

## **RESOLUTION NO. 08 11 02**

### **A RESOLUTION SETTING FORTH FINDINGS OF FACT AND CONCLUSIONS OF LAW BASED THEREON AND DETERMINING THE STATUS OF THE TERRITORY SOMETIMES KNOWN AS THE UNDERWOOD PROPERTY HEREINAFTER MORE SPECIFICALLY DESCRIBED BELOW, PROPOSED FOR ANNEXATION INTO THE CITY OF FORT MORGAN**

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

This matter comes on for hearing before the City Council of the City of Fort Morgan on November 18, 2008 pursuant to Sections 31-12-108 and 31-12-109, C.R.S., known as the Municipal Annexation Act of 1965 as amended (hereinafter referred to as Annexation Act), to consider the annexation of that certain territory sometimes known as the Underwood Property, more specifically described in herein as:

A PARCEL OF LAND IN THE NE ¼ OF SECTION 12, TOWNSHIP 3 NORTH, RANGE 58 WEST OF THE 6<sup>TH</sup> PRINCIPAL MERIDIAN, MORGAN COUNTY, COLORADO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT 146.5 FEET SOUTH AND 30 FEET WEST OF THE NORTH AND NE CORNER OF SAID SECTION 12, TOWNSHIP 3 NORTH, RANGE 58 WEST OF THE 6<sup>TH</sup> P.M., SAID POINT BEING ON THE SOUTH LINE OF THE RIGHT-OF-WAY OF THE C.B. AND Q. RAILROAD;

THENCE RUNNING SOUTH 226 FEET;

THENCE WEST 258 FEET TO THE RIGHT-OF-WAY OF THE FORT MORGAN CANAL;

THENCE ALONG SAID RIGHT-OF-WAY NORTH 35° 00' WEST, 253 FEET TO INTERSECT THE SOUTH LINE OF THE RIGHT-OF-WAY OF THE SAID C.B. AND Q. RAILROAD;

THENCE SOUTH ALONG THE SOUTH LINE OF SAID RAILROAD RIGHT-OF-WAY NORTH 87° 15' EAST, 403 FEET TO THE PLACE OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS THE PROPERTIES FILED UNDER BOOK 973, PAGE 767 AND UNDER RECEPTION NUMBER 846504 AND CONTAINS 72,308 SQUARE FEET, MORE OR LESS.

TOGETHER with all water and water rights appurtenant thereto;

and the Council having examined all of the evidence presented at said hearing and being fully advised of the premises, now sets forth findings of fact and conclusions of law based thereon as provided for in Section 31-12-110 of the Annexation Act, other findings of fact and conclusions as are appropriate, and makes determinations as follows:

1. The City Clerk of the City of Fort Morgan has received a petition for annexation of the area described in herein entitled "Petition for Annexation," signed by persons comprising one hundred percent (100%) of the landowners in the area to be annexed and owning one hundred percent (100%) of the area, excluding public streets and alleys, in compliance with the provisions of Article II, Section 30 of the Colorado Constitution, and Section 31-12-107(1) of the Annexation Act.

2. On October 7, 2008, the City Council approved a resolution finding a Petition for Annexation of the area described herein to be in substantial compliance with Section 31-12-107(1) C.R.S. and setting a Hearing Date for the Fort Morgan City Council to consider the annexation of the area. This resolution set a hearing to consider the annexation of this area to the City of Fort Morgan on November 18, 2008, at Council Chambers, City Hall, 100 Main Street, Fort Morgan, Colorado, and directed the City Clerk to give notice of said hearing in the manner prescribed in Section 31-12-108 of the Annexation Act. In addition, said resolution found that the petition for annexation is in substantial compliance with Section 31-12-107(1) CR.S of the Annexation Act, and further determined that said petition is in substantial compliance with Section 30 of Article II of the Colorado Constitution, which findings are adopted herein.

