

December 2, 2008

The Board of Directors for the Riverview Commons General Improvement District met this day in the Council Chambers of City Hall. President Jack L. Darnell called the meeting to order at 7:00 p.m.

The Pledge of Allegiance was given.

Secretary Strand called for roll.

Present:                   President Jack L. Darnell  
                              Director Sharol Lyn Deal  
                              Director Terry McAlister  
                              Director James A. Powers  
                              Director Terri P. Schafer  
                              Director Ron Shaver  
                              Director Alberta M. Simmons

### **Public Hearing**

President Darnell presented opening statements by indicating the purpose of the Public Hearing was to receive public comment regarding the placement of assessments on property located within the Riverview Commons General Improvement District

Director Shaver excused himself from the public hearing as his wife prepared the latest appraisal of the Riverview Commons property.

### **Legal Notice**

Secretary Strand stated that the Notice of Public Hearing had been published in *The Fort Morgan Times* on November 17, 2008, and that the Notice of Public Hearing had been mailed to the property owners on November 14, 2008. President Darnell found that the City Clerk had provided notice to the public and interested property owners within the Riverview Commons General Improvement District.

### **Presentation of the Resolution**

Attorney Wells introduced Special Counsel Timothy J. Flynn, who stated that he is with the law firm of Collins, Cockrel & Cole, 390 Union Boulevard, Suite 400, Denver, Colorado, 80228. He explained that the Board would be finalizing the assessment roll which would allocate the cost of the public improvements constructed in Riverview Commons with the Phase II Bonds issues by the Special Improvement District and these would be allocated between the commercial and residential property. He explained that it is important to establish the value of the property and provided the appraisal completed by Donna Shaver, from O'Neil & Company of Brush, Colorado. He stated that both Lee O'Neil and Donna Shaver are Certified General Appraisers. He offered for the record a copy of their report, titled Riverview Commons General Improvement District Special Improvement District No. 1, effective date, October 20, 2008, and provided it to the City Clerk.

### **Comments from the Public, Property Owners, Written/Oral**

City Clerk Strand reported that she had not received any written comments.

### **Comments by the Board**

None

**Director Powers offered a motion to close the public hearing. His motion was seconded by Director McAlister and duly carried.**

### **Action on the Resolution**

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

**RESOLUTION NO. 08 12 01**

A RESOLUTION APPROVING THE COST OF THE PUBLIC IMPROVEMENTS MADE WITHIN RIVERVIEW COMMONS GENERAL IMPROVEMENT DISTRICT, FORT MORGAN, COLORADO SPECIAL IMPROVEMENT DISTRICT NO. 1 (PHASE 2); APPROVING AND CONFIRMING THE APPORTIONMENT OF 100% OF SAID COST TO THE REAL PROPERTY THEREIN AND SPECIALLY BENEFITED THEREBY; AND PRESCRIBING THE MANNER FOR THE COLLECTION AND PAYMENT OF SAID ASSESSMENTS.

WHEREAS, the board of directors (the "Board") of Riverview Commons General Improvement District, Fort Morgan, Colorado (the "District"), has heretofore created Special Improvement District No. 1 (the "SID") and authorized the acquisition, construction and installation of street improvements, water system improvements, sanitary sewer system improvements, storm drainage improvements and public utility improvements (collectively, the "Improvements") in accordance with § 31-25-611.5 and part 5 of article 25 of title 31, Colorado Revised Statutes, as amended (collectively, the "Act") and which Improvements have been acquired in phases with proceeds of different series of bonds, being Phase 1 ("Phase 1") and Phase 2 ("Phase 2"); and

WHEREAS, the total cost of such public improvements in Phase 2 of the SID has been definitely ascertained, and a statement of the proposed apportionment of costs on the real property specially benefited has been prepared and filed in the offices of the GID; and

WHEREAS, due notice was given that the Board would meet to hear and consider written complaints and objections to such apportionment on this date, and that any such written complaints and objections filed with the GID on or prior to the date of the hearing would be heard and determined by the Board before the passage of any Resolution assessing the cost of said improvements; and

WHEREAS, no written complaints and objections to the proposed apportionment were received timely by the GID; and

WHEREAS, a public hearing was held by the Board for the purpose of hearing complaints and objections but there were none; and

WHEREAS, from the statement filed with the GID it appears that the total cost of the improvements is \$921,300, that \$-0- thereof is to be paid by the GID, and that the portion thereof which should be assessed against the real property specially benefited and included within Phase 2 of the SID is the entire \$921,300; and

WHEREAS, the Board has apportioned 100% of the cost to the following described real property located within Phase 2 of the SID:

