

November 1, 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 6:11 p.m.

The Pledge of Allegiance was given.

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

Absent: Councilmember Scott Bryan
Councilmember Ronald Shaver

The meeting was also attended by Acting City Manager/City Attorney Jeffrey Wells, Police Chief Keith Kuretich, Fire Chief Brad Parker, Municipal Engineer Brad Curtis, Community Development Director David Callahan, Community Services Director Patti Evans, Human Resources/Risk Management Director Michael Boyer, Assistant City Attorney Jerrae Swanson, Code Enforcement Officer John Simpson, Network Administrator Nelson McCoy and City Clerk/PIO John Brennan.

EXECUTIVE SESSION

Councilmember James Powers made a motion to go into a scheduled executive session. The executive session had been advertised as follows:

EXECUTIVE SESSION 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); AND THE FOLLOWING ADDITIONAL DETAILS ARE PROVIDED FOR IDENTIFICATION PURPOSES: Agreements with the Fort Morgan Humane Society.

Powers' motion was seconded by Councilmember Debra Forstedt and approved on a vote of 5-0, with Councilmembers Scott Bryan and Ronald Shaver absent. The executive session convened at 6:15 p.m. and concluded at 7:00 p.m., and was attended by the mayor and four council members along with City Attorney/Acting City Manager Jeff Wells, Police Chief Keith Kuretich and Code Enforcement Officer John Simpson.

At the conclusion of the executive session the council returned to open session, where Forstedt reported that the council had met and considered issues for negotiation, and would not appoint a negotiator at this time.

PRESENTATION AND POSSIBLE ACTION ON AGREEMENTS WITH THE FORT MORGAN HUMANE SOCIETY

City Attorney/Acting City Manager Jeff Wells stated that various proposals had been put forth for these agreements, including one proposed by Wells at the previous council meeting, and they included different funding levels by the city for the operation of the city animal shelter by the

humane society. He noted that any change to the proposed cash funding level of \$10,000 for the shelter would require amending Item No. 9 on this meeting's agenda, which was the 2012 budget ordinance, because that amount was used in preparing the numbers for the budget ordinance.

Powers said that having gone through this process he believed the humane society offered a good service to the community, and he offered a resolution to enter into a contract with the society at the same funding level as 2011. That resolution was seconded by Councilmember Brent Nation. Powers went on to say that the 2011 budget allowed \$18,233 to the shelter, and the intent of his resolution was to keep it at that level for 2012. Nation said he agreed with Powers that the humane society offered a good service to the community but they must work within the same budget realities as the rest of the city.

The resolution was approved unanimously on a vote of 5-0, with Bryan and Shaver absent.

PRESENTATION AND POSSIBLE ACTION ON REVISIONS TO THE BYLAWS OF THE FORT MORGAN VOLUNTEER FIRE DEPARTMENT

Fire Chief Brad Parker said the department had decided it needed a chaplain position, and had voted to change its bylaws to create that position, and was seeking council approval to formalize that. Forstedt made a motion to approve the change in bylaws creating a chaplain position for the fire department, which was seconded by Nation and approved unanimously (5-0).

PRESENTATION AND POSSIBLE ACTION ON THE FIRST READING OF AN ORDINANCE CHANGING THE CITY GAS TARIFF AND RATES

Wells noted that Assistant City Attorney Jerrae Swanson had done the bulk of the work in preparing this ordinance, and asked Swanson to present the ordinance. Swanson reviewed the ordinance, which was based on a rate study by the city's gas and electric rate consultant and would change parts of the rate structure from a percentage of revenue to a fixed amount in an effort to reduce fluctuations in rates.

Powers asked for clarification that under the ordinance, gas rates would go down to a negative rate until July, when they would go up again but still be lower than the current rates. Swanson confirmed that this was correct.

