

RESOLUTION NO. 2010-01-01

A RESOLUTION SETTING FORTH FINDINGS OF FACT AND CONCLUSIONS OF LAW BASED THEREON AND DETERMINING THE STATUS OF THE TERRITORY SOMETIMES KNOWN AS GATEWAY PARK ANNEXATION PROPERTY HEREINAFTER MORE SPECIFICALLY DESCRIBED BELOW

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT MORGAN:

This matter comes on for hearing before the City Council of the City of Fort Morgan on January 5, 2010 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 Gateway Park Annexation, more specifically described in herein as:

A PARCEL OF LAND IN THE NORTH 1/2 OF SECTION 8, TOWNSHIP 3 NORTH, RANGE 58 WEST OF THE 6TH PRINCIPAL MERIDIAN, MORGAN COUNTY, COLORADO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF GATEWAY AVENUE, FROM WHICH THE NORTHWEST CORNER OF SAID SECTION 8 BEARS NORTH 64°50'45" WEST 2,774.68 FEET AND ASSUMING THAT THE WEST LINE OF THE NORTHWEST 1/4 OF SAID SECTION 8 BEARS SOUTH 00°05'00" WEST;

THENCE NORTH 89°46'50" EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE OF GATEWAY AVENUE, 310.00 FEET;

THENCE SOUTH 00°08'20" WEST 281.03 FEET;

THENCE SOUTH 89°46'50" WEST 310.00 FEET;

THENCE NORTH 00°08'20" EAST 281.03 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS THE PROPERTY FILED UNDER BOOK 954, PAGE 730 AND UNDER RECEPTION NUMBER 736034 AND CONTAINS 87,118 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 December 1, 2009, 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 January 5, 2010, 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) C.R.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: December 4, 2009; December 11, 2009; December 18, 2009; and December 23, 2009. The Fort Morgan Times is a daily newspaper in general circulation throughout the City of Fort Morgan, throughout the area to be annexed.

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 and to the Morgan County Attorney, and to the School District 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 Gateway Park as legally described herein meets 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.

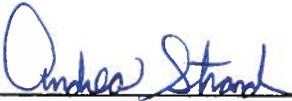
21. The City Council finds and concludes that said territory is eligible for annexation to the City of Fort Morgan.

Dated at Fort Morgan, Colorado, this 5th day of January, 2010.



Mayor Jack Darnell

ATTEST:



Andrea Strand, City Clerk