

October 27, 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 9:00 a.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 Ron Shaver
Councilmember Alberta M. Simmons

Excused Absence: Councilmember Debra J. Forstedt

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, Community Services Director Don Shedd, Community Development Director David Callahan, Treasurer Terri Schafer and City Clerk Andrea Strand.

Presentation by Save the Poudre was moved to later in the meeting due to technical difficulties.

APPROVE THE WATER RATE AND CHARGE AGREEMENT FOR THE CITY OF FORT MORGAN AND CARGILL MEAT SOLUTIONS

Manager Merrill explained the history and the proposed changes to the Water Rate and Charge Agreement for the City of Fort Morgan and Cargill Meat Solutions and presented the following memo to City Council:

FROM: Pat Merrill, City Manager

SUBJECT: Cargill Water Agreement

DATE: October 22, 2009

MEETING DATE: October 27, 2009

Item for Consideration: Approval of the new *WATER RATE AND CHARGE AGREEMENT FOR THE CITY OF FORT MORGAN AND CARGILL MEAT SOLUTIONS (CMS)*. The Mayor & City Council will be acting as the Board of Directors for the City of Fort Morgan, Colorado Water Works & Distribution Enterprise.

Financial Considerations: The Water Utility/Enterprise Fund would be (negatively) affected by the reduced rate.

Citizen Input/Board Review: This item has been discussed at the Water Advisory Board and the consensus was that all users should be charged at the same rate.

Legal Review: The City Attorneys Office prepared the Agreement and has been involved throughout the process.

Alternatives: City Council has the option of issuing an extension of the current Agreement and directing staff to reopen negotiations with Cargill Meat Solutions.

Supporting Documents: The new Agreement has been attached for review by the Mayor & City Council. This Agreement has been approved by Cargill Meat Solutions.

Staff Recommendations: City staff has spent a great deal of time negotiating & preparing the Agreement, which is before you for your consideration and possible approval. It is staff's recommendation that the Agreement is approved, but the management team is ready to carry out any direction that is provided by the Mayor & City Council.

Mike Chabot, General Manager of Cargill in Fort Morgan was present. He stated that the Water Agreement had been in place for ten years in order to help with the Big Thompson Project. A rate was negotiated and the City had not been able to produce the numbers needed to flex the rate. He would like further discussion between the parties as to situations when one water user uses fifty percent of the water consumption for the City. He felt there needed to be a study and adjustments made for this type of user. City Manager Merrill added that as a part of this agreement, the City would initiate a water rate study within the next eighteen months. Councilmember Powers asked about Cargill's total consumption for a year set at 600 million gallons and if they would be purchasing CB-T units of water if they exceeded this. City Attorney Wells added that the agreement states that anytime a modification needed to be proposed, the parties would sit down and discuss how to resolve the issue. General Manager Chabot added that their water consumption had decreased in the past few years and he would not expect them to exceed the 600 million gallons.

Councilmember Powers offered a motion to approve the Water Rate and Charge Agreement for the City of Fort Morgan and Cargill Meat Solutions (CMS) as presented. His motion was seconded by Councilmember Shaver.

PASSED, APPROVED AND ADOPTED this 27th day of October, 2009, the vote upon roll call being as follows: Ayes: Mayor Darnell; Councilmembers Deal, McAlister, Powers, Shaver and Simmons. Nays: None. Abstain: None. Absent: Councilmember Forstedt.

PRESENTATION OF TWO ORDINANCES REGARDING HISTORIC PRESERVATION

Attorney Wells provided two different Ordinances for Council to review pertaining to Historic Preservation. Both of the ordinances are for the Non-Certified Local Government Historic Preservation Commission as was discussed at the October 6, 2009, Council meeting. He was directed to draft an Ordinance to establish a process to develop a review board. He offered that the ordinances were modeled after similar ordinances in Brush and Basalt, Colorado. Discussion continued as Councilmember Simmons felt that the public should be given the opportunity to comment on this process. The Mayor directed that both ordinances should be placed on the November 3rd agenda and they could be discussed more or voted on. Director Callahan added that he does have previous experience working with these programs and suggested that the item be proposed to the Downtown Business Association and to other interested property owners.