Wells also explained that the council normally changes utility rates by resolution, but in this case was doing so by ordinance because the ordinance was needed to change the tariff structure anyway and this would be more economical in terms of time and documents to enact the change. He emphasized that using an ordinance in this case would not change the city's policy of implementing utility rate changes by resolution in the future.

Wells also noted that the council was being asked to approve the first reading of the ordinance and also to set a public hearing, second reading and final approval for Nov. 15, but the rate changes involved would be effective retroactively to Nov. 1.

Nation offered a resolution to approve the first reading of an Ordinance approving an increase in the base price of gas and a rider to decrease the deferred gas cost at a rate outlined in the rate schedule for the gas supply charge and amending the budget billing and the firm and interruptible transportation rate schedules, and to set a public hearing and second reading of the ordinance for Nov. 15. That resolution was seconded by Forstedt and passed unanimously (5-0).

PRESENTATION AND POSSIBLE ACTION ON THE FIRST READING OF AN ORDINANCE CHANGING THE CITY ELECTRIC TARIFF AND RATES

Swanson explained that this ordinance was similar to the preceding ordinance on gas tariffs and rates in that it called for a substantial decrease in rates, but would not have a rider calling for the rates to increase on a certain date. Wells said the city would be doing another review of utility rates in mid-2012, and if the over-recovered reserves in the electric fund have been spent down more quickly than anticipated, the city would consider readjusting the electric rates back up at that time.

Nation offered a resolution to approve the first reading of an ordinance approving the electric rate adjustments and budget billing of the electric tariff, and setting a public hearing, second reading and final approval of the ordinance for Nov. 15. That resolution was seconded by Forstedt and approved unanimously (5-0).

PRESENTATION AND POSSIBLE ACTION ON A RESOLUTION TO ENACT A WATER RATE INCREASE BASED ON A PREVIOUS WATER RATE STUDY TO BE EFFECTIVE JANUARY 1, 2012

Wells noted that the water rate study conducted in 2010 had recommended a series of incremental water rate increases over several years, with the increase planned for Jan. 1, 2012 to be 4 percent. However, based on more recent review of the costs to run the city water enterprise, Wells said staff was recommending that this next increase be set at 5 percent. He noted that the average consumer bill would increase about \$3 a month with the 5 percent increase.

Powers then offered a resolution to enact the 5 percent increase in water rates to be effective on Jan. 1, 2012, which was seconded by Nation and approved unanimously (5-0).

PRESENTATION AND POSSIBLE ACTION ON THE FIRST READING OF THE FISCAL YEAR 2012 BUDGET ORDINANCE

Well said the city was ahead of schedule on finalizing and approving the 2012 budget, and noted there would need to be an adjustment of about \$18,000 to the amount for the general fund based on the allocation approved for the animal shelter earlier in this meeting.

Councilwoman Lyn Deal asked about adding \$5,000 in funding for an historic preservation façade improvement grant fund that was in the preliminary 2012 budget but had been removed, and Wells said the budget ordinance could be adjusted up through the second reading of the budget ordinance.

Powers offered a resolution to approve the first reading of the Fiscal Year 2012 Budget Ordinance adopting the 2012 city budget, setting the property tax mill levy and appropriating monies to the various funds of the city, and to set a public hearing, second reading and final approval of the ordinance for Nov. 15. That motion was seconded by Nation and approved unanimously (5-0).

Powers then commented that the budget ordinance set the mill levy at 13.254 mills, a level that had not changed in his many years serving on the city council, and said that many cities impose much higher property tax levies on their communities.

PRESENTATION AND POSSIBLE ACTION ON BIDS FOR JANITORIAL SERVICES

Wells said the city staff had tried sending janitorial services out for bid on a city-wide basis several years ago, and that approach turned out to be unworkable because of the differing

needs of various city facilities, some of which see much more public use and traffic than others. This time, the city used the approach of having each city facility choose the level of service required for its own building and solicit bids individually. Although some of the bids were less than \$10,000 and would normally not require council approval, all of the bids were being presented at this meeting because of the possibility that one vendor could be awarded contracts totaling more than the \$10,000 threshold in aggregate, Wells said.

