

December 20, 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, Water Treatment Superintendent John Turner, Parks Superintendent Doak Duke, Interim City Treasurer Chris Bostron, Electric Superintendent Doug Linton, Wastewater Treatment Superintendent Mike Hecker, Gas Superintendent Tony Behrends, Inventory Control/Building Maintenance Supervisor Doug Hofman, Fort Morgan Police Department officers Josh Kaber, Cindy Brackett, Pedro Malave, Ted Thyne, Clinton Coffin, Sgt. Doug Schossow and Detective Steve Vosburg and City Clerk John Brennan.

LOCAL LICENSING AUTHORITY – SHOW CAUSE HEARING ON EL RANCHO ALEGRE HOTEL AND RESTAURANT LIQUOR LICENSE

Mayor Terry McAlister presented opening comments about the conduct of the Show Cause Hearing and an outline of how the hearing would proceed.

City Attorney/Acting City Manager Jeff Wells presented an opening statement on behalf of the city, explaining that there were several legal issues on which the city would present evidence, including whether the liquor licensee is complying with the original Hotel and Restaurant Liquor License and whether the holder of that license is conducting its operation in an orderly and respectable manner.

Mr. Ruben Escorza, the licensee, then provided his opening statement, saying that he did not claim he was not in violation of the Hotel and Restaurant license, but that he was told by the police department and the city at the time of his application for a new Tavern Liquor License that he would be allowed to continue to operate under the Hotel and Restaurant license pending the outcome of the application for a new license. At a hearing on that new application on Dec. 6, 2011, he said, the local licensing authority did not approve or deny the new license, but decided to hold a show cause hearing on the existing license, and he did not think it was right that the authority did not take action on the new license application but was now proceeding in an action that could close down his business.

Police Chief Keith Kuretich then reviewed the Order to Show Cause and Notice of Hearing that had been published, mailed and served on the licensee. He said he had police officers present at the hearing to provide testimony in support of each of the violations alleged in the order.

Regarding the first three alleged violations, pertaining to the licensee's possession of the premises and compliance with the requirements of a Hotel and Restaurant Liquor License,

Kuretich called upon FMPD Detective Steve Vosburg to testify, and Vosburg was sworn in by City Clerk John Brennan.

Vosburg testified that he had conducted a liquor license inspection of the premises on Nov. 23, 2011, in connection with the new liquor license application and found that the premises were different at that time from how they had been originally filed for the Hotel and Restaurant Liquor License. He said the kitchen and dining areas of the premises, which made up about half of the original licensed premises, had been excluded from the diagram of the premises for the new application. Vosburg said he was also unable to determine during his inspection that restaurant meals were being served by the establishment, or that the sale of meals constituted at least 25 percent of the total sales of the establishment as required for a Hotel and Restaurant license.

Under questioning from Kuretich and Wells, Vosburg said the kitchen and dining areas of the premises had been leased to another party and were not in possession of the licensee, and that meals were not being served by El Rancho Alegre.

FMPD Officer Clinton Coffin was sworn in and testified to an incident on March 6, 2011, in which he saw an intoxicated person fall out of the doorway to El Rancho Alegre onto the sidewalk outside with a beer bottle in his pocket. The person was cited for having an open container of alcohol in public and released, Coffin said.

Kuretich clarified that the testimony of Coffin and the officers to follow him in testifying was being presented to prove the issue of the improper conduct of the establishment. Kuretich then called Officer Cindy Brackett to testify, and she was sworn in.

Brackett testified that on March 30, 2011, while doing a routine bar check in the area, she saw a number of empty beer bottles standing along the sidewalk outside El Rancho Alegre. She then went inside the establishment and watched the patrons and the operation for a few minutes and saw a very intoxicated male go to the door and walk out with a beer in his hand. She said nobody was watching the door and the one security person on duty was nowhere to be seen. Brackett said she followed the man outside and Ruben Escorza also came outside and tried to bring the man back inside. When Brackett told him he could not do that, Escorza took the beer bottle from the man and went back inside. Brackett said she then issued a ticket to the man.

Officer Ted Thyne was then sworn in and testified about a report from a female victim on May 29, 2011, that she had her purse stolen inside El Rancho Alegre, and it contained a driver's license and other ID as well as a credit card and a video camera. Thyne said he learned on Dec. 5, 2011 that the victim had obtained most of the belongings back from the Post Office, except the camera and the purse.