A PORTION OF THE PICKETT ANNEXATION TO THE CITY OF FORT MORGAN, COLORADO FILED IN THE OFFICE OF THE MORGAN COUNTY, COLORADO CLERK AND RECORDER'S OFFICE UNDER RECEPTION NUMBER 799290 AND A PARCEL DESCRIBED BY DEED IN THE RECORDS OF THE MORGAN COUNTY, COLORADO CLERK AND RECORDER'S OFFICE IN BOOK 1139 PAGE 686 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF SECTION 32, TOWNSHIP 4 NORTH, RANGE 57 WEST OF THE 6TH PRINCIPAL MERIDIAN AND CONSIDERING THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 32 TO BEAR SOUTH 89°37'00" WEST WITH ALL BEARINGS HEREIN RELATIVE THERETO: THENCE SOUTH 89°37'00" WEST ALONG THE SOUTH LINE OF SAID SOUTHWEST 1/4 A DISTANCE OF 381.33 FEET; THENCE ALONG THE EAST BOUNDARY OF A PARCEL FILED UNDER RECEPTION NUMBER 717339, NORTH 00°55'45" EAST, 142.63 FEET TO THE CENTERLINE OF THE UPPER PLATTE AND BEAVER CANAL; THENCE ALONG THE CENTERLINE OF SAID CANAL ALSO BEING THE NORTHERLY BOUNDARY LINE OF THE PARCEL FILED UNDER RECEPTION NUMBER 717339 BY THE FOLLOWING TWO COURSES:

1. NORTH 79°50'53" WEST 114.40 FEET;
2. NORTH 83°42'31" WEST 107.12 FEET TO A POINT ON THE WEST LINE OF THE PICKETT ANNEXATION;

THENCE NORTH 00°51'11" EAST 417.64 FEET TO A POINT ON THE SOUTH ROW LINE OF INTERSTATE HIGHWAY 76, ALSO BEING THE NORTHWEST CORNER OF THE PICKETT ANNEXATION; THENCE NORTH 88°45'28" EAST ALONG THE SOUTH ROW LINE OF INTERSTATE HIGHWAY 76, A DISTANCE OF 1411.41 FEET; THENCE SOUTH 00°00'00" EAST, 361.74 FEET; TO A POINT ON THE SOUTH LINE OF THE PICKETT ANNEXATION; THENCE SOUTH 00°10'25" EAST 164.74 FEET TO A POINT ON THE NORTH ROW LINE OF RIVERVIEW AVENUE; THENCE ALONG SAID ROW LINE SOUTH 89°49'35" WEST, 80.00 FEET; THENCE NORTH 00°10'25" WEST, 164.77 TO A POINT ON THE SOUTH LINE OF THE PICKETT ANNEXATION; THENCE ALONG SAID SOUTH LINE 89°51'02" WEST, 527.41 FEET; THENCE SOUTH 00°00'00" EAST, 195.00 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SECTION 32; THENCE SOUTH 89°49'35" WEST ALONG SAID SOUTH LINE, 211.80 FEET TO THE SOUTH 1/4 CORNER OF SECTION 32 AND BEING THE TRUE POINT OF BEGINNING.

TOGETHER WITH LOT B, RIVERVIEW COMMONS, ACCORDING TO THE PLAT IN BOOK 10 AT PAGE 114-116, COUNTY OF MORGAN, STATE OF COLORADO.

LESS AND EXCEPT A PARCEL OF LAND LOCATED WITHIN RIVERVIEW COMMONS FILING NO. 1, FORT MORGAN COLORADO AS FILED IN THE RECORDS OF MORGAN COUNTY, COLORADO AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH 1/4 CORNER OF SECTION 32, TOWNSHIP 4 NORTH, RANGE 57 WEST OF THE 6TH PRINCIPAL MERIDIAN, MORGAN COUNTY, COLORADO AND CONSIDERING THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 32 TO BEAR NORTH 89°49'41" EAST WITH ALL BEARINGS HEREIN RELATIVE THERETO;

THENCE NORTH 89°49'41" EAST ALONG SAID SOUTH LINE, 211.80 FEET; THENCE NORTH 00°00'00" EAST, 195.00 FEET; THENCE NORTH 89°51'02" EAST 527.41 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING NORTH 89°51'02" EAST, 80.00 FEET; THENCE SOUTH 00°10'25" EAST, 164.73 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF RIVERVIEW AVENUE;

THENCE SOUTH 89°49'35" WEST, ALONG SAID RIGHT-OF-WAY LINE, 80.00 FEET;

THENCE NORTH 00°10'25" WEST, 164.77 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 0.30 ACRES MORE OR LESS.

