

January 5, 2010

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 Debra J. Forstedt
Councilmember Terry McAlister
Councilmember James A. Powers
Councilmember Ron Shaver
Councilmember Alberta M. Simmons

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

PUBLIC HEARING FOR GATEWAY PARK ANNEXATION

Public Hearing

Mayor Darnell provided opening comments by stating, "On December 1, 2009, the City Council of the City of Fort Morgan adopted a Resolution finding the Gateway Park Annexation Petition for Annexation was in substantial compliance with C.R.S. §31-12-107. Thereafter, a Hearing was set for tonight, January 5, 2010, for the Council of the City of Fort Morgan to consider the annexation of the area set forth in the Annexation Plat submitted with the Petition. The public hearing will be opened to receive evidence concerning the requirements established under C.R.S. §31-12-104 and C.R.S. §31-12-105 and other pertinent evidence required under the Annexation Act of 1965 as amended."

Clerk Strand reported that the Notice of Public Hearing was published in *The Fort Morgan Times* for four successive weeks, with the first publication being on December 4, 2009, and the last publication on December 23, 2009. She also presented a certificate of mailing to the Board of County Commissioners and all Special Districts having territory within the area to be annexed.

Director Callahan reviewed the Petition of Annexation by the City of Fort Morgan. Attorney Wells stated that the City is the petitioner and has no comments.

Clerk Strand reported that she had not received any written comments from the public.

City Council had no comments.

Councilmember Powers offered a motion to close the public hearing concerning the Petition for Annexation by the City of Fort Morgan. His motion was seconded by Councilmember Shaver and carried unanimously.

Resolution of Findings and Conclusions

Attorney Wells presented for Council consideration a Resolution concerning the Petition for Annexation. Councilmember Shaver offered the following Resolution and moved to refer the matter for recommendation to the Planning Commission. His motion was seconded by Councilmember Powers and carried unanimously; said Resolution being in words, letters and figures as follows, to-wit:

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.

/s/ Jack Darnell, Mayor

ATTEST:

/s/ Andrea Strand, City Clerk

PRESENTATION OF A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT FOR PROFESSIONAL SERVICES BY AND BETWEEN THE CITY OF FORT MORGAN AND PLAN TOOLS, LLC, TO UPDATE THE COMPREHENSIVE PLAN AND LAND USE CODE OF THE CITY

Director Callahan requested Council's approval of the Agreement for Professional Services By and Between the City of Fort Morgan and Plan Tools, LLC, to update the Comprehensive Plan

and Land Use Code for the City. He stated that the agreement outlined the scope of work which will address the signage code and that it confirmed the total cost of the project to be \$77,000.

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

RESOLUTION No. 2010-01-02

**AUTHORIZING THE MAYOR TO EXECUTE
THE AGREEMENT FOR PROFESSIONAL SERVICES
BY AND BETWEEN THE CITY OF FORT MORGAN AND PLAN TOOLS, LLC.
TO UPDATE THE COMPREHENSIVE PLAN AND LAND USE CODE OF THE CITY**

WHEREAS, the City of Fort Morgan desires to update its Comprehensive Plan and Land Use Code; and,

WHEREAS, previously in October of 2008, the City requested proposals for professional planning services for the development of a new and amended Comprehensive Plan and Land Use Code; and,

WHEREAS, four submissions were reviewed by the Planning Commission and following their review, it was recommended that the bid submitted by Plan Tools, LLC, be accepted; and,

WHEREAS, all but one other bid received exceeded the bid submitted by Plan Tools, LLC; and,

WHEREAS, the Commission felt the lowest bidder, consisting of a team of Civil Resources, ForeSee Consulting, and Gruen Gruen and Assoc. would not be able to produce a product that would properly respect the specific conditions of the project; and,

WHEREAS, the amount bid by Plan Tools, LLC was beyond the budgeted amount for 2009; and,

WHEREAS, the entire amount of \$77,000 has now been budgeted for 2010; and,

WHEREAS, the City Council wishes to accept the bid of Plan Tools, LLC; and,

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

Sec. 1: The Mayor is hereby authorized to execute the entire Agreement for Professional Services (a copy of which is attached hereto and incorporated herein by this reference) for the purpose of developing and amending a Comprehensive Plan and Land Use Code.

