

May 5, 2009

The City Council of the City of Fort Morgan, Colorado, met this day in the Council Chambers of City Hall. The Honorable Mayor Jack L. Darnell called the 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 Pat Merrill, City Attorney Jeffrey Wells, Police Chief Keith Kuretich, Director of Water Resources/Wastewater Treatment Gary Dreessen, Municipal Engineer Brad Curtis, Director of Human Resources & Risk Management Jody Prentice, Community Services Director Don Shedd, Community Development Director David Callahan and Deputy City Clerk Cheryl Winberg.

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT TO BUY AND SELL REAL ESTATE FOR PROPERTY LOCATED NEAR THE CITY OF FORT MORGAN MUNICIPAL AIRPORT

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

RESOLUTION

AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT TO BUY AND SELL REAL ESTATE FOR PROPERTY LOCATED NEAR THE CITY OF FORT MORGAN MUNICIPAL AIRPORT

WHEREAS, the City of Fort Morgan is working toward replacing and expanding its current runway at the Fort Morgan Municipal Airport; and,

WHEREAS, Property owners near the airport have agreed to sell to the City certain real property interest that relate to the expansion project; and,

WHEREAS, the City has budgeted monies for the purpose of property acquisition at the airport for the expansion project; and,

WHEREAS, execution of the contract is necessary for the acquisition of the property, and,

WHEREAS, the seller has not yet signed the agreement, and is not required to sign until after the City signs the contract.

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 **Contract to Buy and Sell Real Estate** for the purpose of acquiring property for the airport expansion project in an amount not to exceed \$250,000.00.

Sec. 2:The Contract shall be for the purpose of purchase real property interests which include aviation easements and fee simple absolute.

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

Nays: None
Absent /Abstain: None.

THE CITY COUNCIL OF THE CITY OF
FORT MORGAN, COLORADO

[SEAL]

BY: /s/ Jack L. Darnell
Mayor

ATTEST:

/s/ Cheryl Winberg
Deputy City Clerk

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

I, Cheryl Winberg, Deputy 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 6th day of May, 2009.

/s/ Cheryl Winberg, Deputy City Clerk

**COUNCIL ACTING AS THE LOCAL LIQUOR LICENSING AUTHORITY
APPROVAL OF A SPECIAL EVENT LIQUOR LICENSE FOR MORGAN COMMUNITY
COLLEGE**

Deputy City Clerk Cheryl Winberg presented the application for a Special Events Permit requested by Morgan Community College Foundation located at 920 Barlow Road to sell malt, vinous and spirituous liquor on May 29, 2009. She explained that the application originally came before Council on April 21st and, on that date, Council approved the posting of the property. The application is complete and the appropriate fees had been submitted for the permit.

Chief Keith Kuretich reported that the Police Department properly posted the property from April 24 through May 5th and that no protests were received.

Councilmember McAlister offered a motion to approve the application by Morgan Community College Foundation for a Special Events Permit to sell malt, vinous and spirituous liquor on May 29, 2009. His motion was seconded by Councilmember Shaver and carried unanimously.

DISCUSSION AND/OR ACTION ON A MARKETING POSITION FOR THE CITY OF FORT MORGAN

City Manager Merrill presented for Council's consideration the hiring of a City Marketing Director. He reviewed a draft list of duties the Director would be responsible for.

Councilmember Schafer asked for estimates on annual budget figures for the Director's salary and expenses. Councilmember Simmons added that because needed travel and other expenses may be involved in the new position, she had prepared a rough recap showing City revenue and expenses in 2009; the Finance Department told her that journal entries are not all posted yet; and reminded Council that at a recent retreat, this position was discussed and it was suggested this position, in part, would be responsible to promote the City. Councilmember Powers suggested postponing the hiring of such a director until after the organizational analysis is completed and the final 2008 and 2009 budget figures are presented for review. Councilmember Deal added that she was in favor of the new position because of the enhanced communication and support needed to diversify business in our community and to promote our existing businesses; she had received phone calls against the position because of other similar positions held in County, but she still believed the position is an important investment for the City and is in favor of the new position. Councilmember Shaver expressed concerned about adding a position until after the organizational analysis is completed. Councilmember McAlister agreed with the opinions of other Councilmembers and thought a new Marketing Director would still need to work with the Morgan County Economic Development Corporation (MCEDC).