Officer Pedro Malave was sworn in and testified that he was parked in the alley across from El Rancho Alegre when he saw two male individuals assault another man, during which two of the men fell into a large plate-glass window of a neighboring business, breaking the window. One of the men was arrested for violation of a protection order and assault, and illegal possession or consumption of alcohol by an underage person.

Wells asked where the fight originated, and Malave said he saw both men come out of El Rancho Alegre and argue before starting to fight. Malave also confirmed that one of the men was underage and that he had seen both of the men come out of El Rancho Alegre.

Coffin then testified that while working the night shift over the last six months FMPD officers had to go to El Rancho Alegre at closing time most nights because there were usually fights and this was an effort to deter the fighting. During that time he saw many people come out of the bar who were very, very intoxicated, often staggering and sometimes belligerent. He also noted that he was aware that many people came to El Rancho from other bars in the area and he was not certain if and how much they had been served at El Rancho Alegre, but that many people were still inside El Rancho Alegre at closing time and were not asked to leave.

Officer Josh Kaber was sworn in and testified that he also spent a great deal of time at El Rancho Alegre around closing time in an effort to deter fights, and that fights still broke out even

right in front of officers. He said officers were often in the area of El Rancho Alegre from about 1:45 a.m. to 2:30 a.m. trying to break up fights and get highly intoxicated people to move on.

In answer to a question from an Authority member, Kaber said three or four officers are normally on duty at the time bars close and all of them are often at El Rancho Alegre.

Under questioning from Wells, Kaber testified that while doing bar checks at El Rancho Alegre he has observed visibly intoxicated people in the bar and carrying drinks.

Kuretich then asked Kaber whether a situation like those he described in which several officers were on the scene would be recorded as multiple calls for service by the police department. Kaber said no, that all officers would be attached to one call for service and the logs would show only one call for service even if multiple officers respond.

Sgt. Doug Schossow was then sworn in and narrated a video recording that he recorded from the camera in his patrol car in front of El Rancho Alegre about closing time on the night of Dec. 3, 2011. He said he was driving by and saw a disturbance break out, and when he parked he activated the car's video camera. He described the scene and the original fight, and pointed out another man being pushed out of El Rancho Alegre by another man after an altercation inside. He then pointed out another man being escorted out of the bar by one of Mr. Escorza's employees.

Schossow said this was a fairly common event, and provided good visual evidence of what the police must deal with. He said he had to radio for other officers and all the FMPD officers and both of the Morgan County Sheriff's deputies on duty all responded. Schossow fast forwarded the tape to show how long officers were on the scene, which was approximately 20 minutes for the portion of the tape shown during the hearing.

Schossow said on this night a professional boxing match was being shown on TV in the bar and there was a substantial crowd, but no employees of El Rancho came outside to help police control the crowd. He said patrons often loiter outside the bar for 30 minutes or more after the bar closes, and police can't get them to move on, but if police leave there will be fights. He said it was a regular occurrence and was taxing on the police department, and officers try to get people to leave and not have to make arrests because that would tie up one of the few officers on duty.

Wells asked if the police department experienced similar problems at other bars in the downtown area, and Schossow replied no, not like the problems at El Rancho Alegre.

Wells asked that the city be allowed to enter into evidence the videotape played by Schossow and the other materials submitted in the packets with the order to show cause.

Councilmember/Authority member Scott Bryan then asked Brackett to return to the podium, and asked her about an earlier statement she made referring to the "one security person on the premises" at El Rancho Alegre, and whether that was all the security on site at any time. Brackett said there is usually only one, sometimes two and the most she had ever seen was three, and that was rarely. Bryan noted that the Authority had been told by Escorza that he had four to five security personnel. Brackett also said that on a recent Saturday night she had to go into the bar and tell patrons to leave at 2 a.m. because the owner and bouncers were not telling people to leave at the statutory closing time of 2 a.m. as required by law.

McAlister then asked Escorza to provide any evidence or testimony he had, and Escorza was sworn in.

Escorza said the police chief learned on Sept. 11, 2011, that El Rancho Alegre was out of compliance with its Hotel and Restaurant liquor license, and he was allowed to continue to operate under that license pending the outcome of his new application for a tavern license. If he was out of compliance at that time, he asked, why wasn't he given a show cause hearing at that time?

He said he was told to restructure the premises to meet the requirements of the tavern license.

