subdivision; and,

WHEREAS, Staff has presented evidence that the property division meets the City's legal requirements and recommends the approval of the subdivision.

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

Sec. 1:The City Council hereby approves the subdivision plat and authorizes the Mayor to sign the same for recording purposes.

INTRODUCED, PASSED, APPROVED AND ADOPTED this 2nd day of June 2009, the vote upon roll call being as follows:

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

Nays: None.

Absent / Abstain: Councilmember Shaver.

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 4th day of June, 2009.

/s/ Andrea Strand, City Clerk

**COUNCIL ACTING AS THE LOCAL LIQUOR LICENSING AUTHORITY
APPROVE THE SPECIAL EVENT PERMIT APPLICATION SUBMITTED BY ELKS LODGE
#1143, 420 STATE STREET, FOR AN EVENT TO BE HELD ON JUNE 27, 2009**

Clerk Strand presented the Application for a Special Events Permit by Fort Morgan Elks Lodge #1143. Chief Kuretich verified the Affidavit of Posting of the Property. There were no objections from the public.

Councilmember Powers moved to approve the Special Events Permit for Fort Morgan Elks Lodge #1143 on June 27 2009, to sell malt, vinous and spirituous Liquor at 430 State Street. His motion was seconded by Councilmember McAlister and duly carried.

**COUNCIL ACTING AS THE LOCAL LIQUOR LICENSING AUTHORITY
PRESENTATION OF A SPECIAL EVENT PERMIT APPLICATION SUBMITTED BY ELKS
LODGE #1143, 420 STATE STREET, FOR AN EVENT TO BE HELD ON JULY 10, 2009, AND
REQUEST TO POST THE PROPERTY**

City Clerk Andrea Strand presented an application for a Special Events Permit requested by Fort Morgan Elks located at 430 State Street to sell Malt, Vinous and Spirituous Liquor on July 10, 2009. She explained a requirement of the permit is to post notice of the event on the property to provide the public an opportunity to object. She also requested it be placed on the June 16, 2009, agenda to hear any objections from the public and to issue the permit. The appropriate fees had been paid for the permit.

Councilmember Powers offered a motion to approve the posting of the property at 430 State Street concerning the application by Fort Morgan Elks for a Special Events Permit to sell Malt, Vinous and Spirituous Liquor on July 10th and schedule to approve the issuance of a Special Events Permit for the next Regular Council Meeting on June 16. His motion was seconded by Councilmember McAlister and duly carried.

**FIRST READING OF AN ORDINANCE ENTITLED, "AN ORDINANCE SUBMITTING TO A
VOTE OF THE REGISTERED ELECTORS OF THE CITY OF FORT MORGAN, THE**

PROPOSED AMENDMENT TO THE *FORT MORGAN MUNICIPAL CODE (1994)*, SEC. 2-2 AND SEC. 2-3, THE SALARIES OF THE MAYOR AND THE MEMBERS OF COUNCIL OF THE CITY OF FORT MORGAN, COLORADO”

Attorney Wells presented for Council consideration on first reading, an ordinance entitled, “An Ordinance Submitting to a Vote of the Registered Electors of the City of Fort Morgan, the Proposed Amendment to the *Fort Morgan Municipal Code (1994)*, Sec. 2-2 and Sec. 2-3, the Salaries of the Mayor and the Members of Council of the City of Fort Morgan, Colorado.” Attorney Wells stated that the Ordinance should reflect a change on page 2 at Sec 2.3 to read Eight Hundred Dollars (\$800) per month.

ORDINANCE NO. _____

AN ORDINANCE SUBMITTING TO A VOTE OF THE REGISTERED ELECTORS OF THE CITY OF FORT MORGAN, THE PROPOSED AMENDMENT TO THE *FORT MORGAN MUNICIPAL CODE (1994)*, SEC. 2-2 AND SEC. 2-3, THE SALARIES OF THE MAYOR AND THE MEMBERS OF COUNCIL OF THE CITY OF FORT MORGAN, COLORADO.

Whereas, the City Council of the City of Fort Morgan, Colorado, adopted and approved **Ordinance No. 548** on final reading on September 6, 1977; and,

Whereas, all members of Council dedicate substantial time in an effort to serve the interests of the City; and,

Whereas, the City Council has now recommended certain revisions to the ordinance pertaining to the salaries of the Mayor and the Council members of the City of Fort Morgan, Colorado.