Wayne Johnson, President of MCEDC, recapped that all Councilmembers share one concern – financial, but he disagreed in the potential direction of hiring a new director because he believed the City needed to own more property to offer new businesses and should spend more money there first and let the MCEDC hire a second person to help do the marketing. He suggested that MCEDC work more with the City of Fort Morgan and the City of Brush to discuss spending less on marketing directors. He feels that the MCEDC had been left out of the loop in past efforts. He also noted that Morgan County had been voted as Small Community of the Year by the Economic Council of Colorado because of the way they work with area communities. City Manager Merrill stated exception to the communication note because he had found communication to be lacking on MCEDC's end in the past.

Dr. Kerry Hart, President, Morgan Community College (MCC), stated that under the umbrella of MCC there is a position through the Small Business Association and he suggested dialogue with that person for collaboration, along with the MCEDC.

Mayor Darnell directed City Manager Merrill to bring more budget/financial figures to Council to further discuss the potential position. With the upcoming audit, more overall budget figures would also be available soon.

REQUEST TO SCHEDULE A PUBLIC HEARING FOR JUNE 2, 2009, AT 7:00 P.M., FOR THE UNDERWOOD MINOR SUBDIVISION

Director Callahan presented a Notice of a Public Hearing to approve the final plat for the Underwood Minor Subdivision and requested that the hearing be held on Tuesday, June 2, 2009, at 7:00 p.m.

Councilmember Powers offered a motion to schedule a public hearing on June 2, 2009, at 7:00 p.m. for the Underwood Minor Subdivision. His motion was seconded by Councilmember Shaver and carried unanimously.

CONSENT AGENDA

Deputy Clerk Winberg 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 of the April 21, 2009, regular Council meeting.
- B. Approve the Application for Renewal of a 3.2% Beer Retail License for Edwards Right Price Market, 1201 East Platte Avenue, with a clear police investigation report.
- C. Approve the reading of a Proclamation for Police Week.
- D. Approve the reading of a Proclamation for Municipal Clerks Week.
- E. Second and Final Reading of Ordinance No. 1080 entitled, "An Ordinance Granting Certain Economic Incentives for Business Relocation and Expansion to Ehrlich Toyota East by the City of Fort Morgan, Colorado," and request to publish by title only.

ORDINANCE NO. 1080

AN ORDINANCE GRANTING CERTAIN ECONOMIC INCENTIVES FOR BUSINESS RELOCATION AND EXPANSION TO EHRLICH TOYOTA EAST BY THE CITY OF FORT MORGAN, COLORADO.

Whereas, Ehrlich Toyota East (hereinafter "Ehrlich") has applied for certain tax and economic incentives for construction of an automobile dealership and vehicle service/repair garage, at an anticipated cost of \$ 2,500,000.00, upon Lot 1 of the Minor Subdivision Plat of the "Ehrlich Minor Subdivision" (hereinafter the "Project") in the City of Fort Morgan, Colorado (hereinafter "City");and,

Whereas, the real property upon which the Project will be located is within an enterprise zone and Ehrlich, in accordance with the provisions of the Urban and Rural Enterprise Zone Act, C.R.S. § 39-30-101, et seq., (hereinafter the “Act”), has requested the Council of the City of Fort Morgan, Colorado, to provide certain tax and economic incentives upon or for the benefit of the taxable property of Ehrlich Toyota East resulting from such relocation and expansion; and,

Whereas, Ehrlich represents that it will qualify for a credit or refund on taxes in accordance with the requirements of C.R.S. § 39-30-105, and has presented certification from the Zone Administrator of the Northeast Colorado Enterprise Zone that the Project would constitute a “new business facility” in an enterprise zone as defined by C.R.S. § 39-30-105(7)(e); and,

Whereas, the Council finds that among the purposes of the Act is the encouragement, development and expansion of opportunities for employment in the private sector; to provide incentives for private enterprise to expand and for new businesses to locate in economically depressed areas; to provide more job opportunities for residents of such areas; and to establish tax incentives and other assistance for such private enterprises; and,

Whereas, the Council finds that the Project proposed by Ehrlich would be of benefit to the City by providing new employment opportunities and rehabilitating blighted property; and,

Whereas, the Council finds that the general welfare of the residents of the City would be promoted by granting or approving the tax incentive payments, as hereinafter set forth.

