

November 15, 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 6:00 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, Municipal Engineer Brad Curtis, Community Development Director David Callahan, Human Resources/Risk Management Director Michael Boyer, Assistant City Attorney Jerrae Swanson, Water Distribution/Wastewater Collection Superintendent Mitch Church, Gas Superintendent Tony Behrends, Light and Power Superintendent Doug Linton, Community Services Director Patti Evans, Fire Marshal Greg Preston, Building Inspector Mike Kirkendall, FMPD Lieutenant Darin Sagel, FMPD Administrative Assistant Sheila Bass, numerous other FMPD personnel and City Clerk John Brennan.

SWEARING IN OF NEW FORT MORGAN POLICE DEPARTMENT OFFICERS

Police Chief Keith Kuretich introduced the two new officers, Noah Carter and Timothy Nye, providing some biographical information on each before they were individually sworn in by Mayor Terry McAlister.

McAlister then informed the audience that the council would skip several public hearings scheduled on the agenda for the time being because the public notice for those hearings had stated that they would begin at 7:00 p.m. Since the time of publication of those notices, the council had changed the start time of its meetings to 6:00 p.m., so the mayor said the council would proceed to other agenda items first and take up the public hearings after 7:00.

PRESENTATION AND POSSIBLE ACTION ON CARRYOVER FUNDING FROM THE 2011 BUDGET TO THE 2012 BUDGET

City Attorney/Acting City Manager Jeff Wells pointed out that the city has not usually brought proposals like this one to the council, seeking to carry over funding from one budget year to the next, but it was staff's belief that this should be done when projects cannot be completed due to unforeseen circumstances. He said the council could authorize the carryover funding and allow staff to finish the projects or choose not to carry over funds and not move forward with the projects.

Wells reviewed the projects and the reasons they were not completed in 2011. The projects included taxilane improvements at the airport, the Safe Routes to School project on the city's west side, implementation of the Tyler Technologies software, a new golf maintenance building, construction of a bridge between the pedestrian tunnel and Riverside Park, storm windows for

City Hall, in-car computers for the police department and replacement of the filter system at the water treatment plant.

Councilmember James Powers offered a resolution to approve the carryover of the funding as outlined in the staff memo from Wells, which was seconded by Councilmember Ron Shaver and approved unanimously.

DISCUSSION AND POSSIBLE ACTION ON A PROPOSED ECONOMIC DEVELOPMENT POLICY

Wells explained that the city had rescinded its old economic incentive policy in 2010 while a new policy was developed, with the idea of trying some new approaches. The old policy was geared toward large primary employers and lacked incentives for small businesses, Wells said, and he asked the council if it would like to develop a policy that could address both types of businesses. Kari Linker, executive director of the Morgan County Economic Development Corp., said the past policy was effective and parts of it could be incorporated into the new policy. She encouraged the council to have incentives for large primary employers and also offer some sort of assistance to small and existing businesses, such as grants.

Wells said if a business did not qualify under the criteria for a primary employer, perhaps the city could offer some other form of assistance such as marketing help. He said it may be possible to have a selection of types of assistance that might be offered.

Powers pointed out that while the past approach for primary employers involved mostly fee waivers and tax rebates, other forms of assistance would have budget implications where the city would have to actually pay out for the assistance rather than simply waiving or agreeing not to collect some fees or taxes.

Linker provide some examples of incentive programs offered by other local governments, and McAlister asked her and Wells to do some more research in this area and bring back ideas that could be discussed at a retreat or other brainstorming meeting in the first quarter of 2012.

PRESENTATION AND POSSIBLE ACTION ON ALLOCATION OF \$5,000 IN THE 2012 BUDGET FOR HISTORIC PRESERVATION BOARD FAÇADE IMPROVEMENT SEED MONEY

Councilwoman Lyn Deal reviewed the request she had made at an earlier council meeting, and said the city's Historic Preservation Board was preparing to present to the council its bylaws and proposed criteria for local historic designation. She said the city funding would help owners of historic buildings to leverage grant funding from the state historical society to make improvements to the facades of their buildings, thus improving the look of the buildings and bringing additional money into the community.