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

Section 1. That the following proposed changes to Sec. 2-2, of the *Fort Morgan Municipal Code (1994)*, be submitted to the registered electors of the City as “Proposed Amendment to *Fort Morgan Municipal Code*” at the regular municipal election to be held on Tuesday, November __, 2009:

Sec. 2-2. Compensation of Councilmember.

Each Council person of the City shall receive Five-Hundred Dollars (\$500.00) per month, payable each month in a like manner as the City Employees are paid. This increase in the emoluments of the members of Council, shall not be increased during the term for which he or she has been elected or appointed at the time this increase is finally approved, but shall take effect for such position at the commencement of the next term of such elected official commencing on the re-election of the current members of Council, or the election of new members of Council.

Section 2. That the following proposed changes to Sec. 2-3, of the *Fort Morgan Municipal Code (1994)*, be submitted to the registered electors of the City as “Proposed Amendment to *Fort Morgan Municipal Code*” at the regular municipal election to be held on Tuesday, November 3, 2009:

Sec. 2-3 Compensation of Mayor.

The Mayor of the City shall receive Eight-Hundred Dollars (\$800.00) per month in like manner as the City Employees are paid. This increase in the emoluments of the Mayor, shall not be increased during the term for which he or she has been elected or appointed at the time this increase is finally approved, but shall take effect for such position at the commencement at the next term of such elected official commencing on the re-election of the current Mayor of the Council, or the election of a new Mayor.

Section 3. That the following ballot language is hereby adopted for submitting Proposed Amendment to *Fort Morgan Municipal Code* to the voters at said election:

PROPOSED AMENDMENT TO FORT MORGAN MUNICIPAL CODE REGARDING SALARY RAISE FOR CITY COUNCILMEMBER	
Shall Sec. 2-2 of the <i>Fort Morgan Municipal Code</i> (1994) be amended so that commencing on the expiration of the term of current Councilmember on the Council, the election or appointment of new Councilmember, or the re-election of a current Councilmember, the compensation for all Councilmember with the exception of the Mayor be increased from \$100.00 per month to \$500.00 per month?	YES _____ NO _____

Section 4. That the following ballot language is hereby adopted for submitting Proposed Amendment to *Fort Morgan Municipal Code* to the voters at said election:

PROPOSED AMENDMENT TO FORT MORGAN MUNICIPAL CODE	
Shall Sec. 2-3 of the <i>Fort Morgan Municipal Code</i> (1994), be amended so that commencing on the expiration of the term of the current Mayor of the Council, the election or appointment of a new Mayor, or the re-election of the current Mayor, the compensation for the Mayor be increased from \$200.00 per month to \$800.00 per month?	YES _____ NO _____

INTRODUCED AND PASSED UPON FIRST READING this 2nd day of June, 2009, for publication once in a newspaper of the City of Fort Morgan, Colorado, at least ten days before its final passage.

RESOLUTION:

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

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT MORGAN, COLORADO that the foregoing Ordinance entitled above; and the same is hereby ordered published in the City of Fort Morgan, Colorado, not less than ten days before further consideration; and that said Ordinance again be presented to this Council at the expiration of said period of publication for final action thereof.

PASSED, APPROVED AND ADOPTED this 2nd day of June, 2009, the vote upon roll call being as follows: Ayes: Mayor Darnell; Councilmembers Deal, McAlister, Powers and Simmons. Nays: none. Absent: Councilmember Shaver.

FIRST READING OF AN ORDINANCE ENTITLED, "AN ORDINANCE SUBMITTING TO A VOTE OF THE REGISTERED ELECTORS OF THE CITY OF FORT MORGAN, THE PROPOSED AMENDMENTS TO CHAPTER 20 AND CHAPTER 3 OF THE *CODE OF THE CITY OF FORT MORGAN*," CONCERNING THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES IN RIVERSIDE PARK DURING SPECIAL EVENTS

Attorney Wells presented for Council consideration on first reading, an Ordinance entitled, "An Ordinance Submitting to a Vote of the Registered Electors of the City of Fort Morgan, the Proposed Amendments to Chapter 20 and Chapter 3 of the Code of the City of Fort Morgan," concerning the sale and consumption of alcoholic beverages in Riverside Park during special events. Mayor Darnell questioned if this issue could be brought before Council again if it were to fail tonight. Attorney Wells responded that it could. Clerk Strand suggested that the wording on the ballot read, City Council Acting as the Local Liquor Licensing Authority.

