

November 6, 2018

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 Kevin Lindell  
Councilmember Dan Marler  
Councilmember Doug Schossow

Absent: Councilmember Clint Anderson (excused)  
Councilmember Allison Howe (excused)  
Councilmember Lisa Northrup (excused)

The meeting was also attended by City Manager Jeff Wells, Chief of Public Safety Paul Schultz, Human Resources/Risk Management Director Susan Kurk, Community Services Director Ty Hamer, Water Resources/Utilities Director Brent Nation, Public Works Director Steve Glammeyer, Management Intern Daniella Cabrera, Engineer in Training Derrik Mills, Streets Superintendent Jim Willis and City Clerk/PIO John Brennan.

---

#### **APPROVAL OF MINUTES – OCTOBER 16, 2018 CITY COUNCIL REGULAR MEETING**

---

Councilmember Dan Marler offered a resolution to approve the minutes of the October 16, 2018 city council regular meeting as presented, which was seconded by Councilmember Kevin Lindell and approved on a unanimous vote of 4-0, with Councilmembers Clint Anderson, Allison Howe and Lisa Northrup absent.

---

#### **COUNCIL ACTING AS THE ZONING BOARD OF APPEALS – PUBLIC HEARING ON A REQUEST FOR A VARIANCE FROM SETBACK REQUIREMENTS AT 410 MAPLE ST.**

---

Mayor Ron Shaver outlined the format to be followed for the public hearing, and City Clerk/PIO John Brennan confirmed that proper legal notice of the hearing had been published. Public Works Director Steve Glammeyer reviewed the variance request, which sought to allow a duplex to be constructed at 410 Maple St. with less than the required 10-foot separation from a home on the adjoining lot, which had been built in 1913 and was almost up to the property line. Glammeyer said the applicant would meet the five-foot setback from the property line on his own lot, but because the adjacent home did not meet that setback the duplex as designed would be less than 10 feet from that old home. Glammeyer said the applicant made valid arguments for the variance, and that his department had received several inquiries about this case with concerns about fire safety, which was the reason for the 10-foot separation requirement. He said there were many similar instances of nonconformance across the city, and he had not received any specific requests to deny the variance or not support it, so staff was recommending approval.

Council and staff discussion followed about the number of similar situations in the city and methods of construction that could reduce the danger of the spread of fire between homes. Applicant Greg Thomason of 320 West St. was present but declined to offer comment initially. Under public comment, Susan Browne of 407 Deuel St. said she lived directly behind the 410 Maple property and offered many reasons for her request that the variance be denied, including

fire safety, reduced property value, proximity of the two dwellings to each other and other reasons. She said she had spoken with several neighbors who agreed with her position.

Thomason then asked to respond to Browne's comments, and said he wanted to set the record straight about the timing of his purchase of the property, his awareness of the five-foot setback requirement but not the 10-foot separation rule, privacy and other issues. Browne responded that the liability should be on the contractor who did not inform Thomason of all the requirements, and the fact that Thomason was comfortable with the fire risk did not mean the other property owner would be. Council, staff and public discussion followed.

Under council comments, Marler expressed frustration at the fact that housing was so badly needed in the community but whenever someone tried to fulfill some of that need there were problems. Councilmember Doug Schossow said he was also frustrated but more concerned about the safety of the community and the fire department, despite the need for housing. Lindell said it did not seem right to limit what someone could do on their own property because of what someone else had done on the neighboring lot. Council, staff and applicant discussion followed about the alternatives to building the duplex as designed and instead designing a home or duplex that would comply, the real costs to the applicant for having to redesign the structure, and the shared concern about fire safety.

Lindell made a motion to close the public hearing, which was seconded by Schossow and approved unanimously (4-0, Anderson, Howe and Northrup absent).

City Attorney Jason Meyers outlined the criteria for approval of a variance and the options for action. Schossow offered a resolution to deny the request for a variance from setback requirements at 410 Maple St., which was seconded by Lindell and approved on a vote of 3-1, with Lindell voting against and Anderson, Howe and Northrup absent.

---

**COUNCIL ACTING AS THE ZONING BOARD OF APPEALS – PUBLIC HEARING ON A REQUEST FOR A VARIANCE FROM SETBACK REQUIREMENTS AT 300 GATEWAY AVE.**

---

Shaver outlined the format for the public hearing and Brennan confirmed proper legal notice. Glammeyer said this was also a request for a variance from setback requirements, but the reason was that survey pins had been in the wrong location and the property owner had already poured a full basement foundation based on those pins.

Glammeyer said staff had received one comment from the owner of an adjacent lot asking for an additional variance for his property to allow any future home that might be constructed on that lot to be closer than the 10-foot separation requirement. The improperly located foundation meant that the home on the applicant's lot would be only four feet from the property line so the neighbor asked for a nine-foot separation to be allowed between the two. The neighboring owner, Rex Morse of Scottsbluff, Neb., said he wanted to be supportive of his neighbor but also wished to not have his property impaired by the improper placement of the foundation.

No public comments were received either at the hearing or in advance.

Under council comments, Lindell said as in the previous case he hated to see someone suffer because of a neighbor's mistake, and also noted that the applicant had noticed the error and immediately brought it to the city attention, to his credit. Marler said a nine-foot separation was more palatable from a fire safety standpoint.

Lindell made a motion to close the public hearing, which was seconded by Schossow and approved unanimously (4-0, Anderson, Howe and Northrup absent). Meyers advised the council of its options for action. Lindell offered a resolution to approve the request for a variance for 300 Gateway Ave. to allow lesser side yard and front yard setbacks as required by code, and furthermore a variance for 304 Gateway Ave. for lesser minimum side yard distance between dwellings to allow a future dwelling to be constructed with the required side yard setback, and that this would run in perpetuity with the land and lots in question. That resolution was seconded by Marler and approved unanimously (4-0, Anderson, Howe and Northrup absent).