ORDINANCE NO. _____

AN ORDINANCE CREATING A HISTORIC PRESERVATION BOARD

WHEREAS, the protection and preservation of the City's historic and cultural heritage is essential to the enhancement of the City's sense of community; and,

WHEREAS, such protection and preservation will enhance property values and generally increase the economic well-being of the City, its citizens and its businesses; and,

WHEREAS, the City Council finds and determines that the creation of a historic preservation board would be advantageous to the City; and,

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

Section 1. Section 57, Chapter 17 of the *Code of the City of Fort Morgan* is hereby amended by the addition of a new article to read as follows:

Article IV Historic Preservation

Sec. 17-57 Historic Preservation.

(a) The intent of this section is to preserve and protect the heritage of the City through the identification, evaluation, rehabilitation, adaptive use, restoration, and public awareness of Fort Morgan's historic and architectural resources. This section is further intended to:

1. Effect and accomplish the protection, preservation, enhancement, perpetuation, of the City's historic and cultural heritage, as embodied in historic structures and districts;
2. Enhancement of property values, and the stabilization of historic commercial and residential neighborhoods;
3. Foster civic pride in the accomplishments of the past;
4. Protect and enhance the aesthetic and environmental character, diversity, and interest of neighborhoods;
5. Protect and enhance the City's attraction to residents, tourist, and visitors, and thereby serve as a support and stimulus to the economy;
6. Promote the use of historic sites, and historic districts for the education, pleasure, and welfare of the citizens of the City of Fort Morgan.

(b) The purpose of this section is to:

1. To provide the framework for identification and designation of properties that have major significance in the City's historic, cultural, aesthetic, and architectural heritage.
2. Assure that alterations and new construction within designated historic sites, and historic districts are compatible with the property's historic character.

Sec. 17-58 Definitions.

The following definitions shall apply only to this Chapter:

Alteration. Any change affecting the exterior appearance of a structure or its setting by additions, reconstruction, remodeling, or maintenance involving change in color, form, texture, signs, or materials, or any such changes in appearance of designated interiors.

Applicant. The owner of record of a property and/or structures located therein, or his/her designee.

Application, complete. An application for approval sought pursuant to this section shall be deemed complete if it is on a form approved by the City and all applicable information is provided by the applicant on the form, or attachments (s) as necessary, at the time of its filing and all required fees are paid.

Certificate of Appropriateness. A written document, issued pursuant to this section, permitting specified alterations, demolitions, ground disturbing activity, or other work.

Contributing structure / landscape feature. A structure or landscape feature which by location, design, setting, materials, workmanship, feeling, and association adds to the sense of time and place and historical development of a historic site or historic district.

Demolition. The complete destruction of a structure, or any part thereof.

Designated property; designated historic site, designated historic district. A historic site or historic district designated pursuant to this section.

Ground disturbing activity. Any excavation, filling, digging, removal or trees, or any other activity that may alter or reveal an interred area.

Historic Preservation Map. The Official Historic Preservation Map of the City of Fort Morgan, Colorado, which shall show all designated historic sites and historic districts.

Historic district. A geographically defined area possessing a significant concentration, linkage, or continuity of sites or structures united historically or aesthetically by plan or physical development.

Historic site. A geographically defined area containing a structure or site, or a historically related complex of structures or sites, which has a special character or a special historic or aesthetic interest or value as part of the heritage of the City.

Interim protection measure. The interim period of time needed to protect a property from demolition, relocation, alteration, or new construction until such period of time provided by law passes for the property to be considered for designation as a historic site, or historic district.

Landscape feature. Vegetation, geological features, ground elevation, bodies of water or other natural or environmental features.

Ordinary maintenance or repair. Any work, the purpose and effect of which is to correct any deterioration or decay of a structure of landscape feature, or any part thereof, by restoring it, as

nearly as may be practicable , to its condition prior to such deterioration or decay, using the same materials or those materials available which are as close as possible to the original.

Rehabilitation. The act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural, and cultural values.

Relocation. Any change of the location of a structure in its present setting to another setting.

Restoration. The act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

Site. The location of a significant event, a historic occupation or activity, or a structure, whether staining, ruined, or vanished, where the location itself possesses historic, or cultural value regardless of the value of existing structure.

Structure. Anything constructed or erected, the use of which requires a fixed location on the ground or attachment to something having fixed location on the ground.

Unreasonable or undue economic hardship. An onerous or excessive financial burden that destroys reasonable and beneficial use of property and that would amount to the taking of property without just compensation, or failure to achieve a reasonable economic return in the case of income-producing properties.