THE ABOVE PARCEL CONTAINS 19.31 ACRES MORE OR LESS AND IS SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY AS GRANTED OR RESERVED BY INSTRUMENTS OF RECORD OR AS NOW EXISTING ON SAID DESCRIBED PARCEL OF LAND.

in accordance with the special benefits to be received by said property as set forth in Resolution No. 07-3-1 adopted on March 20, 2007, which resolution approved the method of apportionment of the assessments (the "Apportionment Resolution") to be 70% assessed against the residential property in the SID and 30% against the commercial property in the SID, and the Board has prepared the assessment roll, attached hereto as Exhibit A; and

WHEREAS, the Board has determined to assess the cost of the improvements against the above described real property in the amount set forth in the assessment roll and to direct the Treasurer of Morgan County, Colorado to collect the amounts payable in accordance herewith;

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF RIVERVIEW COMMONS GENERAL IMPROVEMENT DISTRICT, FORT MORGAN, COLORADO:

Section 1. Confirmation of Assessment Roll. The whole cost of the improvements and the apportionment of the same as set forth in the assessment roll, is hereby approved and confirmed. Said apportionment is hereby declared to be in accordance with the special benefits which the property in Phase 2 of the SID will receive by reason of the acquisition, construction and installation of said improvements and in accordance with the Apportionment Resolution. One Hundred Percent (100%) of said cost is hereby assessed to and upon:

A PORTION OF THE PICKETT ANNEXATION TO THE CITY OF FORT MORGAN, COLORADO FILED IN THE OFFICE OF THE MORGAN COUNTY, COLORADO CLERK AND RECORDER'S OFFICE UNDER RECEPTION NUMBER 799290 AND A PARCEL DESCRIBED BY DEED IN THE RECORDS OF THE MORGAN COUNTY, COLORADO CLERK AND RECORDER'S OFFICE IN BOOK 1139 PAGE 686 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF SECTION 32, TOWNSHIP 4 NORTH, RANGE 57 WEST OF THE 6TH PRINCIPAL MERIDIAN AND CONSIDERING THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 32 TO BEAR SOUTH 89°37'00" WEST WITH ALL BEARINGS HEREIN RELATIVE THERETO: THENCE SOUTH 89°37'00" WEST ALONG THE SOUTH LINE OF SAID SOUTHWEST 1/4 A DISTANCE OF 381.33 FEET; THENCE ALONG THE EAST BOUNDARY OF A PARCEL FILED UNDER RECEPTION NUMBER 717339, NORTH 00°55'45" EAST, 142.63 FEET TO THE CENTERLINE OF THE UPPER PLATTE AND BEAVER CANAL; THENCE ALONG THE CENTERLINE OF SAID CANAL ALSO BEING THE NORTHERLY BOUNDARY LINE OF THE PARCEL FILED UNDER RECEPTION NUMBER 717339 BY THE FOLLOWING TWO COURSES:

1. NORTH 79°50'53" WEST 114.40 FEET;
2. NORTH 83°42'31" WEST 107.12 FEET TO A POINT ON THE WEST LINE OF THE PICKETT ANNEXATION;

THENCE NORTH 00°51'11" EAST 417.64 FEET TO A POINT ON THE SOUTH ROW LINE OF INTERSTATE HIGHWAY 76, ALSO BEING THE NORTHWEST CORNER OF THE PICKETT ANNEXATION; THENCE NORTH 88°45'28" EAST ALONG THE SOUTH ROW LINE OF INTERSTATE HIGHWAY 76, A DISTANCE OF 1411.41 FEET; THENCE SOUTH 00°00'00" EAST, 361.74 FEET; TO A POINT ON THE SOUTH LINE OF THE PICKETT ANNEXATION; THENCE SOUTH 00°10'25" EAST 164.74 FEET TO A POINT ON THE NORTH ROW LINE OF RIVERVIEW AVENUE; THENCE ALONG SAID ROW LINE SOUTH 89°49'35" WEST, 80.00 FEET; THENCE NORTH 00°10'25" WEST, 164.77 TO A POINT ON THE SOUTH LINE OF THE PICKETT ANNEXATION; THENCE ALONG SAID SOUTH LINE 89°51'02" WEST, 527.41 FEET; THENCE SOUTH 00°00'00" EAST, 195.00 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SECTION 32; THENCE SOUTH 89°49'35" WEST ALONG SAID SOUTH LINE, 211.80 FEET TO THE SOUTH 1/4 CORNER OF SECTION 32 AND BEING THE TRUE POINT OF BEGINNING.

TOGETHER WITH LOT B, RIVERVIEW COMMONS, ACCORDING TO THE PLAT IN BOOK 10 AT PAGE 114-116, COUNTY OF MORGAN, STATE OF COLORADO.

LESS AND EXCEPT A PARCEL OF LAND LOCATED WITHIN RIVERVIEW COMMONS FILING NO. 1, FORT MORGAN COLORADO AS FILED IN THE RECORDS OF MORGAN COUNTY, COLORADO AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH 1/4 CORNER OF SECTION 32, TOWNSHIP 4 NORTH, RANGE 57 WEST OF THE 6TH PRINCIPAL MERIDIAN, MORGAN COUNTY, COLORADO AND CONSIDERING THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 32 TO BEAR NORTH 89°49'41" EAST WITH ALL BEARINGS HEREIN RELATIVE THERETO;

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THENCE NORTH 00°10'25" WEST, 164.77 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 0.30 ACRES MORE OR LESS.

THE ABOVE PARCEL CONTAINS 19.31 ACRES MORE OR LESS AND IS SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY AS GRANTED OR RESERVED BY

INSTRUMENTS OF RECORD OR AS NOW EXISTING ON SAID DESCRIBED PARCEL OF LAND.