INTRODUCED, PASSED, APPROVED AND ADOPTED this 5th day of January 2010, the vote upon roll call being as follows:

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

Nays: None.

Absent / Abstain: None.

THE CITY COUNCIL OF THE CITY OF
FORT MORGAN, COLORADO

[SEAL]

BY /s/ Jack Darnell, Mayor

ATTEST:

/s/ Andrea Strand, City Clerk

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

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

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the City of Fort Morgan this 7th day of January, 2010.

/s/ Andrea Strand, City Clerk

PRESENTATION OF A RESOLUTION ACCEPTING THE ANNEXATION PETITION FOR RIVERSIDE PARK NORTH ANNEXATION

City Attorney Wells presented a Resolution Accepting the Annexation Petition for Riverside Park North Annexation. He stated the property is known as Twamore Farms and consists of approximately 300 acres north of Riverside Park. Councilmember Powers addressed item eleven (11) in the Petition for Annexation, it indicated that the proposed area comprises of less than ten (10) acres, he thought it was more than that. Attorney Wells agreed that it was an error and would be corrected.

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

RESOLUTION NO. 2010-01-03

WHEREAS, the City Council has received from the City Clerk the Petition for Annexation as filed by the City of Fort Morgan; and,

WHEREAS, the City Council finds that said Petition for Annexation is in substantial compliance with C.R.S. § 31-12-107 (1), specifically including a finding that the Petitioners are the owners of 100% of the territory included in the area proposed to be annexed.

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

THAT the City Council finds the Petition for Annexation to be in substantial compliance with C.R.S. § 31-12-107 (1) and hereby schedules a Public Hearing on the Petition for Annexation as required by C.R.S. § 31-12-108, said Public Hearing to be held as follows:

DATE: February 16, 2010
TIME: 7:00 P.M.
PLACE: Council Chambers
110 Main Street
Fort Morgan, Colorado

The purpose of such Public Hearing is to determine if the proposed annexation complies with C.R.S. §§ 31-12-104 and 31-12-105.

FURTHER, the City Manger is directed to require Staff to give notice as required by C.R.S. § 31-12-108 (2) by publication of a copy of this Resolution or the Petition for Annexation as filed (exclusive of signatures), together with a Notice that, on the date, time, and place set forth above, the City Council of the City of Fort Morgan, Colorado, shall hold a Hearing upon the Petition for Annexation for the purpose of determining and finding whether the area proposed to be annexed meets the applicable requirements of C.R.S. §§ 31-12-104 and 31-12-105 and is considered eligible for annexation. Said Notice shall be published once a week for four (4) successive weeks in *The Fort Morgan Times*.

The first publication of such Notice shall be at least thirty (30) days prior to the date of the Public Hearing. The Proof of Publication of the Notice and Resolution or Petition shall be returned when the publication is completed, and the certificate of the Owner, Editor or Manager of the newspaper in which said Notice is published shall be proof thereof, and a Public Hearing shall then be held as provided in said Notice.

FURTHER, a copy of the published Notice, together with a copy of the Petition for Annexation as filed, shall also be sent by registered mail by the City Clerk to the Board of County Commissioners for Morgan County, to the Morgan County Attorney, to the Morgan County Land Use Department, to the local School District and to any special district having territory within the area to be annexed, at least twenty-five (25) days prior to the date fixed for such Public Hearing.

FURTHER, that the Petition for Annexation, including the zoning of the subject property, is hereby referred to the Planning Commission for its review and recommendations, including compliance with the Annexation Plan of the City.

PASSED AND ADOPTED this 5th day of January, 2010.

