

September 21, 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 6:00 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

EXECUTIVE SESSION

Councilmember Forstedt offered a motion to go into an Executive Session for a conference with the City Attorney for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. Section 24-6-402(4)(e); retirement of economic incentive payments. Her motion was seconded by Councilmember Shaver and duly carried.

Mayor McAlister announced, "The time is 7:00 p.m., and the Executive Session has concluded and Council returned to the open meeting." The participants in the Executive Session were Mayor McAlister; Councilmembers Bryan, Deal, Forstedt, Nation, Powers and Shaver. Staff also in the meeting was City Manager Merrill, City Attorney Wells, City Treasurer Schafer and Director of Marketing/ED, Kevin Wilkins.

"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 and I will ask Councilmember Forstedt to report on the Executive Session."

Councilmember Forstedt stated City Council met in Executive Session to instruct negotiators regarding Retirement of Economic Incentive Payments. She offered a motion to direct the City Manager to negotiate under the parameters discussed in the Executive Session. His motion was seconded by Councilmember Powers and duly carried.

7:00 P.M. – REGULAR MEETING

WAKEFIELD AND ASSOCIATES COLLECTION CONTRACT AND PRESENTATION OF AN ORDINANCE TO AMEND THE FORT MORGAN MUNICIPAL CODE TO ALLOW OUTSIDE DEBT COLLECTION IN MUNICIPAL COURT

Attorney Wells stated it would be necessary to amend the Ordinance of Sections 18A-17 which would allow the Authority to contract with a collection Agency and; assess fees in relation to such collection; to increase payment plan fees; and to remove provision allowing the court imprison a defendant until payment of fines. In order to proceed with the contract with Wakefield the amendments must be approved. Discussion followed. Manager Merrill added that the City will set the parameters if anything would be turned over for collection.

Councilmember Deal offered a Resolution to approve the Ordinance Amending Sections 18A-17 to allow the Authority to Contract with a Collection Agency; assess fees in relation to such collection; to increase payment plan fees; and to remove provision allowing the court imprison a defendant until payment of fines under the Code of the City of Fort Morgan. Her motion seconded by Councilmember Bryan and passes unanimously.

ORDINANCE NO. 1107

AN ORDINANCE AMENDING SECTIONS 18A-17 TO ALLOW THE AUTHORITY TO CONTRACT WITH A COLLECTION AGENCY; ASSESS FEES IN RELATION TO SUCH COLLECTION; TO INCREASE PAYMENT PLAN FEES; AND TO REMOVE PROVISION ALLOWING THE COURT IMPRISON A DEFENDANT UNTIL PAYMENT OF FINES UNDER THE CODE OF THE CITY OF FORT MORGAN

WHEREAS, the City Council desires to contract with collection agencies to collect past due fines and court costs fees and to permit such agency to assess additional costs and fees associated with that collection service; and,

WHEREAS, the City Council desires to increase the payment plan fee; and,

WHEREAS, the City Council desires to clarify provisions related to the conversion of fines into satisfaction of a jail sentence.

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

SECTION 1. Section 18A-17 is hereby amended as follows:

Sec. 18A-17. Fines, methods of payment and applicable administrative fees.

(a) When the court imposes a fine on an individual, the court may direct as follows:

- (1) That the defendant pay the entire amount of the fine at the time sentence is pronounced;
- (2) That the defendant pay the entire amount of the fine at some later date;
- (3) That the defendant pay a specified portion of the fine at designated periodic intervals, and in such case the court may also direct that the fine be remitted to a designated official who shall report to the court on any failure to comply with the order;

(4) When the court directs either the payment of the entire amount of the fine at some later date, or directs that the fine be paid at designated periodic intervals, a fourteen-day grace period may be granted to allow payment of the fine in full within that fourteen-day period. Should payment in full not be received within the time allowed, a Stay of Execution fee of twenty-five dollars (\$25.00) shall be imposed if a payment plan is implemented. Once a payment plan has been implemented and the twenty-five dollar Stay of Execution fee imposed, this matter shall be subject to review by the court in ninety (90) days, at which time, if the amount due has not been paid in full, additional fees and surcharges may be imposed in the court's discretion.