ORDINANCE NO. _____

AN ORDINANCE SUBMITTING TO A VOTE OF THE REGISTERED ELECTORS OF THE CITY OF FORT MORGAN, THE PROPOSED AMENDMENTS TO CHAPTER 20 AND CHAPTER 3 OF THE *CODE OF THE CITY OF FORT MORGAN*.

WHEREAS, the citizens of Fort Morgan have indicated the desire to allow the sale and consumption of alcoholic beverages in Riverside Park during special events; and,

WHEREAS, currently no alcoholic beverages can be sold or consumed in any city park; and,

WHEREAS, 12-48-105 and 12-48-107, C.R.S. provides municipalities with the authority to grant or deny a liquor license provided that the same standards for approval and denial applicable to the state licensing are used; and,

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

Section 1: That the following proposed changes to Chapter 20 and Chapter 3 of the *Code* of the City of Fort Morgan be submitted to the registered electors of the City as "Proposed *Code* Amendments No. 1" at the regular municipal election to be held on Tuesday, November 3, 2009:

Chapter 20

Sec. 20-29. CONSUMPTION AND Open containers of alcoholic beverages; penalty.

(a) Except as permitted by Section 12-47-411(3.5), C.R.S. AND THIS SECTION (e), it shall be unlawful for any person to possess or carry any open container of any fermented malt beverage, malt, vinous or spirituous liquor in any public park or on any public street, sidewalk, alley or other public way in the City or in any vehicle or conveyance thereon or on the grounds of any public school in the City.

(b) Any person found guilty of violating this Section shall be punished for each violation by a fine of not less than fifty dollars (\$50.00) and not more than one thousand dollars (\$1,000.00).

(c) It shall be an affirmative defense to a charge under this Section that the person charged was in possession of one (1) opened, but resealed container of not more than seven hundred fifty (750) milliliters of partially consumed vinous liquor which was lawfully removed from the licensed premises of a hotel and restaurant licensee pursuant to Section 12-47-411 (3.5), C.R.S. or Subsection (d) below.

(d) A hotel and restaurant licensee who permits a customer to remove a partially consumed bottle of vinous liquor from the licensed premises shall reseat the bottle with the original cork or other commercially manufactured stopper, and shall package the resealed bottle in another sealable container (bag or box).

e) IT SHALL BE LAWFUL FOR A PERSON TO POSSESS OR CARRY AND CONSUME A FERMENTED MALT BEVERAGE, MALT, VINOUS OR SPIRITUOUS LIQUOR IN A LICENSED AREA OF RIVERSIDE PARK SO LONG AS THE PERSON:

- (1) IS ATTENDING A SPECIAL EVENT;
- (2) HAS PURCHASED THE FERMENTED MALT BEVERAGE, MALT, VINOUS OR SPIRITUOUS LIQUOR FROM A VENDER WHO HAS OBTAINED A SPECIAL EVENT PERMIT UNDER TITLE 12, ARTICLE 48, C.R.S. AND A LIMITED PERMIT UNDER SECTION 3-2; AND,
- (3) AT ALL TIMES, POSSESS OR CARRIES AND CONSUMES THE BEVERAGE ONLY WITHIN THE LICENSED AREA OF RIVERSIDE PARK.

Chapter 3

Sec. 3-2. Sale or consumption in public or unlicensed premises.

(a) Except for the sale of medicinal liquors as hereinafter provided in Article II of this Chapter AND ALCOHOLIC BEVERAGES SOLD PURSUANT TO SUBDIVISION (b) OF THIS SECTION, it shall be unlawful for any person to sell, give away or consume any beverage having any alcoholic content whatever upon any street, avenue, alley, park or other public place within the City or at, in or upon the premises of any place of public resort within the City not licensed by the City and State to sell fermented malt beverages, malt, vinous or spirituous liquors.

(b) A LIMITED PERMIT FOR THE LAWFUL SALE OF ALCOHOL IN A DESIGNATED AREA OF RIVERSIDE PARK MAY BE GRANTED TO AN ORGANIZATION, AS DEFINED BY 12-48-102, C.R.S., THAT OBTAINS AND PROVIDES DOCUMENTATION OF THE FOLLOWING TO THE CITY CLERK:

- (1) A SPECIAL USE PERMIT UNDER TITLE 12, ARTICLE 48, C.R.S.;
- (2) DOCUMENTATION CONTAINING THE FOLLOWING INFORMATION:
 - (I) A DESCRIPTION OF THE EVENT;
 - (II) THE DATE AND TIME OF THE EVENT OR SERIES OF EVENTS;
 - (III) THE TIME THE SALE OF ALCOHOL WILL BEGIN AND END; AND

