

November 15, 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 City Manager Jeff Wells, Interim Police Chief Jared Crone, Human Resources/Risk Management Director Michael Boyer, Water Resources/Utilities Director Brent Nation, Community Services/Economic Development Director Josh Miller, Engineering/Public Works Director Brad Curtis, City Attorney Jason Meyers, Economic Development Specialist Chelsea Gondeck, Chief Building Official Mike Kirkendall and City Clerk/PIO John Brennan.

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**RECOGNITION OF MIKE KIRKENDALL AS EMPLOYEE OF THE QUARTER**

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City Manager Jeff Wells said Chief Building Official Mike Kirkendall had been chosen as the Employee of the Quarter for the third quarter of 2016, and described Kirkendall's long service to the city in a number of different capacities including fire chief and building inspector. He said Kirkendall was always positive and provided great customer service in sometimes difficult situations. Engineering/Public Works Director Brad Curtis said Kirkendall was a very valuable employee and had expanded the building department recently. Wells presented Kirkendall with a framed photograph like the one that was hung in the lobby of City Hall, a gift card and a certificate of appreciation. Kirkendall thanked the council for the recognition, and Mayor Ron Shaver said he had worked with Kirkendall and knew what a great employee he was.

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**RECOGNITION OF MICHAEL BOYER FOR SPHR CERTIFICATION**

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Wells said he wanted to recognize Human Resources/Risk Management Director Michael Boyer for achieving certification as a Senior Professional in Human Resources, and noted that all of the city's directors were lifelong learners who sought out opportunities to expand their knowledge and training. Wells presented Boyer with a gift card and a personal gift.

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**APPOINTMENTS TO AIRPORT ADVISORY BOARD**

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Shaver said the Airport Advisory Board had several vacancies and received applications to fill them, and had recommended the re-appointments of Alan Dahms and Bruce Marron to new terms and the appointment of Beth Gleason to fill a vacancy. Councilmember Christine Castoe offered a resolution to appoint Dahms and Marron to new terms and Gleason to fill the vacancy on the Airport Advisory Board for the rest of 2016 and then begin a new term. That resolution was seconded by Councilmember Allison Howe and approved unanimously.

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**REQUEST FOR IN-KIND SERVICES FOR CHRISTMAS CAPITAL OF THE PLAINS**

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Community Services/Economic Development Director Josh Miller said the city services to be provided did not really rise to the level to require council approval, and this presentation was primarily to highlight plans for the annual holiday celebration campaign. Lindsay Bruntz of Media Logic Radio described the plans for the campaign that would begin the Saturday after Thanksgiving and continue through mid-December. Councilmember Lisa Northrup offered a resolution to approve fee waivers and in kind services for Christmas Capital of the Plains, which was seconded by Castoe and approved unanimously.

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**ACCEPTANCE OF THE FINDINGS OF AN ELECTRIC RATE STUDY AND REQUEST TO SET A RATE HEARING**

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John Krajewski of JK Energy Consulting reviewed the rate study he had completed for the city's electric utility and said he was delivering relatively good news that rates would remain essentially unchanged. He said he had added a new rate to address one large commercial customer that was establishing its own generation facility, and this rate would have that customer compensate the city for having its power supply available in the event its in-house system was not operating, and also the company's share of the actual costs of operating and maintaining the city electric system.

Krajewski credited Wells for his successful work with the Municipal Energy Agency of Nebraska to establish fair and justified rates for wholesale power for the city. As a result of this work the city expected its wholesale power costs to go down over the next few years, so Krajewski was recommending an increase in the base rate and a corresponding decrease in the energy rate that would essentially offset one another. The base rate increase would reflect the city's true costs of maintaining and improving the city electric system, while the energy rate reduction would correspond with the expected decrease in wholesale costs. While these changes would be expected to be revenue neutral on electric system revenues, smaller customers could expect a slight increase in their bills due to the higher base rate, with the typical residential customer seeing an increase of about \$2.04 a month.

Krajewski said the council would have to set a public rate hearing to make these changes, and that was his recommendation. After a few council questions and clarifications, Northrup offered a resolution to accept the findings of the electric rate study by JK Energy Consulting and to set a public hearing on the proposed rate adjustments for Dec. 20. That resolution was seconded by Castoe and approved unanimously.

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**APPLICATION FOR HISTORIC LANDMARK DESIGNATION – 228-230 MAIN ST.**

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Economic Development Specialist Chelsea Gondeck said this building had been recommended by the city's Historic Preservation Board for designation as a local historic landmark, and she reviewed some of the history and displayed photographs of the building. Castoe offered a resolution to approve the local historic landmark designation for the property at 228-230 Main St., the First National Bank (Curry) Building. That resolution was seconded by Northrup and approved unanimously.