(5) Where the defendant is sentenced to a period of probation as well as a fine, that payment of the fine be a condition of probation.

(b) Where the court imposes a fine, and applicable court costs and fees, at the time the court pronounces sentence, the sentence shall provide that if the defendant fails to pay the fine in accordance with the direction of the court, the court may convert the fine, or any applicable court costs and fees, to a jail sentence to satisfy the outstanding balance. If the defendant fails to pay a fine, or any applicable court costs and fees, as directed, the court may issue a warrant for the defendant's arrest.

(c) Where the defendant is unable to pay a fine imposed by the court, the defendant may at any time apply to the court for resentencing. If the court is satisfied that the defendant is unable to pay the fine, the court shall:

(1) Adjust the terms of payment;

(2) Lower the amount of the fine;

(3) Where the sentence consists of probation or imprisonment and a fine, revoke the portion of the sentence imposing the fine; or

(4) Revoke the entire sentence imposed and resentence the defendant. Upon a resentence, the court may impose any sentence it originally could have imposed; except that the amount of any fine imposed shall not be in excess of the amount the defendant is able to pay.

(d) In addition to converting such fines to a jail sentence or adjusting such fines in accordance with subsection (c), a fine may be collected in the same manner as a judgment in a civil action.

(e) Should a defendant fail to pay a fine, or any associated court costs and fees, the court is hereby granted authority, subject to Article IV, Sec. 2 (d), *Charter of the City of Fort Morgan*, to contract with a collection agency. If the Municipal Court Judge orders any fine that is in arrears to be sent to a collection agency, the total amount delinquent shall also include any additional fees assessed by the collection agency, so long as such fees are an amount equal to the industry standard charged by private collection agencies. The City Attorney may, in his or her discretion, and shall, upon order of the court, institute proceedings to collect such fine.

(f) Nothing contained within this Section shall be construed to limit or curtail or in any manner affect the inherent powers of the court to hold persons in contempt of the court for

nonpayment of a fine or by a failure to make restitution as ordered or by the failure to comply with any other order of court.

Section 3. Validity. If any part or parts of this Ordinance are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each part hereof irrespective of the fact that any one part or parts be declared invalid.

Section 4. Repeal. All or parts of Ordinances covering the same matters as embraced in this Ordinance are hereby repealed and all Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any Ordinance hereby repealed prior to the effective date of this Ordinance.

Section 5. Interpretation. This Ordinance shall be so interpreted and construed as to effectuate its general purpose. Article and section headings of the Ordinance shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or extent of the provisions of any Article or Section thereof.

Section 6. Certification. The City Clerk shall certify to the passage of this Ordinance and make not less than three copies of the adopted Code available for inspection by the public during regular business hours.

Section 7. Severability. In the event any part of this Ordinance is found to be unenforceable by a Court of competent jurisdiction, it shall not affect the enforceability of the other portions of the Ordinance.

Section 8. Effective date. The City Council hereby finds, determines, and declares that this ordinance is necessary for the fiscal management of the municipal court and therefore Sec. 18A-17 (e) shall be applicable to all current and future fines assessed including such fines that are in arrears as of the effective date of this ordinance.

READ, PASSED ON FIRST READING AND ORDERED PUBLISHED the 30th day of September, 2010.

THE CITY COUNCIL OF THE CITY
OF FORT MORGAN, COLORADO

ATTEST:

Terry L. McAlister Mayor

Yolanda L. Eurich Deputy City Clerk

RESOLUTION DECLARING CITY COUNCIL'S POSITION RELATED TO BALLOT INITIATIVES REGARDING CONSTITUTIONAL AMENDMENTS 60, 61 AND PROPOSITION 101

Attorney Wells gave a presentation on the ballot initiatives regarding Constitutional Amendments 60, 61 and proposition 101. The hope is that the voters will educate themselves it is very important that they understand what they are voting for. Manager Merrill stated the city is already in the process of preparing two complete budgets for 2011. Projections show that the city stands to lose up to a third of its general fund, which pays for most city departments and services if all three were approved. It will be pretty drastic and it is not something that is pleasant to have to go through.