/s/ Jack Darnell, Mayor

[SEAL]

ATTEST:

/s/ Andrea Strand, City Clerk

PRESENTATION OF A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE THE FULL AND FINAL RELEASE AND SETTLEMENT AGREEMENT BETWEEN THE CITY OF FORT MORGAN AND ANITA AND THOMAS ERTLE

City Attorney Wells presented for Council's consideration a Resolution Authorizing the Mayor to Execute the Full and Final Release and Settlement Agreement Between the City of Fort Morgan and Anita and Thomas Ertle. The issue occurred as a result of a sewer backup. Engineer Curtis stated that steps had been taken to avoid this in the future, as a maintenance plan is in place. He also responded to Councilmember's Forstedt concern of education to citizens. He stated that information is placed in the utility statements as well as on the City's website. Director Dreessen reminded citizens not to place grease or other disposable items in the sewer system.

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

RESOLUTION NO. 2010-01-04

AUTHORIZING THE MAYOR TO EXECUTE THE FULL AND FINAL RELEASE AND SETTLEMENT AGREEMENT BETWEEN THE CITY OF FORT MORGAN AND ANITA AND THOMAS ERTLE.

WHEREAS, Article I, Sec. 2(b) of the *Charter of the City of Fort Morgan* empowers the City to sue, defend, and plead matters within the City; and

WHEREAS, Anita and Thomas Ertle, Plaintiffs, by and through their attorney of record, John A. Meininger, filed a Complaint in Case No. 08 CV 184, against the City of Fort Morgan for damages sustained to the Plaintiffs' property that occurred on October 26, 2007; and,

WHEREAS, the parties, by and through attorney of record John A. Meininger on behalf of the Plaintiffs' and CIRSA on behalf of the City, had previously entered into settlement discussions regarding the claim and a disposition of the suit; and,

WHEREAS, due to these discussions, the parties have reached a desirable agreement as set forth in the Full and Final Release and Settlement Agreement; and,

WHEREAS, CIRSA has recommended that the City execute the Agreement to dispose of this matter in its entirety; and,

WHEREAS, pursuant to Article IV, Section 2(d) of the *Charter of the City of Fort Morgan*, the signature of the Mayor is required on all warrants, contracts, bonds or other instruments of the City.

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

SECTION 1: The City Council hereby authorizes the Mayor to execute the Full and Final Release and Settlement Agreement related to Case No. 08 CV 184 in the form attached hereto and incorporated herein by this reference.

INTRODUCED, PASSED, APPROVED AND ADOPTED this 5th day of January 2010, the vote upon roll call being as follows:

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

Nays: None.

Absent / Abstain: None.

THE CITY COUNCIL OF THE CITY OF FORT MORGAN, COLORADO

[SEAL]

BY: /s/ Jack Darnell, Mayor

ATTEST:

/s/ Andrea Strand, City Clerk

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

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

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the City of Fort Morgan this 7th day of January, 2010.

/s/ Andrea Strand, City Clerk

FIRST READING OF AN ORDINANCE CONCERNING BUDGET AMENDMENTS FOR 2009

City Treasurer Schafer presented for Council consideration on first reading, an Ordinance for the appropriation of amendments to the budget for 2009; said Ordinance being in words, letters and figures as follows, to-wit:

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE APPROPRIATION OF CERTAIN MONIES FOR THE BUDGET YEAR 2009 OF THE CITY OF FORT MORGAN, COLORADO, TO THE YEAR ENDING DECEMBER 31, 2009

UPON AND PURSUANT to the revised estimate of the probable revenue and expenses submitted to the City Council of the City of Fort Morgan, Colorado, and upon a budget made by said Council, and for the purpose of raising funds to defray all expenses of conducting the business of the government of the City and payment of all liabilities of the City falling due or accruing during the fiscal year ending December 31, 2009; and,

WHEREAS, the following expenditures from monies which are available for the purpose could not be foreseen or were not anticipated at the time of the adoption of the 2009 municipal budget in 2008.