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

1. Refund of Sales Taxes levied by the City. Ehrlich shall be entitled to apply for and receive a refund of up to **Seventeen Thousand Five Hundred (\$17,500.00) Dollars** of all sales taxes levied by and paid to the City of Fort Morgan for the local purchase of equipment, machinery, machine tools, or supplies used in the construction of or incorporated into the improvements of the Project in the Northeast Colorado Enterprise Zone. Such refund shall be payable by the City Treasurer upon presentation of Receipts by Ehrlich upon completion of the Project for all such sales taxes paid and verification by the City Treasurer that such sales taxes have, in fact, been levied and paid to the City. Said refund will also be subject to certification by Ehrlich, through a legal opinion from its attorney’s, that its business arrangement conforms to Colorado law.

Statutory Reference: C.R.S. § 39-30-107.5 (2)

2. Refund of General Property Taxes. Commencing with Tax Year 2010 (taxes payable in 2011) and continuing for Tax Years 2011 through 2025, Ehrlich shall be entitled to an annual incentive payment in the form of a refund equal to **eighty percent (80%)** of the increase in assessed value for general property taxes paid to the City upon the improvements and improvement fixtures constructed as the automobile dealership and vehicle maintenance garage. This refund shall be for improvements and improvement fixtures and the Land upon which the improvements and improvement fixtures are located and that portion of general property taxes attributable to Land. Within sixty (60) days after receipt of proof of payment of the current year’s taxes (starting with Tax Year 2009) provided to the City Treasurer by Ehrlich, the City shall make an annual incentive payment to Ehrlich as set forth above, excluding interest

and penalty, if any. The term of this agreement as to real property taxes shall not exceed fourteen (14) tax years.

Statutory Reference. C.R.S. § 39-30-107.5

3. Refund of Personal Property Taxes. Commencing with Tax Year 2010 (taxes payable in 2011) and continuing through Tax Year 2020, Ehrlich shall be entitled to an annual incentive payment in the form of a refund equal to **fifty percent (50%)** of the amount of taxes levied by the City upon the increase in assessed value of taxable personal property located at or within this new business facility and used in connection with the operation of such new business facility, reduced by depreciation of ten (10%) percent from the base amount for each succeeding Tax Year. The term of this agreement as to personal property taxes shall not exceed ten (10) tax years. Within sixty (60) days after receipt of proof of payment of the current year's personal property taxes (starting with Tax Year 2010) provided to the City Treasurer by Ehrlich, the City shall make an annual incentive payment to Ehrlich as set forth above, excluding interest and penalty, if any.

Statutory Reference: C.R.S. § 31-15-903

4. Other Tax and Fee Incentives. The City will provide an electric infrastructure credit up to **Ten Thousand (\$10,000.00) Dollars**, for the installation of electrical service to the meter, including any required transformer. The City will provide a gas infrastructure credit of up to **One Thousand (\$1,000.00) Dollars**, for the installation of a gas tap and line to Ehrlich from the City's gas main.

5. Limitations. The incentive payments provided in Paragraphs 1, 2, 3 and 4 above shall be subject to the following limitations:

(a) In the aggregate the total of all sales tax refunds, annual tax incentive payments and other incentives due hereunder shall not exceed **One-Hundred-Twelve-Thousand-Seven-Hundred-Thirty-Six (\$112,736.00) Dollars**.

(b) The annual tax incentive payments shall apply only to the construction and equipping of that portion of the Project, which is completed, used and/or occupied by December 31, 2009.

(c) The annual incentive payments shall be made only if all taxes and assessments levied and assessed by the City during each and every year that a payment is made are paid on time and in full.

(d) Payments shall not be made if a Court of competent jurisdiction declares any material section of the Act or this **Ordinance** or any Resolution setting policy for incentive payments to be invalid, unconstitutional, or in violation of any statute.

(e) Payments shall only be made to the extent revenues are available and appropriated in each of the tax years specified above. The Council has no obligation to appropriate funds to make the annual incentive payments.