Regarding the beer bottles outside El Rancho Alegre, Escorza said patrons sometimes have bottles in their cars and leave them there, and he and his employees do the best they can to prevent alcohol bottles from being taken out of the bar.

In reference to Brackett's testimony about having to chase people out of the bar at 2 a.m., he said that was wrong, because the clocks in the establishment are set ahead and no one is inside El Rancho after 1:50 a.m. He acknowledged that it was sometimes hard to disperse the crowds, but the reason similar problems occur less frequently at other bars is that everyone goes to his club.

He said the reported stolen purse was not stolen but lost, and the owner got those possessions back.

Regarding the intoxicated persons, Escorza said it can be difficult to determine how intoxicated a person is, and claimed that Brackett gave conflicting testimony regarding one intoxicated person, stating at one point that he was by himself and at another time that he was being held up by another person.

Escorza said he had four security people plus himself for a total of five. He said he had been talking to his security staff about how to solve the problems El Rancho Alegre was having.

Wells asked Escorza what experience he had with liquor enforcement, and Escorza said he used to work in liquor enforcement off and on when he was a law enforcement officer.

Wells asked Escorza whether he had leased part of the licensed premises of El Rancho Alegre to another party, and he said he did, and they had it for less than two months. He said it was during that time that he was told that he had to close off the restaurant portion of the premises to meet the requirements of the tavern license. Wells asked if the other party to whom the restaurant was leased had a financial interest in El Rancho Alegre's operation, and he said no. Wells asked if Escorza contracted with the other party to provide food for his Hotel and Restaurant liquor license, and he said there was an understanding to that effect when he leased the kitchen and dining area but he was then advised that because he had leased it out the lessee could not provide meals for the bar.

Wells asked Escorza whether he had operated the restaurant himself before leasing that part of the building, and he said yes, and it had been operating until he leased it. Wells asked if Escorza planned to operate the restaurant himself in the future, and he said he planned to lease it to another party at the end of the month. Wells asked Escorza if he was making at least 25 percent of his income from sale of food after leasing the kitchen, and he said sometimes but it would vary. Wells asked if El Rancho Alegre was serving full meals until 9 p.m. and Escorza said no.

Wells asked Escorza if he agreed that for the past few months he had not been operating in compliance with his Hotel and Restaurant liquor license, and he said he agreed to a point but that he had been allowed by the city to operate under these circumstances and did not believe had had any violation.

Councilmember/Authority member Debra Forstedt referred to several instances in the earlier police testimony about underage people being intoxicated on the premises or the area around El Rancho Alegre, and asked Escorza to explain how he trains his bartenders and security personnel on liquor sales to underage people and intoxicated people. Escorza said training is given to the security staff on checking IDs, so once those are checked at the door the bartenders are OK to serve the patrons. The bartenders are trained to some extent on checking IDs, he said, but they don't do it because it's the job of the security staff to do that.

Wells then made a closing statement, saying that the evidence and testimony received at the hearing demonstrate by a preponderance of the evidence that Mr. Escorza was not complying with the law, in terms of failing to meet the meal requirements of a Hotel and Restaurant liquor license, modifying the premises without prior consent of the state and local licensing authorities, and not having possession and control of the premises originally licensed. Wells also said there was considerable evidence and testimony that demonstrated that Mr. Escorza has failed to

operate the establishment in a decent, orderly and respectable way and failed to ensure that visibly intoxicated people were not served alcohol. He said the city asked that the Authority find Escorza had failed to conduct his business in a way that was required under the liquor licensing statutes and regulations of the state of Colorado.

Escorza was given the opportunity to provide a rebuttal and closing statement but declined.

Wells briefed the council on its options in deliberating the case, and members of the Authority made statements about their interpretation of the evidence and testimony.

Scott Bryan said the liquor industry in Colorado is heavily regulated and required a lot of attention and management, and nothing he heard indicated that Escorza had been a strong manager or operated the establishment properly. He said Escorza should know better because of his previous law enforcement experience, and Bryan believed the bar was a problem that needed to be addressed.

Forstedt said she believed that Escorza had failed to comply with the liquor laws and the present license should be suspended.

Ron Shaver said he would have a problem with one violation of the liquor code, and there appeared to be quite a few in this case and he had doubts about the ability of Escorza to operate within compliance.

Brent Nation said he shared many of the concerns expressed by other members, and that it was clear Escorza was operating out of compliance. All of the other concerns were just other circumstances that led him to believe that the Authority should revoke the license, Nation said.

