

October 18, 2011

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 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 Acting City Manager/City Attorney Jeffrey Wells, Police Chief Keith Kuretich, Fort Morgan Police Lieutenant Darin Sagel, Fort Morgan Police Lieutenant Jared Crone, Municipal Engineer Brad Curtis, Community Development Director David Callahan, Interim City Treasurer Christina Bostron, Community Services Director Patti Evans, Golf Professional Tyler Tarpley, Golf Course Maintenance Superintendent Matt Givens and City Clerk John Brennan.

In addition, Councilmember-elect Lisa Northrup attended, and approximately 60 supporters of the Fort Morgan Humane Society were at the meeting.

PRESENTATION AND POSSIBLE ACTION ON AN APPLICATION FOR A NEW TAVERN LIQUOR LICENSE FOR EL RANCHO ALEGRE

With the Council acting in its capacity as the Local Licensing Authority, City Clerk John Brennan presented the application for a new Tavern Liquor License – Malt, Vinous and Spirituous Liquors, for El Rancho Alegre located at 129 W. Kiowa Ave., and a request to post the property and schedule a public hearing for Dec. 6, 2011, at 7:00 p.m.

Brennan explained that the establishment currently holds a hotel and restaurant liquor license, but the owner had leased the restaurant and kitchen portion of the business to another party, which changed the licensed premises. After discussions among city staff, the state Liquor Enforcement Division and the licensee, Mr. Ruben Escorza, it was decided that the licensee should apply for a new license. This would be treated as a new application and would require a public hearing after at least 30 days.

Councilmember James Powers made a motion to accept the application, direct staff to post the property and schedule a public hearing for Dec. 6, 2011, at 7:00 p.m. That motion was seconded by Councilmember Brent Nation and approved unanimously.

PRESENTATION AND POSSIBLE ACTION ON BIDS FOR GOLF COURSE IRRIGATION SYSTEM IMPROVEMENTS

Golf Professional Tyler Tarpley said the city staff, the golf course advisory board and a design consultant had created a wish list of improvements for the golf course irrigation system, for which the council had set aside \$600,000 over the past two years. The bids for all of the improvements came back higher than the amount remaining in that fund after the design phase, so Tarpley said staff was proposing to eliminate the replacement of the pump station, which was the next item scheduled on the agenda for this meeting, and work with the low bidder, American

Landscape, to adjust the scope of the project to fit within the remaining budget of about \$568,000. He cautioned that the pump station would still need to be replaced within three to five years, but should continue to work effectively in the meantime. He said eliminating some of the improvements originally proposed would still provide benefit to the condition of the golf course. Councilmember Deb Forstedt offered a resolution to approve the bid in an amount not to exceed the money remaining from the original \$600,000 fund for the improvements, which was estimated at the time of the meeting at \$568,000. That resolution was seconded by Councilmember Ron Shaver and approved unanimously.

PRESENTATION AND POSSIBLE ACTION ON BIDS FOR A VERTICAL TURBINE VARIABLE SPEED PUMP STATION FOR THE GOLF COURSE

This item was removed from the agenda, based on the council action taken on the previous item.

DISCUSSION AND POSSIBLE ACTION ON THE BUDGET DEFICIT AT THE GOLF COURSE

Mayor McAlister spoke about the continuing subsidy to the golf course from the city's general fund, and how the shortfall had grown each year since he had first become a City Council member. What was a \$60,000 shortfall eight years ago could be more than \$300,000 this year, McAlister said, and that trend cannot continue. He said the golf course advisory board had good people making decisions for the golf course, and he wanted to use that group as a resource to try and turn things around at the city golf course. He asked that the golf course advisory board take on the task of making a proposal to the city on how to make the course more self-sufficient and less dependent on the city's general fund for subsidy. Because any solution proposed may include some means of funding that would require voter approval, McAlister directed the golf board to complete this task and make a recommendation to the council by June, in time to be placed on the November ballot if that was necessary.

The council took no formal action but agreed by consensus to the charge given to the golf board.