(IV) A DESCRIPTION OR IDENTIFICATION OF THE ALCOHOLIC BEVERAGE TO BE SOLD AND THE CONTAINERS IN WHICH IT WILL BE SUPPLIED; AND

(3) A SECURITY PLAN DEVELOPED WITH AND APPROVED BY THE FORT MORGAN POLICE DEPARTMENT THAT SETS FORTH THE PROCEDURE OR PLAN THE PERMIT HOLDER SHALL FOLLOW TO ADDRESS ISSUES INCLUDING BUT NOT LIMITED TO PUBLIC SAFETY AND ENFORCEMENT OF I.D. CHECKS.

(c) THE CITY CLERK SHALL ISSUE A LIMITED PERMIT FOR THE SALE OF ALCOHOL TO ANY ORGANIZATION THAT COMPLIES WITH SUBSECTION (b).

(d) (1) FOR PURPOSES OF THIS SECTION ONLY, A "LIMITED PERMIT" SHALL BE VALID FOR ONE SPECIAL EVENT AS DEFINED IN TITLE 12, ARTICLE 48, C.R.S. AND SHALL ON ITS FACE INDICATE THE EFFECTIVE DATE(S) AND THE NAME OF THE ORGANIZATION AUTHORIZED UNDER THE PERMIT FOR THE SALE OF ALCOHOL.

(2) A LIMITED PERMIT UNDER THIS SECTION MAY BE VALID FOR MORE THAN ONE (1) TWENTY-FOUR (24) HOUR DAY PROVIDED THAT THE SPECIAL EVENT IS AN EVENT THAT IS HELD ON MORE THAN ONE (1) TWENTY-FOUR (24) HOUR DAY. IF THE SPECIAL EVENT IS HELD ON MULTIPLE OCCASIONS OR IS A SERIES OF EVENTS, A LIMITED PERMIT MUST BE OBTAINED FOR EACH OCCASION OR INDIVIDUAL EVENT WITHIN THE SERIES PROVIDED THAT EACH OCCASION OR EVENT IS HELD NO LESS THAN TWO (2) DAYS APART, EXCLUDING FROM CALCULATION THE DAYS ON WHICH THE FIRST OR PERVIOUS OCCASION OR EVENT AND THE SUBSEQUENT OCCASION OR EVENT ARE HELD.

Section 2. That the following ballot language is hereby adopted for submitting Proposed Amendment to *Fort Morgan Municipal Code* to the voters at said election:

PROPOSED AMENDMENT TO FORT MORGAN MUNICIPAL CODE REGARDING SALARY RAISE FOR CITY ALDERMAN	
Shall Sec. 20-29 and Sec. 3-2 of the <i>Fort Morgan Municipal Code</i> (1994) be amended so that commencing on the fifth day after certification of the election alcohol will be permitted to be possessed and consumed in Riverside Park in designated areas as prescribed in a special event permit granted to a nonprofit organization for the sale of alcohol and whereas said permit must be obtained through application and approval by the local liquor licensing authority or City Council?	YES _____ NO _____

INTRODUCED AND PASSED UPON FIRST READING this 2nd day of June, 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 Darnell, Mayor

ATTESTED:

/s/ Andrea Strand, City Clerk

RESOLUTION

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

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT MORGAN, COLORADO, that the foregoing Ordinance entitled above; and the same is hereby ordered published in the City of Fort Morgan, Colorado, not less than ten days before further consideration; and that said Ordinance again be presented to this Council at the expiration of said period of publication for final action thereof.

MOTION FAILED this 2nd day of June, 2009, the vote upon roll call being as follows: Ayes: Mayor Darnell; Councilmembers Deal and McAlister. Nays: Councilmembers Powers and Simmons. Absent: Councilmember Shaver.

DISCUSSION AND/OR ACTION ON THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF FORT MORGAN, OTHER ENTITIES AND THE FORT MORGAN POLICE DEPARTMENT SPECIAL RESPONSE TEAM

Chief Kuretich stated that the Intergovernmental Agreement for the Operation of a Special Response Team by the Fort Morgan Police Department was presented at the previous work session and no changes were made.

Councilmember Simmons offered a motion to approve the Intergovernmental Agreement as presented. Her motion was seconded by Councilmember McAlister and duly carried.