Several council members questioned whether a façade improvement program should be offered only for historic buildings and not be made available more widely for any city business.

Nicolas Ng, who chairs the city's Planning Commission and serves on the Historic Preservation Board but said he was speaking as a citizen and resident, spoke to the council and noted that the proposed façade improvement program was a part of the updated comprehensive plan adopted by the city in 2010, and would improve and enhance the downtown area. He urged the council to consider Deal's proposal for funding.

Councilmember Brent Nation said he would not support setting aside money only for historical building improvements, and that if funding is earmarked it should be available to anyone. Powers said there was money in the 2012 budget for economic development, and Wells said the economic incentives the city expected to accrue would probably not consume all of that funding, leaving enough to fund this program in whatever form the council chose. Powers suggested making \$5,000 of that 2012 economic development funding available for local

business people to access, whether for façade improvements or by applying for any other economic incentives that may be available. The consensus was that because the money was already in the 2012 budget and details of both programs had yet to be determined, a decision on how to allocate the funding could be put off until a later time. No formal action was taken.

PRESENTATION AND POSSIBLE ACTION ON BIDS FOR SENIOR CENTER FLOORING

Community Services Director Patti Evans said this project was intended to be done in 2010 but had been delayed for a variety of reasons, and the funding was not carried over into 2011. It was recently put out for bid and only one bid was received, which was about 10 minutes late and \$184 over the \$30,000 budgeted, she said. Evans said she believed it was in the best interest of the city to accept the bid and negotiate with the local bidder, CarpetsPlus Color Tile, for a cost not to exceed \$30,000.

Nation said he had understood the project was only to replace the flooring in the carpeted areas of the center, and Evans said the intent was always to replace all flooring. Councilmember Ron Shaver said he thought the original budget for this project was \$20,000, and it was possible to do it in 2011 because funding for a citywide time clock system would not be used this year. Even though the budget for the time clock was \$30,000, Shaver said he understood the plan was to only use \$20,000 of that money for the flooring project, but that Evans seemed to be operating under the assumption that she had \$30,000 to work with. Shaver also questioned whether there was a problem with the bid that caused only one bidder to participate.

Evans said she had received direction from Wells that the \$30,000 could be used for the project, but Wells explained that the council's direction was to get the project done this year using funding appropriated for the time clock system, not to spend the entire \$30,000 on it.

Discussion ensued about the cost and quality of the flooring product to be used, with some concerns expressed by council members about the potential for slips and falls and the maintenance cost of the flooring. Evans said carpeting would be kept in the entry way to prevent moisture from being brought onto the new flooring.

Deal offered a resolution to accept the bid from CarpetsPlus Color Tile at a cost not to exceed \$30,000, which was seconded by Councilmember Debra Forstedt. The resolution was approved on a vote of 5-2 with Nation and Shaver voting against.

PRESENTATION BY HEALTH INSURANCE BROKER HUB INTERNATIONAL

Human Resources/Risk Management Director Michael Boyer introduced Gary Clark and Drew Peterson of HUB International, who presented a PowerPoint presentation on the city's health insurance coverage. They explained that because of several ongoing catastrophic claims, none of the six firms approached for bids on the city's stop-loss coverage would make an offer. The HUB officials recommended raising the city's individual deductible for its self-insurance from \$40,000 to \$75,000 and eliminating the aggregating specific deductible, which they said would open up more possibilities for marketing the stop-loss coverage.

Boyer then reviewed a proposed three-year phase-in of changes to the city employee wellness program intended to reduce health insurance costs and further incentivize wellness. The idea was to change the incentive for participating in the wellness program from two additional vacation days to participation in the "buy-up" health insurance package for free rather than at an additional cost to the employee. Those employees who continued to decline to participate in the wellness program would eventually be required to pay some level of health insurance premiums beginning in 2014. He also explained plans to eliminate the prescription reimbursement program and remove co-pays and annual maximums for preventive care.