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**APPLICATION FOR HISTORIC LANDMARK DESIGNATION – 116 W. RAILROAD AVE.**

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Gondeck reviewed some history and displayed photographs of this building, which had also been recommended for designation by the city historic board. Castoe offered a resolution to

approve the local historic landmark designation for the property at 116 W. Railroad Ave., the Patterson Hardware Building, which was seconded by Northrup and approved unanimously.

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**APPLICATION FOR HISTORIC LANDMARK DESIGNATION – 201 MAIN ST.**

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Gondeck reviewed some history and displayed photographs of this building, which had also been recommended for designation by the Historic Preservation Board. Castoe offered a resolution to approve the local historic landmark designation for the property at 201 Main St., the Preston Block Building, which was seconded by Northrup and approved unanimously.

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**AUTHORIZATION FOR THE MAYOR TO SIGN A WATER EXCHANGE AGREEMENT**

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Water Resources/Utilities Director Brent Nation said the city had been approached by a local farmer about a potential swap of water shares, and after examining the proposal Nation recommended accepting the deal that would exchange nine city shares of Fort Morgan Reservoir and Irrigation Company for three shares of Jackson Lake Reservoir Company from Bart Ginther.

Northrup offered a resolution to authorize the mayor to sign the water exchange agreement, which was seconded by Councilmember Dan Marler and approved unanimously.

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**REQUEST TO ALLOW AN ELECTRONIC MESSAGE CENTER SIGN**

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City Attorney Jason Meyers pointed out to the council that this agenda item and the following one were related and he suggested that when the next item came up the council should incorporate the discussion of this item into the record for the public hearing on the variance requested under the next agenda item.

Curtis reviewed this request for an “electronic message center” (EMC) sign from Transwest Auto Center on West Platte Avenue, noting that the only applicable guidance in the municipal code was that any such sign greater than 32 square feet would require council approval. The EMC sign requested here, Curtis said, was about four times that size at 142 square feet within the total sign size of 209 square feet, and these were not typical sizes for such signs in Northeast Colorado. Curtis also noted that the city was on the verge of adopting a new sign code before the end of 2016 that would impose different requirements and restrictions on such signs. Curtis said staff was recommending that the council allow a larger size EMC sign than permitted by the current sign code, with conditions as outlined in the memo included in the council packet, but not the full size being requested.

Council and staff discussion followed about the implications of the current code and the impending new code, and the nature of EMC signage. George Eidsness, owner of Transwest and its parent company, told the council that while the size of the sign may seem very large for Fort Morgan, it would not seem so large when placed on a 3.5-acre lot and raised about 17 feet in the air. The smaller size permitted by the code, he said, would look very small and be ineffective when placed in that environment. He also said the message center sign was needed to allow Transwest to tell the public the story of what the company does and what it offers.

Extensive discussion ensued among the council, staff and applicants regarding potential compromises on size, the cost of EMC signs, safety issues with digital signs, relative sizes of other signs in the area and how the requested size for the sign was determined. Tim Hays, the sign designer and authorized representative for Transwest, said the proposed sign was designed at a size appropriate for greatest readability at the Fort Morgan site, and the size was not randomly chosen.

Terry McAlister of Fort Morgan told the council he owned a car dealership for 17 years on the outskirts of Fort Morgan that had a sign larger than the one requested here, and never had any

complaints. Len Steinke of Fort Morgan told the council that he had brought Transwest brochures to the council members to give them an idea of the scope and nature of the company. He said the company would represent progress for the city and was investing in the community, and he hoped the council would give positive consideration to their request.

Meyers told the council that any decision it made regarding this request should be on the basis of appropriateness of the requested sign for the size of the property and the nature of the surrounding area, and not on the specific type of business involved.

Castoe offered a resolution to approve Case 16-021 EMC, Transwest EMC, to allow an electronic message center greater than 32 square feet, subject to the applicable sign permit to be utilized with the following conditions: the electronic message center does not exceed more than 68 percent of the total sign area, or 142 square feet, whichever is more restrictive; the approval must be implemented within three months from the date such approval is granted; and the use runs with the land only until such time as the sign is removed. That resolution was seconded by Northrup and approved unanimously.

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### **COUNCIL ACTING AS THE ZONING BOARD OF APPEALS – PUBLIC HEARING ON A REQUEST FOR A VARIANCE FROM THE SIGN CODE**

Mayor Shaver outlined the format to be followed for this public hearing, and City Clerk/PIO John Brennan confirmed that proper legal notice of the hearing had been published. Meyers reiterated that the discussion held during the previous agenda item should be included as evidence in the record of this public hearing.