FIRST READING OF AN ORDINANCE ENTITLED, “AN ORDINANCE AMENDING ORDINANCE NO. 1080 ENTITLED ‘AN ORDINANCE GRANTING CERTAIN ECONOMIC INCENTIVES FOR BUSINESS RELOCATION AND EXPANSION TO EHRlich TOYOTA EAST BY THE CITY OF FORT MORGAN, COLORADO’”

Attorney Wells presented for Council consideration on first reading an ordinance entitled “An Ordinance Amending Ordinance No. 1080, Entitled ‘An Ordinance Granting Certain Economic Incentives for Business Relocation and Expansion to Ehrlich Toyota East by the City of Fort Morgan, Colorado.’” He stated that the waiver of the building permit fee of up to \$3,500 was not included in the previous incentive for Ehrlich Toyota East.

ORDINANCE NO. _____

**AN ORDINANCE AMENDING ORDINANCE NO. 1080 ENTITLED
“AN ORDINANCE GRANTING CERTAIN ECONOMIC INCENTIVES FOR BUSINESS
RELOCATION AND EXPANSION TO EHRlich TOYOTA EAST BY THE CITY OF
FORT MORGAN, COLORADO.”**

Whereas, Ehrlich Toyota East (hereinafter "Ehrlich") previously submitted an Economic Development Incentive Application pursuant to the City's Economic Incentive Policy, therein requesting among others, a waiver of the Building Permit Fee up to \$3,500.00; and,

Whereas, on April 21, 2009, Ordinance No. 1080, granted to Ehrlich certain tax and economic incentives for construction of an automobile dealership and vehicle service/repair garage, at an anticipated cost of \$2,500,000.00, upon Lot 1 of the Minor Subdivision Plat of the "Ehrlich Minor Subdivision"; and,

Whereas, the inclusion of the waiver of the Building Permit Fee up to \$3,500.00 which was omitted under Ordinance No. 1080; and,

Whereas, the Council finds that the amendment as proposed is necessary as this Project benefits the City by providing new employment opportunities; and,

Whereas, the Council finds that the general welfare of the residents of the City would be promoted by amending the tax incentive payments with the inclusion of the Building Permit Fee, as hereinafter set forth.

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

Section 1. The entire Ordinance 1080 is hereby incorporated herein by reference.

Sections 2. Paragraph 4 of Ordinance 1080 is hereby amended to state:

"4. Other Tax and Fee Incentives. The City will provide an electric infrastructure credit up to Ten Thousand (\$10,000.00) Dollars, for the installation of electrical service to the meter, including any required transformer. The City will provide a gas infrastructure credit of up to One Thousand (\$1,000.00) Dollars, for the installation of a gas tap and line to Ehrlich from the City's gas main. In addition, the City shall waive all building permit fees in the amount up to \$3,500.00 otherwise payable to the City for the construction of Ehrlich's facilities, except any actual expenses incurred by the City by the City for plan reviews or inspections that may be required, which expenses shall be paid by Ehrlich.

INTRODUCED, READ AND PASSED UPON FIRST READING this 2nd day of June, 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 Darnell, Mayor

ATTEST:

/s/ Andrea Strand, City Clerk

RESOLUTION:

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

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT MORGAN, COLORADO that the foregoing Ordinance entitled above; and the same is hereby ordered published in the City of Fort Morgan, Colorado, not less than ten days before further consideration; and that said Ordinance again be presented to this Council at the expiration of said period of publication for final action thereof.

PASSED, APPROVED AND ADOPTED this 2nd day of June, 2009, the vote upon roll call being as follows: Ayes: Mayor Darnell; Councilmembers Deal, McAlister, Powers and Simmons. Nays: none. Absent: Councilmember Shaver.

FIRST READING OF AN ORDINANCE ENTITLED, "AN ORDINANCE AUTHORIZING AND DIRECTING EXECUTION OF THE TOTAL POWER REQUIREMENTS POWER PURCHASE AGREEMENT BY THE ELECTRIC DEPARTMENT AND SYSTEM ENTERPRISE, AS AN ENTERPRISE OF THE CITY OF FORT MORGAN, COLORADO, WITHIN THE MEANING OF ARTICLE X, SECTION 20, OF THE CONSTITUTION OF THE STATE OF COLORADO, WITH THE MUNICIPAL ENERGY AGENCY OF NEBRASKA; TO REAFFIRM TERMS OF THE ELECTRICAL RESOURCES POOLING AGREEMENT; TO ACKNOWLEDGE AND PROVIDE FOR LIMITATIONS ON USE OF THE ELECTRICITY; TO PRESCRIBE THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT"

