

January 15, 2008

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 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 Michael Nagy, City Attorney Jeffrey Wells, Fire Chief Brad Parker, Police Chief Keith Kuretich, City Treasurer Pixie Jones, Utility Directors Gary Dreessen and Bob Weimer and City Clerk Andrea Strand.

ELECTION OF MAYOR PRO TEM

Mayor Darnell called for nominations for the position of Mayor Pro Tem. Councilmember Schafer nominated Terry McAlister and Councilmember Shaver nominated James Powers. The City Clerk distributed paper ballots. Mayor Darnell asked for the person whose name received the most votes. Clerk Strand announced that Terry McAlister had received the most votes for the position of Mayor Pro Tem for a term ending 2010.

ADOPT COUNCIL RULES OF PROCEDURE

Attorney Wells presented the Council Rules of Procedure discussed at the Council Retreat held on January 12. General discussion was held and all members stated they were in agreement with all Rules except for Rule No. 7 titled Compliance and Enforcement. Council discussed the issue and directed the City Attorney to do additional research and present it to Council at a later date.

Councilmember Schafer offered a motion to adopt the Council Rules of Procedure for The City of Fort Morgan, Colorado, dated January 4, 2008, as presented. Her motion was seconded by Councilmember McAlister and duly carried.

CITY VOTING SHARES FOR WATER

Councilmember McAlister offered a motion to adopt a Resolution Authorizing Councilmember Shaver to vote the shares of the City in regards to water shares. His motion was seconded by Councilmember Simmons and duly carried. Said Resolution being in words, letters, and figures as follows, to-wit:

RESOLUTION NO. 08-01-03

**CONCERNING THE DESIGNATION OF COUNCILMAN SHAVER
TO VOTE THE SHARES OF THE CITY WITH REGARDS TO THE WATER SHARES TO BE
DISCUSSED AT THE ANNUAL MEETINGS OF THE SOUTHSIDE LATERAL COMPANY,**

**THE FORT MORGAN RESERVOIR & IRRIGATION COMPANY,
THE FORT MORGAN WATER COMPANY, LTD, THE JACKSON LAKE RESERVOIR &
IRRIGATION COMPANY, AND THE FORT MORGAN WATER ASSET MANAGEMENT, INC.**

Whereas, the City Council of the City of Fort Morgan, Colorado, is authorized by Art. IV, Sec. 4(D)(1) of the *Charter of the City of Fort Morgan, Colorado* (2008) to provide for “the construction, maintenance, operation, and disposition of public improvements, public works, public utilities, public services...”; and,

Whereas, the Council has designated Councilmember Ron Shaver to vote the shares of the City with regards to the water shares to be discussed at the annual meetings of the Southside Lateral Company to be held on January 23, 2008, the Fort Morgan Reservoir & Irrigation Company to be held on January 26, 2008, the Fort Morgan Water Company, LTD to be held on January 26, 2008, the Jackson Lake Reservoir & Irrigation Company, to be held on February 9, 2008, and the Fort Morgan Water Asset Management, Inc. to be held on January 26, 2008; and,

Whereas, these votes are of long term benefit to the City.

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

1. The Council hereby designates Councilmember Ron Shaver as agent for the City to attend, and vote the shares of the City to be discussed at the annual meetings of the Southside Lateral Company to be held on January 23, 2008, the Fort Morgan Reservoir & Irrigation Company to be held on January 26, 2008, the Fort Morgan Water Company, LTD to be held on January 26, 2008, the Jackson Lake Reservoir & Irrigation Company, to be held on February 9, 2008, and the Fort Morgan Water Asset Management, Inc. to be held on January 26, 2008.

INTRODUCED, PASSED, APPROVED AND ADOPTED this 15TH day of January, 2008, the vote upon roll call being as follows:

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

Nays:

Absent /Abstain:

THE CITY COUNCIL OF THE CITY OF
FORT MORGAN, COLORADO

[SEAL]

BY: /s/ Jack L. Darnell
Mayor

ATTEST:

/s/ Andrea J. Strand

City Clerk

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

CERTIFICATE

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

IN TESTIMONY WHEREOF, I have hereunto set my hand and have affixed the seal of the City of Fort Morgan this 15th day of January, 2008.