3. The City Clerk, pursuant to said resolution, has caused to have published in the Fort Morgan Times a Public Notice of Public Hearing of an Annexation Petition of area herein described, along with a copy of said resolution and petition with an attached legal description of the area to be annexed, with four (4) publications as follows: October 17, 2008; October 24, 2008; October 31, 2008; and November 7, 2008. The Fort Morgan Times is a daily newspaper in general circulation throughout the City of Fort Morgan, throughout the area to be annexed, and throughout Morgan County, Colorado.

4. Said resolution and notice pertaining thereto as set forth in Paragraph 3 of this resolution comply with the requirements of Section 31-12-107(1)(g) and Section 31-12-108 of the Annexation Act.

5. Copies of the published notice and resolution have been mailed to the Board of County Commissioners Morgan County, the Morgan County Attorney, the School District, the Morgan Soil Conservation District, the Morgan County Land Use Department, the Fort Morgan Rural Fire Protection District, and the Fort Morgan Pest Control located within the territory described herein as required by Section 31-12-108 of the Annexation Act.

6. The annexation impact report is not required, as the property to be annexed is comprised of less than 10 acres.

7. The area described herein is unincorporated.

8. The area described herein is the same as the area described in the annexation plat.

9. No annexation of all or any part of said area has been commenced by any other municipality.

10. This annexation will not result in the detachment of an area from any school district and attachment of the same area to another school district.

11. This annexation will not result in the change of any county boundaries.

12. At least one-sixth (1/6th) of the boundary of the perimeter of the area proposed to be annexed is contiguous with the boundary of the City of Fort Morgan.

13. No land held in identical ownership within the area proposed to be annexed, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, has been divided into separate parts or parcels by the boundaries of such annexation without the written consent of the landowner except as such tracts or parcels are separated by a dedicated street, road or other public way.

14. No land held in identical ownership within the area proposed to be annexed, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, comprising twenty (20) acres or more (which, together with the buildings and improvements situated thereon, has a valuation for assessment in excess of \$200,000 for ad valorem tax purposes for the next year preceding the annexation), has been included within the boundary of the area proposed to be annexed without the written consent of the landowners.

15. This annexation will not extend boundaries of the city limits of the City of Fort Morgan more than three miles in any direction from the municipal boundary.

16. In establishing the boundaries of the area proposed to be annexed, if a portion of a platted street or alley is annexed, the entire width of said street or alley is included within the area proposed to be annexed.

17. The applicable parts of Section 31-12-105 of the Annexation Act have been met.

18. The provisions of Section 31-12-104(b) requiring a finding that "[t]hat a community of interest exists between the area proposed to be annexed and the annexing municipality; that said area is urban or will be urbanized in the near future; and that said area is integrated with or is capable of being integrated with the annexing municipality..." are met by virtue of a finding of at least one-sixth (1/6th) boundary contiguity with the City of Fort Morgan as provided for in said section.

19. No petition for election has been received nor is an election otherwise required under the provisions of Section 31-12-107(2) of the Annexation Act.

20. The annexation of Underwood and City Properties as legally described herein meet the requirements of and fully complies with Part 1 of Article 12 of Title 31 C.R.S., the Municipal Annexation Act of 1965 as amended, and Section 30 of Article II of the Colorado Constitution.

21. The City Council finds and concludes that said territory is eligible for annexation to the City of Fort Morgan.

**INTRODUCED, PASSED, APPROVED AND ADOPTED** this 18<sup>th</sup> day of November, 2008, the vote upon roll call being as follows:

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

Nays:

Absent: Councilmember Shaver

[ SEAL ]

THE CITY COUNCIL OF THE CITY OF  
FORT MORGAN, COLORADO

BY:   
Mayor

ATTEST:

  
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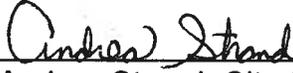
City Clerk

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

**CERTIFICATE**

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 18<sup>th</sup> day of November 2008.

  
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Andrea Strand, City Clerk