

July 10, 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 special 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 Lisa Northrup
Councilmember Brent M. Nation
Councilmember Joe Segura Jr.
Councilmember Ronald Shaver

Absent (excused): Councilmember Debra J. Forstedt

The meeting was also attended by City Manager Jeff Wells, Municipal Engineer Brad Curtis and Police Chief Keith Kuretich.

DISCUSSION AND POSSIBLE ACTION REGARDING EFFORTS TO RESOLVE CONFLICTS WITH THE UPPER PLATTE AND BEAVER CANAL COMPANY

Mayor McAlister read the recitals from the proposed settlement agreement between the city and the canal company that was included in the meeting packet, and said the purpose of this meeting was to try and iron out the differences between the two parties. The mayor then asked representatives of the company to make their presentation.

UP&BC Co. President Steve Kalous described the problems the company has had with the city in recent years, particularly pertaining to the development of Riverview Commons, and the inability to effectively communicate with the city to resolve the issues.

Several others, including Municipal Engineer Brad Curtis and UPB&C representative Scott Kembel, commented on several proposed improvement projects by the city that would affect the canal, and discussion of issues with those proposals followed.

The company representatives said they could agree to the terms of the settlement agreement but would want to require the city to pay the standard \$2,000 application fee for improvements and also require the city to pay any expenses associated with an engineering, legal or other review of the application if that is needed. Other revisions to the proposed settlement agreement also were discussed.

Mike Seppala of Pueblo Bank & Trust also spoke, saying his company was not the property owner of Riverview Commons but was interested in acquiring the property. Discussion followed on the width of easements required to maintain the ditch and how those widths are determined, and the possibility of vacating some lots that may interfere with such an easement. Seppala also described some scenarios under which the bank company might possibly become the Riverview Commons landowner.

Seppala also presented a map of a potential vacation of some lots that might provide the UP&BC with the necessary space and allow the city to vacate Canal Street, and a scenario that could resolve all of the issues to the satisfaction of all parties. He said this potential scenario would require agreements between and among all three parties, as well as the current landowner,

Mayor McAlister said he could have the city staff prepare a revised version of the settlement agreement with the UP&BC Co., with the changes discussed at this meeting, and schedule

another meeting with the company when that revised draft was completed. More discussion followed about the potential liabilities and indemnifications that would be necessary to achieve a workable solution, and the fact that the current landowner would have to be involved and agreeable to these to make the solution work.

There was consensus to prepare a revised settlement agreement between the city and the UP&BC Co. and forward it to the UP&BC Co.'s attorney.

City Manager City Attorney Jeff Wells noted that the city wished to develop and maintain a better relationship with the UP&BC Co. as well as other entities.

Mayor McAlister adjourned the July 10, 2012, special meeting at 7:40 p.m.

/s/ Terry L. McAlister

Mayor

/s/ John J. Brennan

City Clerk