

November 1, 2016

The City Council of the City of Fort Morgan, Colorado, met this day in the Council Chambers of City Hall. The Honorable Mayor Ron Shaver called the regular meeting to order at 6:00 p.m.

The Pledge of Allegiance was given.

Roll Call: Present: Honorable Mayor Ron Shaver
Councilmember Clint Anderson
Councilmember Christine Castoe
Councilmember Allison Howe
Councilmember Kevin Lindell
Councilmember Dan Marler
Councilmember Lisa Northrup

The meeting was also attended by Interim Police Chief Jared Crone, City Treasurer Jean Kinney, Human Resources/Risk Management Director Michael Boyer, Water Resources/Utilities Director Brent Nation, Engineering/Public Works Director Brad Curtis, Community Services/Economic Development Director Josh Miller, City Attorney Jason Meyers, Economic Development Specialist Chelsea Gondeck, Fort Morgan Police Lt. Loren Sharp, FMPD Officers Christopher Sandoval, Tony Gagliano, Joey Montoya and Cindy Brackett, FMPD Detective Todd Zwetzig and City Clerk/PIO/Acting City Manager John Brennan (Brennan was serving as acting city manager for this meeting in the absence of City Manager Jeff Wells, who was out of town on city business).

APPROVAL OF MINUTES – OCTOBER 18, 2016 CITY COUNCIL REGULAR MEETING

Councilmember Christine Castoe offered a resolution to approve the minutes of the Oct. 18, 2016 regular meeting as presented, which was seconded by Councilmember Dan Marler and approved unanimously.

SWEARING-IN OF NEW FORT MORGAN POLICE OFFICER CHRISTOPHER SANDOVAL

Mayor Shaver administered the oath of office to new Fort Morgan Police Department Officer Christopher Sandoval, and Interim Police Chief Jared Crone pinned Sandoval's badge to his uniform and briefly described the new officer's background.

RECOGNITION OF RETIRING MORGAN COMMUNITY COLLEGE PRESIDENT KERRY HART

Community Services/Economic Development Director Josh Miller described the positive impact Dr. Hart had made on the community since becoming MCC president, noting his work on the fundraising committee for the Dahms-Talton Band Shell in City Park, the Glenn Miller documentary and all of the awards and recognition received by MCC during Hart's tenure. He said the city wanted to recognize all Hart had done for the community in advance of Hart's announced retirement at the end of the current school year, and present him with a token of the city's appreciation. Mayor Ron Shaver also applauded Hart's work and said he would be hard to replace.

Hart thanked the council and all city staff for the recognition and the partnership they had enjoyed over the years, and especially the city's support of the Glenn Miller documentary project. He said he was grateful and humbled by the recognition. Josh Miller presented Hart with

a framed street sign saying “Glenn Miller Ave.” that had been placed on Beaver Avenue near City Park during the preceding summer’s Glenn Miller Swingfest.

APPOINTMENT OF ABIGAIL PATTERSON TO THE LIBRARY ADVISORY BOARD

Castoe said several vacancies existed on the city’s Library Advisory Board and Abigail Patterson had applied to serve on the board. Castoe offered a resolution to appoint Abigail Patterson to the Library Advisory Board, which was seconded by Councilmember Lisa Northrup and approved unanimously.

COUNCIL ACTING AS THE ZONING BOARD OF APPEALS – PUBLIC HEARING ON A REQUEST FOR A VARIANCE TO ALLOW A TWO-FAMILY DWELLING IN R-1 ZONING AND ALLOW ON-STREET PARKING IN LIEU OF REQUIRED OFF-STREET PARKING

Mayor Shaver outlined the format to be followed during the public hearing, and City Clerk/PIO/Acting City Manager John Brennan confirmed that proper legal notice of the hearing had been published.

Engineering/Public Works Director Brad Curtis reviewed the variance request and accompanying documentation, and noted that several comments in opposition to the variance were received. Curtis said city staff found no compelling evidence to approve the variance according to the criteria for variances in the municipal code. Council and staff discussion of specific issues related to the variance followed.

The applicant, Les Linker of 204 S. Sherman St., explained to the council that he had purchased the home earlier this year and believed it had historically been used in a two-dwelling configuration. He said the variance would allow him to generate rental income from two units, which would allow him to invest more in improvements to the property, and that the house would be a rental unit regardless of the decision on the variance.

Under public comment, Connie Christensen of 812 Warner expressed some concern about traffic and parking and asked several questions, which Linker clarified.

Extensive council and staff discussion of the issues related to the variance then ensued.

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

City Attorney Jason Meyers explained that the public hearing portion of this agenda item was for the purpose of gathering evidence, and now that the hearing had concluded the council had to use that evidence to decide whether to approve or deny the variance, or continue the hearing for more information. Meyers explained that the municipal code required that an applicant for a variance had the burden of proving that all seven criteria for granting a variance were met, which Meyers said meant that all seven statements in the staff memo must be true for the council to find that the variance could be granted. Council and staff discussion ensued about options for continuing the hearing in order to obtain additional legal advice.

Castoe then made a motion to continue this agenda item until the next council meeting on Nov. 15, which was seconded by Northrup and approved on a vote of 6-1, with Shaver voting against. Further discussion followed about the required criteria and the legal requirements for approval, and whether the necessary legal advice should be obtained in an executive session at this time, at the end of this meeting or at the next meeting.

Northrup then made a motion to rescind the earlier approved motion to continue this agenda item to the Nov. 15 council meeting. That motion was seconded by Councilmember Allison Howe and approved unanimously. Northrup then made another motion to convene an immediate executive session for the purpose of receiving legal advice on this matter, which was seconded by Howe and approved on a vote of 6-1, with Councilmember Clint Anderson voting against.