Attorney Wells presented this Ordinance for Council consideration on first reading and stated that the Ordinance is one of the requirements necessary for the conversion from the Schedule K to the Schedule M with Municipal Energy Agency of Nebraska (MEAN). There are several other items which will need to be completed prior to July 1, 2009. Manager Merrill added that he had attended the last MEAN meeting of the Board of Directors and the City was approved by the Executive Committee. The full Board approved the City unanimously; in order to receive the credit of \$45,000, all items need to be completed by July 1, 2009. We are approved pending the items that Attorney Wells mentioned. Discussion was held on the matter of reduction in utility rates. It may not be reduced for the citizens; our consultant will be monitoring this and will report to Council in the rate study.

ORDINANCE NO. _____ - E

AN ORDINANCE AUTHORIZING AND DIRECTING EXECUTION OF THE TOTAL POWER REQUIREMENTS POWER PURCHASE AGREEMENT BY THE ELECTRIC DEPARTMENT AND SYSTEM ENTERPRISE, AS AN ENTERPRISE OF THE CITY OF FORT MORGAN, COLORADO, WITHIN THE MEANING OF ARTICLE X, SECTION 20, OF THE CONSTITUTION OF THE STATE OF COLORADO, WITH THE MUNICIPAL ENERGY AGENCY OF NEBRASKA; TO REAFFIRM TERMS OF THE ELECTRICAL RESOURCES POOLING AGREEMENT; TO ACKNOWLEDGE AND PROVIDE FOR LIMITATIONS ON USE OF THE ELECTRICITY; TO PRESCRIBE THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT.

BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE ELECTRIC DEPARTMENT AND SYSTEM ENTERPRISE OF THE CITY OF FORT MORGAN, COLORADO, THAT:

SECTION 1. The Board of Directors of the Enterprise hereby finds and declares it to be in the public interest and in the interest of the customers of the Electric Department and System Enterprise that the Electric Department and System Enterprise, as an enterprise of the City of Fort Morgan, Colorado, within the meaning of Article X, Section 20, of the Constitution of the State of Colorado, adopt and execute Service Schedule M, Total Power Requirements Power Purchase Agreement, to the Electrical Resources Pooling Agreement with the Municipal Energy Agency of Nebraska (“MEAN”).

SECTION 2. It is hereby ordered and directed that the Electric Department and System Enterprise, as an enterprise of the City of Fort Morgan, Colorado, acting through the Chairman and Secretary, execute Service Schedule M, Total Power Requirements Power Purchase Agreement, to the Electrical Resources Pooling Agreement, a copy of the schedule being attached hereto and made a part hereof, but not required to be published herewith.

SECTION 3. The Electric Department and System Enterprise, as an enterprise of the City of Fort Morgan, Colorado, does hereby adopt and approve each of the objectives, terms and conditions set forth in Service Schedule M.

SECTION 4. The Electric Department and System Enterprise, as an enterprise of the City of Fort Morgan, Colorado, does hereby reaffirm each of the objectives, terms and conditions set forth in the Electrical Resources Pooling Agreement and reaffirm the City’s participant status in the Electrical Resources Pooling Agreement as a Bulk Power Participant.

SECTION 5. This Ordinance shall be in full force and take effect after its passage, approval and publication as provided by law.

SECTION 6. The Electric Department and System Enterprise, as an enterprise of the City of Fort Morgan, Colorado, acknowledges that certain of the generating facilities used by MEAN to provide electricity to the City have been financed with tax-exempt bonds and the use of the electric output of such generating facilities is restricted by federal tax regulations. In order to permit MEAN to comply with such federal tax regulations, the Electric Department and System Enterprise, as an enterprise of the City of Fort Morgan, Colorado, agrees to use all of the electricity delivered to it by MEAN solely to serve customers in its long-term service area pursuant to generally applicable and uniformly applied rates and charges. “Long-term service area” means any area that the City has provided electric services to for at least ten years. Any other use, resale or remarketing of the electricity delivered by MEAN to the city must be approved in writing by MEAN.

INTRODUCED, READ AND PASSED UPON FIRST READING this 2nd of June, 2009, for publication once in a newspaper of general circulation in the City of Fort Morgan, Colorado, at least ten days before its final passage.