Wells also noted that, as shown in the various bid documents included in the council members' meeting packets, one member of the council was the lowest responsible bidder on many of the facilities. That council member, Scott Bryan of ServiceMaster, was absent for this meeting, but Wells said that if he had been present he would have disclosed this conflict and stepped down on this agenda item.

Staff directors and department heads then reviewed their individual bidding processes.

Municipal Engineer Brad Curtis presented the bid process for the City Complex, for which there were three bidders: two local companies and one from Loveland. Because of the advantage of faster response from a local company, Curtis said staff recommended going with ServiceMaster, which was the lowest bid of the two local companies.

Wells then pointed out that this entire process was not a reflection on the work or performance of the current part-time in-house staff that performs janitorial duties. He said the city has had difficulty keeping those positions filled and illnesses, vacations and vacancies in the positions can affect the level of service.

Community Services Director Patti Evans presented for the facilities under her supervision, the Armory recreation center, the Library/Museum Complex and the Senior Center. She noted that many members of the public use these facilities daily so the level of service is necessarily higher than an office facility. Two firms bid on this proposal and Evans said she disqualified one because a reference check revealed that they had little experience in commercial janitorial services. She recommended accepting the bid from ServiceMaster. She said the total cost would be covered by the proposed budgets for the various departments but would require some shifting of resources among them.

Human Resources/Risk Management Director Michael Boyer reviewed the bid process for Historic City Hall and said ServiceMaster was the clear low bidder, and the staff recommendation was to award the contract to that firm.

Water Treatment Plant Superintendent John Turner said the staff at the plant had previously handled the janitorial duties there but with reductions in staff it was decided to bid out these services, and he recommended awarding the bid to ServiceMaster, whose bid was the same as the other bidder. Mike Hecker of the Wastewater Treatment Plant said that facility currently used ServiceMaster and recommended retaining that firm as its bid was lowest.

Police Chief Keith Kuretich said he had received bids from the same two firms that bid on most of the facilities, and ServiceMaster was the low bidder. He said the police department and municipal court had used ServiceMaster since 2005, and the firm did an excellent job and he recommended awarding the contract to the low bidder.

Wells said that in light of the results of the bidding, the staff was requesting a council resolution to enter into a master contract with ServiceMaster to cover all city buildings involved in the bidding, and authorize the mayor to sign the agreement. The total amount of the contract was not yet determined, but Wells said he would try to secure a commitment to hold the bid prices at the same level for three years, subject to council appropriation of funding for each year of the agreement. If money was not appropriated in a given year, the services would not be obtained for that year.

Powers offered a resolution to enter into such an agreement and authorize the mayor to sign it, subject to appropriations for each year. That resolution was seconded by Forstedt and approved unanimously (5-0).

PRESENTATION AND POSSIBLE ACTION ON REQUESTS FOR PROPOSALS FOR AUGMENTATION PLAN ACCOUNTING SERVICES

Councilmember Brent Nation informed the mayor and council that he would be excusing himself for this agenda item because he was a bidder for this service and had a potential financial gain from the decision on it. Nation then left the council chambers.

Wells then told the council that it had been about three years since the city had gone out for bid for these services, and the RFP produced two bids with Nation Engineering being the lowest responsible bidder. He said these services are currently performed by Nation Engineering and there were several advantages to staying with that firm, including local knowledge, familiarity with the river and experience with the city's specific augmentation plan and practices.

Wells said city staff had reviewed the bids thoroughly and believed a significant amount of staff time would be needed to bring the other bidder, Clear Water Solutions, up to speed on the city's plan and practices. He said he believed it was in the best interest of the city to continue to contract with Nation Engineering for these services, and that the firm had agreed to maintain the bid prices for a three-year period. Wells asked for council approval to enter into a three-year agreement subject to appropriations for each year.