More particularly, Seventy Percent (70%) of said cost is hereby assessed to and upon the residential property within the SID which is now legally described as follows:

Lots 1-12 in Block 1, Lots 1-24 in Block 2 and Lots 1-48 in Block 3, in the Final Plat of Riverview Commons in the City of Fort Morgan, County Morgan, State of Colorado and Lots 1-20 in Block 4 and Lots 1-40 in Block 5 in the Final Plat of Riverview Commons Phase 2 being a Replat of Lot A of the Final Plat of River Commons; and

Thirty Percent (30%) of said cost is hereby assessed to and upon Lots 1 and 2 Riverview Commercial Subdivision being a Replat of Lot B, of the Final Plat of Riverview Commons.

The specific assessments are set forth in the assessment roll, which assessment roll is attached hereto as Exhibit A and incorporated herein by this reference.

Section 2. Payment of Assessments. The Board hereby directs the Treasurer of Morgan County, Colorado (the "County Treasurer") to collect any amount payable as an assessment under this Resolution pursuant to Section 31-25-526(1), C.R.S.. The assessments shall be due and payable at the Morgan County Treasurer's Office located at 231 Ensign Street, Fort Morgan, Colorado 80701 within thirty (30) days after the adoption of this Resolution, without demand. However, at the election of the property owner, all such assessments may be paid in installments, with interest as hereinafter set forth.

Failure to pay the whole assessment within said period of thirty (30) days shall conclusively be considered to be an election on the part of all persons interested, whether under disability or otherwise, to pay in installments. All persons so electing to pay in installments shall conclusively be considered to have consented to said improvements. Such election shall conclusively be considered to be a waiver of any right to question the power or jurisdiction of the GID to construct, acquire or install the improvements, the quality of the work, the regularity or sufficiency of the proceedings, the validity or the correctness of the assessments, or the validity of the lien thereof.

In the event of such election to pay in installments, the assessments, together with interest thereon at the rate of 6.50% per annum, shall be payable in fifteen (15) equal annual installments of principal and interest beginning in 2008, to be collected by the GID's Treasurer who shall have the authority to delegate the performance of such collection function to the County Treasurer; provided, however, the times of payment of the installments shall be the same as the times of payment of installments of property taxes as specified in Section 39-10-104.5(2), C.R.S. The last installment shall be due and payable in full no later than June 15, 2023. The owner of any property not in default as to payment of any installment or portion thereof may at any time pay the whole of the unpaid principal with the interest accruing to the maturity of the next installment.

Section 3. Penalty for Default of Non-Payment. Failure to pay the whole amount of any installment when due also shall cause the whole of the unpaid principal of and interest on the assessment amount to become due and collectible immediately.

The whole amount of any such unpaid principal and the accrued interest thereon shall, after such property sale or such failure to pay an installment, draw interest at the rate established pursuant to Section 5-12-106(2) and (3), C.R.S., until the date of foreclosure sale or tax sale. In the case of failure to pay any installment or portion thereof, at any time prior to the date of foreclosure sale or tax sale the owner may pay the amount of all unpaid installments with interest at said penalty rate per month or fraction of a month and all other penalties and costs of collection accrued, and shall be restored to the right thereafter to pay in installments in the same manner as if the default had not been suffered.

Section 4. Assessment Lien. All Assessments levied against the real property in Phase 2 of the SID, together with all interest thereon and penalties for default in payment thereof, and all costs in collecting the same, shall constitute, from the date of adoption of this Resolution, a perpetual lien in the amount assessed against the above described property. Such lien shall have priority over all other liens except general tax liens, and shall be enforced in accordance with the laws of the State of Colorado.

Section 5. Assessments Against Divided and Subdivided Tracts. As to any further subdivision of any land assessed hereunder, the assessment shall in each case be a lien upon all the subdivisions in proportion to their respective areas. In the event of such subdivision, the

Board shall divide the assessment against such land in the same proportion that the land itself is subdivided, and to certify the revised assessments to the Assessor of Morgan County, Colorado.

Section 6. Notice of Payment of Assessments. The GID shall cause a notice of assessments due to be mailed to the owners of the property in Phase 2 of the SID, on or about the same day as the effective date of this Resolution. Such notice shall set forth the place of payment, the amount of the whole assessment if paid within the thirty-day payment period, and the time for such thirty-day period to close and shall be in substantially the form as attached to Exhibit B hereto.

Section 7. Severability. If any one or more sections or parts of this Resolution shall be adjudged unenforceable or invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this Resolution, it being the intention that the various provisions hereof are severable.

Section 8. Repealer. All acts, orders, resolutions, or parts thereof, in conflict with this Resolution are hereby repealed.

Section 9. Effective Date. This Resolution shall be effective, in accordance with state law, upon its adoption by the Board.

**INTRODUCED, PASSED, APPROVED AND ADOPTED** this 2nd day of December, 2008, the vote upon roll call being as follows:

Ayes: President Darnell; Directors Deal, McAlister, Powers, Schafer and Simmons.