[SEAL]

ELECTRIC DEPARTMENT AND SYSTEM
ENTERPRISE OF THE CITY OF FORT
MORGAN, COLORADO

BY: /s/ Jack Darnell, Chairman

ATTEST:

/s/ Andrea Strand, Secretary

RESOLUTION:

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

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT MORGAN, COLORADO, that the foregoing Ordinance entitled above; and the same is hereby ordered published in the City of Fort Morgan, Colorado, not less than ten days before further consideration; and that said Ordinance again be presented to this Council at the expiration of said period of publication for final action thereof.

PASSED, APPROVED AND ADOPTED this 2nd day of June, 2009, the vote upon roll call being as follows: Ayes: Mayor Darnell; Councilmembers Deal, McAlister, Powers and Simmons. Nays: none. Absent: Councilmember Shaver.

DISCUSSION AND/OR ACTION OF THE CURRENT VACANCY FOR COUNCILMEMBER, WARD 2

Attorney Wells presented a Resolution Declaring a Vacancy in the Office of Councilmember, Ward 2, for Council consideration.

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

RESOLUTION NO. 09 06 02

DECLARING A VACANCY IN THE OFFICE OF COUNCILMEMBER, WARD 2

Whereas, on May 26, 2009, at a Work Session of the City Council of the City of Fort Morgan, Colorado, The Mayor read Councilmember Terri Schafer's letter of resignation as Councilmember in Ward 2; and

Whereas, Councilmember Schafer's term of office commenced on January 8, 2008 and would expire in January 2012; and,

Whereas, the *Charter of the City of Fort Morgan* provides that "a vacancy shall exist when an elective officer . . . resigns, . . ." (Article II, Sec. 3).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Fort Morgan, Colorado:

A vacancy in the office of Councilmember, Ward 2, is hereby declared to exist and such vacancy shall be filled by appointment of an eligible person by the City Council until the next regular municipal election or until his successor is sworn as provided by the *Charter*.

INTRODUCED, PASSED, APPROVED AND ADOPTED this 2nd day of June, 2009, the vote upon roll call being as follows:

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

Nays: None.

Absent / Abstain: Councilmember Shaver.

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 for the City of Fort Morgan, Colorado, do hereby certify and attest that the foregoing Resolution is a true, perfect and complete copy of the Resolution adopted by the Council of Fort Morgan, Colorado, 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 have affixed the seal of the City of Fort Morgan this 4th day of June, 2009.

/s/ Andrea Strand, City Clerk

REVIEW OF A PROCEDURE TO FILL THE VACANCY

Mayor Darnell discussed the options to fill the vacant Councilmember seat in Ward 2. He stated that four years ago, the Council received complaints from citizens that members of Council were appointed not elected. It was placed on the ballot and the *Charter* was changed to reflect that when a vacancy occurred, at the next election, the person with the most votes would fill the four-year term; the next highest votes would complete the remainder of the vacant term for the ward.

Attorney Wells explained the process as outlined in the *Charter*. It was discussed to add additional steps to resolve a tie. A step will be added to rate by value (1 to 10) for the last two applicants, then by lot if necessary.

Discussion was held concerning term limits. Attorney Wells added that a person is term limited when they actually run for election and are voted in. Currently, the person in the ward that receives the most votes would serve a full term of four years. The person with the second highest votes would serve the remainder of the term (two years). Councilmember Simmons

added that the previous city attorney had researched this as she was appointed. At that time, the determination was that the appointment was not considered a full term.

Clerk Strand read the proposed timeline to fill the Vacancy for Councilmember in Ward 2.

Tuesday, June 2	Approve this Procedure to Fill Vacancy
Wednesday, June 3	Make Applications available; Press Release to local media; request public service announcements from local media, including cable television Channel 17; post Notice of Vacancy, as appropriate.
Friday, June 5	Publish Legal Notice of the vacancy and this Procedure
Friday, June 26, 5:00 p.m.	Deadline for receipt of Applications by City Clerk
Monday, June 29	Applications copied and distributed to members of City Council and made available for public inspection at City Clerk's office and City's website.
Tuesday, July 7	Council Meeting (7:00 p.m.): City Clerk verifies eligibility of each Applicant; Each Applicant has five (5) minutes to address the Council and respond to questions from Council; Public has three (3) minutes per person to address the Council on this appointment, Council discussion; Council casts ballot on the appointment Oath administered to Appointee.