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

Of the monies arising from electric, water, gas, sewer, and sanitation charges, taxes, fines, licenses and all other sources of monies of the City of Fort Morgan, the appropriation to the several funds of said City for the purposes of operations, debt service and capital outlays is amended as follows and attached hereto and incorporated herein by reference:

Fund	Original Appropriation	Amendment	Amended Appropriation
<i>Electric Fund</i>	\$20,004,266.00	\$ 600,000.00	\$20,604,266.00
<i>Water Fund</i>	\$ 6,397,507.00	\$ 69,900.00	\$ 6,467,407.00
<i>Fiber Network Fund</i>	\$ 12,000.00	\$ 2,000.00	\$ 14,000.00
<i>Riverview GID</i>	\$ 200,000.00	\$ 400,000.00	\$ 600,000.00
<i>Total</i>	\$26,613,773.00	\$1,071,900.00	\$27,685,673.00

INTRODUCED, READ ON FIRST READING AND ORDERED PUBLISHED this 5th day of January, 2010.

THE CITY COUNCIL OF THE CITY OF
FORT MORGAN, COLORADO

[SEAL]

By: /s/ Jack Darnell, Mayor

ATTEST:

/s/ Andrea Strand, City Clerk

PASSED, APPROVED AND ADOPTED ON FINAL READING as amended this ___ day of January, 2010.

THE CITY COUNCIL OF THE CITY OF
FORT MORGAN, COLORADO

[SEAL]

By: _____
Mayor

ATTEST:

City Clerk

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

I, Andrea Strand, the duly appointed, qualified and acting Clerk of the City of Fort Morgan, Colorado, do hereby certify 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, on the ____ day of January, 2010. Said ordinance, as proposed, was duly read at length at said meeting, and thereafter the same was, on the ____ day of _____, 2010, 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 at a regular meeting of the City Council held on the ____ day of January, 2010; that the above and foregoing Ordinance No. _____ was duly and legally, passed, approved and adopted on said ____ day of January, 2010, and thereafter published as an ordinance of the City in the said *Fort Morgan Times* on the ____ day of _____, 2010.

[SEAL]

City Clerk

Councilmember Shaver 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 5th day of January, 2010, the vote upon roll call being as follows: Ayes: Mayor Darnell; Councilmembers Deal, Forstedt, McAlister, Powers, Shaver and Simmons. Nays: None.

PRESENTATION OF INFORMATION ON PROPOSED WELL DECOMMISSIONS AND REMOVAL OF WELL HOUSES

Director Dreessen and Superintendent Church provided a communication to memo to Council, said memo in words, letters and figures as follows, to-wit:

FROM: Gary Dreessen, Water Resources
 Mitch Church, Water Distribution Superintendent

SUBJECT: Presentation of Well Decommission and Well House Removal

DATE: December 21, 2009

MEETING DATE: January 5, 2010

Item for Consideration: The Water Distribution Department is proposing to abandon outdated and non-functioning wells and to demolish the well houses. These are wells that are not being used and have not been used for several years. The wells in question all have problems with pumps, controls, well screens and the pump buildings are in poor condition. The wells were taken out of service for reasons such as pumping sand and air (needs new well casing) to water quality issues. If the wells are decommissioned and the well houses demolished, maintenance and use of the property will also need to be addressed.

Background Information: Each well proposed to be abandoned is listed as follows with the well age date taken from the City Augmentation Decree. Pictures of well sites were provided at a previous meeting.

Linda Street – September 1964. This well is no longer in use, the casing plugged up many years ago and all efforts to clear it failed. A new well would have to be drilled.

Euclid Street – February 1932. This well has been off line for many years. It had to be shut down and taken off line because it exceeded the MAL (maximum allowable limit) on nitrates.

Main Street – May 1932. With the physical location of the well i.e. its surroundings, it could not be flushed or tested without causing damage to the adjacent properties or flooding the streets. Another major factor was the condition of the building itself. The well house building failed causing extensive damage to the equipment inside and we were looking at total replacement.

