

February 21, 2012

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 Debra J. Forstedt  
Councilmember Brent M. Nation  
Councilmember Lisa Northrup  
Councilmember Joe Segura Jr.  
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, FMPD Lt. Jared Crone, Assistant City Attorney Jerrae Swanson, FMPD Sgt. Jim Parks, Golf Course Maintenance Superintendent Matt Givens, Inventory Control/Building Maintenance Superintendent Doug Hofman, Electric Superintendent Doug Linton, Gas Superintendent Tony Behrends, Code Enforcement Officer John Simpson, Golf Professional Tyler Tarpley, FMPD Lt. Darin Sagel and City Clerk/PIO John Brennan.

**PRESENTATION AND POSSIBLE ACTION ON A RESOLUTION AUTHORIZING THE RETIREMENT AND TRANSFER OF CANINE POLICE OFFICER ZEBEDIAH MORGAN**

FMPD Sgt. Jim Parks, who has been the handler for Zebediah since 2003, brought the canine officer into the Council Chambers, and Police Chief Keith Kuretich explained that due to age and medical conditions it was time to retire Zebediah after nearly nine years of exemplary service to the city. Kuretich said staff was recommending that council approve the Resolution for the sale of the canine and appurtenances to Parks for \$1, and authorize the mayor to execute a bill of sale and waiver of liability to complete that transfer.

Councilmember Scott Bryan offered a resolution to approve the Resolution to that effect, which was seconded by Councilmember Debra Forstedt and approved unanimously.

**PRESENTATION AND POSSIBLE ACTION ON APPOINTMENTS TO FILL TWO VACANICES ON THE GOLF COURSE ADVISORY BOARD**

Councilmember Ron Shaver said two openings existed on the golf board and the board had met the preceding week and unanimously approved two applications, from current board member Barb Odor for an additional term and from Stuart Crespin as a new member. Shaver made a motion for council approval of the appointments of Crespin and Odor to the Golf Course Advisory Board, which was seconded by Councilmember Brent Nation and approved unanimously.

**SECOND READING AND POSSIBLE FINAL APPROVAL OF ORDINANCE NO. 1121, ADOPTING THE 2009 EDITIONS OF VARIOUS INTERNATIONAL CODE COUNCIL CODES AS THE CODES OF THE CITY OF FORT MORGAN WITH SPECIFIC LOCAL AMENDMENTS**

Community Development Director David Callahan reviewed his memo that had been provided in the table files for the meeting, which provided details on certain issues that had been raised during the Feb. 7 public hearing on this ordinance, regarding the fire sprinkler requirements and different types of dwelling construction.

Council questioned whether these issues could be reconsidered at a later time even if council approved the final reading of the ordinance, and Acting City Manager/City Attorney Jeffrey Wells explained that the code could be changed in the future. Councilmember Bryan said he would have preferred to get Callahan's memo sooner, and wanted time to review and digest the information before making a final decision. Mayor Terry McAlister said it appeared most of the council members were ready to move forward on the ordinance at this meeting, and called for a resolution.

Councilmember Nation offered a resolution to approve the second reading and final approval of Ordinance No. 1121, and to publish the ordinance by title only. That resolution was seconded by Councilmember Ron Shaver and approved on a vote of 5-2, with Bryan and Councilmember Joe Segura Jr. voting against.

**PUBLIC HEARING ON A REQUEST FOR REZONING FROM MEDIUM DENSITY RESIDENTIAL TO PLANNED UNIT DEVELOPMENT TO ALLOW AN OFFICE USE AND PRESERVE THE SINGLE-FAMILY HOME USE**

Mayor McAlister outlined the procedure to be followed for the public hearing on this issue, and asked Callahan to introduce the applicant and the application. The applicant was not present, however, so Callahan asked that the item be moved to the end of the agenda to see if the applicant arrived. He said he would attempt to contact the applicant in the meantime.

(By the end of the meeting the applicant had failed to arrive and Callahan had been unable to make contact with him, so he asked that the council continue the public hearing to the date certain of March 6, to preserve the legal publication of the hearing. Council agreed to this by consensus.)