Councilmember Powers offered a Resolution Opposing Proposition 101 and Amendments 60 and 61. His motion seconded by Councilmember Fortstedt.

RESOLUTION NO. 2010.09.04

OPPOSING PROPOSITION 101 AND AMENDMENTS 60 AND 61

WHEREAS, state voters will have the opportunity at the November 2 statewide general election to protect the fiscal health of local government by defeating Proposition 101, Amendment 60, and Amendment 61; and,

WHEREAS, during this current economic downturn the City of Fort Morgan has been required to look at potential cuts to services and budgets within the City; and,

WHEREAS, Proposition 101, Amendment 60 and Amendment 61, individually and collectively significantly reduce or otherwise restrict both state and local revenues in a number of different ways including but not limited to: specific ownership taxes, telecommunication taxes, state income taxes, state-shared revenues to assist municipalities with local street and transit improvements, other state grants and loans to help local government, and property taxes; and,

WHEREAS, the ability to finance long-term capital improvements like water and wastewater treatment plants, the Northern Integrated Supply Project ("NISP"), recreational projects, fire stations and equipment, and other public facilities are dramatically impaired by the restrictions on debt financing as proposed by Amendment 61; and,

WHEREAS, the services and programs in the City of Fort Morgan will be limited or curtailed because of the numerous restrictions and revenue reductions proposed by these three measures including public safety, recreation and other general fund departments; and,

WHEREAS, the affect of the measures is projected to impact the City's general fund with a reduction up to 15% to 30% in revenue which supports public safety, streets, parks and recreation services provided by the City.

WHEREAS, the City of Fort Morgan is concerned about the impact these three measures will have on our ability to work effectively with other local governments in the form of intergovernmental agreements like some that include cooperative efforts between Morgan County and the Fort Morgan School District; and,

WHEREAS, a number of prominent individuals, newspapers, and organizations including our own Colorado Municipal League (CML) are voicing opposition to these measures as not being in the best interests of Colorado and of local communities; and,

WHEREAS, provisions of state law do allow the City of Fort Morgan to put forth this resolution as a statement of opposition to the measures known as Proposition 101, Amendment 60, and Amendment 61.

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

Section 1. The City Council for the City of Fort Morgan opposes Proposition 101, Amendment 60 and Amendment 61 and urges the citizens of the City of Fort Morgan to vote against all three ballot measures.

INTRODUCED, PASSED, APPROVED AND ADOPTED this 21st day of September 2010, the vote upon roll call being as follows:

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

Nays:

Absent /Abstain:

THE CITY COUNCIL OF THE CITY OF FORT MORGAN, COLORADO

[SEAL]

BY: _____
Terry L. 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 21st day of September 2010.

Yolanda L. Eurich Deputy City Clerk

SELECTION OF EVALUATION FORM A OR B FOR APPOINTED OFFICIALS

Human Resources Director Cicotello gave a presentation of two alternatives for revising the city's employee performance evaluation form. He pointed out that in Option A he added more detail of each factor more verbiage for clarity. The advantage of A is there is factor clarity and the advantage of B is goal clarity. The way to overcome the disadvantages for both would be that with A the goal is treated the same all of the goals are in one area. You could overcome this if you simply weighted that area very heavily. This disadvantage of Option B is there are three sections and it can be a little confusing by weighting and rating more factors. You can overcome that some strong goal sessions mid year. The evaluation form will be used for all city employees. Council would meet with the appointed officials it evaluates during the year.

Councilmember Powers offered a motion to adopt the Evaluation Form B as presented. His motion seconded by Councilmember Deal and passes unanimously.