Sherman Street/Grant – March 1960. This well is no longer in use, the casing plugged up many years ago and all efforts to clear it failed. A new well would have to be drilled.

Murchy Addition – March 1959. This well is no longer in use and has not been used in many years. With the size and condition of the well house, upgrades and repairs were cost prohibitive to continue its use when the CBT water was brought on line.

Jeff Canfield was consulted for his recommendation regarding the future use of these wells and options for Council consideration. If the condition of the well required a new well to be drilled, then it was his opinion to abandon that well. If the well could still possibly be refurbished and put back into service, then the well should be extended above ground, capped and protected from collision with pipe bollards. Mr. Canfield recommended the property remain in City control to allow access of equipment in the event wells needed to be put back into service.

Based Mr. Canfield's opinion, City Staff would recommend abandoning the Grant and Linda Street wells as they would have to be re-drilled in order to operate. The remaining wells, Euclid, Main and Murchy should be capped as they could be put back into service if necessary.

Financial Considerations: A rough estimate of \$3,000/well to raise the casing above ground and cap was given by Mr. Canfield. It is possible some of this could be performed by City staff. Demolition and removal of the well houses would be in addition to the raising and capping of the wells. City staff should be able to remove the well houses. A savings to the City should come

from house removal and utility costs. City costs for maintenance of the property could be further reduced by offering use of the property for gardens, parking, lawns etc. to adjacent land owners for their agreement to maintain the property.

Alternatives: Continue to pay for heating and maintenance of well houses and areas around the well houses that contain wells that are no longer functioning or cap all wells and remove all well houses.

Citizen Input/Board Review: Two Water Advisory Board members consulted.

Legal Review: City Attorney will provide.

Supporting Documents: None.

Staff Recommendations: Demolish and remove all well houses, raise and cap the Euclid, Main and Murchy wells, abandon the Grant and Linda Street wells with the City to retain ownership of the well properties. City crews would be utilized as much as possible to complete project.

Public Comment: Charles Burkett, who resides at 718 Linda Street, stated that he had concerns that the City would sell the property where the well was located. He recommended that the City keep the property and maintain it.

Ron Edwards, who resides at 700 Linda Street, recommended that the wells be preserved in the event they were needed in the future.

City Manager Merrill added that once the property was cleared of the well houses, the property could be given to the adjoining property owners.

Superintendent Church added his concern was the internal buildings had deteriorated and were becoming a safety issue.

Councilmember Powers offered motion to accept Staff's recommendation on City-owned wells and explore proper disposition of the properties at Linda Street and Grant Street to best fit the neighborhood and residents concerned. His motion was seconded by Councilmember Simmons and carried unanimously.

CONSENT AGENDA (by Resolution and Acting as the Local Liquor Licensing Authority)

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 Forstdt; said Consent Agenda being in words, letters and figures as follows, to wit:

- A. Approve the minutes from the December 15, 2009, regular meeting.
- B. Approve the appointment of Heath Kuntz of 615 Aurora Street to the Water Advisory Board effective January 13, 2010.
- C. Approve the application for renewal of a Tavern Liquor License for Silver Crown Lanes Inc., dba Gold Crown Lanes, located at 300 E. Railroad Avenue, with a clear police investigation report.

- D. Approve the application for renewal of a Retail Liquor License and the Report of Changes for Midcap LLC, dba North Main Liquor, located at 716 North Main, with a clear police investigation report.
- E. Second and Final Reading of Ordinance No 1091 entitled, "An Ordinance Amending R-1 and B-1 of the *Zoning and Land Use Code of the City of Fort Morgan, Colorado*," and request to publish by title only.

ORDINANCE NO. 1091

AN ORDINANCE AMENDING R-1 and B-1 OF THE ZONING AND LAND USE CODE OF THE CITY OF FORT MORGAN, COLORADO.

WHEREAS, the City desires to assist local property owners to better optimize use of their property; and,

WHEREAS, City Staff recommends two changes be made to the *Zoning and Land Use Code* to accommodate this need.