/s/ Andrea J. Strand, City Clerk

AIRPORT ADVISORY COMMITTEE

City Manager Nagy informed Council that the Airport Advisory Committee had three members whose terms were expiring on January 1, 2008. The openings were advertised as directed in the local newspaper on December 13, 2007. Three applications were received. After reviewing the applications at their regular meeting on January 9, the Airport Advisory Committee recommended the re-appointments of all three individuals who reapplied to serve another three-year term. City Manager Nagy recommended that Council re-appoint Bruce Marron of 516 Cheyenne Street, Fort Morgan; Bill Midcap of 19465 County Road V, Fort Morgan; and John Sneed of 918 Diana Street, Fort Morgan; to the Airport Advisory Committee, each to a three-year term with the terms to expire on January 1, 2011.

Councilmember Simmons offered a motion to approve the appointments of Bruce Marron, Bill Midcap and John Sneed to the Airport Advisory Committee with terms expiring on January 1, 2011. Her motion was seconded by Councilmember McAlister and duly carried.

FIRE PENSION BOARD

Fire Chief Parker informed Council that the Fire Pension Board is required to have two citizens appointed by City Council. He recommended that Council appoint Sharyn Spencer who will replace Nancy Lockwood and reappoint Ron Herbst to the Fire Pension Board.

Councilmember Powers offered a motion to appoint Sharyn Spencer and Ron Herbst to the Fire Pension Board. His motion was seconded by Councilmember Shaver and duly carried.

FIRE DEPARTMENT SECRETARY

Fire Chief Parker informed Council that according to the Fire Department By-Laws, the Secretary position with the Fire Department requires appointment by Council. The Fire Department elected Milton L. Boehm III, known as Trae Boehm, and asked for Council's approval for his appointment to the position of Secretary for the Fire Department.

Councilmember Simmons offered a motion to approve the appointment of Trae Boehm as the Fire Department Secretary. Her motion was seconded by Councilmember Schafer and duly carried.

TREE, PARKS AND RECREATION BOARD

Mayor Darnell stated he was informed after the January 8 meeting that the Tree, Parks and Recreation Board were combined into one Committee/Board. The Mayor stated that Sharol Lyn Deal would be the Council representative for this committee.

BOARD OR COMMITTEE	2008-2009 TERM
Airport Advisory Committee	McAlister
CML Policy Review	Powers
Firemen's Pension Board	Darnell
Fort Morgan Ditch Company	Shaver
Fort Morgan Heritage Foundation	Powers
Golf Course Advisory Committee	Schafer
Library Board	Simmons
Morgan County Economic Development Corp.	Schafer
Planning Commission	Darnell/Deal
Progressive 15	Darnell
Senior Center Advisory Board	Simmons/Deal
Tree, Parks and Recreation Advisory Board	Deal
Water Advisory Board	Shaver

CONSENT AGENDA

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

- A. Approve the application for renewal of a Retail Liquor Store License for Midcap LLC, North Main Liquor located at 716 Main Street with a clear Police Investigative Report.
- B. Approve the Payroll and Disbursements Reports for December 2007.

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 15th day of January, 2008, the vote upon roll call being as follows: Ayes: Mayor Darnell; Councilmembers Deal, McAlister, Powers, Schafer, Shaver and Simmons. Nays: none.

PUBLIC COMMENT / AUDIENCE PARTICIPATION

Todd Woodring who lives at 600 Ash Street in Fort Morgan stated he had concerns with the snow removal process in the City. He stated he had talked to the City Manager about the issue. He also had concerns about the drainage system by Ash Street. He offered to help with the snow removal. He also voiced concern over the weed violations which occurred this past summer in the City.

REPORTS

City Manager Nagy distributed a memo dated January 15, 2008, from Kenneth Breneman, Streets Superintendent, and updated Council with the Snow Removal Plan for the City. He also reported that the Golf Course Advisory meeting had been rescheduled because they did not have a quorum. He noted that the Golf Course Advisory Board did vote to recommend changes to the By-Laws including a member who was outside of City limits. Councilmember Simmons stated that the discussion in 2004 was that each committee or board should change their By-Laws if they intended to appoint members who lived outside of the City limits.

Director Shedd, Community Development, introduced Deanna Verhaag as the new Recreation Superintendent for the City.

Police Chief Kuretich called attention to a revised Snow, Ice, & Debris Courtesy Notice his Department has drafted. This Courtesy Notice will be used to notify citizens of the requirements of the Snow Ordinance, Section 25-3 of the City Code. He also reported that the Police Department had 95 complaints of "snow and ice" not being removed from sidewalks, but no summonses were issued.