Nays: None.

Abstain: Director Shaver.

THE BOARD OF THE GENERAL  
IMPROVEMENT DISTRICT OF THE CITY  
OF FORT MORGAN, COLORADO

[ SEAL ]

BY: /s/ Jack L. Darnell  
President

ATTEST:

/s/ Andrea J. Strand  
Secretary

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

I, ANDREA STRAND, Secretary, do hereby certify and attest that the foregoing Resolution is a true, perfect and complete copy of the Resolution adopted by the Council of Fort Morgan, Colorado, sitting as the Board of Directors for the Riverview Commons General Improvement District, and is identical to the original thereof appearing in the official records of the City of Fort Morgan, Colorado, and that the same has not been, since its adoption, in any respect, rescinded or amended.

IN TESTIMONY WHEREOF, I have hereunto set my hand and have affixed the seal of the City of Fort Morgan this 2<sup>nd</sup> day of December, 2008.

/s/ Andrea Strand, Secretary

President Darnell adjourned the meeting of the Riverview Commons General Improvement District at 7:12 p.m.

**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 7:13 p.m.**

Roll Call: Present: Honorable Mayor Jack L. Darnell  
 Councilmember Sharol Lyn Deal  
 Councilmember Terry McAlister  
 Councilmember James A. Powers  
 Councilmember Terri P. Schafer  
 Councilmember Ron Shaver  
 Councilmember Alberta M. Simmons

The meeting was also attended by City Manager Pat Merrill, City Attorney Jeffrey Wells, Police Lieutenant Darin Sagel, City Treasurer Pixie Jones, Utilities Directors Gary Dreesen and Bob Weimer, Community Development Director David Callahan, Community Services Director Don Shedd, Director of Human Resources & Risk Management Jody Prentice and City Clerk Andrea Strand.

**FIRST READING OF AN ORDINANCE AMENDING THE 2008 BUDGET ENTITLED, "AN ORDINANCE AMENDING THE APPROPRIATION OF MONIES FOR THE FUNDS OF THE CITY OF FORT MORGAN, COLORADO," AND REQUEST TO PUBLISH IN FULL – MANAGER MERRILL, TREASURER JONES**

City Manager Merrill introduced the Ordinance entitled, "An Ordinance Amending the Appropriation of Monies for the Funds of the City of Fort Morgan, Colorado," and stated the transfers requested in this Ordinance were discussed last week and would ask that Council approve the First Reading. City Treasurer Jones stated that she was in error at the previous meeting when asked about the gas fund reserve. She stated with changes that will need to be made, the fund should end up closer to \$4 million in reserves. Said Ordinance being in words, letters and figures as follows, to-wit:

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING THE APPROPRIATION OF MONIES FOR THE FUNDS OF THE CITY OF FORT MORGAN, COLORADO**

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, 2008; 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 2008 municipal budget in 2007.

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:

<b>Fund</b>	<b>Original Appropriation</b>	<b>Amendment</b>	<b>Amended Appropriation</b>
<i>General Fund</i>	\$ 9,160,039	\$ 350,000	\$ 9,510,039
<i>After School Fund</i>	\$ 57,335	\$ 0	\$ 57,335
<i>Capital Improvement Fund</i>	\$ 3,456,623	\$ 0	\$ 3,456,623
<i>Golf Fund</i>	\$ 856,168	\$ 0	\$ 856,168
<i>Conservation Trust</i>	\$ 103,150	\$ 0	\$ 103,150
<i>Electric Fund</i>	\$ 16,581,229	\$ 0	\$ 16,581,229
<i>Water Fund</i>	\$ 5,935,040	\$ 0	\$ 5,935,040
<i>Gas Fund</i>	\$ 5,367,225	\$ 1,600,000	\$ 6,967,225
<i>Sewer Fund</i>	\$ 1,946,379	\$ 0	\$ 1,946,379
<i>Sanitation Fund</i>	\$ 1,260,179	\$ 0	\$ 1,260,179
<i>Fiber Optic Fund</i>	\$ 30,110	\$ 0	\$ 30,110
<i>Perpetual Care Fund</i>	\$ 15,200	\$ 0	\$ 15,200

<i>Self-Insurance Fund</i>	\$ 2,500,025	\$ 125,000	\$ 2,625,025
<i>Riverview GID Fund</i>	\$ 1,225,000	\$ 0	\$ 1,225,000
<b>Total</b>	<b>\$ 48,493,702</b>	<b>\$ 2,075,000</b>	<b>\$ 50,568,702</b>

<b>Fund</b>	<b>Original Revenue</b>	<b>Fund Reserve Amendment</b>	<b>Amended Revenue</b>
General Fund	\$ 9,188,623	\$ 350,000	\$ 9,538,623
Gas Fund	\$ 5,744,949	\$ 1,600,000	\$ 7,344,949
Self-Insurance	\$ 3,217,000	\$ 125,000	\$ 3,342,025

INTRODUCED, READ ON FIRST READING AND ORDERED PUBLISHED in full this 2<sup>nd</sup> day of December, 2008.