Sec. 17-59 Historic Preservation Board Established.

There is hereby created a Historic Preservation Board, referred to as the "Board", which shall have principal responsibility for matters of historical preservation of historic sites and districts within the municipal boundaries of the City of Fort Morgan.

(a) *Membership.* The Board shall consist of five (5) members providing a balanced community-wide representation. Members shall reside [or own real property] within the corporate limits of the City. Efforts will be made to appoint at least two (2) members who are experienced in the fields of history, architecture or planning. No more than one member may reside outside of the City. The City's Director of Community Development shall serve as the technical consultant to the Board.

(b) *Appointments and Terms of Office; Vacancies; Removals.* Members of the Board shall be appointed by City Council and shall serve three-year staggered terms from the date of appointment. In order to stagger the initial terms of membership, the original members shall serve as follows:

- One (1) appointee shall serve a one-year term;
- Two (2) appointees shall serve two-year terms; and,
- Two (2) appointees shall serve three-year terms.

A member shall serve until a successor is appointed. Members may be appointed to serve successive terms without limitations. Appointments to fill vacancies on the Board shall also be made by the City Council. All members of the Board shall serve without compensation

except for such amounts determined appropriate by the City Council to offset expenses incurred in the performance of their duties. The City Council may remove a member of the Board for neglect of duty or malfeasance in office or for other good cause or without cause in its discretion.

(c) Quorum and Voting. A quorum for the Board shall consist of three members. A quorum is necessary for the Board to hold a public hearing or to take official action. A roll call vote shall be taken upon the request of any member. A tie vote shall be deemed denial of the motion or recommended action.

(d) Officers. The Board shall by majority vote elect one (1) of its members to serve as chairperson to preside over the Board's meetings, one (1) member to serve as vice-chair and one member to serve as secretary. The members so designate shall serve in those capacities for terms of one (1) year and may serve successive terms.

(e) Meetings. The Board shall meet at least annually to elect offices and at other times determined necessary. Minutes shall be kept of all proceedings and in the general conformance with *Robert's Rules of Order*.

(f) Powers and Duties. The Board shall:

1. Recommend criteria for review of historic resources.
2. Review resources nominated for designation as either an historic structure or a historic district and recommend designation of those resources qualifying for such designation to the City Council.
3. Review and make decision on any application for alterations to the exterior of designated historic structures or historic districts.
4. Review and make decisions on any application for moving or demolishing a historic structure.
5. Advise and assist owners of historic properties for the purpose on physical and financial aspects of preservation, renovation, rehabilitation, and reuse, including nomination to the National Register of Historic Places.
6. Develop and assist in public education programs including but not limited to walking tours, brochures, marker programs for historic properties, lectures, and conferences.
7. Conduct surveys of historic properties for the purpose of defining those of historic significance, and to establish priorities of the importance of identified historic properties and areas.
8. Advise City Council on matters related to preserving the historic character of the City.
9. Actively pursue and maintain information on financial assistance for preservation-related programs.
10. Establish a City Register of Designated Properties.

11. Recommend removal of properties from the register for reasons the Board deems appropriate including but not limited to acts of God, under hardship and public health/safety concerns.
12. Establish and collect an application fee for applications applying for historical designation or to alter or demolish a historically designated property or district.
13. Adopt bylaws and guidelines for the functioning of the Board.

Sec. 17-60 Relationships to the City Council and Staff:

1. The Board shall advise and recommend to the City Council exclusively on those matters pertinent to the historic preservation advisory board's duties and subject area, as set forth herein.
2. The Board shall biannually prepare a written report which shall then be presented to Council at a Regular Meeting, with the first report and presentation occurring after the first of the year and the second prior to the start of the City's Budget appropriation for the following year.
3. Staff will be available to attend Board Meetings quarterly at the request of the Board Chairperson.
4. A member of the City Council shall be appointed as the Council's liaison to the Board. The liaison will attend regular Board Meetings and be the conduit of bidirectional information to and from the City Council. The liaison is not a member of the Historic Preservation Advisory Board, nor is the liaison entitled to vote.

Sec. 17-61 Conduct of Business. The Board shall conduct its business in accordance with the public meetings acts, public records act and other laws applicable to local public bodies.

Section 2. That this Ordinance shall take effect from and after its passage.