**FIRST READING AND PUBLIC HEARING OF AN ORDINANCE AMENDING CHAPTER 7 OF THE FORT MORGAN MUNICIPAL CODE RELATED TO THE REGULATION OF ANIMALS**

McAlister outlined the procedure for the public hearing and confirmed that legal notice of the hearing had been properly published in the Fort Morgan Times on Feb. 11. Assistant City Attorney Jerrae Swanson reiterated to the council that the city staff efforts on this ordinance had been directed toward addressing specific issues that are seen in the city regarding animals, rather than undertaking a full rewriting of the entire animal code, and also making the code more user-friendly and easier to understand and enforce.

City resident Marcia Adams of 900 Meng Drive addressed the council under the public comment segment of the hearing, saying she had found several issues that she felt should be revised. These pertained to the definitions of service animals, which she said should include miniature horses, and disabled people, which she said should not be limited to physical disabilities, and the requirement for tags proving proper vaccinations of animals, which she said were not always provided by those who perform vaccinations.

Council discussion of these issues followed, and Wells advised the council that it could put off consideration of the ordinance to a later date or approve the ordinance with revisions. He said the revisions discussed at this meeting could be easily made by staff.

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

Wells briefed the council on its options, and reviewed the proposed amendments to the ordinance that had been discussed during the public hearing. He said these amendments would include changing the definition of disabled people to include all disabilities, not just physical disabilities; changing the requirement for vaccination tags to allow either tags or paperwork proving vaccinations; and including all service animals as defined under the Americans with Disabilities Act.

Shaver then offered a resolution approving the first reading of the Ordinance amending the existing Chapter 7 of the Fort Morgan Municipal Code related to the regulation of animals, with the amendments as outlined by Wells. That resolution was seconded by Forstedt.

Discussion followed about whether to have the amendments made before approval of the first reading of the ordinance. Wells said approval would be taken as a directive to staff to provide the amendments to council before the second reading of the ordinance on March 6, and noted that additional changes also could be made during second reading.

The resolution offered by Shaver to approve the first reading of Ordinance No. 1121 was then approved unanimously.

#### **PRESENTATION AND POSSIBLE ACTION ON A MATCHING EMPG SUPPLEMENTAL GRANT FUND AWARD FROM THE STATE OF COLORADO**

Chief Kuretich reviewed the grant process, which would require the council to accept the \$3,500 grant and also approve the expenditure of \$3,500 in matching funds from the city, to pay for upgrades to the city's secondary Emergency Operations Center.

Forstedt offered a resolution to accept the EMPG grant and approve the matching funds from the police department budget, which was seconded by Nation and approved unanimously.

#### **PRESENTATION AND POSSIBLE ACTION ON BIDS FOR TWO PATROL VEHICLES FOR THE FORT MORGAN POLICE DEPARTMENT**

FMPD Lt. Jared Crone reviewed the bid process for the two vehicles, one a patrol car to replace an older vehicle and the other an SUV to add to the fleet due to increased staffing. Crone said staff was recommending acceptance of the bid from Johnson Auto Plaza of Brighton in the amount of \$24,055 for a 2012 Dodge Charger for the patrol vehicle, and acceptance of the bid from Mike Shaw Chevrolet of Colorado Springs in the amount of \$28,773 for a 2012 Chevrolet Tahoe for the police administration SUV.

Nation offered a resolution to accept those two bids, which was seconded by Shaver and approved unanimously.

#### **PRESENTATION AND POSSIBLE ACTION ON BIDS FOR A UTILITY CART FOR THE QUAIL DUNES AT FORT MORGAN GOLF COURSE**

Golf Course Maintenance Superintendent Matt Givens reviewed the bid process for this item and said staff was recommending acceptance of the lowest bid that met the required specifications, which was from L.L. Johnson Distributing Co. of Denver in the amount of \$8,163. Shaver offered a resolution to accept that bid, which was seconded by Nation and approved unanimously.