THE CITY COUNCIL OF THE CITY OF  
FORT MORGAN, COLORADO

[SEAL]

By: /s/ Jack L. Darnell  
Mayor

ATTEST:

/s/ Andrea Strand  
City Clerk

**RESOLUTION:**

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

RESOLUTION

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 2<sup>nd</sup> day of December, 2008, the vote upon roll call being as follows:

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

Nays: None.

Absent: None.

**SECOND AND FINAL READING OF ORDINANCE NO. 1075 FOR THE 2009 BUDGET ENTITLED, "AN ORDINANCE LEVYING A TAX UPON THE TAXABLE PROPERTY IN THE CITY OF FORT MORGAN, COLORADO, AND APPROPRIATING MONIES TO THE SEVERAL FUNDS OF SAID CITY," AND REQUEST TO PUBLISH BY TITLE ONLY - MANAGER MERRILL, TREASURER JONES**

City Manager Merrill introduced the Ordinance for Second and Final Reading entitled, "An Ordinance Levying a Tax Upon the Taxable Property in the City of Fort Morgan, Colorado, and Appropriating Monies to the Several Funds of said City." He stated that he and staff would be watching the budget closely and Council could expect to receive a monthly Treasurer's report reflecting the budget. The Treasurer's report would be submitted to Council on the fourth Tuesday of each month. This report would reflect the collected revenue and the percentage of each Departments' expenditures.

**RESOLUTION:**

Councilmember Simmons 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**

WHEREAS an Ordinance entitled above was duly and legally presented to the City Council of Fort Morgan, Colorado, at a meeting held on the 18<sup>th</sup> day of November, 2008, and was duly read by title and presented in writing; and

WHEREAS, the City Council at said meeting, by Resolution, ordered the publication of said Ordinance to be made in The Fort Morgan Times, a daily newspaper of general circulation, published and printed in the City of Fort Morgan, Colorado, not less than ten days before further consideration; and

WHEREAS, SAID Ordinance was again read to the Council and was designated Ordinance No. 1075, said Ordinance being in words, letters and figures as follows, to-wit:

**ORDINANCE NO. 1075**

**AN ORDINANCE LEVYING A TAX UPON THE TAXABLE PROPERTY IN THE CITY OF FORT MORGAN, COLORADO, AND APPROPRIATING MONIES TO THE SEVERAL FUNDS OF SAID CITY.**

UPON AND PURSUANT to the estimate of the probable revenue and expenses submitted by 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.

**BE IT ORDAINED BY THE COUNCIL OF FORT MORGAN:**

Section 1. There is hereby levied and assessed a tax of Thirteen and Two Hundred Fifty-Four Thousandths (13.254) mills upon each dollar of assessed valuation of all property within the City of Fort Morgan, Colorado.

Section 2. 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 appropriated as follows:

<u>Fund</u>	<u>Appropriations</u>
General Fund	\$11,181,837
After School Program	\$ 40,000
Capital Improvement Fund	\$ 4,471,033
Golf Fund	\$ 950,779
Conservation Trust	\$ 102,000
Electric Fund	\$20,004,266
Water Fund	\$ 6,397,507
Gas Fund	\$ 7,825,303
Sewer Fund	\$ 2,205,439
Sanitation Fund	\$ 1,025,248
Fiber Network Fund	\$ 12,000
Perpetual Care Fund	\$ 15,200
Self Insurance/Risk Management	\$ 2,546,725
Riverview GID	\$ 200,000
Total	<u>\$56,977,337</u>

INTRODUCED, READ ON FIRST READING AND ORDERED PUBLISHED this 18<sup>th</sup> day of November, 2008.

THE CITY COUNCIL OF THE CITY OF  
FORT MORGAN, COLORADO

[ SEAL ]

By: /s/ Jack L. Darnell  
Mayor

ATTEST:

/s/ Andrea Strand  
City Clerk

PASSED, APPROVED AND ADOPTED ON FINAL READING AND ORDERED PUBLISHED BY TITLE ONLY this 2<sup>nd</sup> day of December, 2008.

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

Nays: Councilmember Powers.

Absent: None.

THE CITY COUNCIL OF THE CITY OF FORT MORGAN, COLORADO

By: /s/ Jack L. Darnell  
Mayor

ATTEST:

/s/ Andrea Strand  
City Clerk

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**CONSENT AGENDA (by Resolution)**

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

- A. Approve the minutes from the November 18, 2008, regular meeting and meeting of the Riverview Commons General Improvement District Board of Directors.
- B. Second and final reading of Ordinance No. 1076 entitled, "An Ordinance Annexing to the City of Fort Morgan, Colorado, that Area known as the Underwood Annexation as Described Herein," and request to publish by title only.

