

March 23, 2010

The City Council of the City of Fort Morgan, Colorado, met this day in the Council Chambers of City Hall. The Honorable Mayor Terry L. McAlister called the special meeting to order at 7:00 p.m.

The Pledge of Allegiance was given.

Roll Call: Present: Honorable Mayor Terry L. McAlister
Councilmember Scott Bryan
Councilmember Sharol Lyn Deal
Councilmember Debra J. Forstedt
Councilmember Brent M. Nation
Councilmember James A. Powers
Councilmember Ronald Shaver

The meeting was also attended by City Manager Pat Merrill, City Attorney Jeffrey Wells, Fire Chief Brad Parker, Police Chief Keith Kuretich, Director of Water Resources/Wastewater Treatment Gary Dreessen, Municipal Engineer Brad Curtis, Community Development Director David Callahan, Director of Human Resources & Risk Management Jody Prentice, Treasurer Terri Schafer and Deputy City Clerk Cheryl Winberg.

DISCUSSION AND/OR ACTION ON UNIT PRICE BIDS FOR THE CITY'S 2010 ON-CALL CONCRETE SERVICES

Engineer Curtis presented a Council Communication; said memo being in words, letters and figures as follows, to-wit:

FROM: Brad Curtis, Municipal Engineer,
Kenneth Breneman, Streets Superintendent

SUBJECT: Award of Bid for 2010 On-call Concrete Installation Services

DATE: March 12, 2010

MEETING DATE: March 23, 2010

PROJECT: Award of Bid for 2010 On-call Concrete Installation Services.

FUNDING SOURCE: Funds are budgeted under the various departments that will utilize the on-call concrete installation services as follows:

Streets 001.431.3.3327 concrete services	\$150,000
Electric 012.270.3.3220 maintenance	\$ 10,000
Gas 014.470.3.3220 maintenance	\$ 10,000
Water Dist 013.370.3.3222 water services	\$ 10,000

The amount of work listed in the bid schedule is an estimate of what may be required for the year. The City does not guarantee that the amount of work

shown in bid schedule will be performed since the work is on an as-needed basis.

HISTORY/

BACKGROUND: The City has contracted annually with an on-call concrete contractor to install concrete curb, sidewalk, handicap ramps, and various other concrete improvements in the City. The on-call concrete services are utilized by several departments.

This year, it is Staff's intention is to create a roster of qualified contractors willing to contract with the City on an as needed basis and to establish in advance the unit pricing for compensation of such services. This will enable the City to choose between contractors to perform the work based on response time, project type and costs per work order request.

ISSUE: A Request for Unit Bid Prices was placed on the City's website on February 22, 2010 and made available at City Hall. The bid opening was held March 10, 2010. Six contractors submitted bids with one bid not meeting minimum bid specifications. The following submitted qualified bids:

TAZcrete Construction
20804 Hwy 34
Fort Morgan CO 80701

Quality Paving Company
9700 Alton Way
Henderson CO 80640

Noraa Concrete Construction
39673 E 160th Avenue
Keenesburg CO 80643

L.E.C. Construction
3310 State Street
Evans CO 80620

A-1 Chipseal
2001 West 64th Lane
Denver CO 80221

ACTION

REQUESTED: Staff is requesting Council approval to enter into a Service Agreement with each of the above Contractors and for them to be placed on a roster of approved Contractors to perform concrete installation services for the City. Since it is possible that each contractor may perform work in an amount over \$10,000, Staff is also requesting Council approval, per the City's Procurement Policy, to expend the operation and maintenance funds for concrete installation services as necessary in amounts over \$10,000 to one or all approved Contractors.

SUPPORTING

DOCUMENTS: Unit Bid Prices Tabulation Sheet.

Questions were asked/answered about required bonds for the work, how the contractors would be chosen to best fit the needs of each specific work order, and who would make the decisions for each work order.

Councilmember Forstedt offered the following Resolution and moved for its adoption. Her motion was seconded by Councilmember Bryan; 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 City enter into a Service Agreement with each of the Contractors listed in the presented memorandum and for them to be placed on a roster of Contractors to perform concrete installation services for the City. I also offer that, if any of the contractors perform work in an amount over \$10,000, we expend the operation and maintenance funds as necessary to one or all approved Contractors.

PASSED, APPROVED AND ADOPTED this 23rd day of March, 2010, the vote upon roll call being as follows: Ayes: Mayor McAlister; Councilmembers Bryan, Deal, Forstedt, Nation, Powers and Shaver. Nays: None. Absent/Abstain: None.