---

**BIDS FOR REPAIR OF HAIL-DAMAGED ROOFS**

---

Glammeyer said this was a rebid of a project that dated back to damage in 2015, and the first contractor hired had been extremely slow, done work without permits or inspections and at least one roof had failed in a recent windstorm. After notifying the original contractor of failure to perform and cutting ties with that company, the work was put out for bid again and two complete bids were received. Staff recommended accepting the bid from Mercer Contracting Services in the amount of \$39,430, and Glammeyer said he was asking for an additional 15 percent in contingency funding because Mercer would be picking up where the previous contractor had left off and he wanted to be sure there was sufficient funding to be able to handle any shortcomings in that prior work. That would bring the total requested to \$45,345, Glammeyer said.

Marler offered a resolution to accept the bid from Mercer Contracting Services for \$45,345 which included a 15 percent contingency. That resolution was seconded by Lindell and approved unanimously (4-0, Anderson, Howe and Northrup absent).

---

**RESOLUTION APPROVING EASEMENT AGREEMENT WITH ALLO COMMUNICATIONS**

---

Water Resources/Utilities Director Brent Nation said this would grant an easement to the city's partner in the fiber optic network project to allow Allo access to some of the project infrastructure located on city property. He noted that the property was in the CentrePointe Plaza development and would eventually have a paved public road going right by it.

Lindell offered a resolution to approve the Resolution authorizing the mayor to execute an easement agreement with Allo Communications LLC, which was seconded by Marler and approved unanimously (4-0, Anderson, Howe and Northrup absent).

---

**REQUEST FOR APPROVAL TO PURCHASE AN ASPHALT ZIPPER MACHINE**

---

City Manager Jeff Wells said this was a great opportunity for the city to get a piece of equipment that would help keep up with its street improvement program faster and more efficiently.

Glammeyer said the city had been considering this equipment for several years and it had recently come across a chance to obtain it at a bargain price due to changes in future models that would make the machine much more expensive. The deal would require the city to order a 2018 model machine now, and take delivery and make payment in 2019, saving somewhere around \$77,000.

Glammeyer and Streets Superintendent Jim Willis described the many ways the machine could be used to save time and money for the streets department and other departments. Glammeyer said the money for the purchase would come from the \$900,000 annually appropriated by the city for street maintenance, Council and staff discussion followed about the features and uses of the asphalt zipper machine.

Marler offered a resolution to approve signing the 2018 quote for the asphalt zipper in the amount of \$134,320 and to take delivery in 2019 and make payment for the machine out of the 2019 budget. That resolution was seconded by Lindell and approved unanimously (4-0, Anderson, Howe and Northrup absent).

---

**2019 BUDGET CALENDAR – SECOND READING AND PUBLIC HEARING ON THE ANNUAL APPROPRIATION ORDINANCE FOR THE 2019 BUDGET**

---

Mayor Shaver outlined the format to be followed during this public hearing, and Brennan confirmed that proper legal notice had been published.

Wells said the budget and the ordinance were the same as presented at the previous council meeting except for one change. Nation had been informed by Northern Water that the city would be required to pay \$500,000 toward construction of a pump station on the Colorado-Big Thompson water pipeline, so that amount had been added to the budget. Wells said the money was available in the water fund reserve account, and the appropriation ordinance would be published again in full with the change rather than by title only.

No public comments were received either during the hearing or in advance, and no council comments were offered. Schossow made a motion to close the public hearing, which was seconded by Lindell and approved unanimously (4-0, Anderson, Howe and Northrup absent). Meyers advised the council of its options for action.

Schossow offered a resolution to approve second and final reading of Ordinance 1222, the annual appropriations ordinance, levying a tax upon the taxable property in the City of Fort Morgan, Colorado, and appropriating monies to the several funds of said city. That resolution was seconded by Lindell and approved unanimously (4-0, Anderson, Howe and Northrup absent).

---

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

---

None.

---

### **REPORTS BY OFFICIALS AND STAFF**

---

Wells thanked the staff and council for all of the hard work done while he was on leave, and reminded residents that a drug take-back box was available in the lobby of the police department building so the city no longer scheduled specific drug take-back days as in the past. Chief of Public Safety Paul Schultz said he had received notification that the Fort Morgan Police Department had been accredited by the Colorado Association of Chiefs of Police, which was good for five years.

---

### **BIDS, MEETINGS AND ANNOUNCEMENTS**

---

Brennan announced current bids and upcoming meetings.

---

### **EXECUTIVE SESSION**

---

The regular portion of the meeting ended at 7:41 p.m., and Mayor Shaver announced that the next item on the agenda was a scheduled executive session. Lindell made a motion to convene this executive session, which was seconded by Marler and approved unanimously (4-0, Anderson, Howe and Northrup absent). 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: City Attorney contract.

The executive session began at 7:50 p.m. and ended at 9:12 p.m., and was attended by the mayor and three council members (Anderson, Howe and Northrup absent) along with Aaron Jun and City Attorney Jason Meyers. Shortly after the start of the session Meyers left the room.

At the conclusion of the executive session the council returned to the regular open meeting, where Lindell reported that the council had met in executive session for the purpose stated on the agenda. No motion was made.

Mayor Shaver adjourned the Nov. 6, 2018 regular meeting at 9:14 p.m.

/s/ Ronald Shaver

Mayor

/s/ John Brennan

City Clerk