**ORDINANCE NO. 1076**

**AN ORDINANCE ANNEXING TO THE CITY OF FORT MORGAN, COLORADO, THAT AREA KNOWN AS THE UNDERWOOD ANNEXATION AS DESCRIBED HEREIN.**

WHEREAS, the City Council of the City of Fort Morgan on October 7, 2008 adopted a resolution finding that the Underwood petition for annexation was in substantial compliance with C.R.S. §31-12-107, and set a hearing date of November 18, 2008 for the Fort Morgan City Council to consider the annexation of the area set forth below; and

WHEREAS, pursuant to the notice required under C.R.S. §31-12-108, the Municipal Annexation Act of 1965 as amended, hereinafter referred to as the Annexation Act, the City Council of Fort Morgan held on November 18, 2008 a hearing pertaining to said annexation; and

WHEREAS, owners of one hundred percent (100%) of the area have petitioned for such annexation; and

WHEREAS, the City Council of the City of Fort Morgan has by resolution made findings of fact and conclusions of law based thereon and determinations pertaining to said annexation, and has determined said area should be annexed forthwith as part of the City of Fort Morgan.

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

SECTION 1. The following described territory is hereby annexed to and made a part of the City of Fort Morgan, Colorado:

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

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

THENCE RUNNING SOUTH 226 FEET;

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

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

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

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

TOGETHER with all water and water rights appurtenant thereto;

SECTION 2. When this annexation is complete, said area shall become a part of the City of Fort Morgan for all intents and purposes on the effective date of this ordinance, with the exception of general taxation, in which respect said annexation shall not be effective until on or after January 1 next ensuing.

SECTION 3. The City Clerk shall be, and she is hereby authorized and directed to file an original copy of this Ordinance and one copy of the Map of Annexation in the office of the City Clerk of the City of Fort Morgan, Colorado, and two certified copies of said Ordinance and Map of Annexation in the office of the Clerk and Recorder of Morgan County, Colorado.

SECTION 4. The ordinance shall be in full force and effect from and after its passage and publication as provided by the City Charter.

READ, PASSED ON FIRST READING AND ORDERED PUBLISHED the 18<sup>th</sup> day of November, 2008.

THE CITY COUNCIL OF THE CITY OF  
FORT MORGAN, COLORADO

[SEAL]

By: */s/ Jack L. Darnell*  
Mayor

ATTEST:

*/s/ Andrea Strand*  
City Clerk

PASSED, APPROVED AND ADOPTED ON FINAL READING AND ORDERED PUBLISHED BY TITLE ONLY the 2<sup>nd</sup> day of December, 2008.

THE CITY COUNCIL OF THE CITY  
OF FORT MORGAN, COLORADO

[ SEAL ]

By: */s/ Jack L. Darnell*  
Mayor

ATTEST:

*/s/ Andrea Strand*  
City Clerk

- C. Second and final reading of Ordinance No.1077 entitled, "An Ordinance Establishing a Zoning District in and Upon Lands Annexed to the City of Fort Morgan, Colorado, and for said Purpose Revising and Supplementing the Zoning District Map of said City," and request to publish by title only.

**ORDINANCE NO. 1077**

**AN ORDINANCE ESTABLISHING A ZONING DISTRICT  
IN AND UPON LANDS ANNEXED TO THE CITY OF FORT MORGAN, COLORADO, AND  
FOR SAID PURPOSE REVISING AND SUPPLEMENTING THE  
ZONING DISTRICT MAP OF SAID CITY**

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

WHEREAS, a petition for annexation of certain property described in Exhibit A, attached hereto and made a part hereof, and known as the Underwood Annexation, was filed with the City Council of the City of Fort Morgan; and,

WHEREAS, said property was annexed to the City by Ordinance; and,

WHEREAS, the City Council must provide for the zoning of said property; and,

WHEREAS, the City Council provided notice of the public hearing on said zoning by publication as provided by law; and,

WHEREAS, no protests were received by the City pursuant to C.R.S. §31-23-305; and,

WHEREAS, the landowners of said property have requested the same to be zoned R-2: Residential District; and,

WHEREAS, a R-2 zoning classification for residential uses is consistent with the City's plan for the area; and,

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

SECTION 1. That certain property known as the Underwood Annexation, the legal description of which is set forth in Exhibit A attached hereto and incorporated herein by this reference, is hereby zoned R-2: Residential District as permitted and that the Zoning District Map of the City of Fort Morgan, Colorado, be amended accordingly.

READ, PASSED ON FIRST READING AND ORDERED PUBLISHED the 18<sup>th</sup> day of November, 2008.

THE CITY COUNCIL OF THE CITY OF  
FORT MORGAN, COLORADO

[SEAL]

By: */s/ Jack L. Darnell*  
Mayor

ATTEST:

*/s/ Andrea Strand*  
City Clerk

PASSED, APPROVED AND ADOPTED ON FINAL READING AND ORDERED PUBLISHED BY TITLE ONLY the 2<sup>nd</sup> day of December, 2008.

