

September 7, 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 regular meeting to order at 5:30 p.m.

The Pledge of Allegiance was given.

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

The meeting was also attended by City Manager Pat Merrill, City Attorney Jeffrey Wells, Police Chief Keith Kuretich, and Treasurer Terri Schafer.

EXECUTIVE SESSION FOR DISCUSSION OF SPECIALIZED DETAILS OF SECURITY ARRANGEMENTS OR INVESTIGATIONS UNDER C.R.S. SECTION 24-6-402(4)(d) RE: MODIFICATION TO THE WATER EMERGENCY PLAN

At approximately 5:33 p.m., Councilmember Forstedt moved to go into Executive Session to discuss specialized details of security arrangements or investigation under C.R.S. Section 24-6—402(4)(d); re: Modification to the Water Emergency Plan. Her motion was seconded by Councilmember Shaver.

Mayor McAlister announced, "The time is now 7:00 p.m.; and we now conclude the Executive Session and return to the open meeting." The participants in the Executive Session were Mayor McAlister; Councilmembers Bryan, Deal, Nation, Forstedt, Powers, and Shaver. Also present were staff members Manager Merrill and Attorney Wells.

"For the record, if any person who participated in the Executive Session believes that any substantial discussion of any matters not included in the motion to go into Executive Session occurred during the Executive Session, or that any improper action occurred during the Executive Session in violation of the Open Meetings Law, I would ask that you state your concerns for the record. Hearing none, the Executive Session is concluded. I will now ask Councilmember Forstedt to report on the Executive Session."

The City Council met in Executive Session to discuss the modification to the Water Emergency Plan. Councilmember Forstedt offered a motion to direct Manager Merrill to make all necessary modifications to the plan and present them to the city water advisory board. Her motion seconded by Councilmember Shaver, motion carries unanimously.

EXECUTIVE SESSION FOR A CONFERENCE WITH THE CITY ATTORNEY FOR THE PURPOSE OF RECEIVING LEGAL ADVICE ON SPECIFIC LEGAL QUESTIONS UNDER C.R.S. SECTION 24-6-402(4)(B) RE: COURT ADMINISTRATION UNDER THE CHARTER

Mayor McAlister announced, "The time is now 7:03 p.m.; and we now conclude the Executive Session and return to the open meeting." The participants in the Executive Session were Mayor McAlister; Councilmembers Bryan, Deal, Nation, Forstedt, Powers, and Shaver. Also present were staff members Manager Merrill, Attorney Wells and Judge Crispin.

"For the record, if any person who participated in the Executive Session believes that any substantial discussion of any matters not included in the motion to go into Executive Session occurred during the Executive Session, or that any improper action occurred during the Executive Session in violation of the Open Meetings Law, I would ask that you state your concerns for the record. Hearing none, the Executive Session is concluded. I will now ask Councilmember Forstedt to report on the Executive Session."

The City Council did meet in Executive Session to seek legal advice from City Attorney Wells regarding Municipal Court Administration under the City Charter, the Council's questions were answered adequately and no motion for action was necessary.

PUBLIC HEARING ELECTRIC TARIFF CHANGES REGARDING INTERCONNECTION RATES

Assistant City Attorney Swanson presented information to Council on customers who produce their own energy from renewable resources could offset their City electric bills and even receive a credit if they produce more than they consume. A change to the City's electric tariff would make this possible. She explained that it is not a change in the electric rates but rather allows the credit for energy produced by individual customers. Municipal utilities that serve between 5,000 and 40,000 customers are now required by state law to offer such a credit for customers who produce and send energy back to the grid. Manager Merrill added that MEAN was fully aware and supportive of the change to the tariff's.

Fort Morgan resident Jim Bunting of 212 Prospect addressed the Council with questions and comments.

Councilmember Powers offered a motion to close the Public Hearing his motion seconded by Councilmember Shaver motion passes unanimously.