Councilmember McAlister offered a motion to approve the Procedure to Fill the Councilmember Vacancy in Ward 2, the Vacancy Announcement, the Application for Councilmember and the Verified Statement of Applicant. His motion was seconded by Councilmember Powers and duly carried.

OPEN COUNCILMEMBER POSITIONS ON BOARDS AND COMMISSIONS

Mayor Darnell asked for volunteers from current Councilmembers to fill the position on the Golf Course Advisory Board and Morgan County Economic Development Corporation previously held by Terri Schafer. Councilmember Powers would like to be appointed to Economic

Development and be removed from the Fort Morgan Heritage Foundation because of time constraints.

Councilmember Deal encouraged citizens to run for Councilmember as she felt it was very rewarding.

CONSENT AGENDA

Clerk Strand presented the Consent Agenda for Council consideration. Councilmember Simmons offered a Resolution to approve the Consent Agenda as presented, and moved for its adoption. Her motion was seconded by Councilmember McAlister; said Consent Agenda being in words, letters and figures as follows, to wit:

- A. Approve the minutes from the May 19, 2009, regular City Council meeting.
- B. Approve the minutes from the May 19, 2009, meeting of the Riverview Commons General Improvement District Board of Directors.

All matters listed under Item 12, 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.

PASSED, APPROVED AND ADOPTED this 2nd day of June, 2009, the vote upon roll call being as follows: Ayes: Mayor Darnell; Councilmembers Deal, McAlister, Powers and Simmons. Nays: none. Absent: Councilmember Shaver.

PUBLIC COMMENT / AUDIENCE PARTICIPATION

None.

REPORTS

The following Directors provided written reports to Council:

City Manager Merrill – Read the following Release into the Record:

City Treasurer/CFO Appointment

June 2, 2009

Terri Schafer Hired as New City Treasurer:

As you are aware, the City Treasurer position has been vacant since February 2009. The posting of the opening began on February 3, 2009, with the deadline for submitting an application set as February 27, 2009. We received resumes & applications from twelve candidates, from which five were selected (by me) for telephone interviews. I made my selections based solely on the qualifications that were called out in the job description. One of the candidates selected for a telephone interview was Terri Schafer.

In order to ensure that the most qualified candidate would be chosen, we enlisted Sam Mamet at the Colorado Municipal League to assist us with securing the services of three city treasurer who would make up an unbiased interview panel. The treasurers that conducted all of the interviews were: Jeff Hansen – City of Golden, Tammy Hitchens – City of Westminster and Steve McFarland – Town of Estes Park. The telephone interviews were held at the City of Westminster offices with the interview panel, as well as Jody Prentice, Director of Risk Management. I attended the telephone interviews but remained an observer in order to maintain the integrity of the interview process.

Subsequent to the four (telephone) interviews, three candidates were selected by the panel for in-person interviews to be conducted in Fort Morgan. Prior to the interview date, one of the candidates withdrew as he had accepted another position. The two finalists were then interviewed by the panel, and again, our Human Resources Director was present. During the interviews, I remained in my office so that the panel could complete their work outside of my presence. Upon the completion of the process, I was called into the room by Director Prentice, and was informed that the panel reached a unanimous decision, which was to recommend Terri Schafer for City Treasurer for the City of Fort Morgan.

Pursuant to City Policy, an extensive background check was conducted regarding references and previous employers. As a result of this process, I am confident that Terri Schafer will be an excellent treasurer and will be a good fit with City staff.

The City of Fort Morgan is at a crossroads, but we are moving forward and getting projects completed or underway. We have undertaken the long awaited downtown project, torn down Jack's Bean, completed Riverview Commons and are closing on the first piece of property at the airport. What we need now is stability. With thirteen managers in eighteen years, as well as eight treasurers during the same time period; we need to find the stability that will allow us to continue to provide the community with the quality growth that has been awaited and talked about for many years.

Police Chief Kuretich

Water Resources/Wastewater Treatment Director Dreessen added that the City will offer water audits for citizens.

Municipal Engineer Curtis added that he will provide a Downtown Project update to the Media each Friday.

Human Resources and Risk Management Director Prentice

Community Services Director Shedd – complimented the Cemetery Staff.

Community Development Director Callahan

City Clerk Strand

BIDS, MEETINGS AND ANNOUNCEMENTS

Clerk Strand announced current bids and upcoming meetings.

Mayor Darnell adjourned the June 2, 2009, regular meeting at 8:05.p.m.

/s/ Jack L. Darnell
Mayor

/s/ Andrea J. Strand
City Clerk