THE CITY COUNCIL OF THE CITY  
OF FORT MORGAN, COLORADO

[ SEAL ]

By: /s/ Jack L. Darnell  
Mayor

ATTEST:

/s/ Andrea Strand  
City Clerk

- D. Second and final reading of Ordinance No.1078 entitled, "An Ordinance Amending Ordinance No. 971 entitled, "An Ordinance Changing the Zoning Designation of Lands in the City of Fort Morgan, Colorado, from "B-2: Business District" To "Planned Unit Development,"" and for said Purpose Amending the Zoning Code and the Official Zoning District Map of the City of Fort Morgan, Colorado," and request to publish by title only.

**ORDINANCE NO. 1078**

**AN ORDINANCE AMENDING ORDINANCE NO 971 ENTITLED  
"AN ORDINANCE CHANGING THE ZONING DESIGNATION OF LANDS IN THE CITY OF  
FORT MORGAN, COLORADO, FROM "B-2: BUSINESS DISTRICT: TO "PLANNED UNIT  
DEVELOPMENT", AND FOR SAID PURPOSE AMENDING THE ZONING CODE AND THE  
OFFICIAL ZONING DISTRICT MAP OF THE CITY OF FORT MORGAN, COLORADO."**

WHEREAS, Ordinance No. 971 was previously adopted by City Council on July 1, 2003;  
and,

WHEREAS, this Ordinance was enacted to change the zoning designation regarding the Riverview Commons Development thereby amending the *Official Zoning District Map* of the City of Fort Morgan; and,

WHEREAS, Section 5 of the ordinance provided for the fencing of the north boundary of the Upper Platte and Beaver Canal by either wrought or masonry construction as a requirement for the development; and,

WHEREAS, the Upper Platte and Beaver Canal Company is currently in litigation with the developer of the Riverview Development Project and has recently requested that the City of Fort Morgan and the General Improvement District (GID) be joined to this action; and,

WHEREAS, on November 10, 2008, the Court granted the Company's request, to join the City and the GID as parties to this litigation; and,

WHEREAS, in an effort to limit the litigation filed by the Company the City Council amends Ordinance 971 by the removal of Section 5.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF FORT MORGAN, COLORADO that Sec. 5 of Ordinance 971 be hereby deleted in its entirety.

READ, PASSED ON FIRST READING AND ORDERED PUBLISHED the 18<sup>th</sup> day of November, 2008.

THE CITY COUNCIL OF THE CITY OF  
FORT MORGAN, COLORADO

[SEAL]

By: /s/ Jack L. Darnell  
Mayor

ATTEST:

/s/ Andrea Strand

City Clerk

PASSED, APPROVED AND ADOPTED ON FINAL READING AND ORDERED PUBLISHED BY TITLE ONLY the 2<sup>nd</sup> day of December, 2008.

THE CITY COUNCIL OF THE CITY  
OF FORT MORGAN, COLORADO

[ SEAL ]

By: */s/ Jack L. Darnell*  
Mayor

ATTEST:

*/s/ Andrea Strand*  
City Clerk

- E. Approve the appointment of Dave Henderson, William Thiel and Barbara Odor to the Golf Course Advisory Board for terms expiring December 31, 2011.
- F. Approve the bid submitted by High Plains Power Wash of Fort Morgan, Colorado, for the ongoing removal/eradication of graffiti, not to exceed \$13,000.
- G. Approve the bid submitted by Wesco Distribution, Inc., of Aurora, Colorado, in the amount of \$21,708.50 for fiber optic aerial cable and mounting hardware to be utilized by the Electric Department.

All matters listed under Item 4, Consent Agenda, are considered 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 2<sup>nd</sup> day of December, 2008, the vote upon roll call being as follows: Ayes: Mayor Darnell; Councilmembers Deal, McAlister, Powers, Schafer, Shaver and Simmons. Nays: none.

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#### **PUBLIC COMMENT / AUDIENCE PARTICIPATION**

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None.

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#### **REPORTS**

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The following Directors provided written reports to Council:

City Manager Merrill – In addition to his written report he congratulated the Fort Morgan Mustang Football Team for earning a playoff position at the State Football Finals. He also informed Council that the City would replace the welcome sign by Riverside Park as the current one is weathered.

Police Lt. Sagel

Utility Director Dreessen

Utility Director Weimer

Community Services Director Shedd

Human Resources and Risk Management Director Prentice – In addition to her written report, she stated that the annual safety audit from CIRSA was conducted with no deficiencies to report at this time.

Treasurer Jones

City Attorney Wells stated that the Court may grant a motion which names the City in a lawsuit filed by the Upper Platte and Beaver Canal, with regard to the canal Right-of-Way and canal easement.

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#### **BIDS, MEETINGS AND ANNOUNCEMENTS**

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Clerk Strand announced two open bids and upcoming meetings. She also stated that Director Albrandt had asked her to announce that he is organizing a trip for City Staff members to travel to Glenwood Springs to tour their fiber network infrastructure and he wanted Council to know in case they were interested in going. Mayor Darnell stated he would like to go.

Mayor Darnell adjourned the December 2, 2008, special meeting at 7:43 p.m.

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Mayor

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City Clerk