DISCUSSION AND/OR ACTION ON A RESOLUTION SETTING FORTH THE INTENT OF THE RIVERSIDE PARK NORTH ANNEXATION

Attorney Wells discussed the intent of the presented resolution, explaining the recent communication from the Colorado Open Lands Organization who expressed concern about development on the purchased acres.

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

RESOLUTION NO. 2010-03-02

A RESOLUTION SETTING FORTH THE INTENT OF THE RIVERSIDE PARK NORTH ANNEXATION

WHEREAS, the property more particularly known as Riverside Park North Annexation is encumbered by a Conservation Easement held by Colorado Open Lands that was recorded in the records of Morgan County, Colorado at Reception No. 839814 (Conservation Easement); and,

WHEREAS, the purchase of the Conservation Easement was facilitated by a grant from the Great Outdoors Colorado Trust Fund (Grant); and,

WHEREAS, the purpose of the Grant and Conservation Easement is to preserve and protect in perpetuity the Conservation Values of the Property; and,

WHEREAS, the City of Fort Morgan intends to comply with the terms of the Deed of Conservation Easement; and,

WHEREAS, the intent of this annexation of this property was to provide the City of Fort Morgan with direct police control and governance of this property.

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

Section 1. The City of Fort Morgan intends to comply with the terms of the Deed of the Conservation Easement.

Section 2. The City of Fort Morgan intends for the terms of the Deed of Conservation Easement to supersede any zoning classification of the property.

Section 3. This Resolution shall be recorded against the property to clarify the City of Fort Morgan's intent.

Section 4. The City Manager shall take a copy of this Resolution upon signature by the Mayor and have such recorded against the property contained within the Riverside Park North Annexation.

INTRODUCED, PASSED, APPROVED AND ADOPTED this 23rd day of March, 2010, the vote upon roll call being as follows:

Ayes: Mayor McAlister; Councilmembers Bryan, Deal, Forstedt, Nation, Powers and Shaver.

Nays: None

Absent / Abstain: None

THE COUNCIL OF THE CITY OF FORT MORGAN, COLORADO

[SEAL]

BY: /s/ Terry L. McAlister, 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 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 23rd day of March, 2010.

/s/ Cheryl Winberg, Deputy City Clerk

REVIEW THE PROPOSED 2011 CITY COUNCIL GOALS & OBJECTIVES

Manager Merrill presented a Council Communication; said memo being in words, letters and figures as follows, to-wit:

FROM: Pat Merrill, City Manager
SUBJECT: City Council's 2011 Goals & Objectives
DATE: March 16, 2010
MEETING DATE: March 23, 2010

Item for Consideration: In order for the City Staff to prepare a fiscal year 2011 budget that meets the priorities of the Mayor & City Council, as well as the needs of the public, we are providing you with a list of potential projects for you to prioritize. Once the results have been tallied, we will then utilize the information when preparing the budget for next year. There are eighteen items on the list that need to be ranked by the Council. Please assign your number one priority eighteen points and your least important priority a numerical value of one, with the rest falling somewhere in between.

Financial Considerations: The purpose of the numerical ranking of priorities is to provide the staff with the Mayor & City Council's priorities when preparing the fiscal year 2011 budget.

Citizen Input/Board Review: This is a decision that would need to be made by the Mayor & City Council.

Legal Review: N/A

Alternatives: Any alternatives would be at the direction of the Mayor & City Council.

Supporting Documents: The list (w/o rankings) has been provided.

Staff Recommendations: N/A

Manager Merrill asked for each Councilmembers' individual list of priorities as soon as possible. Once received, the list will be revised and brought back to Council in a work session.

DISCUSSION AND/OR ACTION REGARDING THE DISCLOSURE OF A CONFIDENTIAL MEMORANDUM PREPARED BY CITY MANAGER PAT MERRILL

Mayor McAlister stated that this item has been placed on the agenda to address several open records request the City has received concerning a confidential memo prepared by the City Manager. The memo has not been released because it is not required to be released under the work product definition of the Colorado Open Records Act. He then asked City Attorney Wells to inform City Council about the requests and options available to City council.

Attorney Wells stated that on February 5, 2010, the City Clerk's office received an open records request from the Morgan County Economic Development Corporation (MCEDC) Executive

Board (Wayne Johnson, Shane Cole and Bret Poland). They asked for “a copy of any document disseminated or discussed with full council on Tuesday, February 2, 2010,” and it stated a few other things. As a follow-up request for clarification from City Clerk Andrea Strand to Kari Linker, Kari stated that, “In regards to the letter from my executive board we are requesting a certain memo that was given to City Council members from Pat Merrill on Feb. 2, 2010 in regards to MCEDC and a grant application from RC&D that was attached to the memo. Please let me know the status of our request.” That request was denied.