Powers offered a resolution to enter into such an agreement for the cost of \$3,840 a year with Nation Engineering, subject to appropriations, and authorize the mayor to sign it. That resolution was seconded by Councilmember Lyn Deal and approved on a vote of 4-0, with Nation stepping down and Bryan and Shaver absent. Nation then returned to the meeting.

PRESENTATION AND POSSIBLE ACTION ON BIDS FOR TAXILANE CONSTRUCTION AT THE FORT MORGAN MUNICIPAL AIRPORT

Community Development Director David Callahan presented the bid, which he said was a part of ongoing airport improvements and was funded 90 percent by a Colorado Department of Transportation aviation grant.

Powers then questioned why the construction costs were about \$105,000 yet the total project cost involved about \$58,000 in design and engineering costs for Armstrong Consultants, the city's airport engineering consulting firm. Mike Garcia of Armstrong explained that there is a great deal of behind-the-scenes work required on projects that involve CDOT and the Federal Aviation Administration, and the city had also received an extraordinarily low bid for the construction, likely because of the time of year and the state of the economy. Dennis Corsi of Armstrong also pointed out that these projects involve a full-time resident inspector who must be on site for the entire project, which involves lodging and other expenses during that period.

Nation pointed out that on another recent project the construction costs were about \$140,000 and Armstrong's fees were about \$90,000, which he said was hard to swallow. Because he is an engineer, Nation said, he was asked by constituents why the city spends such a large amount on design and engineering for simple things like concrete flatwork. Garcia said there is a great deal of coordination and consultation with CDOT and the FAA on such projects, and if a plan is rejected or needs revision Armstrong performs that work for the city and the city might not even be aware of it.

Wells asked Callahan when the city last went out for bid for engineering services at the airport, and Callahan said it predated his tenure at the city and thus was at least three years ago.

Forstedt then offered a resolution to authorize the mayor to sign the contract for taxilane improvements with TLM Constructors Inc. at the bid amount of \$100,521 as presented, and including Armstrong's administration and engineering fees for a total estimated cost of \$159,521, which was seconded by Nation and approved unanimously (5-0). Nation then

reminded the public that with the 90 percent grant funding the city's costs would be about \$16,000.

PRESENTATION AND POSSIBLE ACTION ON BIDS FOR A STORAGE CONTAINER FOR THE POLICE DEPARTMENT

Kuretich reviewed the bid process for this item, which was needed because the police department had recently entered into an agreement to use the Morgan County Handgun Club shooting range for its training, and abandon the city's shooting range, which was being encroached upon by the city augmentation pond and increasing development in the surrounding area. Funds budgeted for improvements to the city range would be shifted for use in purchasing the storage container, which would hold the police department's equipment at the club range, which is about 10 miles outside the city, so officers would not have to transport equipment each time they use the range.

Although the cost was below the \$10,000 threshold to require council approval, Kuretich said he was bringing it to council because of the change in use of the funding.

Nation made a motion to approve the recommended bid for the container from Pac-Van for \$4,420, which was seconded by Deal and approved unanimously (5-0).

PRESENTATION AND POSSIBLE ACTION ON AN RFP FOR BARLOW ROAD BRIDGE REPAIR STRUCTURAL ENGINEERING SERVICES

Curtis said improvements to the bridge were needed based on a CDOT study that found some structural deficiencies. Curtis said capital improvement funds were budgeted for the actual repair work in 2012, but capital improvements funds still available in 2011 could be used to do the engineering phase now, with the actual repair work next year. He recommended accepting the low bid from Bohannon Huston in an amount not to exceed \$10,350.

Nation offered a resolution to approve the recommended bid and amount, which was seconded by Forstedt and approved unanimously.

DISCUSSION AND POSSIBLE ACTION ON CLOSING CITY OFFICES ON THE DAY AFTER THANKSGIVING, NOV. 25

Mayor Terry McAlister said this is a day that has traditionally been granted to employees as a day off, and he was asking the council for approval of that practice for this year. Deal made a motion to approve the closing of city offices for that day, which was seconded by Forstedt and approved unanimously (5-0).