Discussion ensued about the value of the wellness program and the need to reduce rising costs for health insurance. McAlister said he did not believe the wellness program worked and did not like the idea of tying participation to the employee health insurance plan. Because this was a presentation and did not require council action, the council consensus was to move forward with what was proposed by HUB International for the health insurance coverage and continue to work on proposals for the wellness program.

PUBLIC HEARING – ORDINANCE NO. 1118 G, CHANGING THE CITY GAS TARIFF AND RATES RETROACTIVELY TO NOV. 1, 2011

The council conducted a public hearing on Ordinance No. 1118 G, 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, which had been presented and approved on first reading on Nov. 1, 2011. No public comments were made, although City Clerk/PIO John Brennan noted that two people had come to City Hall to look at the proposed tariff and rate changes.

Powers offered a resolution approving the second and final reading of Ordinance 1118 G, with the changes effective retroactively to Nov. 1, 2011, and authorizing publication by title only. That resolution was seconded by Councilmember Scott Bryan and approved unanimously.

PUBLIC HEARING – ORDINANCE NO. 1119 E, CHANGING THE CITY ELECTRIC TARIFF AND RATES RETROACTIVELY TO NOV. 1, 2011

The council conducted a public hearing on Ordinance No. 1119 E, Approving the electric rate adjustments and budget billing of the electric tariff, which had been presented and approved on first reading on Nov. 1, 2011. No public comments were made.

Powers offered a resolution approving the second and final reading of Ordinance 1119 E, with the rate changes effective retroactively to Nov. 1, 2011, and authorizing publication by title only. The resolution was seconded by Nation and approved unanimously.

PUBLIC HEARING – ORDINANCE 1120, THE 2012 BUDGET ORDINANCE

The council conducted a public hearing on Ordinance 1120, An ordinance levying a tax upon the taxable property in the city of Fort Morgan, Colorado, and appropriating monies to the several funds of said city, which had been presented and approved on first reading on Nov. 1, 2011. Wells explained that this was the same ordinance presented at that previous meeting, with a minor change of \$18,233 in the general fund expenditures based on the council direction at that meeting regarding funding for the Fort Morgan Humane Society.

Powers asked if the budget as presented was balanced, and Wells confirmed that it was balanced based on the revenues and expenditures expected by the city for the 2012 fiscal year as well as the use of reserve funds as authorized by the council.

Shaver offered a resolution approving the second and final reading of Ordinance 1120 and authorizing publication by title only. That resolution was seconded by Bryan and approved unanimously.

PRESENTATION AND POSSIBLE ACTION ON A PROPOSAL FOR A WATER AND SEWER RATE STUDY BY THE ON-CALL ENGINEER

Wells said this new rate study would update one done in 2010 by the same firm, The Engineering Company, which was retained at that time on a three-year agreement. Wells said

the new study was necessary because of changes in the expenses and needed capital improvements of the water fund. Nation said it was important to do the update to the study because of the issues found in the water fund, and offered a resolution to approve the study as proposed. That resolution was seconded by Shaver and approved unanimously.

PRESENTATION ON PROPOSED ADOPTION OF INTERNATIONAL CODE COUNCIL STANDARDIZED CODES

Assistant City Attorney Jerrae Swanson briefed the council on the process of adopting the 2009 versions of these codes, noting that the common approach is to adopt each code in its entirety and then list amendments, or exceptions, to tailor the code to the specific locality. McAlister asked if Morgan County had done this, and what requirements it had amended, and Nation said the county had adopted the 2009 versions of the codes and the biggest exemption was for residential fire sprinkler systems. McAlister said he was aware of that amendment by the county and did not want to deter development in the city by influencing someone to build in the county rather than the city because the city might require sprinkler systems.

Community Development Director David Callahan explained the city staff's plan to hold a public meeting on the proposed adoption of the 2009 codes, and bring back any feedback received at that meeting to the council when the adopting ordinance is presented, probably in January. Callahan said the most significant potential impacts of the change would be requirements for the fire sprinkler systems, which would be effective Jan. 1, 2013 for new construction of one- and two-family homes and townhouses, and a new requirement for grading permits.