James Powers said the primary evidence presented by Escorza was his statement that he was allowed to continue to operate under the Hotel and Restaurant license, but there was nothing in writing to support that. The other issues were evidence of poor management but did not carry the weight as to whether the Hotel and Restaurant license was being operated properly, he said, but in his opinion the HR license was in violation.

Lyn Deal said she believed the incidents covered in the evidence and testimony leave the community vulnerable, and she would not be responsible in her job as the liquor licensing authority if she did not act on what she knew.

McAlister referred to the fact that Escorza acknowledged being in violation but claimed he was told that was OK, but said he probably should have surrendered the license when he leased the restaurant off and made modifications to the premises before applying for the tavern license. He said the other incidents of the conduct of the establishment showed problems with patrons being out of control.

McAlister then said he would ask for some action. Wells said if a motion were brought forth it would be a motion finding that Escorza was not in compliance with his Hotel and Restaurant License. Forstedt made a motion to that effect, which was seconded by Shaver and approved unanimously.

The Authority then moved to the action portion of the Show Cause Hearing. Wells said the Authority had three options now that it had found Escorza to be in violation of his license: suspend his license for a period of time, offer Escorza the opportunity to pay a fine in lieu of suspension, or revoke the license. He said the determination should be made based on the evidence and the Authority's interpretation of what was appropriate and in the best interest of the community.

Bryan made a motion to revoke the Hotel and Restaurant Liquor License for El Rancho Alegre, effective immediately. Forstedt seconded that motion and it was approved unanimously.

PUBLIC HEARING ON THE BRESHANHAN SUBDIVISION PLAT

Mayor McAlister outlined the procedure to be followed in this public hearing, and Community Development Director David Callahan reviewed the application for a preliminary and final plat of the property northeast of the intersection of Main Street and Riverview Avenue. The property

included five lots that were not properly subdivided when they were split up in the 1960s, and it included the sites of the current Conoco service station, the Super 8 Motel, Dairy Queen, Arby's and the now vacant site of the former McDonald's restaurant. Callahan said there were a number of issues with the way the properties were divided and built upon, including street access, lot lines, sign locations, utility easements and other issues, which he said this plat was an effort to correct all at once as the property is being sold to Wells Fargo Bank. The planning commission and city staff recommended approval of the plat with conditions as outlined in the council packet, which would resolve the issues before the plat was recorded and the bank closed on the sale, Callahan said.

Steve Tobin of Wells Fargo said the land purchase was a complicated transaction, with five subtenants who own all of the improvements on the property and would continue to lease their sites from the bank, and Wells Fargo was attempting to memorialize things that have been in place for 45 years and trying to do things right to the satisfaction of everyone involved, including the city and the Colorado Department of Transportation.

After some discussion of access plans, signage and other issues, Powers made a motion to close the public hearing, which was seconded by Shaver and approved unanimously.

Wells then advised the council of its options, which included denial, approval without conditions or approval with the conditions recommended by staff. Powers made a motion to approve the plat with the conditions recommended by staff, which was seconded by Nation and approved unanimously.

The conditions of approval included:

1. Prior to recordation of the plat with the County Clerk and Recorder, the applicant shall provide evidence of CDOT's agreement with a final location of the boundary line along Interstate Highway 76, and agreement with or resolution to the encroachment of the Dairy Queen building into State Highway 52.
2. Prior to recordation, the plat shall be revised to:
 - a. Assign dimensions for all easements;
 - b. Change the name of the easement along the interstate highway from sanitary sewer easement to utility easement;
 - c. Depict easements for all electric and gas service lines;
 - d. Depict easements for any utilities that cross adjacent property;
 - e. Realign the access easement through Lot 2 to coincide with the existing driveway serving Lot 5;
 - f. Change the name of the utility easement along the north line of Lot 2 to include storm drainage; and
 - g. Verify the purpose of the easement in Lot 1.
3. With the approval of this plat, the Applicant and the City acknowledge that existing off-premise signs will be considered as nonconforming and subject to the provisions of Section 20-9-80 (5) of the Land Use Code, and that nonconforming buildings are subject to the provisions of Section 20-4-70 of the Land Use Code.
4. With the approval of this plat, the lot line dividing Lot 2 and Lot 5 shall be considered as the front property line for Lot 5, thereby making the existing motel conforming to all applicable setback requirements.
5. Prior to recordation, the applicant shall develop a shared parking agreement which shall provide for the use of a minimum of four parking spaces located on the Arby's property (Lot 2) by the Super 8 motel property (Lot 5). Alternatively, the property line between these two lots shall be shifted to the south so that a minimum of 36 parking spaces are available to Lot 5. As a second alternative, the applicant may submit a revised parking layout plan that is reviewed and approved by staff prior to recordation. The revised parking plan must meet all provisions of the Land Use Code, and must be implemented within one year of the recording of the plat.