PRESENTATION OF THE FISCAL YEAR 2009 AUDIT

Staff will distribute the Audit information to City Council on September 28, 2010. A formal presentation will then be presented to City Council on October 5, 2010.

PRESENTATION OF AN ORDINANCE CONSOLIDATING AND CREATING DEPARTMENTS WITHIN THE CITY ORGANIZATION

Manager Merrill explained to City Council that during the Audit the Auditor had made recommendation to make the Utility Billing department a division of the Finance Department. The departments have already been operating on that basis since last year it would simply be a change to the organizational chart. He added that it would be more efficient to have all of the

personnel in both departments working together at the same place and under the direction of the City Treasurer. Discussion followed. Councilmember Forstedt said she would feel more comfortable waiting to decide on the Ordinance consolidating the departments until the auditor makes his presentation and other members agreed. The Ordinance also would create a Marketing and Economic Development Department, which Manager Merrill stated would be a standalone department in the budget it currently falls under the Community Development Department. No action was taken and the item was removed and rescheduled for the October 5, 2010 meeting.

CONSENT AGENDA

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

- A. Second Reading of an Ordinance Amending Chapter 27 of the Fort Morgan Municipal Code to remove Ex Officio members from the Planning Commission.

CITY COUNCIL ACTING AS THE BOARD OF DIRECTORS FOR THE RIVERVIEW COMMONS GENERAL IMPROVEMENT DISTRICT

Attorney Wells provided a Resolution for Council review. The GID was authorized by the City Council to issue bonds for public improvements within the Riverview Commons General Improvement District. The public improvements have been substantially completed and there remains approximately \$100,000 in the GID account. In order for the Treasurers office to clear the books staff would recommend the remaining amount be paid to the principal against the bond.

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

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT MORGAN, COLORADO authorizing the City Manager to remit any remaining funds in the GID account to the bond issuer for payment of principal against the bond.

PASSED, APPROVED AND ADOPTED this 21st day of September, 2010, the vote upon roll call being as follows: Ayes: Mayor McAlister, councilmembers Deal, Forstedt, Shaver, Nation, Power and Bryan.

RESOLUTION NO. 2010.09.05

AUTHORIZING PAYMENT OF REMAINING AND FUNDS FROM THE RIVERVIEW COMMONS GERNERAL IMPROVEMENT DISTRICT

WHEREAS, the City of Fort Morgan created the Riverview Commons General Improvement District (“GID”); and

WHEREAS, the GID was authorized by City Council to issue bonds for public improvements within the Riverview Commons General Improvement District and Subdivision; and

WHEREAS, the public improvements have been substantially completed and there remains approximately One Hundred Thousand Dollars (\$100,000.00) in the GID account from the bond issues; and

WHEREAS, the City Council, acting as the Board of Directors for the GID, has authority to remit the remaining amount to the bondholder for payment principal on the bonds;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT MORGAN, COLORADO ACTING AS THE BOARD OF DIRECTORS FOR THE RIVERVIEW COMMONS GENERAL IMPROVEMTN DISTRICT:

SECTION 1: The City Manager is hereby authorized to remit any remaining funds in the GID account to the bond issuer for payment of principal against the bond.

INTRODUCED, PASSED, APPROVED AND ADOPTED this 21, day of September, 2010, the vote upon roll call being as follows:

Ayes:

Nays:

Absent/Abstain

THE CITY COUNCIL OF THE CITY OF
FORT MORGAN, COLORADO

[SEAL]

BY: _____
Chairman, Terry McAlister

ATTEST:

Secretary, Yolanda L. Eurich

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

CERTIFICATE

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 21st day of September, 2010.

Yolanda L. Eurich Deputy City Clerk

BIDS MEETING & ANNOUNCEMENTS

Treasure Schafer announced upcoming meetings, bids and announcements.

ADJOURN MEETING

Mayor McAlister adjourned the September 21, 2010, regular meeting at 7:58 p.m.

/s/ Terry L. McAlister
Mayor

/s/ Yolanda L. Eurich
Deputy City Clerk