On March 17, 2010, we received another open records request, from William R Holland (Bill Holland), requesting basically the information that had been submitted by the MCEDC; the three things he requested were “1. A copy of the ‘confidential memo’ prepared by City Manager Pat Merrill referencing Kari Linker and distributed to City Council members; 2. A copy of the letter sent to the City by Morgan County Economic Development Corporation requesting a copy of Pat Merrill’s ‘confidential memo’ referencing Kari Linker; and 3. A copy of the City’s response to Morgan County Economic Development Corporation’s letter of request.” That request was partially denied as to the confidential memorandum prepared by City Manager Pat Merrill.

On March 22, 2010, yesterday, we received a second open records request from William R. Holland (Bill Holland) requesting, “A copy of the ‘confidential’ memo prepared by City Manager Pat Merrill referencing Kari Linker and distributed to City Council members.” We have not made any statement as to that most recent request.

Attorney Wells did not go into any legal opinions at this point, but stated that the law does provide that if Council wishes to release the confidential memo that they received from Mr. Merrill, they can do so. If Council decides to do so, he suggested that they do so by making a motion to direct Mr. Merrill to release it. Attorney Wells also advised that any discussion as to the content of the memo should be completely avoided. By discussing the content of the memo, you would essentially be waiving any privileges you have; the discussion should be centered primarily on whether that privilege should be waived and not as to any contents that may be in the memo.

Councilmember Bryan stated he again reviewed the memo from Mr. Merrill and felt that if we release the memo, we need to release background information indicating the concerns of the City about this project.

Councilmember Nation offered a motion to allow for disclosure of the memo prepared by Pat Merrill. His motion was seconded by Councilmember Bryan; the vote upon roll call being as follows: Ayes: Councilmembers Bryan, Nation and Shaver. Nays: Mayor McAlister; Councilmembers Deal, Forstedt and Powers. Absent/Abstain: None. The motion failed.

PUBLIC COMMENT / AUDIENCE PARTICIPATION

None.

BIDS, MEETINGS AND ANNOUNCEMENTS

Deputy Clerk Winberg announced open bids and upcoming meetings.

Councilmember Powers announced that, at the recent annual meeting for the Morgan County Economic Development Corporation, the City was awarded two different plaques: one as a

2009 investor in the Corporation and the second for recognition of the downtown improvement project. He thanked the Downtown Business Association and the downtown business owners for their patience during the project. He also thanked the citizens for allowing us to “save money” to help pay for this project without the downtown business owners having to go through any special improvement district or something of that nature.

Councilmember Powers noted that the Water Advisory Board had been instructed to explore all possibilities for supplemental water for the City, other than NISP, and he feels the Board did an excellent job in reviewing several proposals to meet that challenge. Renaissance Land and Management LLC had made two presentations to the Board; however, the Board decided that they were not able to meet the criteria the Board had set, both in quantity and quality. Their water is not equal in quality to the water we receive now from the C-BT so as to not increase our cost for treatment and delivery. A motion was made at the Board meeting on March 18th by Mr. Baker, recommending that the Board does not believe that Renaissance’s proposal to supply water to the City is not in the best interests of the City; it was seconded by Mr. Canfield and carried unanimously.

Councilmember Nation asked whether a vote could be taken on that item tonight. Attorney Wells stated that no vote could occur because the item was not on the meeting agenda. Mayor McAlister feels, at this time, that no motion is necessary, but is willing to discuss the subject further, if needed.

Mayor McAlister stated that he has appointed Robert Fischer to the Fort Morgan Housing Authority Board of Directors.

Attorney Wells noted that the Colorado Court of Appeals came back with a decision in the lawsuit filed by *The Fort Morgan Times*, agreeing with the City that the records requested were not open records under the Colorado Open Records Act. He thanked *The Fort Morgan Times* for how the entire story was run and he thanked Councilmembers for their support during the process.

Attorney Wells complimented Deputy Clerk Winberg for her recent work with open records requests and other duties taken on recently.

Mayor McAlister also thanked Councilmembers, staff and citizens for taking part in several meetings the past two days regarding the Community Revitalization Program; the time involved is very much appreciated.

Mayor McAlister adjourned the March 23, 2010, special meeting at 7:36 p.m.

/s/ Terry L. McAlister
Mayor

/s/ Cheryl Winberg
Deputy City Clerk