McAlister then noted that this was not simply a "lark," and that the city does operate on some days that other government agencies are closed and Fort Morgan is not out of line on days off. Wells said staff was currently examining its entire benefits package and had found that the city does currently offer one less day off than most public and private employers.

APPLICATION FOR RENEWAL OF A 3.2 PERCENT BEER RETAIL LICENSE FOR 7-ELEVEN EAST

With the council acting in its capacity as the Local Licensing Authority, City Clerk/PIO John Brennan explained that this was essentially a routine liquor license renewal but was not placed on the consent agenda because the city's investigation of the application had revealed a violation for not having its sales tax license posted in the business. He said staff was recommending approval.

Nation offered a resolution to approve the application for renewal of a 3.2 Percent Beer Retail License – Off Premises for 7-Eleven East at 705 E. Platte Avenue, which was seconded by Powers and approved unanimously (5-0).

APPLICATION FOR RENEWAL OF A HOTEL AND RESTAURANT LIQUOR LICENSE FOR EL JACAL MEXICAN GRILL

With the council again acting as the Local Licensing Authority, Brennan said this was a similar situation to the previous item that was brought as a separate agenda item because the licensee had incorrectly sent its renewal application directly to the state instead of bringing it to the City Clerk for processing. The application was brought to the city after the expiration date of the license, but because the state had already received the application and cashed the check for the state fees, Brennan had allowed the sale of alcohol to continue pending the finalization of the renewal. He said he had explained the proper process to the licensee.

Nation offered a resolution to approve the application for renewal of a Hotel and Restaurant Liquor License – Malt, Vinous and Spirituous Liquors, for El Jacal Mexican Grill at 105 8th Avenue, which was seconded by Deal and approved unanimously (5-0).

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 the minutes of the Oct. 18 regular meeting.
- B. Approval of an application for renewal of a Beer and Wine Liquor License for Little Bamboo Restaurant at 613 W. Platte Avenue with a clear police investigation report
- C. Approval of application for renewal of a 3.2 Percent Beer Retail License – Off Premises for Safeway Store No. 2341 at 620 W. Platte Avenue with a clear police investigation report

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.

Forstedt offered a resolution to approve the Consent Agenda as presented, which was seconded by Nation and approved unanimously (5-0).

PASSED, APPROVED AND ADOPTED this 1st day of November 2011, the vote upon roll call being as follows: Ayes: Mayor McAlister; Councilmembers Deal, Forstedt, Nation and Powers. Nays: none. Absent: Bryan and Shaver

PUBLIC COMMENT / AUDIENCE PARTICIPATION

Joe Segura Jr. addressed the council with his concerns about the condition of Barlow Road, asking if any money was budgeted for improvements to the road and whether such improvements could be made at the same time as the Barlow Road bridge repairs discussed

earlier in the meeting. He also pointed out that street lights are not working at the intersection of Barlow and Platte Avenue.

Shawna Longcor, the vice president of the Fort Morgan Humane Society, thanked the council for the extra time and effort it had put into working with the society this year.

REPORTS BY OFFICIALS AND STAFF

Wells reported on a meeting earlier that day with visiting Edward R. Murrow journalists from Southeast Asia, saying it was an interesting and enlightening experience for both sides.

BIDS, MEETINGS AND ANNOUNCEMENTS

Brennan announced upcoming bids and meetings.

Deal distributed information about her proposed façade improvement program, as well as similar programs in other cities, and asked that the \$5,000 removed from the 2012 budget for that purpose be restored. Wells said this issue was not on the agenda so the council could not take action on it, but the proposal could be placed on the agenda for the next meeting on Nov. 15.

Mayor McAlister adjourned the Nov. 1, 2011 regular meeting at 8:55 p.m.

/s/ Terry L. McAlister
Mayor

/s/ John J. Brennan
City Clerk