(f) Payment of any incentives stated above shall only be made if Ehrlich qualifies for a credit or refund on taxes in accordance with the requirements of C.R.S. § 39-30-105, and the Project must qualify as a "new business facility" in an enterprise zone as defined by C.R.S. § 39-30-105(7)(e). These qualifications must be demonstrated annually to the City's satisfaction

through submission of a **Certification of Qualified Enterprise Zone Business** from the Administrator of the Northeast Colorado Enterprise Zone for each tax year in which Ehrlich requests an incentive payment.

(g) Payments shall only be made if the City continues to be in a designated enterprise zone.

(h) Payments shall only be made if Ehrlich presents a request for payment annually and provides the necessary documentation and information as required by the City Manager and as set forth herein.

(i) The incentives authorized herein shall only apply to the property contained in Lot 1 of the Minor Subdivision Plat of the "Ehrlich Minor Subdivision".

6. Binding Effect. By its acceptance and approval of this **Ordinance**, Ehrlich agrees to be bound by the terms and provisions hereof. This **Ordinance** shall become effective upon its final publication and its acceptance by Ehrlich through its authorized officer and shall thereupon become a binding agreement between the City and Ehrlich. This agreement shall not be assignable without the written consent of the non-assigning party.

INTRODUCED, READ AND PASSED UPON FIRST READING this 21st day of April, 2009, for publication once in a newspaper of the City of Fort Morgan, Colorado, at least ten days before its final passage.

[SEAL]

THE CITY COUNCIL OF THE CITY OF
FORT MORGAN, COLORADO

ATTEST:

BY: _____
/s/ Jack L. Darnell, Mayor

/s/ Andrea J. Strand
City Clerk

FINALLY PASSED, ADOPTED AND APPROVED this 5th day of May, 2009 for publication once in the newspaper of the City of Fort Morgan, Colorado, within five days of the final passage, to take effect five days after final publication.

[SEAL]

THE CITY COUNCIL OF THE CITY OF
FORT MORGAN, COLORADO

ATTEST:

BY: _____
/s/ Jack L. Darnell, Mayor

/s/ Cheryl Winberg
Deputy City Clerk

F. Authorize the appointment of Marian Tibbetts, 17303 Highway 34, Fort Morgan, to the Senior Center Advisory Board for a three-year term expiring on December 31, 2011.

- G. Authorize the appointment of Lance Hochanadel, 634 Park Street, Fort Morgan, to the Tree, Parks and Recreation Advisory Board for a three-year term expiring on December 31, 2011.
- H. Approve the bid from CivicPlus, of Manhattan, Kansas, in the amount of \$19,388 with monthly maintenance costs of \$250 per month, for the City's website redesign.

All matters listed under Item 7, 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 May, 2009, the vote upon roll call being as follows: Ayes: Mayor Darnell; Councilmembers Deal, McAlister, Powers, Schafer, Shaver and Simmons. Nays: none.

READING OF PROCLAMATIONS

Mayor Darnell read the Proclamation for National Police Week:

PROCLAMATION

WHEREAS, the Congress and President of the United States have designated May 15th as Peace Officers' Memorial Day, and the week in which May 15th falls as National Police Week; and

WHEREAS, the members of The Fort Morgan Police Department play an essential role in safeguarding the rights and freedoms of Fort Morgan; and

WHEREAS; it is important that all citizens know and understand the duties, responsibilities, hazards, and sacrifices of their law enforcement agency, and that members of our law enforcement agency recognize their duty to serve the people by safeguarding life and property, by protecting them against violence and disorder, and by protecting the innocent against deception and the weak against oppression; and

WHEREAS, the men and women of the Fort Morgan Police Department unceasingly provide a vital public service;

NOW THEREFORE BE IT RESOLVED that by virtue of the authority vested in me as Mayor of the City of Fort Morgan, I call upon all citizens of Fort Morgan and upon all patriotic, civic and educational organizations to observe the week of

MAY 10, 2008-MAY 16, 2009 AS POLICE WEEK

WITH appropriate ceremonies and observance in which all of our people may join in commemorating law enforcement officers, past and present, who, by their faithful and loyal devotion to their responsibilities, have rendered a dedicated service to their communities and, in so doing, have established for themselves an enviable and enduring reputation for preserving the rights and security of all citizens.