PUBLIC HEARING ON AN APPLICATION FOR A SPECIAL USE PERMIT TO ALLOW A PAWN SHOP IN THE MIXED USE BUSINESS (B-1) ZONING DISTRICT AT 527 STATE STREET

McAlister again reviewed the format and procedure of the public hearing, and Callahan presented the application. Callahan said the planning commission had discussed this application extensively and ultimately recommended approval with the conditions that the special use permit be personal to the applicant and not follow the property in perpetuity, and that an existing parking agreement with a neighboring church be renewed for the proposed special use. There is no on site parking for the building, Callahan noted, so the parking agreement is needed. He also said two responses to the notification of adjacent property owners stated opposition to the special use, and the council would have to make the decision whether the use as a pawn shop would be a good fit with the neighborhood.

Business owner Lynn Coates, who owns a real estate office next to the proposed pawn shop, spoke to the council and said he opposed the proposed special use, saying that the existing parking agreement would need to be changed because it reflects the incorrect block of State Street, and that he felt the use as a pawn shop would be a safety issue for his employees. He also noted problems with parking and ingress/egress in the past, and that he believed people would think the driveway to his business is the driveway to the pawn shop.

Edd Nestor, who would run the pawn shop, also spoke to the council as the applicant, although the actual applicant was Ron Sand, the owner of the property where the pawn shop would be located. Nestor said parking would be an issue regardless of what type of business took over the building, and he said the extended hours of operation would probably enhance safety for the employees of the neighboring real estate office in the evenings, because there would be an open business to run to if they were approached, rather than a closed business with the lights out.

Forstedt made a motion to close the public hearing, which was seconded by Powers and approved unanimously.

Wells then advised the council of its options, which included denial of the application for a special use permit, approval with the recommendations set out by staff, or approval with any other conditions the council might feel are appropriate and necessary.

Nation then made a motion to approve the special use permit with the conditions recommended by staff, which was seconded by Shaver. Powers then said it was important to listen to those who object to such proposals, and that he was conflicted about what to do with this request because of past history with a pawn shop outside the city limits. McAlister called for a roll call vote, and the application was approved on a vote of 5-2, with Powers and Forstedt voting against.

The conditions of approval were:

- (1) That the special use is personal to the applicant and shall not be inherited;
- (2) That the parking agreement from the United Methodist Church be revised to clarify that the church is agreeable to the use of its existing parking area by any legal use of 527 State Street. The agreement must be provided to the Community Development Director prior to the opening of the pawn shop.

PRESENTATION AND POSSIBLE ACTION ON BIDS FOR REPLACEMENT OF THE FILTER SYSTEM AT THE WATER TREATMENT PLANT

Water Treatment Plant Superintendent John Turner noted that this project had been discussed by the council on several occasions and budget adjustments were made to accommodate the

project in 2012. This proposal was for the materials for the project, and one bid was received, Turner said, and staff was seeking approval to accept that bid. He said the construction/installation phase of the project would be coming to the council in the near future, and staff hoped to have the project completed by May

Nation offered a resolution to accept the bid from ITT Water and Wastewater Leopold Inc. of Zelienople, Pa., in an amount not to exceed \$243,928 for the underdrain system equipment and materials. That resolution was seconded by Shaver and approved unanimously.

PRESENTATION AND POSSIBLE ACTION ON BIDS FOR ACCOUNTING SERVICES

Wells said this proposal was to retain the services of an outside accounting firm to help get the city's financial records in order for the annual audit due to start in March, which was necessary due to the absence of a city treasurer for approximately the last half of 2011. He said this item was not budgeted but the funding could come from the city treasurer salary line item for 2012. Wells also pointed out that an error in the staff memo on the proposal about the funding source said it would be a 2011 budget item, but the funding and expenses would actually be in the 2012 budget.

Wells said two bids were received and staff was recommending approval of the bid from Rubin Brown of Denver. He said the bids estimated the cost for various services but both firms would bill their actual expenses, and the Rubin Brown bid was estimated at about \$9,800. Wells recommended that the council approve the acceptance of the Rubin brown bid at a cost not to exceed \$13,000, which would allow for some flexibility and unforeseen expenses without having to come back to the council for approval of additional funding.