The council then moved to the adjacent conference room for the executive session. This executive session began at 7:32 p.m. and ended at 7:49 p.m., and was attended by the mayor and council along with Brennan, Meyers and Curtis. The purpose of the executive session was for a conference with the city attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b).

On the advice of the city attorney, the recording of the executive session was turned off at 7:36 p.m. because the discussion constituted a privileged attorney-client communication. The recording was turned back on at 7:49 p.m.

At the conclusion of the executive session the council returned to the regular open meeting, where Shaver asked any of the participants in the executive session who had any objections to the executive session to voice them, and seeing none asked Castoe to report on the executive session. Castoe reported that the council had met in executive session and received legal advice for clarification of legal issues related to Municipal Code Section 20-3-15.

Northrup then offered a resolution to deny Case 16-020-VA, request for a variance to allow a two-family dwelling in R-1 zoning based section 6 of Municipal Code Section 20-3-15, which states that the applicant cannot derive a reasonable use of the property without a variance. That resolution was seconded by Castoe and approved on a vote of 5-2, with Lindell and Marler voting against.

Linker thanked the council for its consideration and acknowledged that it was a difficult decision.

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT AMENDMENT WITH CRHDC / SOL NACIENTE

Curtis said this amendment to the development agreement with Sol Naciente just finalized some details including responsibility for the storm water detention pond on the property. Meyers noted that a red-lined version of the amendment had been provided in the council's meeting packets, which included slight revisions proposed by the attorney for Sol Naciente, and that was the version of the amendment council would be approving.

Northrup offered a resolution to approve the Resolution authorizing the mayor to sign an amendment to the annexation and development agreement for the Fort Morgan Farms LLC Annexation, which was seconded by Castoe and approved unanimously.

RESOLUTION AUTHORIZING AN APPLICATION FOR A GRANT FROM GREAT OUTDOORS COLORADO

Miller said this resolution would allow the city to apply for a mini-grant from Great Outdoors Colorado, which if awarded would be used for development of a bike/skate park. Castoe offered a resolution to approve the Resolution supporting the grant application for a local Parks and Outdoor Recreation Grant from the State Board of the Great Outdoors Colorado Trust Fund for a bicycle playground. That resolution was seconded by Northrup and approved unanimously.

RESOLUTION ADOPTING THE 2017 SCHEDULE OF FEES

Brennan explained that the proposed citywide Schedule of Fees for 2017 had been discussed several times during the budget process and was unchanged since the council last reviewed it in September. Some council and staff discussion of the golf fees followed. Northrup offered a resolution to approve the Resolution adopting the 2017 Schedule of Fees, which was seconded by Castoe and approved unanimously.

SECOND READING, PUBLIC HEARING AND FINAL ACTION ON ORDINANCE NO. 1186, ADOPTING THE 2017 BUDGET, SETTING THE MILL LEVY AND APPROPRIATING MONIES TO THE VARIOUS FUNDS OF THE CITY OF FORT MORGAN

Mayor Shaver outlined the procedure to be followed during the public hearing, and Brennan confirmed that proper legal notice of the hearing had been published. City Treasurer Jean Kinney explained that this ordinance set the mill levy for the city, which had not changed in many years, and appropriated the revenues of the city to the various funds and departments. No public comments were received, either during the hearing or in advance, and no council comments were offered. Castoe made a motion to close the public hearing, which was seconded by Marler and approved unanimously.

Meyers advised the council of its options for action on the ordinance, and Northrup offered a resolution to approve the second and final reading of Ordinance No. 1186, adopting the 2017 budget, levying a tax on the taxable property in the City of Fort Morgan and appropriating monies to the several funds of said city. That resolution was seconded by Castoe and approved unanimously.

PUBLIC COMMENT / AUDIENCE PARTICIPATION

None.

REPORTS BY OFFICIALS AND STAFF

Miller announced that the city had been selected as a finalist in a statewide museum artifact contest, and a news release would be forthcoming soon encouraging people to vote for the city's entry.

Brennan thanked everyone in the city organization for their hard work throughout the long budget process and the council for its support, involvement and engagement in the process.

BIDS, MEETINGS AND ANNOUNCEMENTS

Councilmember Clint Anderson applauded Brennan and Human Resources/Risk Management Director Michael Boyer for filling in during the absence of City Manager Jeff Wells. Boyer announced current bids and upcoming meetings and highlighted recent news releases.

EXECUTIVE SESSION

The regular portion of the meeting ended at 8:17 p.m., and Mayor Shaver announced that the next item on the agenda was a scheduled executive session. Councilmember Castoe made a motion to convene this executive session, which was seconded by Councilmember Marler 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: Development incentives.

The executive session began at 8:32 p.m. and ended at 9:40 p.m., and was attended by the mayor and council along with City Clerk/PIO/Acting City Manager John Brennan, Community Services/Economic Development Director Josh Miller, Economic Development Specialist

Chelsea Gondeck, City Attorney Jason Meyers, and Kalpesh Patel. Mr. Patel left the executive session at approximately 8:40 p.m.

At the conclusion of the executive session the council returned to the regular open meeting, where Castoe reported that the council had met in executive session for the purpose stated on the agenda. Castoe made a motion to direct staff to proceed with negotiations according to the parameters discussed in executive session, which was seconded by Councilmember Lindell and approved unanimously.

Mayor Shaver adjourned the Nov. 1, 2016 regular meeting at 9:41 p.m.

Ronald Shaver
Mayor

John Brennan
City Clerk