Golf Course Advisory Board Chairwoman Barb Odor then addressed the council, pointing out that one reason for the growth in the golf course deficit was a policy change about six years ago that began charging the golf course for the water it uses, which had not been done previously.

PRESENTATION, DISCUSSION AND POSSIBLE ACTION ON A PROPOSAL FOR A NEW NUISANCE ORDINANCE

Community Development Director David Callahan made a PowerPoint presentation on some of the issues he felt should be addressed in updating the city's nuisance ordinance. He suggested eliminating the first two articles of the chapter of the Municipal Code dealing with nuisances, because they deal with a health commissioner, a health department and regulatory issues that are now handled by state or other agencies and are therefore outdated and obsolete.

Callahan said he wanted to get some council direction on how to proceed with revamping the remainder of the nuisance section of the city code.

Councilwoman Deal said she had received comments from many people over the last few years, asking if anything can be done about the junk and blighted properties. Deal said she had lived in Fort Morgan for 40 years and had definitely seen it deteriorate over the years. She said there should be standards that are reasonable and take into consideration that some people may not be able to afford to water their lawns or otherwise keep up their properties. She also said the city must enforce whatever measures it implements or there is no point in enacting such requirements.

Callahan agreed that the city should take a compassionate view of the issues, with a set of minimum standards but perhaps a way to help people who need it. He suggested possibly approaching service clubs in hopes of creating a pool of money to help those who can't afford to do what is necessary to meet the standards.

Forstedt said she believed what Callahan was presenting was moving in the right direction. Powers said the city would be walking a fine line in imposing these standards, and should tread lightly, start as leniently as possible and get public feedback on what residents want their community to look like. Nation agreed and said the city should proceed very carefully.

Callahan said he believed he had received the council input he was seeking, and the council took no formal action.

PRESENTATION, DISCUSSION AND POSSIBLE ACTION ON A PROPOSAL FOR A SIGN CODE AMENDMENT

Callahan made a similar presentation on the city's sign code, noting that the sign regulations adopted in late 2010 as part of the city's updated land use code may need some adjustment. At the time the regulations were adopted, he said, the city did not have many sign code issues but a profusion of them have cropped up in the last six months. He said he was seeking council direction on whether it wanted to stick with the sign regulations as adopted or make some changes to allow some types of signs now prohibited, such as some fabric signs and banners.

Discussion of the issues and the approach to solving them followed, with some council members saying they wanted to review copies of the current sign code before deciding whether more flexibility was needed. Councilmember Scott Bryan said some signs like vinyl signs and banners are valuable to businesses in promoting their products and services, and said any effort to revise the code should start with signs that are clearly eyesores and undesirable.

Callahan said he would provide the council with copies of the current sign code and options for moving forward, and the council took no formal action.

PRESENTATION AND POSSIBLE ACTION ON A MEMORANDUM OF UNDERSTANDING WITH S.A.R.A. INC. AND THE MORGAN COUNTY SEXUAL ASSAULT PREVENTION TEAM

Councilmember Forstedt stepped down on this agenda item because of a conflict of interest arising from her work with SARA Inc., and left the room.

Police Chief Keith Kuretich reviewed the work of the organizations and agencies involved in this MOU and its value to victims of sexual assault. He said the FMPD's role in the agreement would be to provide educational sessions at local schools, with a total time commitment of less than 10 hours a year.

Powers made a motion to authorize the mayor to execute the MOU, which was seconded by Bryan and approved on a vote of 6-0, with Forstedt stepping down.

PRESENTATION AND POSSIBLE ACTION ON AN AGREEMENT BETWEEN THE CITY AND THE FORT MORGAN HUMANE SOCIETY FOR OPERATION OF THE CITY ANIMAL SHELTER

Wells said city staff had been working on a renewal of the existing agreement with the Fort Morgan Humane Society for 2012. He said he wanted to start by addressing a few issues that had been circulated in the community which he said were not true.

One misconception was that the city was raising the rent on the animal shelter, but Wells pointed out that the city does not charge rent to the society. He said the value of in-kind donations like the free use of the animal shelter building must be recorded under IRS

regulations, so the city was estimating what it would cost the society if the group had to rent a similar building and including that value as part of the city's support for the society.