I further call upon all citizens of Fort Morgan to observe Thursday, May 15th, as Peace Officers' Memorial Day in honor of those law enforcement officers who, through their courageous deeds, have made the ultimate sacrifice in service to their community or have become disabled in the performance of duty, and let us recognize and pay respect to the survivors of our fallen heroes. **IN WITNESS THEREOF**, I have hereunto set my hand and caused the Seal of the City of Fort Morgan to be affixed.

/s/ Jack L. Darnell
Mayor

ATTEST:
/s/ Andrea J. Strand
City Clerk

Mayor Darnell read the Proclamation for Municipal Clerks Week:

Proclamation

Municipal Clerks Week

May 3 through May 9, 2009

Whereas, The Office of the Municipal Clerk, a time honored and vital part of local government exists throughout the world, and

Whereas, The Office of the Municipal Clerk is the oldest among public servants, and

Whereas, The Office of the Municipal Clerk provides the professional link between the citizens, the local governing bodies and agencies of government at other levels, and

Whereas, Municipal Clerks have pledged to be ever mindful of the neutrality and impartiality, rendering equal service to all.

Whereas, The Municipal Clerk serves as the information center on functions of local government and community.

Whereas, Municipal Clerks continually strive to improve the administration of the affairs of the Office of the Municipal Clerk through participation in education programs, seminars, workshops and the annual meetings of their state, province, country and international professional organizations.

Whereas, It is most appropriate that we recognize the accomplishments of the Office of the Municipal Clerk.

Now, Therefore, I, Jack L. Darnell, Mayor of Fort Morgan, Colorado, do recognize the week of May 3 through May 9, 2009, as Municipal Clerks Week, and further extend appreciation to our Municipal Clerks, Andrea Strand and Cheryl Winberg, and to all Municipal Clerks for the vital

services they perform and their exemplary dedication to the communities they represent.

Dated this 5th day of May, 2009.

Mayor: /s/ Jack L. Darnell

Attest: /s/ Andrea J. Strand, City Clerk

PUBLIC COMMENT / AUDIENCE PARTICIPATION

None.

REPORTS

The following Directors provided written reports to Council:

City Manager Merrill – He asked City Council be present for a photograph on Monday, June 1, 2009, at 9:00 a.m. to mark the beginning of the Downtown Construction Project. The City received 12 responses to the Request for Proposals for Information Technology Consulting; 13 proposals were received for the Request for Proposals for the Water Resources project.

Police Chief Kuretich – He attended a meeting to discuss the traffic congestion around the high school; they are working with high school staff to make changes to relieve the congestion. The Quiet Zone project diagnostic review is three-fourths complete; the recommendation should be completed in the next couple of months.

Water Resources/Wastewater Treatment Director Dreessen – He noted that CB-T units are now selling under \$8,000; he contacted Carl Brower about speaking at a future Council meeting (after the May 26th presentation to NISP participants) to explain how the City would receive water from Glade Reservoir as part of the NISP project; old posts from our WWTP were donated to Brush, who thanked the City for them.

Municipal Engineer Curtis – He added that they have short listed three contractors for the construction phase of the Downtown Project; they are still on schedule to begin the work on June 1st.

Human Resources and Risk Management Director Prentice

Community Services Director Shedd – He added that the Fulton Heights Park playground is being dedicated on Friday, May 8th.

Community Development Director Callahan – He announced the Proclamation from Governor Bill Ritter for Building Safety Week this week and he expressed thanks to Building Inspector Mike Kirkendall, who has been with the City for 15 years; to Gary Dreessen who is a master plumber and helps with safety issues; to Paul Erickson and Darrell Hosier of our Gas Department who help with gas inspections; and to Bill Garcia who backs up Mike Kirkendall.

Municipal Court

Fort Morgan Volunteer Fire Department

BIDS, MEETINGS AND ANNOUNCEMENTS

Deputy Clerk Winberg announced the open request for proposals for professional services for an organizational staffing analysis and she announced the upcoming meetings.

Mayor Darnell adjourned the May 5, 2009, regular meeting at 8:05 p.m.

/s/ Jack L. Darnell, Mayor

/s/ Cheryl Winberg, Deputy City Clerk