Curtis reviewed this variance request, which would allow the freestanding pole holding the sign discussed and approved in the previous agenda item to be placed closer to the property line than normally allowed under setback requirements. He said the normal setback requirement was 25 feet, but in this case that would result in the sign being partly obscured by the building, and added that a previous auto dealership had a sign that was placed similarly to what was proposed here. Curtis said staff was recommending approval as presented, with conditions as outlined in his staff memo for this item, with the size of the approved sign adjusted based on discussion and action under the previous agenda item.

Meyers pointed out that with the expected imminent adoption of a new sign code in about a month the setback issue would likely no longer require a variance.

Applicant George Eidsness said Transwest would like the variance approval to expedite the creation and installation of the sign.

Under public comment, Terry McAlister said he would like to see the variance approved, because if it were not it would appear that the council was not in favor of something that would be allowed under the new sign code to come.

Under council comments, Councilmember Clint Anderson said the Transwest business would raise the standard for the community and the request should be approved.

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

Meyers said the council could approve or deny the variance request, and should look at the criteria for granting a variance and decide if they had been met. That decision should be reflected as the council's findings and then a vote on approval or denial should be held, Meyers said.

Northrup offered a resolution to approve case 16-021 VA, Transwest variance, a variance from Chapter 20, Article 9 of the Fort Morgan Municipal Code to allow a pole sign to be placed as proposed in the application, two feet off the back of the sidewalk/property line, and subject to the applicable sign permit requirements with the following conditions: that the sign not exceed 209 square feet; and in addition, per Sec. 20-3-150(a)(3), unless otherwise stated in the board

minutes, all variances must be implemented within six months from the date such variance is granted. That resolution was seconded by Castoe and approved unanimously.

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### **UPDATE ON AMERICANS WITH DISABILITES ACT SETTLEMENT AGREEMENT**

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Boyer updated the council on the status of improvements to city facilities in accordance with the city's settlement agreement with the U.S Department of Justice regarding compliance with the Americans with Disabilities Act. He said about 60 percent of the issues found in a DOJ audit had been corrected, and other remedies were in the works with funding budgeted for both 2016 and 2017, and he expected to be up to about 80 percent completion in short order. No council action was taken.

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### **DISCUSSION AND POSSIBLE DIRECTION ON PUBLIC ART**

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Wells said the issue of public art had been in the works for some time, and staff was working on an opportunity to leverage its own funding for such a project. Josh Miller told the council he had been working on an agreement with the Fort Morgan Heritage Foundation that would combine resources for a public art project in City Park. The city had budgeted \$100,000 for 2016 for such a project, but the costs of art were high and obtaining matching funds from the foundation was seen as the best way to achieve a significant art presence in the park, Miller said. Because of the time required to order and obtain custom art work, and the city's need to expend its budgeted funding in this calendar year, Miller said the proposed agreement would likely involve the city transferring its funding to the foundation under an agreement that spelled out that the money was to be spent on the art project within a specified time frame, and if that did not happen the money would revert back to the city. Miller said he was looking for council direction to proceed toward such an agreement with the Heritage Foundation. The council consensus was to offer direction to Miller and Wells to proceed as discussed, but no formal action was taken.

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### **CONSENT AGENDA BY RESOLUTION**

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City Clerk/PIO John Brennan presented the Consent Agenda for Council consideration as follows:

#### **CONSENT AGENDA**

- A. Approval of the disbursements and payroll for October
- B. Approval of the minutes of the Nov. 1, 2016 City Council regular 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 Castoe offered a resolution to approve the Consent Agenda as presented, which was seconded by Howe and approved unanimously.

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### **PUBLIC COMMENT / AUDIENCE PARTICIPATION**

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None.

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**REPORTS BY OFFICIALS AND STAFF**

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Wells credited Curtis for the city receiving another award from the Colorado Chapter of the American Public Works Association, which was given at the awards luncheon the previous week for the Rainbow Bridge rehabilitation project.

Miller updated the council on work being done at Fulton Heights Park, Nation described progress on the golf course supplemental irrigation project, and Curtis gave an update on a Colorado Department of Transportation project to rebuild the intersection of US 34 and Barlow Road.

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**BIDS, MEETINGS AND ANNOUNCEMENTS**

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Brennan announced current bids and upcoming meetings, and highlighted a recent news release about a temporary road closure.

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**EXECUTIVE SESSION**

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The regular portion of the meeting ended at 9:40 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 Kevin Lindell and approved unanimously.

The 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: Property purchase.

The executive session began at 9:45 p.m. and ended at 10:19 p.m., and was attended by the mayor and council along with Wells, Meyers, Miller, Nation and Gondeck.

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 then made a motion directing staff to proceed with negotiations according to the parameters discussed in executive session, which was seconded by Lindell and approved unanimously.

Mayor Shaver adjourned the November 15, 2016 regular meeting at 10:20 p.m.

/s/ Ronald Shaver

Mayor

/s/ John Brennan

City Clerk