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

[SEAL]

THE CITY COUNCIL OF THE CITY OF
FORT MORGAN, COLORADO

BY: _____
Mayor

ATTEST:

City Clerk

FINALLY PASSED, ADOPTED AND APPROVED this _____ day of _____, 2009 for publication 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.

[SEAL]

THE CITY COUNCIL OF THE CITY OF FORT MORGAN, COLORADO

BY: _____ Mayor

ATTEST:

City Clerk

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

CERTIFICATE

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. ____ was, as a proposed Ordinance duly and legally presented to the City Council of the City of Fort Morgan, Colorado, at a Regular Meeting on the ____ day of _____, 2009. Said Ordinance, as proposed, was duly read at length at said regular meeting, and thereafter the same was, on the ____ day of _____, 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, duly and legally passed, approved and adopted at a Regular Meeting of the City Council held on the ____ day of _____, 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.

City Clerk

ORDINANCE ESTABLISHING THE AUTHORIZATION TO DESIGNATE LANDMARKS FOR HISTORIC PRESERVATION

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING THE AUTHORITY TO DESIGNATE LANDMARKS FOR HISTORIC PRESERVATION

WHEREAS, the protection and preservation of the City's historic and cultural heritage is essential to the enhancement of the City's sense of community; and,

WHEREAS, such protection and preservation will enhance property values and generally increase the economic well-being of the City, its citizens and its businesses; and,

WHEREAS, the City Council finds and determines that designating landmarks for historic preservation would be advantageous to the City.

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

Section 1. Section 57, Chapter 17 of the *Code of the City of Fort Morgan* is hereby amended by the addition of a new article to read as follows:

Article IV Historic Preservation

Sec. 17-57 Purpose.

The purpose of this Article is to promote the public health, safety and welfare through the following:

- (1) The protection and preservation of the City's historic and cultural heritage, as represented by designated Landmarks.
- (2) The enhancement to quality of life through the maintenance of designated Landmarks.
- (3) The protection and enhancement of the City's economy through the preservation of historical attractions for local residents, tourists and visitors to the City.
- (4) The expansion of public awareness, appreciation and knowledge of the City's unique local history.

Sec. 17-58. Definitions.

Except as specifically defined herein, words or phrases in this Article shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Article its most reasonable application.

Applicant means a person or entity appointed by the record owner of the property.

Building means any structure, place or any other construction built for the shelter or enclosure of persons, animals or personal property, or any part of such structure.

Compatible or *Compatibility* means consistent with, harmonious with and/or enhances the mixture of complementary architectural styles either of the architecture of an individual structure or the character of the surrounding structures.

Demolition or *Demolish* means any act or process that destroys in part or in whole a Landmark.

Guidelines means the City of Fort Morgan's Landmark Protection Guidelines which shall be approved by the City Council and may be amended from time to time by the Council. The Guidelines shall be available at City Hall and are incorporated herein by this reference.

Landmark means a property or structure designated as a "Landmark" by ordinance of the City Council, pursuant to procedures prescribed herein, that is worthy of rehabilitation, restoration, or preservation because of its historic and architectural significance.

Owner means the person, corporation or other legal entity listed as owner on the real property records of Morgan County.

Preservation means the act or process of applying measures to sustain the existing form, integrity, and materials of a building or structure, and the existing form and specimen trees located on a site. It may include initial stabilization work, where necessary, as well as ongoing maintenance of the historic building or materials.

Rehabilitation means the act or process of returning property to a state of utility through repair which makes possible a contemporary use while preserving those portions or features of the property which are significant to its historical, architectural and cultural value.

Relocation means any relocation of a structure on its site or to another site.

Structure means anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including, but without limiting the generality of the foregoing, buildings, fences, gazebos, advertising signs, billboards, radio and television antennae, including supporting towers, hot tubs and swimming pools.

Sec. 17- 59 Designation of landmarks.

(a) Designation. The City Council may by ordinance designate as a Landmark an individual structure or other feature or integrated group of structures and features on a single lot or site having special historical value. Each such designating ordinance shall include or reference a description of the characteristics of the landmark which justifies its designation and shall include a legal description or other information sufficient to accurately determine the location and boundaries of the landmark. The designating ordinance may indicate demolitions which would not have a significant impact on or be potentially detrimental to the landmark. Any such designation shall be in furtherance of and in conformance with the purposes of this Section. Any property designated as a landmark, regardless of whether the City or property owner initiated the landmark designation, shall be subject to the controls and requirements set forth in this Section and shall be eligible for the incentive programs provided for in this Article.