RESOLUTION TO ADOPT RATE SCHEDULE NM

RESOLUTION NO. 2010-09-01**RESOLUTION ADOPTING THE NEW RATE “SCHEDULE NM” FOR NET METERING PURPOSES AND THE “THIRD REVISED” SHEET NOS. 38 AND 39.**

WHEREAS, the Board of Directors of the Electric Department and System Enterprise of the City of Fort Morgan hereby finds and declares it to be in the public interest and in the interest of the customers of the City’s electric utility that the Enterprise adopt the rate schedule for net metering, effective October 1, 2010; and,

WHEREAS, Article VII, Sec. 3 of the *Charter of the City of Fort Morgan* gives City Council the “power by ordinance to fix and regulate rates, fares and charges for service by public utility corporations . . .”; and,

WHEREAS, pursuant to Sec. 22B-7, *Code of the City of Fort Morgan*, “[c]harges for the supply of electric. . . service[s] shall be, from time to time, established by resolution of the City Council”; and,

WHEREAS, pursuant to C.R.S. §40-2-124, the City shall allow a customer-generator's retail electricity consumption to be offset by the electricity generated from eligible energy resources on the customer-generator's side of the meter that are interconnected with the facilities of the municipally owned utility; and,

WHEREAS, pursuant to C.R.S. §40-3.5-104 and the City’s adopted tariff sheets, notice of this new rate schedule was given by the municipality on the 7th day of September at a Public Hearing held at 7:00 p.m. at Historic City Hall located at 110 Main Street, Fort Morgan, CO 80701; and,

WHEREAS, the “Third Revised” Sheet Nos. 38 and 39 shall be incorporated into the published tariff of electric rates of the City of Fort Morgan, Colorado.

NOW, THEREFORE, BE IT RESOLVED BY BOARD OF THE ELECTRIC DEPARTMENT AND SYSTEM ENTERPRISE OF THE CITY OF FORT MORGAN, COLORADO:

SECTION 1 Effective September 7, 2010, for all utility bills generated pursuant to this new rate schedule on or after such date, the City hereby adopts the NM Rate Schedule proposed in the Rate Schedule for the Electric Supply Charge by the City of Fort Morgan to Residential, Commercial, and Municipal Customers, hereby adopts the “Third Revised” Sheet Nos. 38 and 39.

SECTION 2. The new rates shall be effective beginning October 1, 2010.

INTRODUCED, PASSED, APPROVED AND ADOPTED this 7th day of September 2010, the vote upon roll call being as follows:

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

THE BOARD OF THE ELECTRIC DEPARTMENT
AND SYSTEM ENTERPRISE OF THE CITY OF
FORT MORGAN, COLORADO

[SEAL]

BY: _____
Chairman Terry McAlister

ATTEST:

Secretary Yolanda L. Eurich

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

I, Yolanda L. Eurich, Secretary of the Board of the Electric Department and System Enterprise of the City of Fort Morgan, Colorado, do hereby certify that the above and foregoing **Resolution** is a true, perfect and complete copy of the **Resolution** adopted by the City Council and is identical to the original thereof appearing in the official records of the City of Fort Morgan, Colorado, and that the same has not been, since its adoption, in any respect, rescinded or amended.

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

Secretary Yolanda L. Eurich

RESOLUTION AUTHORIZING THE MAYOR TO SIGN THE GRANT AGREEMENT WITH THE FAA AND THE APPROPRIATION OF MONEY TO THE CITY 2010 BUDGET

Director Callahan presented information for Council consideration a resolution authorizing the mayor to sign an agreement with the FAA for a grant of \$217,000 for an environmental assessment of the impacts of a runway extension project at the City Airport, and appropriating the money to the city's 2010 budget.

Councilmember Brent Nation offered a Resolution to authorize the Mayor to sign the grant agreement with the FAA and the Appropriation of Money to the City 2010 Budget seconded by Councilmember Deal. Said Resolution passes unanimously.

RESOLUTION 2010-09-02

AUTHORIZING THE MAYOR TO EXECUTE PROJECT DOCUMENTS RELATED TO THE ENVIRONMENTAL ASSESSMENT AT THE FORT MORGAN MUNICIPAL AIRPORT AND TO AUTHORIZE THE APPROPRIATION AND EXPENDITURE OF FUNDS TO FINANCE THE ENVIRONMENTAL ASSESSMENT.

WHEREAS, as part of the City of Fort Morgan and Federal Aviation Administrations' (FAA) capital improvement plan (CIP) for the Fort Morgan Municipal Airport funding has been provided to pay for an Environmental Assessment (EA) necessary for any future expansions of the airport runway; and,

WHEREAS, the City has budgeted money for the required two percent (2%) matching funds to obtain the grant money provided by the FAA; and,

WHEREAS, city staff planned for the EA to be conducted in 2010 as reflected in pages 134 and 135 in the City's five year CIP, however, the money reserved for this project was inadvertently left out of the capital improvement fund in the 2010 budget ; and,

WHEREAS, the FAA has provided the City with a grant which funds the EA in the amount of approximately \$228,520.00 which is not currently in the budget; and,

WHEREAS, the EA and the funds to pay for the EA are an integral part of the airport's plans for future development; and

WHEREAS, in order to obtain the funding for the EA the Charter requires Mayor to sign the contracts related to the grant and the project, and City Council is required to approve any expenditure over \$10,000.00 from the City's budget.