Utility Directors Dreessen and Weimer updated Council on the various activities of their Departments.

City Attorney Wells thanked Council and staff for their input on the Council Rules and Procedures which was reviewed at the Retreat held on January 12. The Mayor and City Manager Nagy stated he did an excellent job facilitating the review of the Charter. Councilmember Deal added that she had recently attended a meeting for new council members at Colorado Municipal League which concentrated on open meetings and open records. She found the information to be useful at the staff retreat. She also emphasized the importance of good communication and accountability to each other.

The City Attorney then reported on the open records issue with *The Fort Morgan Times*. In summary, he felt the newspaper had three areas of concern: the declaratory action filed by the City, the destruction of the draft documents and the difference of opinion of the outcome of the City Managers evaluation determined by City Council. He stated that the City has made efforts to discuss this with *The Fort Morgan Times*, but he has not received a response. He would like to be able to sit down and discuss any issues with the newspaper before going to court. He stated there was no scandal to hide records and invited the public to request any

record through the proper channels. He suggested posting information on this issue on the City's website.

Mayor Darnell suggested a meeting with the owner of *The Fort Morgan Times* to resolve these issues. Discussion continued and it was mentioned that Dean Singleton is the President. Councilmember McAlister asked City Manager Nagy if he had any ideas to resolve this issue since it seems to be centered around his evaluation. City Manager Nagy suggested a public information seminar attended by the press and staff to discuss this and possibly facilitated by the Colorado Municipal League.

Councilmember McAlister offered a motion to prepare a letter to Dean Singleton, President of Media NewsGroup, inquiring on how the City of Fort Morgan and *The Fort Morgan Times* could communicate to improve relations. His motion was seconded by Councilmember Simmons and duly carried.

BIDS, MEETINGS AND ANNOUNCEMENTS

Clerk Strand announced bids were being accepted for the Annual On-Call Concrete Contractor to perform concrete construction work for the City until 2:00 p.m. on January 17 at the City Complex. Bids for the Annual On-Call Weed and Snow Removal Contractor to perform weed and snow removal for the City would be accepted until 2:00 p.m. on January 17 at the City Complex and bids for Grounds Maintenance Equipment at the Golf Course were being accepted until 12:30 p.m. MST on February 4, 2008.

She also announced the Senior Center Advisory Board would meet on Monday, January 14, 8:00 a.m., at City Hall. The Planning Commission would meet on Monday, January 14, 5:15 p.m., at City Hall. The City and County meeting would be held on Thursday, January 17, 6:00 p.m. with the City of Fort Morgan to host the event at the Country Steak Out. A retreat for City Council and Appointed Officials will be held on Saturday, March 8, 2008, 8:30 a.m. with the location to be determined.

DISCUSSION OF A LETTER RECEIVED BY MAYOR DARNELL FROM WILLIAM R. HOLLAND

Thursday, January, 10, 2008

Mayor Jack Darnell
City of Fort Morgan
Fort Morgan, CO 80701

Dear Mayor Darnell,

Throughout the past several months I have heard numerous comments from various individuals about your growing frustration with City administrator Michael Nagy. Even you, without going into detail, have expressed your dissatisfaction to me about Michael.

As you should know, one person tells another a story, that person passes along the information to yet another and the story grows – somewhat like Eric Jorgenson's letter of censure to you.

But now, according to the latest rumor reported to *The Fort Morgan Times*, you may have gone too far. I learned earlier this week you recently accused Michael of leaking information to the newspaper.

First, if the accusation you made to Michael is true – and I have reason to believe it is – IT IS TOTALLY FALSE. Second, by accusing Michael of leaking information, you have also insinuated The Times accepted the information. Again FALSE.

I will call you early next week so you can share with me what INFORMATION it was you accused Michael of leaking to the newspaper so I can set the record straight.

I have also been told you are not happy that Michael and his wife, Linda, are part of what has become known as “Friday Night Date Night,” a gathering of 6 to 10 couples (including Nancy and me) most every Friday evening to have dinner, share each other’s company and let our hair down a little. Let me assure you, Michael and Linda have been a welcomed addition to the group. Just for your information, the couples include key business leaders and community decision makers.

If this is also true, I take your “Date Night” objection personally since I was the one who invited Michael and Linda to join the group in my attempt to improve the City’s (Michael’s) involvement with the community. As mayor, I would have thought you would be supportive of Michael being visible and active in the community during working hours and on his own personal time since it was one of the goals you and the council gave him when he was hired.