(b) Procedure for designation. Landmarks may be designated on approval of an ordinance of the City Council at a public hearing after recommendation by the Planning and Zoning Commission and after notice to and consent by the property owner of the City's intent to consider designation of the property as a landmark.

(c) Application. Applications may be filed by the property owner or may be initiated by the City. Any application filed by a property owner shall include all information required by the Guidelines and any other information reasonably requested by the Director of Community Development, the Planning and Zoning Commission or the City Council. The City shall not initiate an application for landmark designation of a structure which is exclusively residential without the written permission of the property owner. The application fee or fees for processing the Landmark Designation Application shall be determined by City Council from time to time.

(d) Standards for designation. When considering whether certain property should be designated as a landmark, the City Council shall consider the following factors with regard to the property. It is not the intention of this Article to allow designation of insignificant structures,

features or sites. Any structure, feature or site that is at least seventy-five (75) years old and demonstrates one or more of the following characteristics may be designated as a landmark.

- (1) Its character, interest or value as a part of the development, heritage or culture of the City.
- (2) Its location as a site of a significant historic event.
- (3) Its identification with a person or persons who significantly contributed to the culture and development of the City.
- (4) Its exemplification of the cultural, economic, social or historic heritage of the City.
- (5) Its embodiment of distinguishing characteristics, detail, materials or craftsmanship of an architectural type or specimen.
- (6) Its identification as a work of an architect or master builder whose individual work has influenced the development of the City.
- (7) Its unique location or singular physical characteristic representing an established and familiar visible feature of a neighborhood community or the City.
- (8) Its status as a significant component of a historically significant neighborhood and the preservation of the structure or site is important for the maintenance of that neighborhood character.

Sec. 17-60 Incentives.

From time to time, the City Council may establish by ordinance incentives for applicants in order to promote those goals identified in Sec. 17-57.

Sec. 17-61 Special landmark review approval required.

(a) No demolition, partial demolition or relocation of any landmark shall be permitted unless the demolition, partial demolition or relocation is approved by the City Council by Special Landmark Review in accordance with the standards set forth in this Chapter.

- (1) Procedures for review. At a duly noticed public hearing before the City Council held after publication, the City Council shall approve, approve with conditions or disapprove the application.
- (2) Application for a Special Landmark Review. The application shall include the following:
 - a. The general information required by the City's development review application form;
 - b. A written description of the actions to be permitted and a statement of how the proposal complies with the review standards set forth below;

- c. If deemed necessary by the Director of Community Development, a report from a licensed engineer or architect regarding the soundness of the structure and its suitability for rehabilitation and/or an economic feasibility report; and
- d. Any other information reasonably required by the Director of Community Development or the City Council.
- e. Any applicable fees and deposits required by the City.

(3) Standards for review. No approval for demolition, partial demolition or relocation of a landmark shall be granted unless the City Council approves or approves with conditions the Special Landmark Review after considering any of the following standards which the City Council deems applicable:

- a. The structure proposed for demolition is not structurally sound despite evidence of the owner's efforts to properly maintain the structure;
- b. The structure cannot be rehabilitated or reused on site to provide for any reasonable beneficial use of the property;
- c. The structure cannot be practically moved to another site in City;
- d. The applicant demonstrates that the proposal mitigates to the greatest extent practical, the following:
 - 1. Any impacts that occur to the character of the neighborhood;
 - 2. Any impact on the landmark or on the historic significance of the structure or structures located on the parcel and adjacent parcels; and
 - 3. Any impact to the architectural character and integrity of the structure or structures located on the parcel and adjacent parcels;
- e. Any partial demolition is required for the renovation, restoration or rehabilitation of the Landmark, or the part of the structure to be demolished does not contribute to the historic significance of the Landmark;
- f. The structure cannot be rehabilitated or reused on its original site to provide for any reasonable beneficial use of the property;
- g. Any relocation activity is demonstrated to be the best preservation method for the character and integrity of the structure and the historic integrity of the existing neighborhood and adjacent structures will not be diminished due to the relocation;
- h. If appropriate, the structure has been demonstrated to be capable of withstanding the physical impacts of the relocation and re-siting. A structural report shall be submitted by a licensed engineer demonstrating the soundness of the structure proposed for relocation; and

i. If appropriate, a relocation plan shall be submitted, including posting a bond or other financial security approved by the City Council with the engineering department, to insure the safe relocation, preservation, and repair (if required) of the structure, site preparation and infrastructure connections. The receiving site shall be prepared in advance of the physical relocation.