**PRESENTATION AND POSSIBLE ACTION ON BIDS FOR UNIT PRICING FOR ON-CALL CONCRETE SERVICES**

Municipal Engineer Brad Curtis reviewed the bid process for this item, noting that the purpose was to establish unit pricing for concrete work that would be done as needed and create a roster of approved on-call companies that could be used for this work.

Discussion followed about the lack of local companies that do concrete work and the fact that some such work is done in-house by city crews.

Nation offered a resolution to enter into service agreements with the three companies that submitted bids, which were Noraa Concrete Construction of Keenesburg, LEC Construction of Evans and A-1 Chipseal of Denver. That resolution was seconded by Shaver and approved unanimously.

**PRESENTATION AND POSSIBLE ACTION ON BIDS FOR UNIT PRICING FOR WATER HYDRANTS AND VALVES**

Inventory Control/Building Maintenance Superintendent Doug Hofman reviewed the bid process for this item, and said staff was recommending acceptance of the lowest unit pricing bids of Dana Kepner Co. of Denver for hydrants and HB Supply Waterworks of Henderson, Colo., for valves, with the items to be purchased from these suppliers as needed.

Shaver offered a resolution to accept the recommended unit pricing from these companies, which was seconded by Nation and approved unanimously.

**PRESENTATION AND POSSIBLE ACTION ON BIDS FOR UNIT PRICING FOR WATER METERS AND REPAIR PARTS**

Hofman reviewed the bid process for this item and said staff was recommending acceptance of the lowest unit pricing bid that met all specifications, which came from Dana Kepner Co. of Denver.

Discussion followed about the fact that city staff saves a great deal of money by repairing and rebuilding meters, and new regulations that will likely require the use of new types of meters at greater cost to the city in the future.

Nation offered a resolution to accept the unit pricing from Dana Kepner Co., which was seconded by Forstedt and approved unanimously.

**PRESENTATION AND POSSIBLE ACTION ON BIDS FOR UNIT PRICING FOR LIGHT AND POWER DEPARTMENT ELECTRICAL CONDUCTORS**

Hofman reviewed the bid process and said staff was recommending acceptance of the unit pricing bid from Western United Electric of Brighton for overhead and underground conductors. Nation offered a resolution to accept that bid, which was seconded by Shaver and approved unanimously.

**PRESENTATION AND POSSIBLE ACTION ON BIDS FOR UNIT PRICING FOR LIGHT AND POWER DEPARTMENT WOOD POLES**

Hofman reviewed the bidding process for this item, noting a typographical error in the bid tabulation that would make the cost about \$12 higher per pole than the information provided to council. He said staff was recommending acceptance of the unit pricing from Bell Lumber Co. of Conway, Wash., which has a distribution center in Colorado.

Shaver offered a resolution to accept the unit pricing bid from Bell Lumber, which was seconded by Nation and approved unanimously.

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**PRESENTATION AND POSSIBLE ACTION ON BIDS FOR LIBRARY AND MUSEUM SERVICES BOOKS AND AUDIO-VISUAL MEDIA**

Callahan reviewed the bid process for this item, noting that book vendors submit bids based on the level of discount provided. He said staff was recommending approval of the bid from Ingram of La Vergne, Tenn., which has been used by the library for about 11 years. Nation offered a resolution to accept the bid from Ingram, which was seconded by Councilmember Lisa Northrup and approved unanimously.

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**PRESENTATION AND POSSIBLE ACTION ON A REQUEST FOR QUALIFICATIONS FOR MUNICIPAL JUDGE SERVICES AND DISCUSSION OF COUNCIL PROCESS FOR CHOOSING FINALISTS**

Wells reviewed information in a staff memo to council that answered questions raised during an earlier discussion of this issue and outlined options the council faced in retaining a municipal judge. The primary questions were whether the judge should be retained under contract or be a city employee; whether the judge should have supervisory responsibilities for court staff; and how the council would review applications and choose finalists for the position.

Discussion followed, with most council members appearing to support retaining a contract judge without supervisory responsibilities. The consensus was to direct staff to prepare the Request for Qualifications (RFQ) based on a contract judge, with the request asking what the judge would charge hourly for judicial services and what the annual maximum contract amount would be.