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

Section 3(A), R-1: Residential District (Low Density), of the *Zoning and Land Use Code of the City of Fort Morgan, Colorado* (2006) is hereby amended to read as follows:

- A) Uses Permitted
 - 1. Single-family dwellings.
 - 2. Public schools dedicated to Grades K-12, parks, playgrounds and recreational areas.
 - 3. Churches.
 - 4. Hospitals.
 - 5. Public Buildings – provided no repair or storage facilities are maintained.
 - 6. Accessory Buildings.
 - 7. Public Utility Mains and Distribution Lines; Substations and Exchanges.

Section 10, B-1: Business District, of the *Zoning and Land Use Code of the City of Fort Morgan, Colorado* (2006) is hereby amended to read as follows:

- A) Uses Permitted
 - 1. Any use permitted in R-1, R-2, R-3 or T Districts.

READ, PASSED ON FIRST READING AND ORDERED PUBLISHED this 15th day of December, 2009.

THE CITY COUNCIL OF THE CITY OF FORT MORGAN, COLORADO

[SEAL]

BY: /s/ Jack Darnell, Mayor

ATTEST:

/s/ Andrea Strand, City Clerk

FINALLY PASSED, APPROVED AND ADOPTED ON FINAL READING AND ORDERED PUBLISHED this 5th day of January, 2010.

THE CITY COUNCIL OF THE CITY OF FORT MORGAN, COLORADO

[SEAL]

BY: /s/ Jack Darnell, Mayor

ATTESTED:

/s/ Andrea Strand, City Clerk

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

I, Andrea Strand, the duly appointed, qualified and acting Clerk of the City of Fort Morgan, Colorado, do hereby certify and attest that the foregoing Ordinance No. 1091 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 15th day of December, 2009. Said Ordinance, as proposed, was duly read at length at said regular meeting, and thereafter the same was, on December 18, 2009, published in *The Fort Morgan Times*, 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 5th day of January, 2010. Within five (5) days after its final passage, said Ordinance was published in the *Fort Morgan Times*, a daily newspaper of general circulation published and printed in the City of Fort Morgan, Morgan County, Colorado.

/s/ Andrea Strand, City Clerk

All matters listed under the 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 5th day of January, 2010, the vote upon roll call being as follows: Ayes: Mayor Darnell; Councilmembers Deal, Forstedt, McAlister, Powers, Shaver and Simmons. Nays: none.

PUBLIC COMMENT / AUDIENCE PARTICIPATION

None.

REPORTS

The following Directors provided written reports to Council:

City Manager Merrill added to his report that the Downtown Project won an award with APW and the City will have representation at the award ceremony in Denver. He added that Matrix Consulting Group is here to review our internal process efficiencies and how we can be more fiscally responsible. He also read an article from the Ocala, Florida, newspaper concerning responsible growth for a community.

Police Chief Kuretich
Water Resources/Wastewater Treatment Director Dreessen
Municipal Engineer Curtis
Community Development Director Callahan
Human Resources and Risk Management Director Prentice

City Attorney Wells presented a letter he received from a concerned citizen concerning medical marijuana. The letter was unsigned and he encouraged citizens to provide contact information so they can be contacted and involved with any future correspondence or meetings. His office is collecting information on this issue and will provide options to City Council in the near future.

BIDS, MEETINGS AND ANNOUNCEMENTS

Clerk Strand announced upcoming bids and meetings. She also stated that her office had received three applications for the Councilmember Vacancy in Ward 1. Those who had submitted applications were: William Z. Deal, Daniel C. Marler and Ronald Shaver.

Mayor Darnell stated that the new downtown clock dedication will be held on Thursday, January 7, at 1:00 p.m. He also received a thank you note from SARA Inc., which he read.

Mayor Darnell adjourned the January 5, 2010, regular meeting at 8:10 p.m.

/s/ Jack L. Darnell
Mayor

/s/ Andrea J. Strand
City Clerk