(4) Exemption for structures or portions of structures which do not contribute to the historic significance of a landmarked parcel. Demolitions or partial demolitions which do not affect the exterior of the building are exempt from meeting the standards of Sec. 17-61. The demolition, partial demolition or relocation of a structure or portion of a structure which the Special Review Committee unanimously finds does not contribute to the historic significance or defining elements of a landmarked parcel shall be exempt from meeting the standards of Sec. 17-61.

Sec. 17-62. Penalties.

Any person violating the provisions of this Chapter 17, Article IV, shall be subject to the general penalty provisions of this Chapter, and, in addition, the City Council, by ordinance following notice to the owner and hearing, may prohibit the owner, successor, or assigns from obtaining a building permit for the affected property for a period up to three (3) years from the date of such violation. The extent of the penalty shall be determined by the City Council following a review of the severity of the violation. The City may initiate proceedings to record a public notice against the property to this effect to insure the notice and enforcement of this penalty.

Sec. 17-63. Insubstantial amendment of development order.

(a) Insubstantial amendment. An insubstantial amendment to a Special Landmark Review Approval may be authorized by the Director of Community Development. An insubstantial amendment shall be limited to technical or engineering considerations discovered after the approval process which could not reasonably have been anticipated during the approval process.

(b) Other amendments. All other amendments shall be approved by the City Council pursuant to Sec. 17-61.

Sec. 17-64. Minimum maintenance requirements.

In order to avoid loss of landmarks, all buildings and structures designated as a landmark and having historical significance shall be maintained to meet the minimum requirements of the Uniform Building Code ("UBC") and the Uniform Conservation Building Code. Provided, this requirement shall not create an obligation for an owner of a structure to repair or replace elements of such structure which are properly functioning but which are not UBC compliant. Said structures shall receive reasonable care, maintenance and upkeep appropriate for the preservation, protection, enhancement, rehabilitation, reconstruction, perpetuation or use in compliance with the terms of this Section. The owner of each such landmarked property shall keep the building or structure in good repair, including all of the exterior portions of such improvements and all interior portions thereof which, if not maintained, may cause or tend to cause the exterior portions of such improvements to deteriorate, decay or become damaged or otherwise fall into a state of disrepair. The City Council may, on its own initiative, file a petition with the Planning and Zoning Department requesting that said Department require correction of defects or repairs to any structure covered by this Section, so that such structure shall be

preserved and protected consistent with the purpose of this Section. Upon application, the City Council may approve a one-time loan to the owner of the property in an amount not to exceed ten thousand dollars (\$10,000.00) for purposes of satisfying the minimum maintenance requirements of this Section upon a demonstration of economic hardship which prohibits the owner from conducting such repairs, provided that:

- (1) The loan shall be in the minimum amount necessary to maintain the structure;
- (2) No interest will be due unless the applicant is not able to repay the loan within ten (10) years; and
- (3) In approving the loan, the Council shall establish the loan terms and interest rates in the event the loan is not to be paid back in ten (10) years.

Section 2. That this Ordinance shall take effect after its passage.

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

[SEAL]

THE CITY COUNCIL OF THE CITY OF FORT MORGAN, COLORADO

BY: _____
Mayor

ATTEST:

City Clerk

FINALLY PASSED, ADOPTED AND APPROVED this ____ day of _____, 2009 for publication 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.

[SEAL]

THE CITY COUNCIL OF THE CITY OF FORT MORGAN, COLORADO

BY: _____
Mayor

ATTEST:

City Clerk

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

CERTIFICATE

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. ____ was, as a proposed Ordinance duly and legally presented to the City Council of the City of Fort Morgan, Colorado, at a Regular Meeting on the ____ day of _____, 2009. Said Ordinance, as proposed, was duly read at length at said regular meeting, and thereafter the same was, on the ____ day of _____, 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, duly and legally passed, approved and adopted at a Regular Meeting of the City Council held on the ____ day of _____, 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.