Another issue raised was that the city was pulling funding from the society, and Wells said that was not true. He explained that the society had told the city in 2009 it would be self-sufficient in two years, but since then it had become clear that this could not be done. The city was proposing to provide total support between \$32,000 and \$40,000 for 2012, Wells said, including the donation of the building, replacement of flooring at the shelter at a cost of \$10,000 and \$10,000 in cash.

The third misconception was that the city wanted to make the animal shelter a "kill facility," and Wells said that was not true. He said the city believes in the mission of the humane society and wants to have the society operate the city's animal shelter, but society officials had said they would no longer operate the shelter unless the city gave them \$25,000 in cash for 2012. Wells acknowledged that this could return the shelter to the way it was operated by the city before the humane society lease and service agreement, and that operation included keeping animals for five days and euthanizing them after that.

Wells said four other local governments participate in the shelter program but the others do not pay as much as the city, and he said it appeared that animals were being brought to the shelter from a wide area and city taxpayers were subsidizing this. He noted that the city had turned down every other nonprofit organization that had approached the city for monetary support, and that his recommendation was to provide \$10,000 in cash, \$10,000 in flooring replacement and continued use of the building as an in-kind donation.

Several council members then commented on the shelter operation and the agreement with the society, and discussion followed about the shelter operations. Some council members and staff questioned whether the shelter was accepting animals from outside the area, and humane society Executive Director Crystal Tweeten said the society only takes animals brought to the shelter by law enforcement. She then acknowledged that the society has accepted transfers from other shelters such as Akron and Brush, but that the society pays for the care of those animals, and the \$25,000 the society was seeking would be just for animals from the city.

Tweeten said the society's overall budget is around \$132,000 a year to operate the shelter, and it provides many more services than the city was able to provide when the police department operated the shelter.

Lorraine Mullen of the humane society board said the society has asked the city for the last four years to allow the society to implement a dog licensing program, and had been turned down each time. She said the society offered to do this licensing at its own expense and using its own labor, at no cost to the city, and asked for a good reason why it had not been approved. She said the fees for licensing would be retained by the society and fines for unlicensed dogs would go to the city. Police Chief Keith Kuretich said the city's animal ordinance was being updated and the licensing program was under review as part of that process.

Forstedt said she wanted to see the budget information from the society before making a decision, and Councilmember Lyn Deal said she was not ready to take action on the issue.

Wells noted that there were two separate agreements with the society, a lease and a service agreement, and both should be discussed with the humane society board. McAlister said it appeared the council was not ready to act on the issues at this time, and would schedule a future executive session to discuss the issues and appoint a negotiator to work with the society toward a resolution.

No formal action was taken, and McAlister called for a short break as most of the people attending the meeting began to leave the council chambers.

PRESENTATION AND POSSIBLE ACCEPTANCE OF THE PROPOSED 2012 CITY BUDGET

Wells announced that the proposed budget for 2012 was balanced, although some issues would still need to be resolved. He then reviewed each of the funds and noted areas in which reserve funds would be used to balance some funds. He said the city planned to do a mid-year budget review in July 2012 to assess the projections used in the proposed budget and show the council what had been spent and where the city stood in relation to the budget. He said the budget was fluid, with the revenue figures based on projections and unknown factors such as staff vacancies having possible impacts on expenses.

Powers asked whether the budget as a whole was balanced, and Wells said it was but that it was not balanced on the revenues the city expects from taxes and fees, but on the use of reserve funds. He said this was advisable for this year but at some point the city must refrain from turning to its bank account to balance the budget. Powers emphasized his belief in the importance of maintaining the city's reserve funds for emergencies.

Powers then offered a resolution to accept the 2012 proposed budget, to instruct that an ordinance to approve the budget be prepared and to schedule a public hearing on the ordinance for Nov. 15. That resolution was seconded by Shaver and approved unanimously.