Forstedt offered a resolution to approve the staff recommendation and accept the bid from Rubin Brown not to exceed \$13,000, which was seconded by Bryan and approved unanimously.

PRESENTATION AND POSSIBLE ACTION ON AN APPLICATION FOR TRANSFER OF OWNERSHIP "BY OPERATION OF LAW" OF A BEER AND WINE LICENSE CURRENTLY HELD BY PARK TERRACE INC. DBA MEMORIES RESTAURANT AT 725 MAIN ST.

City Clerk/PIO John Brennan reviewed the application, which was made by a bank holding company that had obtained the property through a deed in lieu of foreclosure and sought to preserve the existing liquor license to make the property more saleable. The staff recommendation had been to approve the application on the condition that the designated officer for the bank company submit fingerprints for a background check, but that officer, Mark Gosbin, had brought his fingerprints to the council meeting.

Powers made a motion to approve the application for transfer of ownership, which was seconded by Nation and approved unanimously.

PRESENTATION ON CITY PROJECTS COMPLETED DURING 2011

Wells began the presentation by saying that the city charter requires the city manager to give an annual report to the council, and he reviewed the city's financial condition and achievements. He said the budget for 2012 was completed on time and balanced, and the city had maintained strong utility services and healthy financial reserves in 2011. He said some of the challenges in the coming year would include budgetary issues including declining revenues and increasing costs, as well as the funding of city projects and ongoing technological issues.

Wells then presented a slide show highlighting some of the capital projects completed by the city in 2011

He briefed the council on the city's three citywide staff goals for 2011: positive communication inside and outside the organization, respect for others in words and actions, and providing

exceptional customer service. He said the city had great employees and much progress had been made in these goal areas in the past year. Wells said when the year officially ended he would prepare a financial report to the council on the 2011 fiscal year and would thereby have fulfilled the annual report requirements of the charter.

Mayor McAlister then expressed appreciation for everything Wells and the city staff had done, noting that Wells was in the city manager role on an interim basis, with his main duties as city attorney, but had done a great job of getting things done.

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

Clerk 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 Retail Liquor Store License for North Main Liquor at 716 Main St. with a clear police investigation report.
- B. Approval of an application for renewal of a Tavern Liquor License for Gold Crown Lanes at 300 E. Railroad Ave. with a clear police investigation report.
- C. Approval of an application for renewal of a Club Liquor License for VFW Post 2551 at 208 W. Beaver Ave. with a clear police investigation report.
- D. Approval of the disbursements and payroll for November.
- E. Approval of the minutes of the Dec. 6, 2011 council meeting.

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 then offered a resolution to approve the Consent Agenda as presented, which was seconded by Bryan and approved unanimously.

PASSED, APPROVED AND ADOPTED this 20th day of December 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 meetings. Bryan noted that he had received three separate calls from residents expressing extreme satisfaction with the city water distribution department for its response and efficient handling of a water main break on Lincoln Street.

EXECUTIVE SESSION

The regular portion of the meeting concluded at 9:12 p.m., and Forstedt then made a motion to convene a scheduled executive session. That motion was seconded by Shaver and approved unanimously. The executive session had been published as follows:

EXECUTIVE SESSION for discussion of a personnel matter under C.R.S. Section 24-6-402(4)(f) and not involving: any specific employees who have requested discussion of the matter in open session; any member of this body or any elected official; the appointment of any person to fill an office of this body or of an elected official; or personnel policies that do not require the discussion of matters personal to particular employees; AND THE FOLLOWING ADDITIONAL DETAILS ARE PROVIDED FOR IDENTIFICATION PURPOSES: Check-in with Acting City Manager.

The executive session convened at 9:25 p.m. and concluded at 10:05 p.m., and was attended by the council members and mayor along with Wells.

Following the session the council returned to the open regular meeting, where Forstedt reported that the council had discussed the scheduled topic, and as a result of that discussion she made a motion that a discussion of the City Manager position be placed on the Jan. 3, 2012 City Council agenda. That motion was seconded by Powers and approved unanimously

Mayor McAlister adjourned the December 20, 2011 regular meeting at 10:07 p.m.

/s/ Terry L. McAlister
Mayor

/s/ John J. Brennan
City Clerk