City Clerk

PRESENTATION BY SAVE THE POUDBRE

Gary Wockner, PhD, provided a PowerPoint presentation entitled, "The Dam Truth and the Healthy Rivers Alternative" and provided hand-outs of "The Healthy Rivers Alternative." He was representing "Save the Poudre Coalition." He added that the Coalition is comprised of 16 environmental groups whose main goal was to stop the NISP project and to offer a better alternative for towns and to provide a river restoration proposal for the future. He stated he appreciated the request for the presentation before City Council as it had been the first Northern Integrated Supply Program (NISP) participant that had asked for their information. He stated that the NISP project would be bad for farming in the area, it would drain and destroy the Poudre River and it would be a financial hardship for the communities involved. He also added that according to his statistics, the number of building permits for our City is very low; therefore, the City of Fort Morgan was not experiencing growth. City Manager Merrill added that the State records on that statistic reflect building permits for new construction, not remodeling.

Director Dreessen asked Mr. Wockner where the excess water would go if not directed to a reservoir. Mr. Wockner responded that his organization is proposing no new diversions from the Poudre River. Director Dreessen asked again about the high flows, Mr. Wockner said his statistics do not show any high flows. Mr. Wockner stated that the river has been drained dry in the past. Director Dreessen asked how the cities involved are meeting their Wastewater Treatment permits, as they have low-flow limits already. Mr. Wockner could only refer to a Fort Collins study which showed that a significant amount of money would have to be spent to comply. Director Dreessen asked if the City of Fort Collins could dry up the Poudre River, as they have in the past. Mr. Wockner responded that eight-five percent of the water can be diverted by agriculture and fifteen percent could be diverted by the City of Fort Collins and the City of Greeley.

Attorney Wells asked Mr. Wockner if the "LEDPA" study was focused on Fort Collins or on the entire Poudre River? Mr. Wockner answered that it was entire stretch of the river all the way to the state line. Attorney Wells asked if the quality water was considered in the impact of the study? He responded that yes, it was. Attorney Wells stated that eastern Colorado communities are having concerns of the water quality from ground pumping, as it is contaminated. Mr. Wockner added that an alternative could be to trade for water up the river or to treat the water.

**CONSIDERATION OF PROPOSED HOLIDAY CLOSURES AS CLOSING CITY FACILITIES
THE DAY AFTER THANKSGIVING AND ON CHRISTMAS EVE**

TO: City Council
FROM: Pat Merrill, City Manager
SUBJECT: Proposed Holiday Closures
DATE: October 22, 2009
MEETING DATE: October 27, 2009

Item for Consideration: I will be making a verbal presentation on the proposed closing of City facilities on Christmas Eve and the day after Thanksgiving. I will also be including input from various staff members for the Mayor & City Council's consideration.

City Manager Merrill added that he had experienced very little activity on those days and asked Connie Musgrave in Utility Billing who confirmed that utility shutoffs would be Monday. He added that these days off would align with the closing of other government offices. The Recreation Center would be closed Thursday and Friday, but would be open on Saturday from 8 a.m. to 12 noon. Councilmember Powers suggested that this only be for this year.

Councilmember Simmons offered a motion to approve the closing of City buildings on Friday, November 27 and Thursday, December 24, in 2009. Her motion was seconded by Councilmember Shaver and duly carried.

**PRESENTATION OF A RESOLUTION RATIFYING THE MAYOR'S AUTHORIZATION OF
EMERGENCY FUNDING FOR REPAIRS RELATED TO SINKHOLES ALONG THE STORM
WATER DRAINAGE SYSTEM**

Engineer Curtis provided a communication memo as follows:

Date: October 21, 2009
To: Jack Darnell, Mayor
From: Brad Curtis, Municipal Engineer
cc: Pat Merrill, City Manager
Terri Schafer, City Treasurer
Re: Emergency Funding Request to Repair Sinkholes on Storm Water Drainage System

In recent months, two sinkholes have been identified by City staff. These sinkholes run along the pipeline alignment, and can be potentially hazardous to adjoining property owners by creating possible problems within the storm drain system. Due to the depth of the storm drain (16-20 feet), and the fact that the City does not possess the necessary equipment to complete this work, a contractor was obtained to perform the emergency excavation of one of the sinkholes.

The initial scope of work required the contractor, Jones Excavating, to expose the pipe below the sinkhole located immediately adjacent (west) to the Pagel property and repairing the pipeline for approximately \$7,000.00. However, once the storm drain was exposed and the extent of the repairs were revealed, it was determined that more excavation work and materials would be needed than had been originally anticipated and that it would be necessary to remedy both sinkholes in the area under one effort.