As to the process of selecting finalists, there was discussion of forming a committee of several council members and city staffers, or having all applicants brought to the full council, with council members divided on which approach to take. Several council members thought that if a committee including city staff were used, it should not include representatives from the police department or city attorney's office due to potential perceptions of conflict of interest.

McAlister said the majority seemed to favor having the full council review all applications.

Shaver made a motion to proceed with the RFQ for municipal judge services, which was seconded by Segura. Nation asked whether that motion included defining the selection process for finalists. Wells said if the motion was approved he would prepare the RFQ for presentation at the March 6 council meeting, and the RFQ would spell out the selection process.

Shaver's motion to proceed with the RFQ was then approved unanimously.

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**DISCUSSION REGARDING APPOINTMENT OF CITY MANAGER**

Wells said he was asked to bring back further information on the issues and answers to specific questions involved with appointing him to the dual roles of city manager and city attorney. He said it was not unprecedented for one person to hold both positions in Colorado, and not uncommon in the state for attorneys to be appointed to city manager positions. He said the Colorado Municipal League did not have an official position on the matter, but said it was up to the best judgment of the council.

Wells said there were differing opinions on the dual role, and he could see merit in both points of view. Ultimately, he said, the council must decide what is in the best interest of the city and act accordingly.

Council discussion followed, with several council members saying they felt the positions should be kept separate and not held by one person, while others felt it was possible for one person to

handle both jobs and that Wells had done an outstanding job in the dual role. Nation said he understood the council's action to include an assistant city manager in the 2012 budget was intended to take some of the workload off Wells and allow him to fill both jobs.

The item was for discussion only at this meeting, McAlister noted, but there was consensus that the council needed to make a decision so it could move forward. The council consensus was to place the appointment of the city manager on the March 6 agenda as an action item.

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## **CONSENT AGENDA BY RESOLUTION**

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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 the minutes of the Jan. 17 City Council regular meeting
- B. Approval of the minutes of the Feb. 7 City Council regular meeting
- C. Approval of the Disbursements and Payroll for January

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 21st day of February 2012, the vote upon roll call being as follows: Ayes: Mayor McAlister; Councilmembers Bryan, Forstedt, Nation, Northrup, Segura and Shaver. Nays: none.

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## **PUBLIC COMMENT / AUDIENCE PARTICIPATION**

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Local Boy Scout Taylor Boyer reported that he was attending the meeting as part of his qualification for a citizenship badge.

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## **REPORTS BY OFFICIALS AND STAFF**

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Wells said annual reports from city departments would be included in the packets for the March 6 meeting, and noted that a final offer for the vacant city treasurer position had been accepted by Jean Kinney, who would start work on March 5

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## **BIDS, MEETINGS AND ANNOUNCEMENTS**

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Brennan announced current bids and upcoming meetings.

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## **EXECUTIVE SESSION**

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The regular meeting concluded at 8:24 p.m., and McAlister then asked for a motion to adjourn to two scheduled executive sessions. Forstedt made a motion to convene the first scheduled

executive session. That motion was seconded by Nation and approved unanimously. This executive session had been published 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: Water purchases.

This executive session began at 8:37 p.m. and ended at 8:49 p.m., and was attended by the mayor and council members along with Wells.

Following the conclusion of the executive session, the council returned to open session where Forstedt reported that the council met in executive session for the purpose stated on the agenda, and she made a motion to instruct Wells to negotiate the purchase of water as discussed in the executive session. That motion was seconded by Nation and approved unanimously.

The council then convened the other scheduled executive session, which 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.

This executive session convened at 8:54 p.m. and concluded at 9:39 p.m., and was attended by the mayor and council along with Wells.

Following the conclusion of the executive session, the council returned to open session where Forstedt reported that the council met in executive session for a periodic check-in with Acting City Manager Wells. No motion was made and no action was taken.

Mayor McAlister adjourned the February 21, 2012 regular meeting at 9:40 p.m.

/s/ Terry L. McAlister  
Mayor

/s/ John J. Brennan  
City Clerk