PRESENTATION AND POSSIBLE ACCEPTANCE OF THE CITY SCHEDULE OF FEES FOR 2012

Wells explained that the Schedule of Fees is tied directly to the budget, and some fees have been adjusted to meet revenue needs. He said he would like the council to review the fee schedule over the next couple of weeks before adopting it as part of the budget approval, and asked that the agenda item be carried over to the next meeting and included in the adoption of the budget ordinance. No formal action was taken on the Schedule of Fees at this meeting.

CONSENT AGENDA BY RESOLUTION AND ACTING AS THE LOCAL LIQUOR LICENSING AUTHORITY

Brennan presented the Consent Agenda for Council consideration, said Consent Agenda being in words, letters and figures as follows, to wit:

CONSENT AGENDA

- A. Approval of an application for renewal of a Hotel and Restaurant Liquor License – Malt, Vinous and Spirituous Liquors, for Cables Pub & Grill at 431 Main St. with a clear police investigative report
- B. Approval of an application for renewal of a Retail Liquor Store License – Malt, Vinous and Spirituous Liquors, for Village Liquor Store at 631 W. Platte Ave. with a clear police investigative report
- C. Minutes of the Oct. 4 regular meeting
- D. Disbursements and payroll for September

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.

Councilmember Nation offered a resolution to approve the Consent Agenda as presented, which was seconded by Forstedt and approved unanimously.

PASSED, APPROVED AND ADOPTED this 18th day of October 2011, the vote upon roll call being as follows: Ayes: Mayor McAlister; Councilmembers Bryan, Deal, Forstedt, Nation, Powers and Shaver. Nays: none.

PUBLIC COMMENT / AUDIENCE PARTICIPATION

McAlister said a couple of people in the audience had tried to signal their desire to speak during the sign code amendment agenda item, but were not acknowledged because of the large crowd in the room at the time. So McAlister said he was making an exception in this case to the policy of only allowing public comment on items not on the agenda.

Debbie Heistermann of 113 Main Street then spoke about the sign code discussion earlier in the meeting, expressing her view that vinyl and fabric signs had been developed and were an inexpensive and valuable way for businesses to advertise. She said she owns the smoke shop across the street from City Hall, which was the subject of some slides in the sign code presentation by Callahan, and said the signs on her fence line were not tattered, they were new signs, and they may look the same to some people but they include prices that are changed regularly. She said newspaper advertising had become too expensive and she would love to have nice new permanent signs but could not afford them, and she was looking for ways to work with the city on sign regulations that work for the city and businesspeople alike.

McAlister said Heistermann made some good points and suggested Callahan work on sign regulations that are somewhat more relaxed to accommodate business people.

Frank Buchanan of 120 Ensign Street then spoke to the council about similar views on signs, saying he would like to see allowances for banner signs, human billboards and other means of advertising.

BIDS, MEETINGS AND ANNOUNCEMENTS

Brennan announced upcoming bids and meetings. Bryan stated that he had heard a lot of dissatisfaction with the city's recent decision to cancel the cemetery tours that have been held around the time of Halloween for a number of years, and wondered whether that decision should be revisited. Forstedt said she also received calls expressing disappointment in the cancellation and noting the resulting loss of revenue for programs like the children's library.

EXECUTIVE SESSION

The regular portion of the meeting concluded at 10:37 p.m., and Forstedt then made a motion to convene a scheduled executive session. That motion was seconded by Nation and approved unanimously. The executive session had been published as follows:

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); AND THE FOLLOWING ADDITIONAL DETAILS ARE PROVIDED FOR IDENTIFICATION PURPOSES: Settlement of potential liabilities.

Following the executive session, the council returned to open session where Forstedt reported on the executive session. Forstedt noted that the council had met in executive session to receive legal advice regarding the resolution of potential liability facing the city.

Forstedt then made a motion to instruct the City Attorney to proceed with resolving any potential liability according to the legal advice provided in the executive session. The motion was seconded by Powers and approved unanimously.

Mayor McAlister adjourned the October 18, 2011 regular meeting at 11:16 p.m.

Mayor

City Clerk