Therefore, Staff is requesting immediate funding approval for approximately \$10,000.00 in contractor expenses and \$15,000.00 for material expenses for a total estimated cost of \$25,000.00. The materials include 120 feet of 66" corrugated metal pipe and manhole barrel sections. The majority of the funds necessary to for this repair would be taken from the Streets Department budget under line item 001.431.3.3226 - Storm Sewer Maintenance. Please feel free to contact me should you have any questions regarding this matter.

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

RESOLUTION NO. 09 10 03

**RATIFYING THE MAYORS AUTHORIZATION OF EMERGENCY FUNDING
FOR REPAIRS RELATED TO SINKHOLES ALONG THE
STORM WATER DRAINAGE SYSTEM.**

WHEREAS, in recent months two sinkholes had been identified by City Staff along the pipeline alignment of the storm water drain system of the City; and,

WHEREAS, Staff recognized that if these two sinkholes were not immediately remedied, they posed potential hazards to both adjoining property owners and the City's storm drain system; and,

WHEREAS, a contractor was needed to complete this work, as the City does not possess the necessary equipment to correct the problem; and,

WHEREAS, due to the urgency of upgrading this system, City Staff recommended that the Mayor authorize emergency funding for the cost of employing a contractor and materials needed to remedy this problem; and,

WHEREAS, Jones Excavating, of Fort Morgan, Colorado, agreed to complete the repair at an estimated cost of \$25,000.00; and,

WHEREAS, previously, Mayor Jack Darnell, authorized the emergency funding of this project to be taken from the Street Departments from the Storm Sewer Maintenance line item 001.431.3 3226, in the amount of \$25,000.00; and,

WHEREAS, the City's Procurement Policy authorizes emergency purchases over \$10,000.00 in case(s) of actual emergencies, wherein the life, health or safety of employees or the general public is at risk or when significant harm may occur to operating systems and in the judgment of the Purchasing Agent(s) or their designee(s) services and/or goods must be procured immediately to prevent loss.

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

Sec. 1: The Mayor’s authorization of emergency funding to repair the two sinkholes located along the pipeline alignment of the City of Fort Morgan’s storm drain system in the amount of \$25,000.00, to be taken from the Street Departments from the Storm Sewer Maintenance line item 001.431.3 3226, is hereby ratified.

INTRODUCED, PASSED, APPROVED AND ADOPTED this 27th day of October, 2009, the vote upon roll call being as follows:

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

Nays: None.

Absent / Abstain: Councilmember Forstedt.

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 29th day of October, 2009.

/s/ Andrea Strand, City Clerk

BIDS, MEETINGS AND ANNOUNCEMENTS

Clerk Strand announced upcoming meetings and informed all to watch for the new website redesign which should go live on October 30th.

City Manager Merrill offered an “atta-boy” to Travis Petrino for repairing a truck for the Sanitation Department. The City had received an estimate in excess of \$10,000 to repair it, and Travis was able to do the repair for \$600.

EXECUTIVE SESSION

At 10:30 a.m., Councilmember McAlister moved to go into 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); Specifically: Utility extension north of the River. His motion was seconded by Councilmember Shaver and duly carried.

Mayor Darnell announced, “The time is now 12:52 p.m., and we now conclude the Executive Session and return to the open meeting.” Upon returning to the open meeting, Mayor Darnell announced, “The participants in the Executive Session were Mayor Darnell; Councilmembers Deal, McAlister, Powers, Shaver and Simmons; Pat Merrill, Jeffrey Wells, Keith Kuretich, Brad Curtis, Kari Linker, John Becker, Frank DiRico, Jeff Brown and Paul Guzman.

“For the record, if any person who participated in the Executive Session believes that any substantial discussion of any matters not included in the motion to go into Executive Session occurred during the Executive Session, or that any improper action occurred during the Executive Session in violation of the Open Meetings Law, I would ask that you state your concerns for the record. Hearing none, the Executive Session is concluded, and I will ask Councilmember McAlister to report on the Executive Session.”

Councilmember McAlister offered a motion to direct Staff to work with existing utility providers for long term development goals as identified in the 2003 Comprehensive Plan. His motion was seconded by Councilmember Shaver and carried unanimously.

Mayor Darnell adjourned the October 27, 2009, special meeting at 12:55 p.m.

/s/ Jack L. Darnell
Mayor

/s/ Andrea J. Strand
City Clerk