Callahan and Fire Marshal Greg Preston spoke about the benefit of sprinkler systems as a cost-effective way to save lives and minimize property damage from fires, and answered council questions about the costs, maintenance and life expectancy of such systems.

City staff said the proposal would be presented at the public meeting and input otherwise solicited, and the proposed ordinance would be brought back to the council. No action was taken.

PRESENTATION AND POSSIBLE ACTION ON BIDS FOR A 2012 SEWER JET TRUCK

Municipal Engineer Brad Curtis reviewed the bid process and said staff was requesting authorization to do a five-year lease/purchase of the 2012 Vac-Con truck from Williams Equipment at 3.91 percent interest through Leasing 2 Inc. and Vac-Con Company for a net total of \$291,870.30, which included a trade-in allowance of \$38,000 for the city's current truck. Curtis also asked for approval of a one-time purchase of optional equipment totaling \$3,094 in 2012.

Councilmember Lyn Deal offered a resolution to approve the lease/purchase as presented, which was seconded by Powers. Bryan then asked whether it would be wiser to purchase the truck outright and avoid paying thousands of dollars in interest. Wells said staff and the council could explore the possibility of lending money from one department to another as a way to finance such purchases, but for this purchase the city needed to order the truck within a few weeks to lock in the lower 2011 price. Curtis said the staff could look into whether there would be any change in price if the city paid in full for the truck, and there may be time for the council to change the terms of the acquisition because the first payment was not due until March 30, 2012.

Deal's resolution to approve the lease/purchase as presented was approved unanimously.

PRESENTATION AND POSSIBLE ACTION ON STORM PIPE MATERIALS

Curtis explained that a large sinkhole had developed on the 66-inch storm pipeline leading from West Street to the city's augmentation pond, and this bid for materials was to determine unit pricing so the process of repairs could begin. Because the pipe is 15 to 18 feet deep, a contractor with specialized equipment would have to be retained to do the actual work, he said, with that proposal to be presented to the council in the future.

Nation offered a resolution to accept the unit bid prices as presented, from Contech Construction Products Inc., which was seconded by Shaver and approved unanimously.

DISCUSSION AND POSSIBLE ACTION ON IMPLEMENTATION OF TYLER SOFTWARE

Wells reviewed the problems the city had been having with implementation of utility billing software purchased from Tyler Technologies, noting that city staff as well as the council had been receiving a lot of complaints from utility customers about billing problems and it was important to find out what was wrong with the billing system software and how to fix it. He said the fundamental goal was to make the system work, but the city needed some answers about what was happening and what was being done about it. To that end, Wells said, he had asked executives of Tyler to come to the meeting.

Sandy Peters, executive vice president in charge of development for the Tyler Technologies office in Lubbock, Texas, and Elven Corder, vice president in charge of implementation, introduced themselves to the council.

McAlister said the council wanted answers on whether or not the billing software could be fixed, saying that city employees had been "under the gun" trying to make the system work and had been asking Tyler staff for help to make it work. The mayor said he had received three bills last month for the same residence, and had customers ask him what was going on, and who was paying for the extra postage and other costs related to the billing problems the city had been experiencing. McAlister said the situation was unacceptable and the city could not expect its customers to put up with it. He said Tyler's product had embarrassed the city, and city staff had been told the product would work but it had not. The mayor said he had had enough phone calls about these problems. He said if this happened with a car it would fall under the "lemon law" and he would have his money back.

Powers commented that the council also acts as the board of directors of the city's various utilities, which are very important to the city, and he was concerned about the potential loss of revenue that the city could be experiencing because it did not have a good understanding of what was happening with its utility billing. He asked if there was anything the company had asked city staff to do that it had not done, and Peters replied no.

Peters acknowledged that there had been issues with the implementation of the utility billing software, and that some such things could be expected with any implementation but things had happened in Fort Morgan's case that Tyler staff had never seen before. He said the city staff had worked extremely hard, and done everything Tyler had asked of them, and that was never in question.