As publisher, The Times and I support Michael 100 percent, not only for the person he is, but also because HE IS THE MOST PROFESSIONAL city manger I have worked with throughout my 26 years as a publisher in seven states.

You and every member of the City Council should be doing all you can to make sure Michael succeeds and not getting in his way. That’s what the residents and I expect now that we have a new City Charter and new form of government. It’s time you fully understand and accept it.

I look forward to our conversation early next week.

Sincerely

William R. Holland
Publisher

cc: Michael Nagy and Councilmembers Alberta Simmons, Teri Schafer, Lyn Deal, Jim Powers. Terry McAlister and Ron Shaver.

MAYOR DARNELL’S RESPONSE TO WILLIAM HOLLAND’S LETTER

Our Founding Fathers were so concerned about open government and a free exchange of Ideas that they included the speech and debate clause. State government has recognized the importance of the speech and debate clause and the extended protection to the state legislature and local government bodies because it is of such vital importance to insure that elected officials can speak their minds without fear of legal retribution. This Principle is so important and so fundamental to our system of Government that it was extended to protect individuals and the press when our forefathers ratified the bill of rights. These principles are sacred and a cornerstone of our society and the freedoms we enjoy. But there comes a time when enough is enough and we have reached that time.

The attacks that Mr. Holland makes are directed at City government and are being used to sell newspapers and, in my opinion, are made to intimidate and threaten the due process of law and City policy. These consistent excessive attacks appear to me as abuse of the power of the press. I will not dignify his personal attacks and vindictiveness against the City of Fort Morgan with any further response to this issue.

In closing, I want to reiterate that this Council as all elected official serve at the pleasure of the People. We will not be bullied by threats from the press or from any other entity, or the like. We are here to serve the People to the best of our ability and the People of Fort Morgan have spoken and selected the seven of us to represent them, not Bill Holland.

CLARIFICATION OF THE CITY COUNCIL MINUTES OF AUGUST 21, 2007

The City Attorney provided that in Council's Rules of Procedure adopted January 4, 2008, Rule 1f: The minutes may be corrected or amended after they have been approved, if an error or material omission is reasonably established. In this case, the motion "to amend something previously adopted" may be used.

Attorney Wells stated that it has come to his attention that the minutes of August 21, 2007, need clarification. He became aware of this issue when Mr. Nagy met with him to discuss the denial of *The Fort Morgan Times'* December 28 open records request. Shortly after his meeting with Mr. Nagy, *The Fort Morgan Times* made an open records request for the August 21, 2007, minutes. After Mr. Nagy notified Mr. Wells of the motion made on August 21, 2007, Mr. Wells requested a copy of those minutes and additional information on how the City had conformed with the policy for the destruction of draft records in the past. Based upon the information he reviewed, it was his opinion that there had been a material omission of discussion and information in the August 21, 2007, minutes.

Attorney Wells asked the Clerk to read the motion. Clerk Strand read the record.

Alderman Shaver offered a motion to accept the evaluation with the changes discussed tonight and to destroy the original forms from each person. His motion was seconded by Alderman Powers and duly carried.

Discussion among Council revealed that the Council never intended to alter the policy adopted in 2001 regarding the destruction of City Council's draft evaluation documents. It was noted by City Attorney Wells that prior to Mr. Nagy's August 21 evaluation, Council had agreed to consider and pass motions requested by City staff. He also reminded Council of the dispute regarding Mr. Nagy's request for City Council's draft evaluation documents. Further he noted that this was the first evaluation conducted in open session and that the procedure for conducting these types of evaluations had not yet been established by Council. It was also noted by Mayor Darnell that he had originally objected to Mr. Nagy's request to destroy records because the Council had never been required to take a motion to destroy records. All members of Council agreed that the motion was made at the request of Mr. Nagy and Council approved the motion in an effort to accommodate Mr. Nagy's request.

Councilmember Powers offered a motion to authorize the City Clerk to amend the minutes of August 21, 2007, to clarify the motion to make it clear that there was not a change of policy regarding the destruction of City Council's draft evaluation documents. His motion was seconded by Council member Shaver and duly carried.

ACTING CITY MANAGER

Mayor Darnell presented Chief Keith Kuretich with a certificate for the position of Acting City Manager, which he was appointed to on January 8, 2008.

Mayor Darnell adjourned the January 15, 2008, meeting at 8:25 p.m.

Mayor

City Clerk