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 contracts, agreements and any other required paperwork related to the EA at the Fort Morgan Municipal Airport.

SEC. 2: The City staff is authorized to expend the monies necessary to fund the EA at the Fort Morgan Municipal Airport from the 2010 budget. City Council hereby appropriates the money for said expenditure and said appropriation will be reflected in the year-end budget amendments.

INTRODUCED, PASSED, APPROVED AND ADOPTED this 7th day of September 2010, the vote upon roll call being as follows:

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

Nays:

Absent /Abstain:

[SEAL]

THE CITY COUNCIL OF THE CITY OF FORT MORGAN, COLORADO

BY: _____
Terry McAlister Mayor

ATTEST: _____
Yolanda L. Eurich Deputy City Clerk

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

I, Yolanda Eurich, 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 7th day of September, 2010.

Deputy City Clerk

DISCUSSION AND/OR ACTION SUSPENDING THE ECONOMIC INCENTIVES POLICY UNTIL THE NEW POLICY IS ADOPTED

Manager Merrill stated that the current policy is “cumbersome and convoluted” and it would be best to suspend it now while the draft of the new policy is refined. One reason is the current policy requires businesses that are awarded incentives to file annual applications and reports which they sometimes neglect to do. This puts the council in an uncomfortable position of possibly having to say no to promised incentives because a business has not fulfilled its annual reporting requirements.

Councilmember Forstedt offered a Resolution to suspend the economic incentives (subject to two pending items) until a new policy is adopted, seconded by Councilmember Bryan. Said Resolution passes unanimously.

REQUEST FOR THE USE OF TEN (10) PICNIC TABLES BY THE FORT MORGAN HIGH SCHOOL ON SEPTEMBER 17, 2010 CHILLI SUPPER

Manager Merrill requested Council waive the fees for the use of 10 picnic tables from Friday, September 17 through Monday, September 20 for the Fort Morgan High School Athletic Booster Club. Councilmember Powers stated that it would probably be more than 10 tables because the chilli supper is for the High School Homecoming.

Councilmember Powers offered a motion to waive the fee for the use of ten picnic tables his motion seconded by Councilmember Nation. Motion passes unanimously.

SPECIAL EVENTS PERMIT FOR THE ELKS CLUB

Attorney Wells reported to Council that the Elks had submitted an application for a Special Events Permit for September 17th and 18th. The application was in order and all necessary fees were submitted. An investigation was conducted by the Police Department and was completed with a clear report.

Councilmember Forstedt offered a motion to close the Public Hearing her motion seconded by Councilmember Powers and passed unanimously.

Councilmember Powers offered a motion to approve the Special Events Permit Application for the Elks Club located at 430 State Street, Fort Morgan, Colorado on September 17th and 18th, 2010. His motion seconded by Councilmember Powers and passed unanimously.

CONSENT AGENDA

Treasurer Schafer presented the Consent Agenda for Council consideration. Councilmember Nation offered a motion to approve the Consent Agenda as presented. His motion was seconded by Councilmember Shave; said Consent Agenda being in words, letters and figures as follows, to wit:

CONSENT AGENDA

- A. Second reading of an ordinance adopting provision within the Fort Morgan Municipal Code prohibiting the commercial sale and production of Medical Marijuana.
- B. Approve the Minutes from the August 17, 2010 Meeting.
- C. Approve the Minutes from the August 24, 2010 Meeting.

PASSED, APPROVED AND ADOPTED this 7th day of September 2010, the vote upon roll call being as follows: Ayes: Mayor McAlister; Councilmembers Bryan, Deal, Nation, Powers and Shaver. Nays: none.

PUBLIC COMMENT / AUDIENCE PARTICIPATION

None.

REPORTS

The following Directors provided written reports to Council:

City Manager Merrill
Police Chief Kuretich
Water Resources/Wastewater Treatment Director Dreessen
Municipal Engineer Curtis
Community Development Director Callahan
Community Service Director Evans

BIDS, MEETINGS AND ANNOUNCEMENTS

Announced upcoming bids and meetings.

Mayor McAlister adjourned the September 7, 2010, regular meeting at 7:75 p.m.

/s/ Terry L. McAlister
Mayor

/s/ Yolanda L. Eurich
Deputy City Clerk