Powers asked why the company did not run its system parallel with the city's existing utility billing system before switching over to the new software, to be sure there were no problems before making the change. Peters said that was not something Tyler typically does, because it would double the workload for the city staff, essentially asking them to do their job twice for two or three months. He said he was not involved in conversations with Wells about a parallel test before the implementation so he did not know if this was something the city asked for and Tyler declined to do.

Wells said he had talked on the phone with Tyler officials about doing parallel billings, which the city had done during a previous system conversion about 10 years ago and wanted to do again in this instance, and was dissuaded from doing that by Tyler officials.

Powers asked if the company had a thorough understanding of what the city needed when it went through the bidding process. Peters said it had as good an understanding as it typically does, but that it is not unusual to get into a conversion and find problems and need to make adjustments. Powers said he was concerned about the city's utilities and the city's staff, and wondered whether the system Tyler sold the city was something new which did not have the "bugs" worked out of it before it was brought to the city. Peters said he had never seen software that had all the bugs worked out, and technicians were always working on it, making changes, running into new issues and fixing them. He acknowledged that his staff may have worked too hard to get billings out on time and not done a good job of making sure that issues were corrected for the future.

Councilmember Debra Forstedt asked Peters when the system would be fixed, and whether it was the right system for the City of Fort Morgan. Peters said he believed it was the right system and he believed the company could make it work. As to when the system would be fixed, Peters said Tyler was working as hard as it could, and running into some problems it had never seen and was unable to reproduce it its own office. He said he could not say when every problem would be fixed.

Utility Billing Manager Connie Musgrave then reviewed for the council a list of problems the city had experienced since the implementation of the software, including meter readings that worked at first but later did not; duplicate billings for landlords and tenants; inability to print service orders; and computers locking up. Musgrave said city utility customers had lost confidence in the accuracy of their bills.

McAlister said the city had gone through four billing cycles with the Tyler software and none had gone smoothly. He said if the city gave the company until January to get everything fixed and it worked, he would be satisfied; however, in the event that did not happen, he asked whether Tyler would be willing to give the city its money back or if the city would have to take legal action to achieve that.

Peters said he believed the company could do it by January, but he was not the one to say whether Tyler would give the city its money back. He said if matters reached that point, the company would want to work toward an amicable situation. McAlister said as far as he was concerned, if the city did not have a smooth billing cycle by January he did not believe the system would ever work and it would be time to back out of the situation. Peters said he thought that was more than fair on the city's part after all it had been through. He said he knew Tyler had frustrated the city, and company officials were also frustrated, and he apologized for that and said the company would do everything it could to make things right.

DISCUSSION AND POSSIBLE ACTION CONCERNING A LETTER FROM THE CITY COUNCIL TO THE GOVERNOR REQUESTING SUPPORT FOR THE NISP PROJECT

Wells said the city had been asked by the Northern Colorado Water Conservancy District to provide the district with a letter of support for the Northern Integrated Supply Project, for forwarding to the governor. He said he was asking for council approval for the mayor to sign the letter.

Forstedt made a motion to approve signing and sending the letter, which was seconded by Shaver and approved unanimously.

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 Nov. 1 regular meeting
- B. Approval of disbursements and payroll for October
- C. Approval of an application for renewal of a Club Liquor License – Malt, Vinous and Spirituous Liquors, for BPOE Elks Lodge 1143 located at 430 State St.

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 Powers and approved unanimously.

PASSED, APPROVED AND ADOPTED this 15th day of November 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

None.

BIDS, MEETINGS AND ANNOUNCEMENTS

Brennan announced upcoming bids and meetings. Powers expressed his appreciation to the employees of the city utility billing department for dealing with the problems discussed at this meeting.

Mayor McAlister adjourned the November 15, 2011 regular meeting at 10:32 p.m.

/s/ Terry L. McAlister
Mayor

/s/ John J. Brennan
City Clerk